



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2016) 2151 final**

*- English language version of the French text which is authentic -*

Brussels, 27 January 2016

# **TEXTE EN**

## **MINUTES**

**of the 2151<sup>st</sup> meeting of the Commission**

**held in Brussels**

**(Berlaymont)**

**on 13 January 2016**

**(morning)**

—

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**Single sitting: Wednesday 13 January 2016 (morning)**

The sitting opened at 9.16 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	Items 1 to 11 (in part)
Ms MOGHERINI	High Representative / Vice-President	
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	Items 8 (in part) and 9
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	
Mr OETTINGER	Member	Items 1 to 10 (in part)
Mr HAHN	Member	Items 1 to 11 (in part)
Ms MALMSTRÖM	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	Items 1 to 11 (in part)
Mr STYLIANIDES	Member	
Mr HOGAN	Member	Items 8 (in part) to 11 (in part)
Lord HILL	Member	
Ms BULC	Member	
Ms BIENKOWSKA	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Ms VESTAGER	Member	
Mr MOEDAS	Member	

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Absent:

Ms GEORGIEVA

Vice-President

Mr MIMICA

Member

The following sat in to represent absent Members of the Commission:

Ms WERNER	Chef de cabinet to Ms GEORGIEVA
Mr BEHRNDT	Chef de cabinet to Mr MIMICA

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Director-General, DG Communication	
Ms MICHOU	Deputy Secretary-General	Items 1 to 9
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	Items 1 to 11 (in part)
Ms ANDREEVA	Commission Spokesperson's Service	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Ms DEJMEK-HACK	Adviser in the PRESIDENT's Office	Items 10 and 11 (in part)
Mr SZOSTAK	Adviser in the PRESIDENT's Office	Items 1 to 9
Mr DELVAUX	Adviser in the PRESIDENT's Office	Items 11 and 12
Mr SHOTTER	Adviser in the PRESIDENT's Office	Items 8 (in part) and 9 (in part)
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	
Mr MANSERVISI	Chef de cabinet to Ms MOGHERINI	Items 1 to 8, and 11
Mr NOCIAR	Chef de cabinet to Mr ŠEFČOVIČ	Items 1 to 8 (in part), 10 and 11 (in part)
Ms LUCAS	A member of Mr DOMBROVSKIS' staff	Items 9 (in part) and 10
Mr BANNERMAN	Expert in Mr KATAINEN's Office	Item 11 (in part)

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Mr GIL TERTRE	A member of Mr KATAINEN's staff	Items 10 and 11 (in part)
Ms HOLZNER	A member of Mr OETTINGER's staff	Items 1 to 9
Ms ÅSENIUS	Chef de cabinet to Ms MALMSTRÖM	Item 11
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 8
Mr HUSAK	Chef de cabinet to Ms BIENKOWSKA	Item 9
Ms NIKOLAY	Chef de cabinet to Ms JOUROVÁ	Item 9
Mr DEMARTY	Director-General, DG Trade	Item 11
Mr RUETE	Director-General, DG Migration and Home Affairs	Items 1 to 8

Secretary: Mr ITALIANER, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

**1. AGENDAS**

**(OJ(2016) 2151/FINAL; SEC(2016) 36/FINAL)**

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

**2. WEEKLY MEETING OF CHEFS DE CABINET**

**(RCC(2016) 2151)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 8 January.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 2150<sup>TH</sup> MEETING**

**(15 DECEMBER 2015)**

**(PV(2015) 2150; PV(2015) 2150, PART II)**

The Commission approved the minutes of its 2150th meeting.

**4. INTERINSTITUTIONAL RELATIONS**

**(RCC(2016) 2)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 8 January (RCC(2016) 2).

It paid particular attention to the following points.



#### **4.1. LEGISLATIVE MATTERS**

##### **i) European Parliament dossier – January part-session**

(point 3.2 of the IRG record)

##### Ordinary legislative procedure – First reading

- Multiannual recovery plan for Bluefin tuna in the eastern Atlantic and the Mediterranean repealing Regulation (EC) 302/2009 (Regulation) – MATO report – 2015/0096 (COD)

The Commission approved the line set out in SP(2016) 2.

##### Implementing Act

- Draft Commission regulation amending Commission Regulation (EC) 692/2008 implementing and amending Regulation (EC) 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information – Objection pursuant to Rule 106

The Commission approved the line set out in SP(2016) 3.

#### **4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL**

##### **ii) Programming of Council business**

(SI(2016) 1; SI(2016) 3)

The Commission took note of the information in SI(2016) 1 and SI(2016) 3 on the Council meetings between 7 and 27 January.

#### **4.3. RELATIONS WITH PARLIAMENT**

##### **iii) Participation by Members of Parliament in international conferences**

(point 5.7 of the IRG record)

- 10<sup>th</sup> session of the Committee on Aviation and Environmental Protection (CAEP10) of the International Civil Aviation Organisation (ICAO) (Montreal, 1 to 12 February)

The Commission approved document SP(2016) 1.

It agreed, with a reminder about the procedure to be followed, to the request to the PRESIDENT from Mr Martin Schulz, the President of the European Parliament, concerning the Commission's support for a delegation of five Members of the European Parliament who would accompany the Commission – as an observer in the International Civil Aviation Organization – at the above-mentioned meeting from 8 to 12 February.

##### **iv) Results of the December II part-session of Parliament**

(SP(2015) 804; SP(2015) 805)

The Commission took note of the information in SP(2015) 804 and SP(2015) 805 on the proceedings of the part-session of Parliament held in Strasbourg from 14 to 17 December.

##### **v) Action to be taken on Parliament's legislative resolutions and other resolutions of a legal nature**

(SP(2015) 810)

The Commission decided to empower the Members of the Commission responsible for the sectors in question, in agreement with the PRESIDENT and Mr TIMMERMANS and, if necessary, with the other Members

concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2015) 810, drawn up following the December II part-session of Parliament, the contents of which were noted.

## **5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW**

### ***INFRINGEMENTS – URGENT CASE***

***(SEC(2016) 44)***

The Commission adopted the decision in SEC(2016) 44.

## **6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS**

### ***6.1. WRITTEN PROCEDURES APPROVED***

***(SEC(2015) 505 ET SEQ.; SEC(2016) 38 ET SEQ.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 December and 8 January.

### ***6.2. EMPOWERMENT***

***(SEC(2015) 506 ET SEQ.; SEC(2016) 39 ET SEQ.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 December and 8 January.

### ***6.3. DELEGATION AND SUBDELEGATION OF POWERS***

***(SEC(2015) 507 ET SEQ.; SEC(2016) 40 ET SEQ.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 14 December and 8 January, as archived in Decide.

#### **6.4. SENSITIVE WRITTEN PROCEDURES**

**(SEC(2016) 41)**

The Commission took note of the sensitive written procedures for which the time limit expired between 11 and 15 January.

### **7. ADMINISTRATIVE AND BUDGETARY MATTERS**

**(SEC(2016) 37/2)**

#### **ADMINISTRATIVE MATTERS**

**(PERS(2016) 1/2)**

#### **7.1. DG ECONOMIC AND FINANCIAL AFFAIRS – AMENDMENT OF THE ORGANISATION CHART AND INTERNAL PUBLICATION AT GRADE AD14/15 OF THE VACANCY NOTICES FOR TWO DIRECTOR POSTS (SEC(2016) 46; PERS(2016) 2; PERS(2016) 3)**

The Commission, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr MOSCOVICI, and Mr DOMBROVSKIS and Mr KATAINEN, decided:

- to abolish the post of Director of 'Head of Greece Operations' in DG Economic and Financial Affairs;
- to abolish six units;
- to adopt the new organisation chart set out in SEC(2016) 46;

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- to authorise the publication with immediate effect, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notices for the post of Director of the ‘Economies of the Member States I’ Directorate (ECFIN.F) and for the post of Director of the ‘Resources’ Directorate (ECFIN.R) in DG Economic and Financial Affairs as set out in PERS(2016) 2 and PERS(2016) 3.

Unless otherwise stated, these decisions would take effect on 1 March 2016.

This decision would apply without prejudice to the outcome of a more in-depth analysis of the possible synergies and gains in efficiency. The outcome would be presented in March during the allocation of resources.

## **7.2. DG HEALTH AND FOOD SAFETY – AMENDMENT OF THE ORGANISATION CHART**

*(SEC(2016) 47/2)*

On a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT and after consulting Mr ANDRIUKAITIS, and Mr KATAINEN, the Commission decided:

- to create a new Directorate SANTE.D ‘Food Chain: Stakeholder and International Relations’ and to transfer, in the interest of the service under Article 7 of the Staff Regulations, Mr Michael SCANNELL, currently Director of the ‘Food and Veterinary Office’ SANTE.DDG2.F Directorate, to the post of Director of the new Directorate in DG Health and Food Safety;
- to abolish a post of Principal Adviser;
- to abolish three units;
- to adopt the new organisation chart set out in SEC(2016) 47/2.

These decisions would take effect on 1 February 2016.

This decision would apply without prejudice to the outcome of a more in-depth analysis of the possible synergies and gains in efficiency. The outcome would be presented in March during the allocation of resources.

**7.3. DG MIGRATION AND HOME AFFAIRS – LIST OF CANDIDATES FOR THE POST OF EXECUTIVE DIRECTOR OF THE EUROPEAN ASYLUM SUPPORT OFFICE (EASO) AT GRADE AD14 (PERS(2015) 99 TO /4)**

The Commission took note of the information in point 3 of PERS(2016) 1/2 and, on a proposal from Ms GEORGIEVA, in agreement with the PRESIDENT, and after consulting Mr AVRAMOPOULOS, and Mr TIMMERMANS, decided:

- to approve the list of two candidates, presented in alphabetical order, set out in point 3 of PERS(2016) 1/2, for the post of Executive Director of the European Asylum Support Office (EASO), and to consider this list as the Commission proposal;
- to ask Mr AVRAMOPOULOS, the Member of the Commission responsible for Migration, Home Affairs and Citizenship, to communicate this decision and the list of candidates to the Management Board of the European Asylum Support Office (EASO).

These decisions would take effect immediately.

## **8. THE REFUGEE CRISIS**

At the PRESIDENT's request, Mr TIMMERMANS took stock of the refugee crisis and expressed concern at the deterioration of the situation confronting the EU.

He noted first of all that, whereas the Commission had faced up to its responsibilities and presented ambitious initiatives to tackle the crisis, the EU governments were not implementing the resulting decisions with the determination and speed demanded by the urgency of the situation, as demonstrated, for example, by the small number of refugees relocated so far from Greece and Italy – fewer than 300. He also observed that the flow of migrants at EU borders was not slowing down and estimates suggested that only about 40% of them, mostly Syrians, were fleeing war and therefore in need of international protection; meanwhile more and more third country nationals were slipping in who were driven by mainly economic reasons and did not qualify for such protection. He also expressed dismay at the recent tensions between certain Member States, such as those that had arisen in recent days between Denmark and Sweden on the question of checks at their common borders. Finally, to complete the picture, he mentioned the attacks in Cologne on 31 December, which had prompted xenophobic reactions.

Mr TIMMERMANS felt that this grim picture must not deflect the Commission from its course and that it must continue to plan for the future. Among the tasks ahead, he placed particular emphasis on a revision of the Dublin system, and said that the Commission should be ready to submit a political proposal to the European Council in time for its meeting on 17 and 18 March at the latest, even though the task was considerable. He stressed that this revision would inevitably involve a degree of burden-sharing, without which there could be no viable solution. He also mentioned the forthcoming presentation of the package of initiatives on legal migration and the proposal for a permanent resettlement system.

He went on to say that there was still much to be done regarding the management of refugees arriving in Greece, which was still not producing adequate results despite some encouraging signs.

Finally, he reported on his visit to Turkey the previous week, outlining a number of positive aspects of the action taken by the Turkish authorities, in particular the

granting of work permits to Syrian refugees and educational projects for their children. While the Commission could start to identify projects for financing under the Refugee Facility for Turkey, he expressed regret that the Member States had still not reached agreement on this matter. As regards border controls, he had asked the Turkish authorities to exchange information with a view to evaluating the effectiveness of the measures. On the return of illegal migrants, he noted that Turkey had promised to enter into discussions on a readmission agreement with Morocco, which would help to lend credence to the idea that Turkey was not an easy route into Europe.

Concluding his presentation, Mr TIMMERMANS explained that, to contain this crisis, which if it continued could have disastrous consequences, a number of conditions must be met – the Member States must respect their commitments, significant progress must be made with the relocation of refugees, and checks at EU internal borders must not be reintroduced, otherwise the achievements of Schengen would be placed in jeopardy.

Mr AVRAMOPOULOS also stressed the urgency of the situation. The moment of truth was approaching for the EU and it must unite at all costs to achieve tangible results without delay.

To this end, he listed the priorities the EU must adopt immediately. Firstly, enhanced checks at external borders and, in this connection, the need for substantial progress in setting up the planned centres in Italy and Greece for receiving and registering refugees (*hotspots*) between now and the European Council on 18 and 19 February.

Also in this connection, he reminded the meeting of the need to adopt by the summer of 2016 the Commission's package of proposals on the protection and management of external borders, promoting effective upstream dialogue with the Council and the European Parliament so that these decisions could be taken in time.



He also considered it essential that the Schengen area - a cornerstone of the Union - should return to normal operation and that a well-argued communication should be produced on the cost of 'non-Schengen', especially as the return to internal border controls was clearly not halting the influx of refugees.

Secondly, on relocations, he argued in favour of more determined action on the ground to identify bottlenecks and speed up procedures. Following the temporary suspension of the relocation arrangements granted in December to Sweden, which had been overwhelmed by the sudden arrival of refugees *en masse*, he said he was in favour of relocating people who had been accepted in Sweden. He felt it would send a good signal: asylum seekers could not choose which Member State would process their case. He also hoped that the reform of the Dublin system would take account of the scale of secondary movements within the EU and provide for a fair distribution of refugees, despite the danger of a snowball effect. He added that, so far, only Austria had requested a partial exemption from the relocation system; the Commission would have to take a decision on that request as soon as possible.

Thirdly, Mr AVRAMOPOULOS addressed the issue of return measures and measures to combat illegal migration. He pointed out first of all that the number of migrants who were not in need of international protection was growing. He went on to say that the College should adopt a clear position on the conditions to be incorporated in development aid and trade agreements or visa arrangements concluded with non-member countries to encourage them to cooperate with the EU on the return of illegal migrants.

Fourthly, he felt that the discussion on legal migration and integration was vital for the cohesion and future of European societies, even though the integration of migrants was a matter of national jurisdiction. He therefore suggested providing financial support, facilitating the exchange of best practice and providing advice where it would bring added value. He also recommended that the Commission should present a package of ambitious proposals on integration and legal migration

without delay.

He concluded by saying that he was convinced that, despite the difficulties, success could be achieved with effective mobilisation by the Member States.

Ms MOGHERINI felt it was both urgent and essential, for the credibility of the EU's overall approach, for the Commission to table an integrated package of proposals to the European Council meetings in February and March, and at the same time to do everything in its power to ensure that the measures already adopted were actually put into effect and thus achieve tangible results.

She made a number of remarks about external action. As regards Africa, first of all, she hoped that, following the Valletta Summit on Migration of 11 and 12 November, the EU would continue to foster the good bilateral relations it had with the region, not only by maintaining the one-to-one executive relationship between the European Commission and the Commission of the African Union but also by reminding the African countries about the migration question, which played a role in the relationship it had with each of them.

Moving on to Libya, she reported on her meeting of 8 January in Tunis with the members of the Libyan Presidential Council. The purpose was to support the reconciliation process and prepare the practical assistance that the EU would be able to give the future Government of National Accord and the Libyan people once a political agreement had been signed. This assistance would focus on the priority areas of humanitarian aid, institutional and municipal capacity-building and border management.

On the subject of Syria she mentioned a number of positive developments resulting from the meeting in New York of the International Syria Support Group the previous week. These followed the unanimous approval by the UN Security Council of a resolution providing for peace negotiations between the Syrian government and the opposition parties, which would start on 25 January. The current bilateral

tensions between Iran and Saudi Arabia did not facilitate this process, and for this reason the Union, together with the UN, was currently engaged in diplomatic moves targeting the parties and countries that could play a constructive role in this matter. She concluded by mentioning the promise of European support not only to Syria but also to Jordan and Lebanon, which she hoped would be endorsed by the Member States.

In the course of the discussion that followed, the Commission raised the following main points:

- the complexity of the current situation; the challenge which the refugee crisis represented for the Union; the inadequacy of the results achieved so far on the ground in terms of managing refugee flows, and in particular relocations;
- the need for rapid results in two key areas, namely the creation of 'hotspots' and border controls;
- a call for a clearer link to be made between the different aspects of the migration crisis in order to provide an effective response on the ground; at the same time, the need for a long-term perspective;
- the distinction to be drawn between refugees and migrants; a reminder of the fact that the Union defended those who fled war and persecution, but could not accept other migrants;
- the efforts to be made to ensure that Member States shouldered their responsibilities and complied with their commitments to take in refugees; the constraints on some of them due to electoral pressures;
- the lack of administrative capacity to deal with refugees and the inadequate level of public acceptance in certain Member States; a suggestion that platforms for action be created with the Member States that were prepared to act;

- the importance of the Commission's continuing to play its coordinating role and sounding the voice of reason to defuse tensions and counter populist rhetoric; however, the need to respond to the concerns of European citizens, particularly by stressing that Europe was also a union of security and values;
- the unconditional rejection of false associations between certain criminal acts, such as the attacks on women in Cologne on New Year's Eve, and the mass influx of refugees;
- regret at the reintroduction of controls at the internal borders of the Schengen area, as had recently occurred between Sweden and Denmark; the economic consequences of these measures for the Member States concerned and for the internal market; a warning of the dangers threatening the Schengen area, which was a fundamental achievement of European integration;
- the fundamental question of the proportion of asylum-seekers arriving at the Union's border in relation to the number of illegal migrants, and the practical measures for distinguishing between the two on arrival;
- support for a reform of the Dublin system, despite the resistance this would undoubtedly provoke from the Member States; the importance of the idea of sharing the burden of taking in refugees;
- the idea of putting the emphasis on the economy in the sense that the successful integration of migrants depended on Member States' prosperity, and vice versa;
- support for the idea of including the issue of migration in trade negotiations and economic diplomacy with third countries, particularly in Africa, by making this a condition of such relations for the European Union; the suggestion that such initiatives be taken with the European Investment Bank and private enterprise;
- action to be taken against people smugglers;

- the need to promote the integration of refugees into European societies, particularly through employment, hence the request that had been made to the Commission's departments to prepare a survey of best practices in this field as soon as possible; the suggestion that service providers be involved in the blue card procedure;
- the announcement of measures that could be implemented very soon if the funds were released within the proposed deadlines, for example the provision of healthcare and education services for Syrian refugees in Turkey; the importance of Turkey's decision, as part of the action plan concluded with the Union, to speed up the granting of work permits to refugees.

Mr TIMMERMANS spoke again to warn of the danger of other Member States taking unilateral measures to reintroduce controls at their borders if firm results were not achieved quickly. As far as the crimes in Cologne were concerned, he said that these were a matter of public order and were not related to the refugee crisis. If European citizens were worried about respect for the values of the Union, these fears should be challenged into positive measures and actions. As regards the establishment of the planned hotspots, he felt that the Commission could still provide more help to Greece to reinforce its capabilities in this area.

He concluded by recommending that the Commission continue its efforts to achieve firm results, particularly in the lead-up to the European Council meeting of 18 and 19 February. He also hoped that it would present its ideas for reforming the Dublin system in time for the European Council of 17 and 18 March.

The PRESIDENT wound up the debate, saying that he did not wish to downplay the current difficulties. The inaction by the Member States was a problem for the management of the refugee crisis in itself, but it also raised the question of the credibility of the Commission, which was struggling to provide political inspiration for Europe. In any event, he rejected as unworthy the accusations levelled at the Commission by the leaders of some Member States who impugned the reputation of

an institution that was the guarantor of European integration and, in particular, the Schengen area.

He supported the idea of using economic diplomacy and trade relations, for example, to ask third countries to help to control the flow of refugees. As regards the Dublin system, he stressed that it was essential to share the burden of receiving asylum-seekers.

In order to ensure that the measures adopted were translated into practical results on the ground, the Dutch Presidency of the Council would be organising a monthly meeting to review the progress made in all areas of management of the refugee crisis.

He ended by saying that the Commission would re-visit all of these questions before the European Council meetings in February and March.

The Commission took note of this information.

**9. ORIENTATION DEBATE ON RECENT DEVELOPMENTS IN POLAND  
(RULE OF LAW FRAMEWORK)  
(RCC(2016) 4)**

At the PRESIDENT's request, Mr TIMMERMANS outlined the context of this orientation debate, namely the adoption, in recent weeks, of a number of reforms by the new Polish government in areas pertaining to the very foundations of the rule of law.

Turning first to measures taken regarding the Constitutional Court, he referred to the disagreement that had arisen concerning the appointment of certain judges by the Polish parliament, and to the reduction of the length of the terms of office of the President and Vice-President of the Court (Poland's highest court). He stated that

these issues had been the subject of judgments delivered by the Constitutional Court itself. However, the institutions of the Polish state did not appear to recognise these judgments, and this had created a systemic crisis concerning respect for the rule of law. Furthermore, he noted that a number of other measures had subsequently been taken, through a legislative act adopted on 28 December, which increased the complexity of the appeal possibilities available to the democratic opposition in terms of verifying the constitutionality of proposed new laws.

Mr TIMMERMANS explained that, in the light of these circumstances, he had asked the Polish authorities for clarification in a letter he had sent them, in agreement with the PRESIDENT, dated 23 December, in accordance with the Commission's responsibilities as guardian of the fundamental values on which the Union was founded and which were enshrined in Article 2 of the Treaty on European Union. As respect for the rule of law was one of the founding values of the European Union, the Commission was obliged to closely monitor anything that, in any given Member State, could represent a systemic threat to it.

He went on to refer to the measures signed into law on 31 December to amend the law applicable to state-owned media in Poland, which transferred responsibility for appointing heads of state media from an independent body to the Treasury Minister. This amendment could give rise to various conflicts in terms of the pluralism and freedom of the media, which were essential elements of the rule of law. He had therefore also sent a letter, in agreement with the PRESIDENT, Mr OETTINGER and Ms JOUROVÁ, to the Polish authorities on 30 December to request further clarification on this matter.

Mr TIMMERMANS confirmed that the Polish government had replied to the Commission on 7 and 11 January, but noted that its letters had not fully answered the specific questions put to it. He therefore proposed to the members of the Commission that a further letter be sent to the Polish government today, in order to enter into a closer dialogue in the first phase of the EU framework to safeguard the

rule of law, which the Commission had adopted in March 2014. He recalled that this instrument was primarily intended to structure the dialogue needed with the Member State concerned, with a view to reaching a mutually agreed solution which would prevent a truly systemic crisis of the rule of law. Finally, he confirmed the close cooperation between the Commission and the Council of Europe on these matters, with the opinion of the Council of Europe's Venice Commission, formally requested by the Polish Government, expected in mid- March 2016.

Ms JOUROVÁ fully agreed with this analysis. She stressed in particular the importance of emphasising, in external communication, the fact that the Commission was entitled to examine these issues in accordance with its powers relating to the safeguarding of the rule of law, which was an essential element of the Union's area of freedom, security and justice. She agreed that the situation described, in particular in relation to the Constitutional Court, could represent an emerging systemic threat to the rule of law. With regard to the amendments made to date to national law on state-owned audiovisual media, which were currently being analysed to determine the extent to which they directly threatened the rule of law, she nevertheless pointed out their impact when combined with the changes to the Constitutional Court. She also expressed concern regarding the speed of application and the lack of transparency underlying the adoption of the reforms.

She therefore fully endorsed the goal of engaging in factual, constructive dialogue with the Polish government in the first phase of the framework to safeguard the rule of law, which was a tool for making the application of the same criteria to all cases fully transparent. However, she cautioned against making hasty comparisons, given that every case was different by definition and merited individual examination. Finally, she suggested addressing, as part of the proposed dialogue, a number of future reforms announced by the Polish government in order to obtain more detailed information.

Mr OETTINGER also agreed with the need to initiate an objective and constructive



dialogue with the Polish government, commenting on the fact that the measures had been challenged by a significant section of Polish public opinion, as shown by the recent demonstrations there. He also shared the view that the measures relating to the Constitutional Court were, at this stage, the greatest threat to respect for the rule of law. As regards the measures relating to state-owned media, he also noted that a larger reform package had been announced for March and advocated raising this in the dialogue with the Polish authorities. Finally, he noted that these issues would also be addressed at the European Parliament's plenary session next week.

In the course of the discussion that followed, the Commission raised the following key points:

- approval of the political and legal analysis put forward and agreement as to the need for the Commission to engage in objective and constructive dialogue with the Polish government by virtue of its powers under the Treaties to ensure protection of the fundamental values of the Union, the cornerstone of which was the rule of law; the need to analyse in an objective manner the measures discussed as part of this dialogue;
- the need nonetheless also to strike a balance by recognising, on the one hand, the legitimacy of the democratically elected Polish government and, on the other, the serious concerns raised by the measures referred to above and the lack of transparency in the methods used by the government. These concerns were shared by a large part of the Polish population and the international community;
- as a consequence of the above, the Commission members' full support for the establishment of a factual, objective and open dialogue with the Polish authorities; the importance of carrying out an objective analysis within the scope of the Commission's powers and of preventing any political escalation of the situation; a reminder of the need to adopt a case-by-case approach to each situation, while ensuring equal treatment; the importance, also, of learning lessons from past experiences;

- the need to monitor a number of other reforms already announced by the new Polish government; the entry into force, on 24 January, of amendments to the Civil Service Law, including the possibility of replacing certain high-ranking civil servants by direct appointment; the high level of efficiency achieved in recent decades by the Polish government and the hope that the measures in question would not jeopardise what had been achieved; a warning regarding the potential consequences of the various reforms in terms of the management of the Regional Funds, of which Poland was the leading beneficiary in the EU;
- the merits of the framework to safeguard the rule of law adopted by the Commission in March 2014 for structuring and improving the transparency of its method for analysing threats that could potentially undermine the rule of law; the deliberately flexible nature of this step-by-step approach and a reminder of the fact that the Commission might decide at any time to pursue or end the procedure depending on progress made during the dialogue;
- the importance of close cooperation between the Commission and the Venice Commission when dealing with this type of situation and a request for further information concerning the synchronisation of the work of the two organisations;
- a reminder of Poland's great success in terms of European integration over the years and of the particularly high level of support for European integration amongst its citizens; a call for the members of the Commission to continue to address Polish citizens and to demonstrate that, if the Commission has expressed concerns regarding certain measures adopted by the new government, it is because it has a duty to ensure the protection of EU citizens' rights.

In reply to these comments, Mr TIMMERMANS welcomed the close cooperation between the Commission and the Council of Europe and its Venice Commission. He confirmed that their timetables would be synchronised as far as possible, noting that the Venice Commission was expected to issue a formal opinion in mid-March.

He welcomed the fact that the Members of the Commission agreed that what was needed for the time being was a factual, measured and objective exchange of information with the Polish government. He urged them to resist the temptation to play along with those who, for partisan purposes, might seek to exploit the history of this country at the heart of Europe.

He concluded by stating that he would send a letter to the Polish government that same day, as part of the first phase of the framework to safeguard the rule of law, to request that it provide a number of clarifications regarding the measures discussed during the meeting. He stated that he was willing to meet his Polish counterparts at their earliest convenience in Warsaw or Brussels.

The PRESIDENT noted the College's agreement to initiate an open and constructive dialogue with the Polish government in the context of the first phase of the framework to safeguard the rule of law. He then briefly mentioned his telephone conversation with the Polish Prime Minister Ms Beata Szydło the previous day, during which he had explained that the Commission was simply exercising its institutional powers as the guardian of the Treaties by requesting clarifications from the Polish government following the adoption of the measures. He stressed once again the Commission's aim of engaging in a constructive dialogue with the Polish government to safeguard the rule of law concerning these issues, and warned of the risk of a political and media-fuelled escalation of the situation. He asked the members of the Commission to study the draft of the letter to be sent to the Polish government, which was distributed during the meeting, and authorised Mr TIMMERMANS to finalise and sign it. He confirmed that the Commission would monitor the situation closely and that the College would return to this issue in due course.

The Commission took note of the results and conclusions of the policy debate.

## **10. STATE OF PLAY OF IMPLEMENTATION OF THE INVESTMENT PLAN FOR EUROPE AND THE EUROPEAN FUND FOR STRATEGIC INVESTMENTS (EFSI)**

Mr KATAINEN gave the meeting a first briefing on the results achieved with regard to the implementation of the Investment Plan for Europe and the functioning of the European Fund for Strategic Investments (EFSI). He took the opportunity to sincerely thank the many Members of the Commission who had made an active contribution to the implementation of these instruments.

He pointed out with satisfaction that to date the EFSI had financed projects representing €46 billion of investments. Half of these projects related to small and medium-sized enterprises (SMEs). 66 agreements had been signed up to November 2015 with financial intermediaries; these agreements could benefit a total of 75 000 SMEs. In addition, the European Investment Bank (EIV) would submit updated figures on 14 January (81 agreements). The other half concerned 'infrastructure and innovation', with 42 projects in sectors such as energy, transport, research and development, health and the environment. These projects covered 22 of the 28 EU Member States. He welcomed this positive trend, which should be expanded, and called on each Member of the Commission to promote the new opportunities offered by the EFSI both for SMEs and for infrastructure and innovation.

The projects financed by the EFSI were guaranteed by almost €7 billion of European public money, meaning that over €40 billion of private financing would be invested in the real economy. He welcomed the high level of demand for the Investment Plan for Europe, 75 % of which came from the private sector, adding that the Structural Funds could be combined with financing from the EFSI.

With regard to its operating structures, Mr KATAINEN announced that the European Investment Advisory Hub had now been set up and had already provided technical assistance to partners in 20 Member States. The European Investment

Project Portal would be launched in the first quarter of 2016. In order to ensure the critical mass of good projects on this portal, he asked the Members of the Commission to explain the opportunities that the portal offered potential promoters, both public and private.

As regards improving the investment environment and addressing investment barriers, he considered that good progress had been made both at EU level and in the Member States. The ambitious Single Market programme proposed by the Commission had been endorsed by the European Council in December and one aspect of the 2016 European Semester would focus on how to tackle investment challenges.

Mr KATAINEN went on to explain what the investment platforms consisted of. They were financial constructions that enabled small projects to be grouped together so that the EIB and the sector concerned could contribute more easily to their financing. The Regulation establishing the EFSI made these structures flexible, so that a wide variety of investment solutions were possible.

He referred to two examples of successful platforms, the first in France in the field of energy efficiency and the second in Denmark in the field of renewable energies. The French platform, which would be deployed this month and represented funding of €400 million, would make it possible to reduce the energy consumption and operating costs of public buildings and would also have a positive effect on employment. An advantage of the Danish platform was that in addition to promoting cleaner energies, it would create around 1 000 jobs during the project management phase and between 2 500 and 4 000 jobs during the infrastructure construction phase.

He also referred to the different partnership arrangements possible in the various investor categories for these projects (regions, towns, private banks, the EIB, associations) and the technical arrangements for setting up the financing.

He added that a number of non-Member States had expressed interest in contributing to the EFSI, as was provided for in the Regulation.

In the course of the discussion that followed, the Commission raised the following key points:

- the encouraging results obtained and the positive response to the practical and efficient implementation of the EFSI within extremely tight deadlines; the speed with which the investment platforms had been put in place and the effectiveness of the proposed mechanisms; the excellent cooperation with the EIB;
- the key role the EFSI could play, in particular in the energy sector, for both small and large investment projects; the 26 000 jobs already created thanks to the projects financed by the EFSI in this sector; the suggestion that the platforms could be used for social investments; the example of the European Investment Project Pipeline in the transport sector;
- the importance of getting across the message concerning the positive results of the EFSI and of promoting these results, in particular from the standpoint of employment, in order to counteract the populist rhetoric about Europe's alleged powerlessness; the EFSI's potential, particularly in the Member States benefiting from a European assistance programme;
- the need to rank the projects in terms of their impact on the EU's competitiveness; the significant funding that could be deployed in the insurance sector;
- the work being done at the Commission to highlight the complementarity of funding projects through the EFSI and through the Structural Funds to ensure maximum harnessing of potential synergies; more generally, the role of the Structural Funds in removing investment barriers;
- the constraints of the Stability and Growth Pact for investors in public-private

partnerships (PPPs) and the need to clarify the rules on the compatibility of the two in order to provide investors with legal certainty;

- a request for support in persuading the EIB to participate in projects in the agricultural sector and encouraging it to invest more in cross-border investment platforms;
- the good internal cooperation that had resulted from the setting up of the EFSI; the active contribution to the success of the EFSI made by Mr KATAINEN's roadshow to present it in the Member States;
- a question about the possibility of using the platforms for projects with third countries.

Mr KATAINEN thanked the Members of the Commission for their enthusiastic comments and their offers of cooperation. He asked them to inform him of the projects in their sectors of activity, adding that the members of his cabinet would contact them concerning participation in promotional events for the EFSI and the Investment Plan for Europe. He also encouraged them to raise stakeholders' awareness in their areas of responsibility of the possibilities offered by these instruments. Furthermore, he confirmed the possibility of working on investment projects with third countries, such as Turkey.

In reply to a question on how many jobs could be created as a result of the EFSI, he said that he would submit estimates by sector, which were available, although in his view it was easier to calculate potential job creation for infrastructure projects than for SME projects. He backed the suggestion of asking the EIB to mention these estimates and the related proven results in the project pipeline, once the projects had been implemented.

The PRESIDENT thanked Mr KATAINEN warmly for his excellent work and welcomed the positive results of this key initiative.

The Commission took note of this information.

## **11. PRELIMINARY ORIENTATION DEBATE ON MARKET ECONOMY STATUS FOR CHINA**

**(SEC(2016) 45; RCC(2016) 3)**

The Commission held a preliminary orientation debate on the issue of the EU granting market economy status to China in the context of the secondary legal provisions of the World Trade Organisation.

The Commission took note of this information.

## **12. FIRST DISCUSSION ON THE EUROPEAN PILLAR OF SOCIAL RIGHTS**

On a proposal from the PRESIDENT, the Commission agreed that the first discussion on the European pillar of social rights would be postponed for one week.

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The Commission's other discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 13.19.