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**COUNCIL OF
THE EUROPEAN UNION**



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PRESS RELEASE

2947th Council meeting

Employment, Social Policy, Health and Consumer Affairs

Luxembourg, 8-9 June 2009

President **Petr ŠIMERKA**
Minister for Labour and Social Affairs
Michael KOCÁB
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Main results of the Council

The Council held a policy debate on the **preparation of the June 2009 European Council** and adopted conclusions on **flexicurity in times of crisis** as well as on **social services in the context of active inclusion**.

It reached political agreement on:

- guidelines for member states' employment policies in 2009.

The Council adopted conclusions on:

- equal opportunities for women and men: active and dignified ageing
- inclusion of the Roma.

The Council adopted recommendations on

- patient safety, including the prevention and control of healthcare-associated infections
- an action in the field of rare diseases.

The Council adopted without discussion

- a regulation on roaming charges further reducing charges and extending pricing limits to cover SMS and data services in addition to voice calls
- a regulation on common rules for the allocation of slots at Community airports
- a regulation introducing tighter emission limits for nitrogen oxides and particulate matter (Euro VI) from trucks and buses
- conclusions on the submission of an amendment to the Kyoto Protocol, as a contribution to the negotiations for an international post-2012 agreement on climate change.

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- 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>).
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PARTICIPANTS

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Parliamentary Under Secretary of State for Disabled People and Minister for the South East

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Ms Androulla VASSILIOU

Member
Member

Other participants:

Mr Aurelio FERNANDEZ LÓPEZ
Mr Bruno COQUET

Chair of the European Social Protection Committee
Chair of the Employment Committee

ITEMS DEBATED

Employment and social policy

Preparation of the June European Council

The Council held a policy debate on the current economic and employment situation in Europe and discussed the measures already taken. It also considered the scope for further short-term and long-term responses in the light of the informal Employment Summit on 7 May 2009 and the recent Commission communication by way of preparation for the June European Council.

Against the background of the increasing unemployment rate in the EU, all ministers stressed the importance of measures to maintain or create new jobs. More specifically, they mentioned short-time work, training and the reduction of non-wage costs. At the same time, some delegations made it clear that companies which are not viable should not be supported. Despite the need for short-term measures the member states should continue following the long-term objectives of the Lisbon and Employment strategies and carry on with their structural reforms. In order to improve the entrepreneurial environment, ministers considered it important to reduce the administrative burden on companies, including where relevant non-wage costs, to increase mobility and to promote research and development. Some ministers expressed the expectation that new employment opportunities could be created through building a low-carbon economy ("green jobs"), as well as in the health and social sectors.

Ministers underscored the crucial importance social security systems have in mitigating the impact of the crisis, in particular with regard to the most vulnerable people such as the young, the old and disabled persons. Some delegations suggested increasing the security aspects in the implementation of the commonly agreed flexicurity principles. Furthermore, ministers emphasised the contribution the social dialogue could make to recovering from the crisis.

In general, ministers welcomed the Communication from the Commission to the June European Council: "A Shared Commitment for Employment", published on 3 June 2009, and in particular the proposed allocation of EUR 19 billion under the European Social Fund (ESF) to measures to help people to stay in work, or to move towards new jobs.

The policy debate will contribute to preparation of the June European Council conclusions.

The discussions were based on the following documents:

- Main messages from the informal Employment Summit ([10093/09](#))¹;
- The Employment Committee contribution to the informal Employment Summit ([10015/1/09](#) + [ADD1](#));
- The Social Protection Committee contribution to the informal Employment Summit ([10047/09](#) + [ADD1](#));
- A Communication from the Commission to the June European Council: "A Shared Commitment for Employment" ([10628/09](#));
- The 2009 Commission Report on Ageing ([9200/09](#));
- The updated joint assessment by the Social Protection Committee and the Commission of the social impact of the economic crisis and of policy responses ([10133/1/09](#)).

The Council adopted conclusions on "Flexicurity in times of crisis" ([10388/09](#)). These conclusions also reflect discussions held during a conference on this topic organised by the Presidency and the Commission in Prague on 25-26 March 2009.

The ministers also adopted conclusions entitled "Social Services as a tool for active inclusion, strengthening social cohesion and an area for job opportunities" ([10052/09](#)). These conclusions are based on a conference organised by the Presidency in Prague on 22-23 April 2009.

Furthermore, the ministers endorsed the Employment Committee's opinion on the interlinked themes of skills and mobility ([10132/09](#)).

¹ This and other documents mentioned in this press release can be found in the public register of the Council by typing in the corresponding number
<http://www.consilium.europa.eu/showPage.aspx?id=549&lang=en>

Guidelines for the employment policies of the member states

The Council reached political agreement on guidelines for the employment policies of the member states in 2009 ([9897/09](#)). Despite the crisis, ministers decided to maintain the guidelines adopted last year as they also serve as a tool for meeting the immediate challenges of increasing unemployment and social exclusion (e.g. through flexicurity policies to facilitate transition to work, matching the unemployed with available jobs, and skills upgrading). In addition, the current guidelines encourage member states to make structural reforms which should help to recover from the crisis.

Extension of regulation 883/2004 to nationals of third countries

Despite substantial progress ministers did not reach an agreement on a draft regulation designed to ensure that third-country nationals who are legally resident in the EU and who are in a cross-border situation are subject to the same rules coordinating social security entitlements as European citizens.

The last two outstanding issues concern the principle of equal treatment of third-country nationals and the possibility of exporting pensions to third countries.

Legal basis proposed: Article 63(4) of the Treaty (measures on immigration policy); unanimity required for a Council decision and consultation procedure; the European Parliament delivered its opinion on 9 July 2008.

Safety and health of pregnant workers at work

The Council took note of a Presidency progress report ([10064/1/09](#) + [10064/1/09 COR1](#)) on a draft directive to improve the protection of pregnant workers and workers who have recently given birth or are breastfeeding. It also invited its preparatory bodies to continue work on this file. The new directive would amend the existing directive 92/85.

Under the Czech Presidency, the Council's preparatory bodies discussed in particular the possibility of counting other family-related leave offered to the mother as maternity leave, remuneration during leave, the obligatory period of maternity leave, prohibition of dismissal and protection against discrimination. The Presidency succeeded in improving considerably the understanding of the issues at stake and in clarifying the text of the Commission proposal. Despite this, further negotiations are necessary, in particular on the length of maternity leave and the connected issue of counting other family-related leave as maternity leave in certain cases, the obligatory portion of maternity leave and the maternity allowance.

At its meeting on 9 March 2009, the Council held a policy debate on a number of fundamental questions in the Commission proposal ([6854/09](#)).

The main objective of the Commission proposal is to extend the minimum length of maternity leave from 14 to 18 weeks of which at least six weeks shall be taken after childbirth. Other elements of the proposal include the principle of full pay during the 18 weeks, with a possibility for member states to introduce a ceiling that must not be below sickness pay; the right for women when coming back from maternity leave or while still on maternity leave to ask their employer to adapt their working patterns and hours; the right to return to the same job or an equivalent post.

The proposal forms part of the Commission's work-life balance package which aims to contribute to reconciling professional, private and family life more effectively. The other parts of the package are a proposal for a directive on the equal treatment of the self-employed and their assisting spouses ([13981/08](#)), a policy document explaining the background and context ([13977/08](#)) and a report on progress made by EU countries towards the so-called 'Barcelona targets' for facilities for children. ([13978/08](#)).

Legal basis proposed: Article 137(2) (workers' health and safety) and Article 141(3) (equal treatment between women and men) of the Treaty; qualified majority required for a Council decision; co-decision procedure with the European Parliament's first-reading opinion expected in the autumn of 2009.

Directive on the principle of equal treatment

On the basis of a progress report ([10073/1/09 REVI](#)), the Presidency briefed the Council on the state of play in the discussions on the draft directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

Under the Czech Presidency, the discussions within the preparatory bodies of the Council concentrated on the provisions aimed at protecting persons with disabilities from discrimination (Article 4 of the proposal). The Presidency tabled drafting suggestions to align the directive more closely with the text of the UN Convention on the Rights of Persons with Disabilities and to provide for the progressive implementation of the directive. However, further extensive work is clearly necessary on numerous issues. These include specific provisions on disabilities (e.g. the scope of the directive, its financial and practical implications, legal certainty, the implementation calendar and the relationship between the directive and more detailed sectoral specifications), the division of competence and legitimate differences of treatment (e.g. cheaper public transport for disabled persons).

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

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

Equal opportunities for women and men: active and dignified ageing

The Council adopted conclusions entitled "Equal opportunities for women and men: active and dignified ageing" ([10412/09](#)). Member states are urged to promote active ageing policies for older workers, taking into account the respective needs of women and men, to combat the discrimination that older women and men face in the labour market, and to support employers in their efforts to recruit older workers. The conclusions also call on member states to take into account women's higher exposure to the risk of poverty, especially when reforming their pension systems.

Inclusion of the Roma

In the conclusions on the inclusion of the Roma ([10394/09](#)) the Council welcomed the meeting of an integrated EU platform for Roma inclusion in Prague on 24 April 2009 and invited the Commission and the member states to take into account, where appropriate, the Common Basic Principles on Roma Inclusion debated at this event, when designing policies to promote the full inclusion of the Roma.

It is understood that Spain, which will take over the EU Presidency in the first half of next year, will organise the second European Roma Summit on 8 April 2010.

Social protection of self-employed workers and assisting spouses

On the basis of another Presidency report ([10013/09](#)), the ministers took stock of the progress achieved so far on a draft directive aiming at improving the social protection of self-employed workers and of "assisting spouses". They invited the preparatory bodies to continue their work on this file.

Under the Czech Presidency, discussions in the responsible working group focused mainly on the definition of "assisting spouses", the provisions concerning maternity leave for self-employed workers and assisting spouses, the issue of temporary replacements, and the linkage between EU and national legislation, as well as the anti-regression clause.

Despite some progress, the Commission proposal needs further discussion, particularly in respect of the concept of "assisting spouses", the most appropriate means of providing maternity leave for self-employed persons, the proposed optional nature of the social protection for self-employed workers and their assisting spouses, the replacement services, and the scope of the directive and its legal basis.

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

Like the proposal on the extension of maternity leave, the proposal concerning assisting spouses forms part of the Commission's work-life balance package.

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

Health and Consumer Affairs

Recommendation on patient safety

The Council adopted in a public debate¹ a recommendation on patient safety, including the prevention and control of healthcare-associated infections ([10120/09](#)). The recommendation aims to create a framework to stimulate policy development and future action in and between member states to address the key patient-safety issues.

Recommendation on an action against rare diseases

The Council adopted in a public debate¹ a recommendation on an action in the field of rare diseases ([10122/09](#)). This recommendation aims to provide a coordinated EU approach to ensure effective recognition, prevention, diagnosis, treatment, care and research in the field of rare diseases in Europe.

Patients' rights in cross-border healthcare

On the basis of a Presidency progress report ([10026/09](#)) and questions suggested by the Presidency ([10345/09](#)), the Council held a public debate¹ on a draft directive concerning the application of patients' rights in cross-border healthcare.

¹ Public events of the Council can be followed by video streaming at:
<http://www.consilium.europa.eu/videostreaming>

Motivated by a desire to find the right balance between patient freedom, the sustainability of public health systems and the right of the member states to organize their own health systems, ministers in general welcomed the direction the discussions are taking under the Czech Presidency, in particular with regard to the restructuring of the text, the clarification of the responsibilities of the member states and prior authorisation. With reference to the national competences of member states to organize their health system, a large number of delegations wished to add Article 152 of the EC Treaty as a legal basis for the proposal. Many ministers wished to exclude long-term care from the scope of the draft directive. As regards the scope of the draft directive, views differ on whether the scope should be limited only to healthcare providers contracted to public health insurance or otherwise recognized by the public system, or also extended to private healthcare providers not thus recognized. Ministers agreed that cooperation in the field of healthcare is needed. However, a large number of delegations opposed the use of comitology procedures for such cooperation.

Commissioner for Health Androulla Vassiliou agreed to include Article 152 in the legal basis and to exclude long-term care from the scope of the directive. She suggested further discussions however on prior authorisation and the possible exclusion of some healthcare providers.

The Presidency concluded the debate by stressing the need for prior authorisation under certain conditions, as long as the relevant case-law of the European Court of Justice is respected. With regard to the scope of the draft directive, the Presidency suggested that quality and safety standards might be used as criteria to decide which healthcare providers are covered.

Work on this file will continue under the incoming Swedish Presidency.

The Czech Presidency's compromise proposal attempts to solve questions such as “inflow of patients”, “gatekeeping”, adjustments of Chapter IV on healthcare cooperation in relation to comitology etc. Initial reactions to this compromise proposal in the responsible working group were overall positive (e.g. the new structure of the text, the clarification of the responsibilities of the Member States and consistent use of definitions). The new orientations also helped to create some common ground with regard to other parts of the proposal, e.g. the extent of the codification of European Court of Justice case-law, the exclusion of certain types of care from the scope of the directive, mutual recognition of prescriptions and cooperation on healthcare. Despite this tangible progress, a number of substantive issues still need further discussion, including the actual content of key terms, the scope of the directive and the exclusion of certain types of care, the reasons for refusal to grant prior authorisation, the reimbursement of prescriptions, the provisions on cooperation on healthcare and the legal basis.

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

Legal basis proposed: Article 95 of the Treaty (internal market); qualified majority required for a Council decision; co-decision procedure with the European Parliament's first-reading opinion voted on 23 April 2009 ([8903/09](#)).

Pharmaceuticals package

On the basis of three progress reports from the Presidency ([10183/09](#) + [ADD1](#) + [ADD2](#) + [ADD3](#)), the Council held an exchange of views on the legislative proposals forming the "Pharmaceutical package".

With regard to preventing falsified medicinal products from entering the legal supply chain, ministers broadly welcomed the proposal, highlighting the importance of the draft directive for the safety of medicinal products.

The discussions in the responsible Council working group have shown that delegations consider the Commission proposal to be a good basis for improving the existing directive on medicinal products for human use as regards protection against falsified medicinal products. However, individual elements of the proposal need further discussion. This concerns in particular definitions e.g. of "falsified medicinal products", the scope of the proposal and the safety features.

Concerning "pharmacovigilance", i.e. the strengthening of the EU system for safety monitoring of medicinal products, ministers warmly welcomed the Commission proposals for a regulation and a directive, and highlighted their contribution to the protection of patients.

First discussions in the responsible Council working group show however, that continued examination of the proposals is necessary, in particular with regard to the composition, role and mandate of the proposed Pharmacovigilance Committee and its interaction with other preparatory bodies of the European Medicines Agency (EMA).

As regards the proposed regulation and directive concerning provision of information by marketing authorisation holders, many ministers expressed concerns that had already been raised in the working group. While agreeing that there is a need to improve the information to the general public on prescription-only medicinal products, many delegations fear that the suggested system will be overly burdensome for competent authorities without leading to significant improvements in the quality of the information provided to patients. In addition, many delegations hold that the distinction between "information" and "advertising" is not sufficiently clear and therefore fear that the proposals will not provide sufficient guarantees that the prohibition of advertising of prescription-only medicinal products to the general public will not be circumvented.

Legal basis proposed: All five proposals are based on Article 95 of the Treaty (internal market); qualified majority required for a Council decision; co-decision procedure. The first-reading opinion of the European Parliament is expected at the earliest in the autumn of 2009.

Other business

- (a) Report from the High Level Group on Disability on the implementation of the UN Convention on the Rights of Persons with Disabilities

Commissioner Špidla briefed the ministers on this report ([10550/09](#)).

- (b) The impact of free movement of workers in the context of EU enlargement

Commissioner Špidla presented the Commission's report on the third phase of the transitional arrangements set out in the 2003 Accession Treaty with regard to the access to the labour market ([10552/09](#)).

- (c) Meeting of Ministerial Working Group (Radziejowice, Poland, 18-19 May 2009)

The Council took note of the information the Polish delegation gave on a meeting of the Ministerial Working Group in Radziejowice on 18-19 May 2009 ([10553/09](#)).

- (d) Presidency Conferences in the field of employment and social policy

The Presidency drew the attention of the ministers to the outcome of the following Conferences in the field of employment and social policy, summarized in the documents indicated in brackets.

- (a) "8th Meeting of People Experiencing Poverty", Brussels, 15 May 2009 ([10558/09](#))
- (b) "Social Services", Prague, 22-23 April 2009 ([10559/09](#))
- (c) "Flexicurity", Prague, 25-26 March 2009 ([10560/09](#))
- (d) "Care and Protection of Senior Citizens - the dignity and risks of the elderly", Prague, 25-26 May 2009 ([10561/09](#))
- (e) "New Ways to overcome Gender Stereotypes", Prague, 27 May 2009 ([10562/09](#))

- (e) Health Security related matters, including vaccines and vaccination against Influenza A (H1N1)

The Commission provided information about the 2009 work programme of the Health Security Committee and the progress made on the revision of the structures relating to health security in the EU. Special attention was paid to the Influenza A (H1N1) outbreak and the issue of vaccines and vaccination strategies against influenza A (H1N1). Ministers agreed with the Commission on supporting the Health Security Committee in its activities aimed at ensuring that both the vaccine and the vaccination strategies are developed coherently and in a timely manner. They also agreed that a coordinated approach on this matter could provide added value in relation to international discussions and developments on this matter. This topic was also examined during lunch.

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

The Council took note of a progress report from the Presidency on a draft directive aiming at ensuring that human organs used for transplantation in the EU comply with the same quality and safety requirements and at facilitating the exchange of human organs between member states ([10028/09](#)).

- (g) Council working party on public health at senior level

The Presidency reported on the results of the meeting of the working group of the Council on public health at senior level held on 29 May 2009.

- (h) Ingredients in tobacco products

Supported by France and Latvia, the Danish delegation asked for measures on tobacco ingredients and candy cigarettes to be taken at European level in the framework of the revision of the Tobacco Products directive for which the Commission is expected to present a proposal in the first half of 2011 ([10075/09](#)).

(i) Green Paper on the European Workforce for Health

The Commission gave a short summary of the replies it received to the Green Paper on the European Workforce for Health issued on 10 December 2008 ([10346/09](#)).

(j) Presidency Conferences in the field of health

The Presidency informed the ministers of the results of the following Conferences ([10069/09](#)):

- i. "eHealth for individuals, society, and economy", Prague, 18 - 20 February 2009
- ii. "The Microbial Threat to Patient Safety in Europe", Prague, 15 - 16 April 2009
- iii. "Financial sustainability of Health Systems", Prague, 10 - 12 May 2009.

(k) Work programme of the incoming Presidency

The incoming Swedish Presidency presented its work programme on health affairs to the Council.

OTHER ITEMS APPROVED

ENVIRONMENT

Amendment to the Kyoto Protocol

The Council adopted conclusions on the submission of an amendment to the Kyoto Protocol, see [10644/09](#).

AGRICULTURE

Crop statistics

The Council adopted a regulation concerning crop statistics ([3614/09](#)), following a first-reading agreement with the European Parliament. The new legislative act will establish a common framework for the systematic production of Community statistics on agricultural land use and crop production.

INTERNAL MARKET

Euro VI for trucks and busses*

The Council adopted a regulation introducing tighter emission limits for nitrogen oxides and particulate matter (Euro VI) from trucks and buses, following a first-reading agreement with the European Parliament ([3733/08](#) + [10338/09 ADD1](#)). The new legislative act requires a reduction of emissions from trucks and buses of nitrogen oxides by 80% and particulate matter by 66% compared to the Euro V stage as from 31 December 2012. The regulation also includes a requirement that vehicles' on-board diagnostic information and vehicle repair and maintenance information be made available through websites in the standardised format developed by a technical committee of stakeholders.

TELECOMMUNICATIONS

Roaming charges*

The Council adopted¹ a regulation amending regulation (EC) No 717/2007² on roaming on public mobile telephone networks within the Community ([3645/09](#), [10319/1/09](#) + [ADD1](#)). The Council and the European Parliament reached agreement at first reading.

The proposal provides for an extension of the regulation currently in force which is due to expire in 2010, a further reduction in charges and an extension of pricing limits to cover SMS and data services in addition to voice calls.

For more details see press release [10621/09](#).

TRANSPORT

More flexibility for allocation of slots at EU airports

The Council adopted a regulation amending regulation (EEC) No 95/93 on common rules for the allocation of slots at Community airports ([3653/09](#)).

For the summer 2009 scheduling season the regulation suspends the rules that oblige airlines to fly their routes at least 80% of the time or risk losing them. This temporary measure will help airlines cut costs by allowing them to cut capacity more easily at busy airports, knowing that their slots will be safeguarded for the next summer season 2010.

The global economic and financial crisis is seriously affecting the activities of air carriers. It has led to a significant reduction in air traffic over the winter 2008/2009 scheduling period and it is also affecting the current summer 2009 scheduling period (29 March 2009 to 24 October 2009).

Similar measures were adopted previously after the September 2001 terrorist attacks and in the aftermath of the 2003 Iraq war and SARS pandemic.

¹ The Latvian and Spanish delegations abstained from voting.

² OJ L 171, 29.6.2007, p. 32.