

DECISIONS

COUNCIL DECISION (EU) 2022/2335

of 28 November 2022

amending Decision (EU) 2015/2169 on the conclusion of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, Article 100(2), Article 167(3) and Article 207, in conjunction with Article 218(6), point (a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 1 October 2015, the Council adopted Decision (EU) 2015/2169 ⁽¹⁾ on the conclusion of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part.
- (2) The Protocol on Cultural Cooperation (the 'Protocol') ⁽²⁾ annexed to the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part ⁽³⁾ (the 'Agreement') sets up the framework within which the Parties are to cooperate for the facilitation of exchanges regarding cultural activities, goods and services, including in the audiovisual sector.
- (3) The Protocol includes provisions on an entitlement of audiovisual co-productions to benefit from the respective schemes of the Parties to the Agreement.
- (4) Pursuant to Article 5(8), point (b), of the Protocol, following the initial period of three years, the entitlement will be renewed for further successive periods of the same duration, unless a Party terminates the entitlement by giving notice in writing at least three months before the expiry of the initial or any subsequent period.
- (5) In accordance with Article 3(1) of Decision (EU) 2015/2169, the Commission is to provide notice to the Republic of Korea of the Union's intention not to extend the period of entitlement to co-production unless, on a proposal from the Commission, the Council unanimously agrees four months before the end of the period of entitlement to continue the entitlement.
- (6) In its judgement of 1 March 2022 in case C-275/20, *Commission v Council* ⁽⁴⁾, the Court of Justice decided that the procedure established in Article 3(1) of Decision (EU) 2015/2169 does not comply with Article 218 of the Treaty on the Functioning of the European Union (TFEU) insofar as it requires the Council to vote by unanimity. The applicable voting rule for the adoption of decisions such as those envisaged by Article 3(1) of Decision (EU) 2015/2169 should be that laid down in Article 218(8), first subparagraph, TFEU, namely qualified majority voting in the Council.
- (7) Therefore, the requirement that the Council act by unanimity for the purpose of deciding on the continuation of the entitlement should be deleted.

⁽¹⁾ Council Decision (EU) 2015/2169 of 1 October 2015 on the conclusion of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part (OJ L 307, 25.11.2015, p. 2).

⁽²⁾ OJ L 127, 14.5.2011, p. 1418.

⁽³⁾ OJ L 127, 14.5.2011, p. 6.

⁽⁴⁾ Judgment of the Court of Justice of 1 March 2022, *Commission v Council*, C-275/20, ECLI:EU:C:2022:142.

- (8) In accordance with Article 266 TFEU, in order to implement the judgement expeditiously, this Decision should enter into force on the date of its adoption,

HAS ADOPTED THIS DECISION:

Article 1

In Article 3(1) of Decision (EU) 2015/2169, the third sentence is deleted.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 28 November 2022.

For the Council
The President
V. BALAŠ
