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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of a Proposal for a Directive of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies

Delegations will find attached document COM(2016) 484 final.

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TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Proposal for a Directive of the European
Parliament and of the Council on the accessibility of the websites and mobile
applications of public sector bodies**

(Text with EEA relevance)

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2012) 721 final — 2012/0340 (COD): 03.12.2012

Date of the opinion of the European Economic and Social Committee: 22.05.2013

Date of the position of the European Parliament, first reading: 26.02.2014

Date of adoption of the position of the Council: 18.07.2016

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The objective of the Commission's proposal is to address the fragmentation of the EU's single market for web-accessibility related products and services by approximating the laws, regulations and administrative provisions of the Member States on the accessibility of websites of public sector bodies.

The proposal provided that some public sector bodies' websites would be made accessible across the EU by meeting the same technical norms and standards (Web Content Accessibility Guidelines WCAG 2.0 Level AA of the W3C consortium – WCAG 2.0).

The proposal covered only 12 types of public sector websites, giving Member States the freedom to extend this list.

3. COMMENTS ON THE POSITION OF THE COUNCIL

Overall, the Council accepted the need to legislate in this area and endorsed the core objectives of the Commission proposal, namely to improve the accessibility of public sector websites. However, the Council made some changes on how to achieve those objectives.

In particular, the scope of the proposal was extended to cover websites and mobile applications of all public sector bodies, with some limited exceptions on the types of body and content covered. A set of provisions allowing public sector bodies to apply the accessibility requirements to the extent that they do not impose a disproportionate burden (taking into account factors such as the size and resources of the public sector body) was also included.

The definition of ‘public sector body’ clarifies that the extension to associations formed by one or several authorities or bodies governed by public law covers associations established for the specific purpose of meeting needs of general interest, not having an industrial or commercial character.

Member States may maintain or introduce measures (in conformity with Union law) which go beyond the minimum requirements provided by the Directive.

The provisions on standards have been adapted to take account of the adoption of the European standard in 2014 on “Accessibility requirements suitable for public procurement of ICT products and services in Europe” (EN 301 549), resulting from Mandate 376, and also to take account of the fact that there is ongoing standardisation work on mobile applications. The Commission will be required to adopt implementing acts within 24 months from the entry into force of the Directive providing technical specifications for mobile applications in cases where no reference to a harmonised standard covering them has been published. A specific obligation was included to comply with the relevant provisions of the European standard EN 301 549 V1.1.2 (2015-04) for websites and mobile applications, and the Commission is empowered to adopt a delegated act to make reference to a more recent version of that standard, or to a European standard replacing it, also in case no reference to harmonised standards covering it has been published.

As it stands, the text lays down requirements on transparency (public sector bodies will need to publish information on the accessibility of their websites and mobile applications) and for users to request certain content otherwise exempted from accessibility requirements. The amended proposal also lays down requirements for an effective enforcement procedure, including the possibility to contact an ombudsman and monitoring and reporting by Member States. These should reinforce the effective implementation of the accessibility requirements.

The Commission is further requested to establish through implementing acts the model statement on accessibility which public sector bodies will be required to publish, the reporting arrangements for Member States and the monitoring methodology which Member States will need to put in place.

Once adopted, Member States must transpose the Directive into national law within 21 months after the date of its entry into force. They then have 12 months to apply the provisions to new public sector bodies’ websites, 24 months to existing websites and 33 months to mobile applications of public sector bodies.

The Commission supports this outcome.

Following the informal tripartite discussions of 26 January, 2 February and 3 May 2016, the Parliament and the Council reached provisional political agreement on the text.

This political agreement was confirmed by the Council on 16 June and on 18 July 2016 the Council adopted its first reading position.

4. CONCLUSION

The Commission supports the results of the interinstitutional negotiations and can therefore accept the Council's position at first reading.