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Transport, Telecommunications and Energy

Transport and Telecommunications issues

Luxembourg, 11 and 12 June 2015

President

Anrijs Matīss

Minister for Transport of Latvia

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¹ • Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
 • Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
 • Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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ITEMS DEBATED

TRANSPORT

Air passenger rights

The Council looked at progress made on a proposed **update of EU air passenger rights rules**, on the basis of a progress report:

[Air passenger rights progress report for June 2015 Council](#)

Aim of the passenger rights revision

The draft regulation aims to clarify the rules that apply when a flight is delayed or cancelled. It sets out to create more effective complaint-handling procedures and to strengthen enforcement. The new rules would also take into account the financial implications that passenger rights create for the air transport sector. The objective is to ensure that European air carriers operate under harmonised conditions in a liberalised market.

Work in the Council

Solid work has been carried out on the dossier since the last progress report from June 2014. For instance, the current presidency text simplifies the definition of "cancellation" and clarifies which situations should be considered cancellations or delays. Compromises have been found on cabin luggage and on putting extraordinary circumstances of a technical nature into a separate binding and exhaustive list. The burden of proof on air carriers has been clarified by setting out that it is up to the carrier to prove the existence of extraordinary circumstances and that cancellation was unavoidable. It also falls to the carrier to demonstrate that passengers were informed of the cancellation of their flight.

However, despite the intense work carried out and the progress achieved, further work is needed on a number of issues. Major **outstanding questions** include **thresholds for compensation**. According to the Court of Justice, delays and cancellations should be treated in the same way for compensation purposes, but member states think that the two circumstances are different. Sometimes it may happen that an air carrier cancels a flight for economic reasons, whereas air carriers have less control over delays and have no interest in causing them. Therefore, member states find it essential to protect passengers against any cancellations that are not caused by extraordinary circumstances and to discourage abusive cancellations. This is reflected in the latest presidency text, which proposes shorter time thresholds for compensations due to cancellations and longer thresholds for delays.

More reflection is also needed on compensation for **missed connecting flights**. Some delegations consider that any compensation for connecting flights could have negative effects such as higher fares, longer transfer times and reduced connectivity. Others think that the market would take care of that, as passengers would choose airlines with lower fares and reasonable transfer times.

[Strengthening air passenger rights in the EU](#)

Inland waterway vessels

The Council agreed a general approach on proposed **technical requirements for inland waterway vessels**. In the future, such technical standards will be developed by the **European Committee for drawing up Standards in Inland Navigation (CESNI)**. The standards drawn up by CESNI will automatically apply in their up-to-date version.

See [press release](#)

Railway market opening and governance

The Council **took stock of governance and market opening proposals** under the fourth railway package. The draft directive and regulation are intended to make railway services more dynamic and customer-oriented. They also aim to encourage investment and innovation and ensure fair competition in the rail market.

Work has progressed in the working party since the Council debate in March. A progress report sums up the work done so far and includes suggestions for further discussion.

[Market opening and governance progress report for June 2015 Council](#)

Public service obligation (market opening)

The changes proposed by the Commission would open up domestic passenger railways to new entrants and services from December 2019. Competitive tendering would become mandatory for public service rail contracts in the EU.

The **conditions for putting in place such competitive tendering** - and the **exceptions** to be allowed - is a major issue that continues to be debated in the Council. Concerns expressed include the suitability of competitive tendering for small markets, the need to ensure the long-term continuity of public rail transport services and the potential serious negative socio-economic consequences.

A large number of member states have argued for maintaining direct award on an equal footing with competitive tendering on subsidiarity grounds. If the principle of competitive award is retained, a number of exceptions should be allowed, taking into account the characteristics of national markets.

Most member states think that **deadlines** should be longer than those put forward by the Commission. Under the current presidency proposal, mandatory tendering should be in place by 3 December 2022. Directly awarded existing contracts would be allowed to run for no longer than 10 years after the new regulation has entered into force.

The presidency considers that all the proposals presented during the discussions should be analysed further and that new proposals could also be envisaged.

Independence of infrastructure managers (governance)

The Commission has proposed stronger rules for the governance of infrastructure managers to ensure equal access to rail infrastructure. Under the Commission's vision, all the functions of infrastructure managers would be subject to a single set of stringent independence requirements.

Most member states, however, prefer to have two categories of functions, which would be subject to **differentiated requirements**. The presidency has therefore suggested making a distinction between essential and non-essential functions. Essential functions, which would be governed by the strongest independence rules, could cover for example decision-making on infrastructure charging and capacity allocation.

A core of common rules on such essential functions would apply to both separated and integrated structures. The risk of overregulation for separated structures is a crucial issue for several member states and warrants further consideration.

More work is also required on a number of other issues. These include, *inter alia*, some definitions, outsourcing of functions and management bonuses. The draft rules on financial transparency should be thoroughly assessed.

The incoming Luxembourg presidency said that its goal would be to reach a general approach on this "market pillar" in October.

[Fourth railway package](#)

Any other business

– *Road safety*

The Commission briefed member states on the main conclusions of the interim evaluation of the EU road safety policy framework 2011-2020.

EU road policy has a strategic target of halving the number of annual road deaths between 2010 and 2020. The evaluation concluded that having a quantified target was very useful. The number of road fatalities is going down, especially among young people and motorised road users. EU actions seem to have contributed to this reduction. However, serious road traffic injuries need the same attention as fatalities, said Commissioner Bulc. The strategic target can be reached but efforts must be stepped up.

The incoming Luxembourg presidency said that road safety would be part of the policy debate on the White Paper mid-term review to be held at the October Transport Council.

– *Transport infrastructure financing*

Former Commission Vice-President Henning **Christophersen** and European Coordinators Kurt **Bodewig** and Carlo **Secchi** presented their **final report** setting out possible ways to make sure that European transport infrastructure projects will make the most of the new financial schemes available. The authors of the report stressed that the list of projects included in the report was indicative and that any choices to be made would be political decisions to be taken by member states.

[Christophersen - Bodewig - Secchi: final report on the best use of new financial schemes](#)

Commissioner Bulc briefed ministers on the state of play of the **first call for proposals under the Connected Europe Facility (CEF)**, worth €12 billion. The CEF committee is expected to adopt a final list of approved projects in early July.

Commissioner Bulc provided information on the practical organisation of the upcoming **TEN-T Days** in Riga on 22-23 June. The programme will focus on the Trans-European transport network (TEN-T) implementation as a contributor to economic development and on innovative financing of transport infrastructure. Minister Matīss invited all to attend the event in Riga.

– ***ASEM transport ministers' meeting***

The presidency briefed ministers on the outcome of the third ASEM transport ministers' meeting, which was held on 29-30 April in Riga. The meeting focused mainly on improving land connections and multimodal connectivity between Europe and Asia. It resulted in the adoption of a Riga declaration.

[Information from the presidency, including Riga declaration](#)

– ***Shift2Rail***

The Commission briefed ministers on the state of play of the Shift2Rail joint undertaking. This public-private partnership is set to manage a research and innovation work programme to support the development of better rail services in Europe.

According to the Commission, the project is well on track. The selection process for Executive Director is underway, and early projects are to be launched in 2016.

[Council press release on the creation of Shift2Rail](#) (16 June 2014)
[Shift2Rail website](#)

– ***Incoming presidency's work programme in the field of transport***

The incoming Luxembourg presidency presented its transport work programme for the second half of 2015. The legislative proposals it will focus on include the market pillar of the fourth railway package and the technical requirements for inland waterway vessels. Other priority areas include cycling, social issues, especially in the context of road transport, and member states' contributions to the mid-term review of the Commission's 2011 White Paper on Transport, scheduled for 2016.

[Luxembourg presidency's transport work programme](#)

TELECOMMUNICATIONS

Digital single market strategy

Ministers exchanged views on the **digital single market strategy** following a presentation by Commission Vice-President for the Digital Single Market Andrus Ansip. The strategy was adopted by the Commission on 6 May.

Ministers widely supported the digital single market strategy to help complete the digital single market (DSM). They generally welcomed its objectives, which are broadly in line with member states' digital priorities. Digitisation of the economy was considered crucial in order to promote growth and jobs and to boost the EU's competitiveness in relation to other regions of the world.

Views expressed during the discussion included the following:

- Digitisation was seen as a means of stimulating entrepreneurship. It was considered particularly important for small and medium-sized enterprises (SMEs). Preconditions should be created for start-ups to innovate and scale up.
- It should be made easier for citizens and businesses to use electronic services across borders. This requires trust to be built and cybersecurity to be enhanced. The geo-blocking issue should be addressed.
- Particular attention is to be paid to big data, open data and cloud computing. The role of online platforms should be assessed.
- It is important to enhance digital infrastructure, so that all citizens have access to high-speed broadband. Digital skills ought to be boosted.
- The different pricing of the delivery of parcels across the EU needs to become much more transparent.

Many ministers stressed the importance of the principle of better regulation when adopting new laws. Regulation should be kept light, flexible and focused, and only be used if really needed. Any new regulation should go through a thorough consultation and a solid impact assessment that includes the digital dimension.

Ministers also acknowledged that the publication of the strategy was only the first step and ought to be followed up by close cooperation between the Council and the Commission. Effective implementation of the strategy will require good coordination which takes national aspects into account.

The presidency will sum up the main messages from these debates and send them to the European Council President as input for the June European Council.

[Digital Single Market Strategy discussion paper](#)
[Digital Single Market Strategy](#)

Digital services interoperability programme ISA²

The Council adopted a general approach on a programme on interoperability solutions for European public administrations, citizens and businesses (ISA²). The programme will support electronic interaction across sectors and borders. It is set to run from 2016 to 2020.

See [press release](#)

Web Accessibility

Ministers looked at a proposal to **make public sector websites more accessible**. Under the draft directive, EU-standardised accessibility features would become mandatory for certain types of public sector bodies' websites. Member states would be free to apply the requirements to other types of public sector websites not covered by the directive.

A report prepared by the presidency sets out the work accomplished thus far in the Council working party.

[Web accessibility progress report for the 12 June Council](#)

Better business conditions and easier web use

A harmonised set of accessibility rules will help website developers to offer their products and services across the EU without extra production costs and other difficulties resulting from different national approaches in the sector. This should improve the functioning of the internal market and contribute to growth and competitiveness.

Certain principles and techniques that make web content more usable are to be applied when creating websites. This will benefit all users, especially people with disabilities, older people and those with temporary disabilities.

Moreover, it is particularly important for the public sector to make its websites more accessible so that they can extend their reach and fulfil their public tasks.

Work in the Council

Discussions under the Latvian presidency have mainly focused on the scope of the new rules. The Commission proposal only covered website-based online services provided by public sector bodies, but delegations have expressed support for covering a large part of public sector bodies' websites and their content. It has been suggested that certain types of content be excluded, such as archived documents not embedded in a webpage, and content in video and audio format. Small organisations' websites and those with a small number of visits could also be excluded. However, more work needs to be done to finalise the draft rules on scope.

Deadlines for the application of the directive have been extended to give enough time for public sector bodies to amend their websites. There would be two application dates: one for new websites that were not published before the transposition date, and a longer deadline for websites existing at that time.

[Digital Agenda for Europe: Web accessibility](#)

Conclusions on the transfer of IANA functions

The Council adopted the following conclusions:

"Council adopted conclusions on Internet Governance on 27 November 2014. By those conclusions the Council welcomed the statement given on 14 March 2014 by the National Telecommunications and Information Administration (NTIA) of the United States of America, announcing its "Intent to Transition Key Internet Domain Name Functions" by September 2015. The Council also reaffirmed the necessity for a timely and well prepared transfer of the stewardship of the Internet Assigned Numbers Authority (IANA) function to the multistakeholder community in a way that does not expose this function to capture by narrow commercial or government interests.

Given the significance of the transition of the stewardship of the IANA, and of the related cross-community work on enhancing ICANN's (Internet Corporation for Assigned Names and Numbers) accountability, the Council has been following closely the aforementioned process.

The Council recognizes and welcomes the progress achieved to date based on the inputs of the relevant stakeholders, including governments, who have volunteered their time to contribute to the discussions within the tight deadlines. In this respect, the Council supports the open, multi-stakeholder process underway to address these complex issues and emphasises the need to ensure that the final proposal is properly developed.

The current IANA functions contract expires on 30 September 2015, and the Council takes note of the complexity of the transition process. The Council invites the global multi-stakeholder community to make further progress in the development of the transition process and efforts to retain the Internet as a single, open, neutral, free, and un-fragmented network. At the same time, the Council notes that any unjustified delay of this process could negatively impact internet governance debates worldwide."

Any other business

– *Telecommunications single market*

The presidency briefed ministers on the state of play on the telecommunications single market proposal (roaming and net neutrality). Minister Matīss said that the Council fully supported abolishment of roaming charges and the establishment of the first open internet rules for the whole European Union. However, ministers want to avoid creating a situation in which the new rules would oblige roaming operators to operate at a loss, as this would likely lead to higher domestic prices. They also want to avoid the risk of a resulting network failure. In such a case, most consumers would be losers, said Minister Matīss.

The presidency is ready to produce a new compromise text to reflect the Council's commitment ahead of the final stage of the talks, provided that the Parliament expresses its clear position.

– *Network and information security*

The presidency informed ministers on progress on the draft network and information security directive. Minister Matīss said that talks with the Parliament were approaching their final stage. The key outstanding issues were the approach to harmonisation in the identification of operators covered by the rules and the issue of the inclusion of internet enablers.

– *Incoming presidency's work programme in the field of telecommunications*

The incoming Luxembourg presidency presented its telecommunications work programme for the second half of 2015. Digital issues will be a horizontal priority for Luxembourg.

The Luxembourg presidency will work towards the swift adoption of the telecommunications single market and network and information security proposals, based on the achievements of the current Latvian presidency. It will also focus on the web accessibility and ISA2 proposals, follow-up to the digital single market strategy, the preparation of the World Radiocommunications Conference in November 2015 and various events on the theme of eSkills.

[Luxembourg presidency's telecommunications work programme](#)

OTHER ITEMS APPROVED**COMMON SECURITY AND DEFENCE POLICY****EULEX Kosovo budget**

The Council approved a budget of EUR 77 million for the European Union rule of law mission in Kosovo for the period from 15 June 2015 to 14 June 2016. EULEX Kosovo was established in 2008 to support institutions, judicial authorities and law enforcement agencies in developing an effective judiciary based on the rule of law and free from political interference. The current mandate of the mission runs until June 2016.

APPOINTMENTS**New advocate-general to the European Court of Justice**

On 12 June, the representatives of the member states' governments appointed Mr Michal Bobek (Czech Republic) as advocate-general to the Court of Justice of the European Union for the period from 7 October 2015 to 6 October 2021.

The Court of Justice is currently composed of 28 judges and nine advocates-general. The number of advocates-general will increase to eleven by 7 October 2015. Every three years a partial replacement of judges and advocates-general takes place. The terms of office of 14 judges and four advocates-general will expire on 6 October 2015.

Ten judges (from Belgium, Spain, Poland, Luxembourg, Croatia, Finland, Estonia, Slovakia, Hungary and Denmark) were already reappointed on 24 September 2014 and 1 April 2015 for the 2015 partial replacement exercise. Two advocate-general (from the United Kingdom and Germany) were reappointed and one advocate-general (from Denmark) was appointed on 1 April 2015. This means that four judges (from Greece, Slovenia, Ireland and Romania) and two advocates-general (from Bulgaria and Spain) remain to be appointed by 7 October 2015.