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COVER NOTE

From: The Presidency
To: Delegations
Subject: Openness and Transparency during Finland's Presidency of the Council of
the European Union
- Presidency Report

Delegations will find attached a report drawn up by the Presidency.

Encl.: 1

The logo for the EU2019.FI presidency features the text 'EU2019.FI' in white, sans-serif font, positioned on the left side of a blue graphic. The graphic consists of several overlapping, curved shapes in various shades of blue, creating a dynamic, wave-like effect that tapers to the right.

Introduction

The principle of transparency is enshrined in the Treaties and the right of access to documents is recognised as a fundamental right in the Charter of Fundamental Rights. Transparency and open communication support citizens' participation, enhance accountability and strengthen trust, especially in an era of disinformation. The Strategic Agenda of the European Council for 2019-2024 points out that the institutions respect the principle of transparency.

Enhancing the openness and transparency of the EU is one of Finland's long-standing goals. As Council presidency, Finland has sought to promote these principles and values in a horizontal, integrated and comprehensive manner. The measures envisaged to this end were outlined in presidency information note 11999/19 of 6 September 2019¹ and included the following:

- more public discussions in the Council meetings on non-legislative items;
- open, active and clear communication;
- proactive publication of certain categories of legislative documents;
- increasing transparency in lobbying political decision-makers;
- facilitating the discussion on the future of EU transparency.

The beginning of the new institutional cycle provided a particularly appropriate moment for such endeavours.

This presidency report summarises the experiences gained on the implementation of these measures and provides impetus for future discussions on enhancing openness and transparency of the Council. The report includes a detailed description of the measures carried out and analysis of lessons learned. The two annexes contain data about public sessions in Council meetings, and the Council documents falling within the scope of the practices on legislative transparency described in the information note.

¹ The note was presented to the Working Party on Information on 9 September 2019 and to Coreper II on 19 September 2019.

For the most part, the report covers the period from 1 July to 12 December 2019. As regards practices in relation to legislative transparency, their implementation started after the presentation of information note 11999/19. The reporting period as regards those practices thus extends from 6 September to 12 December 2019. This report has been prepared with the assistance of the General Secretariat of the Council (GSC).



More public discussions in the Council meetings

In the context of incorporating the Strategic Agenda for 2019–2024 into the work of the Council, future-oriented discussions were held in various Council configurations during the Finnish presidency. Acknowledging the significance of the institutional transition phase and the related planning of future policy actions for European citizens, the presidency considered it important that these discussions be made public.

In addition to the legislative deliberations in the Council, which are always public,² the Council or Coreper can decide that the Council holds in public a debate on an important issue affecting the interests of the European Union and its citizens (Article 8(2) of the Council's Rules of Procedure, CRP). The decision is taken by qualified majority on the proposal of the presidency, a member of the Council or the Commission. Furthermore, debates on certain annual and multiannual programmes, such as trio programmes, Commission work programmes, and the priorities of various Council configurations³, are held in public directly under Article 8(3) CRP.

During the reporting period from 1 July to 12 December 2019, in total 74 debates, exchanges of views or adoptions and 56 Any other business (AOB) items in 21 different Council meetings were held in public following proposals by the presidency under Article 8(2) CRP. All presidency proposals for public debates were accepted without discussion. It is envisaged that before the end of the Finnish presidency, an additional four public debates in two different Council meetings will be held on the same basis.

According to the statistics collated by the GSC, during the reporting period from 1 July to 12 December 2019, there were more than 18 000 viewers of Council debates. The three most popular debates were:

1. the policy debate on the external dimension of European competitiveness (COMPET, 28 November: 1 818 viewers)
2. the policy debate on a clean planet for all: the EU's strategic long-term vision for a climate-neutral economy (ENVI 4 October: 1 248 viewers),
3. the session on ePrivacy, data economy and 5G (TTE 3 December: 1 035 viewers).

² Article 16(8) of the Treaty on European Union and 15(2) of the Treaty on the Functioning of the European Union.

³ In accordance with Article 8(3) of the Council's Rules of Procedure (CRP), the Council is required to hold the following policy debates in public:

- debates in the General Affairs Council on the Council's 18-month programme;
- policy debates in other Council configurations on their priorities;
- the Commission's presentation of its five-year programme, of its annual work programme and of its annual policy strategy, as well as the ensuing debates in the Council.

Note: The European Council's Strategic Agenda is not mentioned on the list, although it can be considered a similar strategic document. The reason for this is probably that Article 8(3) was introduced before the current tradition of strategic agendas, which dates back to 2014. Note too that if the presentation of the work programme of an incoming presidency has been held in public, that is based on either Article 8(2) or Article 8(3) CRP.

In general, it seems that there are differences between Council configurations with respect to how much the possibility of holding a Council debate in public under Article 8(2) CRP is taken up. For example, in the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) there seems to be a strong tradition of public debates under Article 8(2) of CRP. In the Education, Youth, Culture and Sport Council (EYCS) and in the Competitiveness Council (COMPET) there also seems to be quite a solid culture of public debates.

It should be noted that Article 8(2) CRP gives the Council room for manoeuvre to adopt different approaches when it comes to publicity of Council debates. The Finnish Presidency took place at the beginning of the new institutional cycle, when important issues affecting the interests of the EU and its citizens were discussed in Council meetings. It was important to hold these discussions in public.

More public debates in the Council meetings – lessons learned

- There seem to be some variations between different Council configurations with respect to holding public debates on issues affecting the interests of the EU and its citizens (Article 8(2) CRP). Although such assessments have to be made case-by-case, in some configurations there could be room for increased awareness of the benefits of such debates.
- All presidency proposals for public debates were accepted without discussion.
- To support communication efforts and to make it easier for citizens and stakeholders to find relevant documents for public agenda items, it would be useful to add the documents to the subsection of each Council meeting at the Council website systematically and in good time. It is also important to ensure user-friendly access to all language versions.

Open, active and clear communication

The aim of the Finnish presidency was to ensure open, clear, reliable, fast and engaging communications. The purpose was to ensure that citizens, media and stakeholders would have the widest possible access to public information concerning preparatory work and decisions on public affairs. The main ways to promote open communications were:

1. to involve the entire Finnish Government from ministers to public officials to communicate actively and openly, for example on social media;
2. to invest in providing a wide selection of relevant background information explaining complex issues and processes;
3. to communicate actively and openly public information about Council and Coreper meetings, trilogue processes and also about issues that are likely to raise critical comments.

First, the presidency utilised the low-hierarchy structure and open communications policy of the Finnish Government to encourage not only ministers but also public officials to give interviews and background briefings, write columns on the eu2019.fi website and actively share public information on their work on social media. For example, the presidency's Twitter account @EU2019FI had acquired around 14 200 followers by 12 December. Before the start of the presidency, officials were trained and instructed on transparency, confidentiality and data protection issues.

Secondly, a wide range of background information was provided on the eu2019.fi website in five languages: English, French, German, Finnish and Swedish. The objective was to explain complex issues in a clear format and provide a bigger picture of the topic and the decision-making process, together with relevant contact details. This included 40 one-page 'backgrounders' on topical presidency issues as well as videos and infographics, some of them produced together with the GSC.

In addition to regular press conferences, the Finnish ministers and public officials held background briefings for international journalists. This was done for example before the informal ministerial meetings in Helsinki. The Finnish ministers also presented the upcoming agendas through videos before Council meetings in Brussels and Luxembourg.

As regards services for the media, requests for background information and interviews were answered as quickly as possible. The spokespersons from each ministry succeeded well in hitting the 'first response within one hour' target set for questions from journalists. Journalists were speedily connected with government officials.

Thirdly, the Finnish presidency communicated public information related to Council and Coreper meetings and trilogue processes openly, consistently and at an early stage. As part of normal presidency routine, Coreper agendas were tweeted in advance. Regarding trilogues, the dates and the titles of the files were shared on Twitter on a weekly basis. In addition, photos showing some of the negotiators were shared, subject to their consent, on both Twitter and Instagram, to illustrate the general atmosphere.

As part of the openness and transparency measures, the Finnish presidency organised livestreaming from four⁴ of the six informal ministerial meetings held in Helsinki. As a rule, opening speeches by Finnish ministers and Members of the European Commission were livestreamed. Some of the keynote speeches by guest speakers were also made public. At the informal meeting of environment/climate ministers on 11–12 July 2019, almost all working sessions were livestreamed.

The livestreamings were available at the Europe by Satellite service and at Yle Areena, the platform of the Finnish public service media company Yle. For technical reasons, only information on the number of viewers in Yle Areena is available. The number of viewers at Yle Areena varied from 1 320 viewers on the first day of the informal environment/climate ministers' meeting to 5 293 viewers on the second day of the informal competitiveness ministers' meeting.

In addition, based on monitoring of a panel of 220 TV channels by the Europe by Satellite services, the informal ministerial meeting on competitiveness did not appear on TV, whereas the informal ministerial meeting on justice and home affairs appeared for a total of 2h34min on a total of 39 TV Channels⁵.

Open, active and clear communication – lessons learned

- It was important to invest in the training and instruction of ministers and civil servants and to encourage them to communicate actively on public matters. These efforts contributed to the joint communication effort of the entire Finnish Government.
- Production of a wide selection of public background information on the Presidency programme and other key themes was considered worth the time and effort invested.
- The presidency has received positive feedback on its open, accommodating, clear and visual approach to communication.

⁴ Informal meeting of ministers responsible for [competitiveness](#) on 4–5 July 2019, informal meeting of [environment/climate](#) Ministers on 11–12 July 2019, informal meeting of [justice and home affairs](#) ministers on 18–19 July 2019 and informal meeting of ministers for [agriculture](#) on 22–24 September 2019.

⁵ The number of TV Reports produced was 737; the most used being the Italian press briefing by Minister of the Interior of Italy at that time.

Practices in legislative transparency during the Finnish presidency

Following the Council discussions on legislative transparency initiated on 18 July 2018, Finland during its presidency applied some of the elements discussed that fall within the prerogatives of the presidency⁶. These practices consisted of proactive publication of certain type of legislative documents, as described in information note 11999/19.

The aim was to provide experience about the possibilities of enhancing legislative transparency and feed into possible further discussions on longer-term solutions. The selected practices were applied in full respect of the provisions of Regulation (EC) 1049/2001 and the Council's Rules of Procedure.

The Finnish presidency team sent practical guidance about the implementation of the practices to the Finnish working party chairs on 30 September 2019. The GSC started implementation of the new practices by circulating a note to all Directors-General on 26 September 2019, complemented by internal guidelines on 10 October 2019.

The number of documents proactively made public for each category during the reporting period from 6 September to 12 December 2019 is presented below. More detailed information about these documents can be found in Annex 2. The document categories correspond to those in information note 11999/19.

"Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, progress reports submitted to Coreper will be made available to the public as soon as they have been circulated or at the latest after examination in Coreper. Progress reports will be drafted paying due respect to confidentiality requirements."

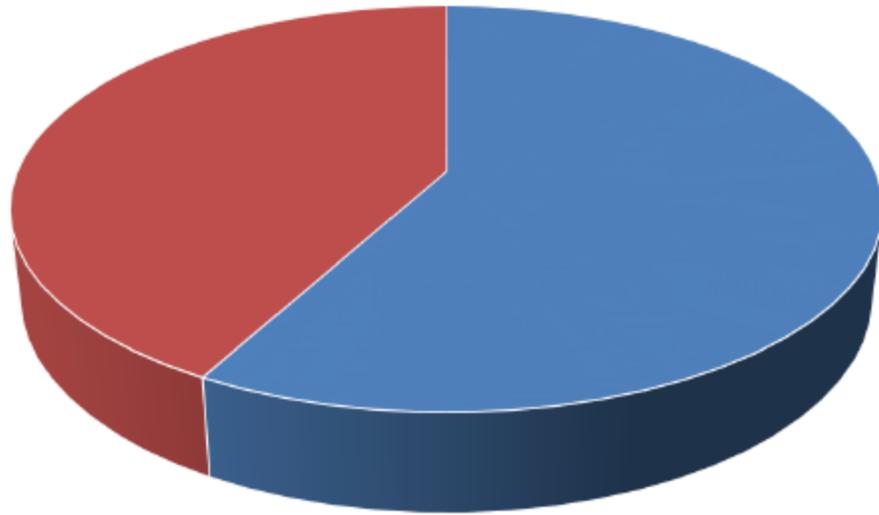
6 documents (see Annex 2)

"The initial Council mandates to start trilogues are made public by default. Should the mandate be endorsed at the level of Coreper, the Presidency will propose to Coreper the disclosure of the mandate after its endorsement."

20 documents (see Annex 2)

⁶ The only documents, whose disclosure required a decision by Coreper, were the initial Council mandates to start trilogues endorsed at the level of Coreper. For more details, see below.

**Council mandates for negotiations with the European Parliament
(Ordinary Legislative Procedure)**



• General Approach (11) • Coreper mandate (9)

"The document drafted for the purposes of trilogues containing the initial positions (not compromise proposals) of the institutions will be made public upon circulation."

1 document (see Annex 2)

It should be noted that the difference between the number of mandates to start trilogues as indicated above and this number can be explained as follows:

- i) for some files there was an agreement to take over the Commission proposal, so four column tables were not needed;
- ii) in other cases, because the trilogue process will start only after the Finnish presidency, four column tables have not yet been prepared.

"The document containing the final outcome of trilogues will be made public after it has been endorsed by Coreper."

4 documents (see Annex 2)

"Active communications and social media will be used to distribute information on the progress of legislative files, including trilogues."

The Finnish presidency communicated public information related to Council and Coreper meetings and trilogue processes openly, consistently and at an early stage. As part of normal presidency routine, Coreper agendas were tweeted in advance. Regarding trilogues, the dates and the titles of the files were shared on Twitter on a weekly basis. In addition, photos showing some of the negotiators were shared, subject to their consent, on both Twitter and Instagram, to illustrate the general atmosphere.

Practices in legislative transparency – lessons learned

- Due to the beginning of the new institutional cycle, there was less legislative activity than usual during the Finnish presidency, and fewer legislative documents were provided. Continuing the implementation of the practices on legislative transparency would be useful to gain experience on how they operate in different phases of the legislative cycle.
- Each time an initial mandate to start trilogues was adopted by Coreper, a decision was taken to make the mandate proactively public.
- The Finnish presidency and the GSC services have not been informed of any adverse effect or other negative impact of these practices.

Transparency in lobbying political decision-makers

Finland's Permanent Representation to the EU has published information on the meetings of the Permanent Representative and her deputy with interest groups since November 2018⁷. This practice will be continued after the presidency. In addition, interest groups have been required to sign up in the EU transparency register six months before the presidency and during the presidency.

Information on EU-related meetings between the Finnish ministers and interest groups was also published during the presidency⁸. The list covers in total 32 meetings from six ministers. The decision on the practice was made in the Ministerial Committee on European Union Affairs on 14 June 2019⁹. Practical guidance and reminders about the practice were sent to ministries before and during the presidency.

The practice was not legally required of ministries. In addition, due to the ministers' increased workload during the presidency, it is possible that some meetings with interest groups were delegated to state secretaries, ministers' special advisers or civil servant level and were not included in the list for that reason. The preparations for a national transparency register are ongoing and the experience gained during the presidency can be utilised in planning.

Transparency in lobbying political decision-makers – lessons learned

- The administrative burden caused by the practices was considered reasonable, taking into account the benefits of these practices for an open and transparent administration.
- In general, the practices were noted positively in the media. Regarding the meetings of the Finnish Permanent Representative and her deputy, the question was raised of whether the list of meetings was up to date. The reason for fewer updates in the run-up to and during the presidency was the rather limited time available for such meetings at that level, due to heavy workload. The Finnish Permanent Representation will continue the practice of publishing the meetings also after the presidency.
- Regular internal guidance and counselling was necessary to gather information on Finnish ministers' EU-related meetings with interest groups, as there was no precedent for such practice in Finland before the presidency.

⁷ Transparency Register of Permanent representation of Finland to the EU:
<https://finlandabroad.fi/web/eu/transparency-register>

⁸ Openness and transparency during the Finnish Presidency, Meetings with lobbyists:
<https://eu2019.fi/en/presidency/openness-and-transparency/meetings>

⁹ Press release of the Prime Minister's Office of Finland on 14 June 2019, 309/2019:
https://valtioneuvosto.fi/artikkeli/-/asset_publisher/10616/eu-ministerivaliokunnassa-useita-suomen-eu-puheenjohtajakauden-asioita?_101_INSTANCE_VZfcyWxQB2Me_languageId=en_US

Future of EU transparency

The transition to the new institutional cycle provided an opportunity for a wider discussion on concrete measures to increase transparency during the coming legislative term. The Finnish presidency, together with the Faculty of Law of the University of Helsinki, held an open expert seminar on this theme in Brussels on 24 September 2019. The presidency report from the seminar (12876/19) was circulated on 9 October 2019 and presented as a public AOB item at the meeting of the General Affairs Council on 15 October 2019.

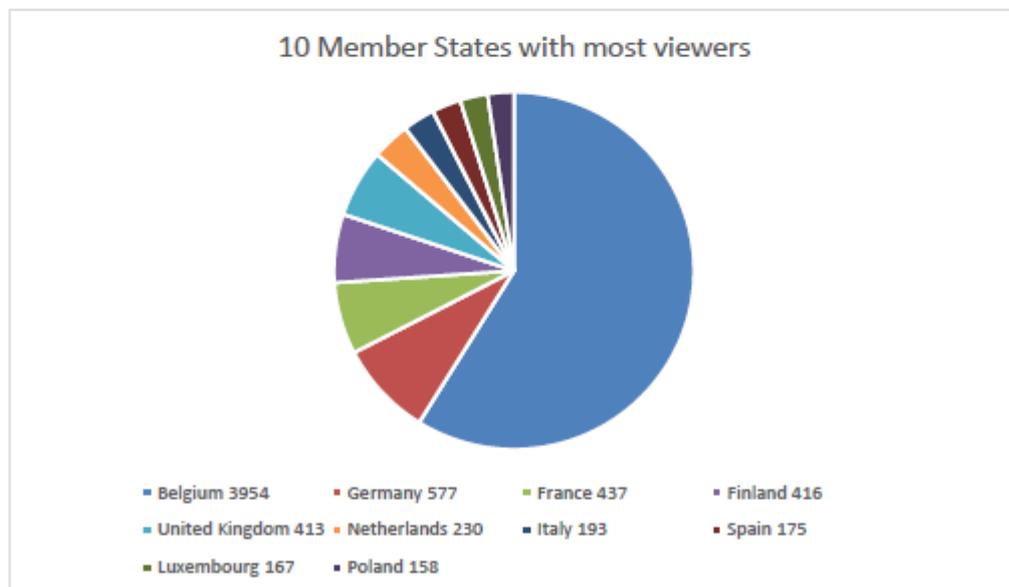
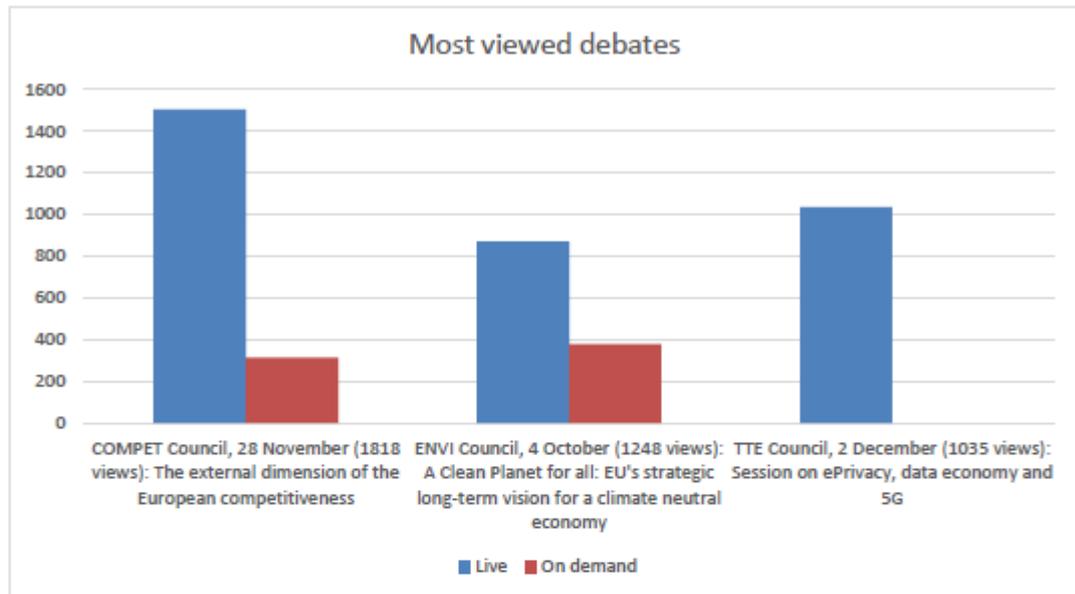
The seminar was web-streamed and the recording can be found at:
<https://video.consilium.europa.eu/en/webcast/c1906989-3f74-4004-b301-adba2deedc2b>

The seminar programme can be found at:
<https://eu2019.fi/en/events/2019-09-24/seminar-on-the-future-of-eu-transparency>

Future of EU transparency – lessons learned

- An open expert seminar proved to be a practical and fruitful way of exchanging information and views between EU institutions, civil society, the media and academia on the future of EU transparency.
- In general, participants found the discussions topical and well informed. Novel insights were presented, particularly from the perspectives of EU agencies and their transparency policies.

Annex 1: Information about public sessions in Council meetings



Annex 2: Practices on legislative transparency

➤ *"Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, progress reports submitted to Coreper will be made available to the public as soon as they have been circulated or at the latest after examination in Coreper. Progress reports will be drafted paying due respect to confidentiality requirements."*

- 14354/1/19 REV1 Strengthening the Banking Union – Presidency progress report
- 14447/19 Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) – Progress report
- 14795/19 Post-2020 CAP reform package – Presidency progress report
- 14983/19 Post-2020 CAP reform package – Presidency progress report
- 14355/1/19 REV1 Strengthening the Banking Union – Presidency progress report
- 14024/1/19 REV 1 Decision on Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) – Progress report

➤ *"The initial Council mandates to start trilogues are made public by default. Should the mandate be endorsed at the level of Coreper, the Presidency will propose to Coreper the disclosure of the mandate after its endorsement."*

- 12097/19 + COR 1 Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/501 and Regulation (EU) 2019/502 as regards their periods of application
- 12493/19 + COR 1 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters
- 12439/19 + COR 1 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1309/2013 on the European Globalisation Adjustment Fund (2014-2020)
- 12360/2/19 REV 2 + 12360/19 ADD 1 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of a framework to facilitate sustainable investment

- 14149/19 + COR 1: Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL providing further macro-financial assistance to the Hashemite Kingdom of Jordan
- 14606/19 + COR 1 Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Decision No 573/2014/EU on enhanced cooperation between Public Employment Services (PES)
- 14261/1/19 REV 1 + COR 1 + 14261/19 ADD1 + COR 1 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on accelerated extrajudicial collateral enforcement mechanism
- 14540/19 + COR 1 + 14540/19 ADD1 + COR 1 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU and (EU) 2017/1132
- 15042/19 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6)

The Council also adopted 11 mandates to start trilogues in the form of a General Approach¹⁰.

➤ *"The document drafted for the purposes of trilogues containing the initial positions (not compromise proposals) of the institutions will be made public upon circulation."*

- 13112/19 ADD1 Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment

¹⁰ 10425/19; 10432/19; 12660/19 REV 1 COR1; 13792/19; 14210/19 + 14600/19; 14643/19; 14658/19; 14047/19; 14401/19; 14599/19; 14601/19.

➤ *"The document containing the final outcome of trilogues will be made public after it has been endorsed by Coreper."*

- 14152/19 + COR 1 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the labelling of tyres with respect to fuel efficiency and other [] parameters, amending Regulation (EU) 2017/1369 and repealing Regulation (EC) No 1222/2009
 - 13193/19 + COR 1 (14597/19) Draft Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection
 - 14397/19 + COR 1 REGULATION (UE) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the False and Authentic Documents Online (FADO) system and repealing Joint Action 98/700/JHA
 - 14565/19 + COR 2 Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL providing further macro-financial assistance to the Hashemite Kingdom of Jordan
-