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**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 Regulation of the European Parliament and of the Council on the Digital Europe programme for the period 2021-2027

(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(2018) 434 final – 2018/0227 COD)	6 June 2018
Date of Council agreement on a Partial general approach	29 November 2018
Date of trilogue 1	13 February 2019
Date of the partial provisional compromise agreement (common understanding) endorsed in Coreper	13 March 2019
Date of the position of the European Parliament, first reading (incorporating the common understanding):	17 April 2019
Dates of the trilogue 2 (final)	14 December 2020
Date of political agreement in the Committee of Permanent Representatives	18 December 2020
Date the ITRE Committee of the European Parliament voted to endorse the compromise agreement	14 January 2021
Date of adoption of the Council first reading position	16 March 2021

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The Digital Europe programme is a central element of the Commission's comprehensive response to the challenge of digital transformation, part of the Multiannual Financial Framework (MFF) proposal for 2021-2027.

The aim of the proposal is to establish a spending instrument to maximise the benefits of the digital transformation for EU citizens, businesses and public administrations, namely by reinforcing EU digital capacities in five key areas (so called 'specific objectives'): High Performance Computing, Artificial Intelligence, Cybersecurity and Trust, Advanced Digital Skills and Deployment, best use of digital capacity and interoperability.

Digital Europe constitutes an investment programme focused on building the strategic digital capacities of the EU and on facilitating the wide deployment of digital technologies, to be used by Europe's citizens and businesses. It addresses the Union's key priorities, notably the green and digital transition and resilience of the single market. It will concentrate on the areas where no single Member State alone can ensure the level required for digital success. Focus will also be placed on those areas where public spending has the highest impact. The agreed overall financial envelope is EUR 7.59 billion (in current prices)

3. COMMENTS ON THE POSITION OF THE COUNCIL

The Council's position fully reflects the agreement reached in the trilogues. The most important changes introduced compared to the Commission's proposal include:

– *Protection of the financial interests of the Union.* A recital with a reference to the general regime of conditionality for the protection of the Union budget against breaches of the principles of the rule of law affecting its sound financial management or the protection of the financial interests of the Union was aligned with the agreed wording of the mechanism. The Commission supported such alignment.

– *Alignment of the Digital Europe Programme to the duration of the MFF 2021-2027*. The Commission supported the objective of ensuring continuity in case of delays in the transition to the future multiannual financial framework without interpreting agreed provisions as providing an automatic extension of the programme.

– *Retroactivity clause.* Retroactivity provisions were added to ensure continuity in providing support to legacy actions currently supported under the Connecting Europe Facility and Interoperability solutions for public administrations, businesses and citizens (ISA2) Programmes and to allow for implementation as of the beginning of the MFF 2021-2027. The Commission supported this addition.

– *Climate.* Reference to the overall climate spending target for the entire MFF (initially 25%) was updated to 30%. *Biodiversity target.* The substance of the standard biodiversity recital, namely the contribution to the target for biodiversity expenditures, was added in the recital providing for a climate target. The Commission agreed to the update of the Climate target and the addition of the Biodiversity target.

– *Budget distribution over the Specific Objectives and the financial envelope for 'Interoperability'.* The amounts allocated to Specific Objectives were reduced proportionally, reflecting the weighting and balance of the original proposal (linear/pro-rata cut across the Specific Objectives), while protecting the financial envelope for interoperability. The Commission supported maintaining the weighting and balance of the original proposal.

– *Horizontal alignment of provisions related to the transfer back of unused funds transferred to the DEP from resources under shared management.* Provisions related to the transfer back of unused funds transferred to the DEP from resources under shared management were introduced, mirroring the approach adopted in Horizon Europe. On 8 March 2019, the Commission made a declaration expressing its objections to the agreement with respect to the provisions on transfer of funds (Article 9.5) and co-financing.

- *Adoption of work programmes*. It was agreed, by all parties, that work programmes would be adopted in the form of implementing acts with use of the examination procedure (comitology). Agreement was also reached on the use of delegated acts to modify Annex 1.

- *Cybersecurity*. Additional clarifications were made regarding the implementation of actions under Specific Objective 3, Cybersecurity and Trust, whereby this Specific Objective will be implemented mainly through the proposed European Cybersecurity Industrial, Technology and Research Competence Centre and the Cybersecurity Competence Network (CCCN).

- *Participation of third countries.* The possibility of a partial association of third countries to the programme at the level of individual Specific Objectives was made explicitly possible.

- *Seal of Excellence.* Provisions related to the Seal of Excellence have been aligned with equivalent provisions under *Horizon Europe*, while respecting the specificities of both programmes. The scope of application of the Seal of Excellence under the DEP has been modified to exclude references to programmes, which legal bases do not allow to rely on DEP's Seal of Excellence in their award criteria.

The agreement reached preserves the objectives of the Commission's original proposal, maintaining the level of ambition but allowing for sufficient flexibility in implementing the new rules.

4. CONCLUSION

The Commission supports the results of the inter-institutional negotiations and therefore accepts the position taken by the Council.