EU Policy News Bulletin

ICT

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AT A GLANCE: ECOFIN COUNCIL POSTPONES DECISION ON THE DIGITAL SERVICES TAX – HIGH-LEVEL CONFERENCE ON CYBERSECURITY IN VIENNA – INFORMAL POLITICAL AGREEMENT REACHED ON THE CYBERSECURITY ACT – UK PRIME MINISTER POSTPONES VOTE ON THE WITHDRAWAL AGREEMENT

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GLOSSARY

COUNCIL OF THE EU: Co-legislator, made up of representatives from Member State Governments. Has a six-month rotating presidency, currently held by Austria until the end of 2018.

ECOFIN COUNCIL: The ECOFIN Council is made up of the economics and finance ministers from all Member States. Relevant European Commissioners also participate in meetings.

TRILOGUES: Informal negotiations between the European Parliament, Commission and Council of the EU to reach an agreement on a specific legislative proposal. Agreement then needs to be formally adopted by the Parliament and Council of the EU.

DIRECTIVE: EU legislative act that sets out a goal that all EU Member States must achieve. However, it is up to the EU Member States to adopt their own laws on how to achieve the EU goals enshrined in the Directive.

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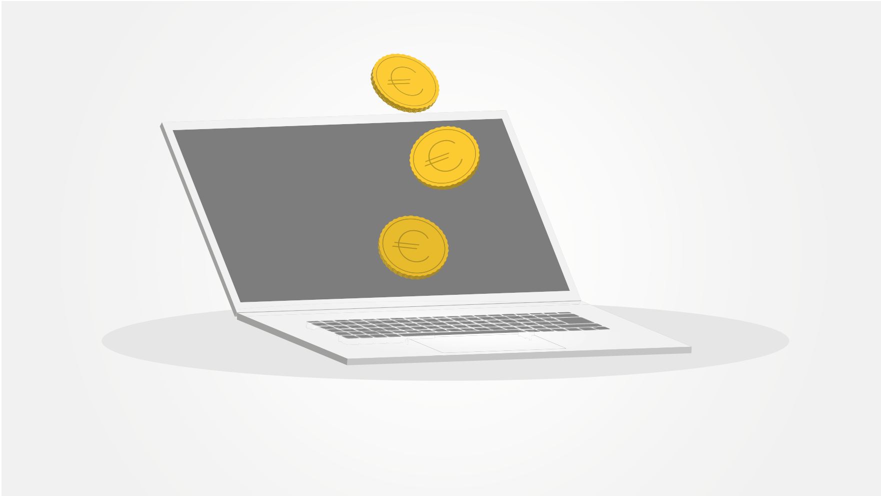
DIGITAL TAX

ECOFIN Council postpones decision on the digital services tax



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At their meeting on 4th December 2018, the EU Economy and Finance Ministers (ECOFIN Council) **postponed** a vote on the latest Austrian compromise text on the digital services tax, following the **Franco-German joint declaration** on the taxation of digital companies and minimum taxation. The declaration was put on the table as a means to save the negotiations from a deadlock.

The amended proposal aims to change the scope of the draft directive for a digital services tax at a rate of 3% to be applied only to online advertising revenue . The European Commission will present the amended proposal in January / February, with adoption by Member States expected in March. The new proposal would come into force on 1st January 2021, unless a global solution is reached before that date at the level of the Organisation for Economic Cooperation and Development (OECD).

During the ECOFIN meeting, French Finance Minister Bruno Le Maire stressed that revenue was the only possible tax base and that the tax rate was "reasonable". He also stressed that Member States could introduce a digital tax on a broader base in their national legislation and that France could do so on issues important to them, like selling personal data. He stressed that this is a major concession for France and Germany, and that everyone needs to move towards a collaborative approach if they were to get agreement. While some can see little to no chance of successothers (like France) would like to go further. French Finance Minister Bruno Le Maire also argued that this proposal would speed up work in the OECD and give the EU a stronger voice. Olaf Scholz, German Finance Minister, was confident that work in the OECD, G7 and G20 would end up in a global agreement but, as this requires some time, the EU would need an interim solution that could start by 2021.

There remained sceptical voices. The Irish Minister said he has strong principled concerns about this policy direction and that the OECD offers the

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best way forward. The Swedish, Danish and Finnish Ministers also voiced caution, but no one rejected the proposals outright. A majority of national delegations appeared willing to accept an EU interim solution rather than see a patchwork of national schemes develop, provided it had a strict time-limited sunset clause. A number of countries (including Slovenia and Latvia) warned that the administrative costs of the restricted scope should not outweigh the revenue.

The Austrian Presidency was disappointed that after all of the work being made over the last months (including 7 technical meetings and6 compromise texts), it had not been possible to put the latest compromise text to a vote. They also stressed that they had carried out an in-depth analysis to show that the EU's proposal was compatible with the OECD text.

In terms of next steps, the Austrian Presidency urged the Council working group on tax questions to continue working on the basis of its latest compromise text and the Franco-German declaration, with the aim of reaching an agreement as soon as possible.

(Source: Interel)

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CYBERSECURITY

High-Level Conference on Cybersecurity in Vienna

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On 3 and 4 December 2018, a high-level conference was organised in Vienna on Cybersecurity. The event gathered representatives from the European Institutions, industry and experts to discuss cybersecurity. Speakers included EU Commissioners, representatives from the European Union Agency for Network and Information Security (ENISA), EU Member States, the European Commission's Directorate-General for Communications Networks, Content and Technology (DG CNECT) and National cybersecurity agencies, among others.

Discussions focused on the need for closer cooperation by all actorsacross all levels, as over the last 18 months cybersecurity has evolved into a priority cross-cutting issue. Julian King, EU Commissioner for the Security Union, commented that resilience, deterrence and international cooperation are the three pillars of the EU's cybersecurity strategy.

Udo Helmbrecht, ENISA Executive Director, pointed out that cybersecurity policy is currently split between four EU Commissioners, meaning that the governance and role of different actors is not clear. This could reflect the rumours that cybersecurity becomes a separate portfolio or even get a dedicated Directorate General in the next Commission.

Andrus Ansip, Commission Vice President for the Digital Single Market, stated that the EU can create standards, emulating the success of the General Data Protection Regulation (GDPR) and that the digital transformation and advancing digitalisation will not succeed without creating trust.

(Source: Interel)

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CYBERSECURITY ACT

Informal political agreement reached on the Cybersecurity Act

©European Commission

On 10 December 2018, an informal political agreement was reached on the Cybersecurity Act by representatives of the European Parliament, Commission and Council of the EU.

The final text is not yet available, but provisions on the following will be included:

- A permanent mandate for the European Union Agency for Network and Information Security (ENISA);
- Manufacturers of wearables, connected toys and other Internet of Things' devices will be required to add product information brochures for consumers to understand how secure the devices are;
- The Commission should draft a list of products that need a mandatory certification, including products used in critical infrastructure, and finalize that list by 2023;
- Companies will be required to set up ways to report and share vulnerabilities, and work with capitals to set up similar "vulnerability disclosure" procedures.

The Cybersecurity Act now needs to be formally adopted by the European Parliament and the Council of the EU. This should likely happen in early 2019. Following formal adoption, ENISA can begin working to develop European cybersecurity certification schemes.

(Source: Interel)

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BREXIT

UK Prime Minister postpones vote on the Withdrawal Agreement

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The UK Prime Minister, Theresa May, postponed the vote due to take place on 11 December 2018 in the House of Commons on the Withdrawal Agreement reached with the EU27. Given the level of opposition to the deal, particularly on the Irish back-stop to prevent a hard border in Ireland, the Prime Minister will seek further talks with the EU27. European Council President Donald Tusk stressed that the EU would not re-open discussions on the text of the Withdrawal Agreement but would seek to facilitate ratification by the UK parliament. The European Council met again on 13-14 December 2018 to take stock of the situation.

Theresa May has given no indication when the delayed vote will now take place, but she is already up against a tight timetable to get the necessary legislation through the British parliament in time for exit on 29 March 2019.

A variety of options are being discussed to get out of this impasse, including a vote on a revised deal, a new general election, a 2nd referendum or a Norway-style "soft" Brexit that would see the UK remain in the single market but have to accept free movement of people and the judgements of the European Court of Justice. While there is no majority in the House of Commons for a no-deal scenario, it remains the default option if no other solution is found. The EU has insisted that it will not negotiate a "managed no-deal" which would see a series of mini-agreements to minimise the projected chaos.

(Source: Interel)