EU/Korea Free Trade Agreement

2022/0257(NLE) - 02/09/2022 - Preparatory document

PURPOSE: to amend 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.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 1 October 2015, the Council adopted 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 Protocol on Cultural Cooperation annexed to the Free Trade Agreement between the European Union and its Member States and Korea, 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.

The Protocol includes provisions on an entitlement to audiovisual coproductions to benefit from the respective schemes.

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.

In accordance with Article 3(1) of Decision (EU) 2015/2169, the Commission is to provide notice to Korea of the Union's intention not to extend the period of entitlement to co-production pursuant to Article 5 of the Protocol following the procedure set out in Article 5(8), point (b), of the Protocol 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.

By judgement of 1 March 2022 in case Commission v Council, the Court of Justice decided that **the procedure established in Article 3(1) of Decision (EU) 2015/2169 does not comply with Article 218 TFEU** in so far as it requires the Council to vote by **unanimity**. The applicable voting rule for the adoption of decisions as those envisaged by Article 3(1) of Decision (EU) 2015/2169 had to be that laid down in Article 218(8), first subparagraph, TFEU, namely **qualified majority voting** in the Council.

CONTENT: therefore, the Commission calls for Decision (EU) 2015/2169 on the conclusion of the EU-Korea Free Trade Agreement to be amended so that the **requirement that the Council act by unanimity for the purpose of deciding on the continuation of the entitlement be deleted**.

In order to implement the judgement expeditiously, the proposed Decision should enter into force on the day of its adoption.