



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2016) 2194 final

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

Strasbourg, 17 January 2017

TEXTE EN

MINUTES

of the 2194th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 21 December 2016

(morning)

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Single sitting: Wednesday 21 December 2016 (morning)

The sitting opened at 9.44 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	Items 1 to 19 (in part)
Ms GEORGIEVA	Vice-President	
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr KATAINEN	Vice-President	
Mr OETTINGER	Member	
Mr HAHN	Member	
Ms MALMSTRÖM	Member	
Mr MIMICA	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	Items 1 to 19 (in part)
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr STYLIANIDES	Member	
Mr HOGAN	Member	Items 1 to 8 (in part)
Ms BULC	Member	
Ms BIEŃKOWSKA	Member	Items 1 to 8 (in part)
Ms JOUROVÁ	Member	Items 1 to 19 (in part)
Mr NAVRACSICS	Member	
Mr MOEDAS	Member	
Sir Julian KING	Member	Items 1 to 19 (in part)

Absent:

Mr DOMBROVSKIS

Vice-President

Ms CREȚU

Member

Ms VESTAGER

Member

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

Mr WYNANDS	Chef de cabinet to Mr DOMBROVSKIS	Items 8 (in part) to 19
Mr DE MICHELIS	Chef de cabinet to Ms CREȚU	Items 8 (in part) to 19 (in part)
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER	Item 8 (in part)
Mr BULST	A member of Ms VESTAGER's staff	Items 8 (in part) to 19

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	Items 8 (in part) to 19
Ms ANDREEVA	Commission Spokesperson's Service	
Ms METTLER	Head of the European Political Strategy Centre	Items 8 (in part) to 19
Ms MICHOU	Deputy Secretary-General	Items 8 (in part) to 19
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr SHOTTER	Chief adviser in the PRESIDENT's Office	Items 8 (in part) to 17
Ms ROUCH	Adviser in the PRESIDENT's Office	Item 19
Ms SILLAVEE	PRESIDENT's Office	Items 8 (in part) to 19
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	Item 8 (in part)
Ms FRENAY	A member of Mr ANSIP's staff	Item 19 (in part)
Mr ROSSIDES	A member of Mr AVRAMOPOULOS's staff	Items 9 to 17
Ms SCOPPIO	Adviser in Mr MOSCOVICI's Office	Items 9 to 18
Mr MORRISON	Chef de cabinet to Sir Julian KING	Items 9 to 17

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

1. AGENDAS

(OJ(2016) 2194/FINAL; SEC(2016) 538/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) 2194)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 19 December.

3. APPROVAL OF THE MINUTES OF THE 2192ND AND 2193RD MEETINGS OF THE COMMISSION (7 AND 13 DECEMBER)

(PV(2016) 2192)

The Commission approved the minutes of its 2192nd meeting and decided to hold over approval of the minutes of its 2193rd meeting for a later meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2016) 163/2)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 16 December (RCC(2016) 163/2).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Trilogues

(point 3.1 of the IRG record)

- Prospectus to be published when securities are offered to the public or admitted to trading (Regulation) – JEŽEK report – 2015/0268 (COD)

The Commission approved the line set out in SI(2016) 520/2.

- European Year of Cultural Heritage (Decision) – DIACONU report – 2016/0259 (COD)

The Commission approved the line set out in SI(2016) 521.

- Establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) 1303/2013 and (EU) 1305/2013 (Regulation) – VAN NISTELROOIJ & KREHL report – 2015/0263 (COD)

The Commission approved the line set out in SI(2016) 522.

ii) Council dossiers

(point 3.3 of the IRG record)

- Amendment of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC – KARIŇŠ & SARGENTINI report – 2016/0208 (COD)

The Commission approved the line set out in SI(2016) 510.

- Amendment of Council Directive 91/477/EEC on control of the acquisition and possession of weapons (Directive) – FORD report – 2015/0269 (COD)

The Commission approved the line set out in SI(2016) 527/5.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Non-legislative dossiers

(point 4.1 of the IRG record)

- Establishment of a revised European Union position concerning the European Union Membership of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem services (IPBES)

The Commission approved the line set out in SI(2016) 505.

- EU accession to the International Cotton Advisory Committee (ICAC) (Council Decision) – 2016/0349 (NLE)

The Commission approved the line set out in SI(2016) 523.

iv) Preparation for Council meeting (Environment) (Brussels, 19 December)

(point 4.2.1 of the IRG record)

- Amendment of Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments (Directive) – DUNCAN report – 2015/0148 (COD)

The Commission approved the line set out in SI(2016) 493/2.

4.3. RELATIONS WITH PARLIAMENT

v) Non-legislative dossier

(point 5.1 of the IRG record)

- Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA) – Follow-up to the hearing of Mr MOSCOVICI,

Member of the Commission, on 7 December – Preparation of replies to the additional written questions

The Commission took note of SP(2016) 880/2 and of the replies to the additional written questions in the annex thereto, further to note SP(2016) 822, of which the Commission had taken note on 7 December, and note SP(2016) 799, approved by the Commission on 30 November.

vi) Action taken on non-legislative resolutions adopted by Parliament at its September 2016 part-session

(point 5.6.1 of the IRG record)

The Commission approved, for transmission to Parliament, document SP(2016) 876 on the action taken on the non-legislative resolutions adopted by Parliament at its September 2016 part-session.

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

(SP(2016) 877)

The Commission decided to empower the Commission Members 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(2016) 877, drawn up following the part-session of Parliament of 12 to 15 December, the contents of which were noted.

viii) Results of the December 2016 part-session of Parliament

(SP(2016) 847 ; SP(2016) 848)

The Commission took note of the information in SP(2016) 847 and SP(2016) 848 on the proceedings of the part-session of Parliament held in Strasbourg from 12 to 15 December 2016.

4.4. RELATIONS WITH NATIONAL PARLIAMENTS, THE OTHER INSTITUTIONS AND BODIES, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

ix) Follow-up to opinions of the European Economic and Social Committee – Plenary session of July 2016

(point 6.3.1 of the IRG record)

The Commission approved document SC(2016) 42 on the follow-up by the Commission to the opinions adopted by the European Economic and Social Committee during the July 2016 session, for transmission to that Committee.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2016) 541 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 December.

5.2. EMPOWERMENT

(SEC(2016) 542 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 December.

5.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2016) 543 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 12 and 16 December, as archived in Decide.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2016) 544)

The Commission took note of the sensitive written procedures for which the time limit expired between 19 and 23 December.

6. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE – DEVELOPING THE EU CUSTOMS UNION AND ITS GOVERNANCE

(COM(2016) 813 AND /2; RCC(2016) 166)

The Commission approved the Communication in COM(2016) 813/2 for transmission to Parliament, the Council and the Economic and Social Committee and, for information, to the Committee of the Regions and the national parliaments.

7. PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE 2006/112/EC ON THE COMMON SYSTEM OF VALUE ADDED TAX AS REGARDS THE TEMPORARY APPLICATION OF A GENERALISED REVERSE CHARGE MECHANISM IN RELATION TO SUPPLIES OF GOODS AND SERVICES ABOVE A CERTAIN THRESHOLD

(COM(2016) 811; SWD(2016) 457; SWD(2016) 458; SEC(2016) 550; RCC(2016) 167)

The Commission adopted the proposal for a Directive in COM(2016) 811 for transmission to Parliament, the Council, the Economic and Social Committee and the national parliaments, and, for information, to the Committee of the Regions, together with the impact study and the summary thereof in staff working documents SWD(2016) 457 and SWD(2016) 458, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2016) 550.

8. DIVERS

8.1. DECISION OF THE COMMISSION REGARDING THE DECLARATION OF INCOME AND INTERESTS OF A FORMER MEMBER OF THE COMMISSION (C(2016) 8715)

The PRESIDENT introduced a file relating to the action of the former Member of the Commission, Ms Neelie KROES, in particular her declaration of interests made in 2004 and the requirement to declare income received after the end of her term of office during the period in which she received a transitional allowance.

The PRESIDENT asked the Director General of the Legal Service, Mr Luis ROMERO REQUENA, to make a brief presentation of the facts and the applicable legal framework.

The Director General of the Legal Service presented the points of fact and the legal framework underpinning the draft decision of the Commission relating to Ms KROES.

First of all, he explained that Ms KROES had informed the PRESIDENT on 16 September 2016 that her role as a director of *Mint Holdings Ltd* had not

been mentioned in her declaration of interests submitted in 2004. She had stated that she was not aware that she continued until 2009 to be listed as a director of this company in the register.

The Director General of the Legal Service summarised the Ad Hoc Ethical Committee's Opinion. He indicated that the decision before the Commission was in line with that opinion. On the one hand, the decision notes the violation of the obligation under the Commissioners' Code of Conduct to declare this role, and takes note of Ms KROES's apology. On the other hand, this decision took note of the conclusion of the Committee that, although the fact that Ms KROES continued to be listed in the register constituted a violation of Article 245 of the Treaty on the Functioning of the European Union, she could not be held responsible for it.

Secondly, the Director General of the Legal Service mentioned that, on 20 September 2016, Ms KROES had contacted the Office for the Administration and Payment of Individual Entitlements (PMO) to advise it of her income for the year 2015 and her income already received and estimated for 2016. This information showed that she had received income in 2015, whereas the declaration she had signed in January 2016 did not mention any income for 2015.

The Director General of the Legal Service explained that the Commission is asked to decide with regard to this matter that, by omitting to declare her income received in 2015 in her declaration submitted at the beginning of 2016, whilst having accepted her transitional allowance, Ms KROES did not show the necessary diligence and thus violated Article 7(4) of Council Regulation 422/67 in conjunction with Article 245 of the Treaty on the Functioning of the European Union. In the wording of the draft decision, this behaviour deserves a reprimand, as stated in the decision itself.

Finally, he emphasised that in the circumstances, the Commission did not have sufficient evidence nor a legal basis to refer the violation of the aforementioned obligations to the Court of Justice.

Following the explanations given to the meeting by the Director General of the Legal Service, and having regard to statements by Members of the Commission, the PRESIDENT invited the Commission to adopt Decision C(2016) 8715, which had been submitted to it.

The Commission adopted the decision set out in document C(2016) 8715, the operative part of which is as follows.

The Commission:

- takes note of Ms KROES' apology in her letters of 16 and 26 September 2016 concerning the non-inclusion of her directorship of *Mint Holdings Ltd* since 2000 in her declaration of interests of 2004;
- takes note of the Ad Hoc Ethical Committee's Opinion of 16 November 2016 that the fact of continuing to feature in the register is a violation of Article 245 of the Treaty on the Functioning of the European Union for which however Ms KROES cannot be blamed, if she has not been and could not reasonably have been aware of still holding the post not effectively exercised;
- takes note of the letters of Ms KROES of 9 December 2016;
- concludes, first, that Ms KROES, by not including in her declaration of interests of 2004 the fact of having held a post as Director of *Mint Holdings Ltd* since 4 July 2000, even if this activity was not effectively exercised nor paid for, and irrespective of the fact that the Commissioner was unaware that she continued to feature as Director of the company until 2009, was in breach the Code of Conduct for Commissioners;

- concludes, second, that Ms KROES, by having omitted to declare her 2015 income in her declaration at the beginning of 2016 whilst having accepted the transitional allowance, did not act with the necessary diligence and was in breach of Article 7(4) of Council Regulation 422/67 determining the emoluments of the President and Members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice, in conjunction with Article 245 of the Treaty on the Functioning of the European Union;
- takes note of the fact that it was Ms KROES herself who informed the Paymaster's Office, albeit belatedly, of the correct figures of her financial situation in 2015 and 2016;
- takes note that the Commission, on the basis of the information provided belatedly by Ms KROES, recovered immediately the money and thus prevented any financial loss for the budget of the Union;
- concludes, third, that in view of the circumstances including the fact that Ms KROES never assumed the position for which she was recruited and the absence of financial loss for the budget, the Commission does not have sufficient elements nor legal grounds to seize the Court regarding the abovementioned breaches of obligations and seek a financial sanction in accordance with Article 245 of the Treaty on the Functioning of the European Union;
- concludes, fourth, that the lack of diligence shown by Ms KROES for having omitted to declare her 2015 income in her declaration of professional earnings at the beginning of 2016 whilst having accepted to receive the transitional allowance, conduct which is in breach of Article 7(4) of Council Regulation 422/67 read in conjunction with Article 245 of the Treaty on the Functioning of the European Union, deserves a reprimand which the Commission issues by means of this decision;

- makes the conclusions of this decision public through the minutes of the meeting in order to clarify facts which have been widely reported by the press and give a full account of the Commission’s position on the case;
- asks the Secretary-General to inform Ms KROES of this decision.

8.2. EU FRAMEWORK TO STRENGTHEN THE RULE OF LAW – COMMISSION RECOMMENDATION REGARDING THE RULE OF LAW IN POLAND COMPLEMENTARY TO COMMISSION RECOMMENDATION (EU) 2016/1374 OF 27 JULY 2016 (C(2016) 8950 AND /2)

Mr TIMMERMANS briefed the College on the situation in Poland regarding the EU Framework to strengthen the rule of law. He reminded the meeting that the Commission had launched the first stage of the process provided for by the Framework by adopting an opinion on the rule of law in Poland on 1 June. Given the lack of progress, despite numerous initiatives and intensive discussions, the second stage had been launched on 27 July by addressing recommendations to the Polish Government. In the light of recent developments, the unsatisfactory response of the Polish authorities in October, the fact that certain particularly important questions had still not been resolved, despite some improvements, and the emergence in the meantime of new matters of serious concern, particularly the procedure for appointing the President of the Constitutional Tribunal, Mr TIMMERMANS believed that there was still a systemic threat to the rule of law in the country and that this urgently needed to be addressed. He reiterated the fundamental importance of respect for the independence of the judiciary within the framework of the rule of law, which was itself a founding principle of the European Union.

He was therefore seeking the College’s approval for additional measures which detailed the unresolved issues as well as the new problems that had

emerged recently and called on the Polish Government to find a solution as a matter of urgency. He reaffirmed the Commission's willingness to pursue a constructive dialogue with the Polish authorities on these issues, without prejudice to other measures it might have to take if this dialogue proved fruitless.

Over and above the recommendations already addressed to the Polish Government, the additional recommendations being proposed that day related primarily to the appointment of the President of the Constitutional Tribunal. Mr TIMMERMANS advised the College to ask the Polish authorities to comply within a maximum of two months, instead of the normal period of three months, and to inform the Commission of the measures it had taken to this effect. He said that, in the absence of satisfactory progress within this period, the Commission could decide to invoke the procedure provided for in Article 7 of the Treaty on European Union. This could be triggered by a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission identifying a clear risk of a serious breach by a Member State of the values of the European Union or if a sudden deterioration in the situation in a Member State required a very firm response.

He explained that, even as he addressed the Members of the Commission, developments relating to the appointment of the President of the Constitutional Tribunal could be taking place which might require the recommendation being tabled under his authority to be updated.

Mr TIMMERMANS expressed his determination not to allow the deliberate and systematic violations of the rule of law in Poland to go unchallenged, it being the Commission's duty and responsibility under the Treaties to respond. Polish civil society expected the Commission to pass judgment on this matter.

In the course of the discussion that followed, the Commission raised the

following main points:

- the College’s full support for the approach proposed by Mr TIMMERMANS and for his action; the Commission’s serious concern about the current situation in Poland; the gravity of the continuing violation of the principles of the rule of law and the failure to respect the independence of the judiciary, freedom of expression, the freedom of the press and the rights of the opposition in Poland;
- the fundamental importance which the Union attached to the rule of law; the need for a response to these violations and a steadfast defence of the rule of law;
- the importance of making it very clear in the communication that the recommendation process that had been launched with regard to the EU Framework to strengthen the rule of law was not open-ended;
- the fact that the way in which the situation in Poland was managed could set an example to other Member States and the candidate countries for EU accession;
- support for setting a two-month period, instead of the customary three months, for the Polish authorities to respond to the new recommendations the Commission was preparing to make;
- the need to explain the Commission’s decision in legal terms but also in simple language that was comprehensible to the Polish people; the support to be given to the Polish people, who were praised for their mobilisation;
- the possibility of cutting EU funding for Poland, for example under the Structural Funds, during the two-month period the Polish authorities had been given to respond to the Commission’s recommendations.

Mr TIMMERMANS thanked the Members of the Commission for their support for the suggested course of action and proposed that the recommendation be adopted in principle. Because of the very recent developments he asked the Members to empower him to update the text of the recommendation, in agreement with the PRESIDENT, in the light of the appointment of the new President of the Constitutional Tribunal, which was due to take place that day, and then to adopt it formally. This recommendation would complement the recommendation of 27 July, taking into account how the situation had evolved since then.

He reiterated that the Commission would under no circumstances ignore these violations of the rule of law in the European Union and would use all the means at its disposal to deal with them. He stressed the cardinal importance of the framework of the rule of law for a continent that had emerged from the Second World War and been reunified after the fall of the Berlin Wall, and had chosen the path of freedom and democracy. Replying to one suggestion, he did not see the need to request another legal opinion on the Commission's position, given that the Venice Commission had already issued two very comprehensive reports. Similarly, while not envisaging a freeze on the Structural Funds for Poland, he did believe it was worth reminding the Polish authorities of the economic impact the violations of the rule of law could have on investors and businesses.

In any event, Mr TIMMERMANS insisted that the Commission had a duty to show solidarity with Poland's citizens.

The PRESIDENT wound up the discussion by noting the agreement of the College on the proposal presented by Mr TIMMERMANS and indicating that the Commission would return to this matter in two months' time in order to draw its conclusions on the Polish Government's response.

The Commission adopted the recommendation in C(2016) 8950/2 in principle

and, acting under Article 13 of its Rules of Procedure, empowered Mr TIMMERMANS, the Member responsible for the Rule of Law and the Charter of Fundamental Rights, formally to adopt it, in agreement with the PRESIDENT, in the authentic language (Polish), to notify it to the Republic of Poland and to publish it, for information, in the Official Journal of the European Union.

- 9. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ESTABLISHMENT, OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM (SIS) IN THE FIELD OF BORDER CHECKS, AMENDING REGULATION (EU) 515/2014 AND REPEALING REGULATION (EC) 1987/2006
(COM(2016) 882 AND /2; RCC(2016) 165)**

- 10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ESTABLISHMENT, OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM (SIS) IN THE FIELD OF POLICE COOPERATION AND JUDICIAL COOPERATION IN CRIMINAL MATTERS, AMENDING REGULATION (EU) 515/2014 AND REPEALING REGULATION (EC) 1986/2006, COUNCIL DECISION 2007/533/JHA AND COMMISSION DECISION 2010/261/EU
(COM(2016) 883 AND /2; RCC(2016) 165)**

- 11. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE USE OF THE SCHENGEN INFORMATION SYSTEM FOR THE RETURN OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS
(COM(2016) 881 AND /2; RCC(2016) 165)**

12. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE EVALUATION OF THE SECOND GENERATION SCHENGEN INFORMATION SYSTEM (SIS II) IN ACCORDANCE WITH ARTICLES 24(5), 43(3) AND 50(5) OF REGULATION (EC) 1987/2006 AND ARTICLES 59(3) AND 66(5) OF DECISION 2007/533/JHA

(COM(2016) 880 AND /2; SWD(2016) 450; RCC(2016) 165)

13. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – STATE OF PLAY AND THE POSSIBLE WAYS FORWARD AS REGARDS THE SITUATION OF NON-RECIPROCITY WITH CERTAIN THIRD COUNTRIES IN THE AREA OF VISA POLICY (FOLLOW-UP TO THE COMMUNICATION OF 12 APRIL)

(COM(2016) 816 AND /2; RCC(2016) 165)

14. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COUNTERING MONEY LAUNDERING BY CRIMINAL LAW

(COM(2016) 826 AND /2; RCC(2016) 168)

15. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CONTROLS ON CASH ENTERING OR LEAVING THE UNION AND REPEALING REGULATION (EC) 1889/2005

(COM(2016) 825 AND /2; SWD(2016) 470 AND /2; SWD(2016) 471; SEC(2016) 553; RCC(2016) 168)

16. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE MUTUAL RECOGNITION OF

FREEZING AND CONFISCATION ORDERS

**(COM(2016) 819 AND /2; SWD(2016) 468 AND /2; SWD(2016) 469;
SEC(2016) 552; RCC(2016) 168)**

**17. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL – THIRD
PROGRESS REPORT TOWARDS AN EFFECTIVE AND GENUINE
SECURITY UNION**

(COM(2016) 831 TO /4; RCC(2016) 168)

Sir Julian KING reported on the latest progress made towards improving security in the European Union.

He welcomed the compromise reached between the co-legislators, actively encouraged by the Commission, on the proposal for a Directive on control of the acquisition and possession of weapons. The current text included 90% of the essential components of the Commission's original proposal and, once the Directive had been implemented, would make it possible to better tackle the threat from illegal trafficking in firearms.

Nonetheless, as the recent terrorist attack carried out in Berlin demonstrated, terrorists deployed various methods that did not always involve the use of firearms. He stressed the evolving nature of terrorist threats and the close links between the different types of threat that the Union had to deal with, in addition to the exploitation by certain movements of the sense of insecurity felt by citizens and maintained by the recent attacks in Europe.

It was therefore important to continue to strengthen the EU's resilience in the face of terrorist threats, while considering the security risks objectively and with determination.

Mr AVRAMOPOULOS pointed out that, following the terrorist attack in Nice, the

College had already signalled the risk of that type of action being repeated, a warning which had been borne out. Against this background, the Union had to continue to think about additional measures that could be taken to improve the security of citizens and persevere in its efforts to establish a genuine and effective and security union.

He noted that the measures proposed that day for adoption by the College would not have easily prevented the attack in Berlin but, taken together, they allowed a considerable and progressive restriction of the terrorists' room for manoeuvre by limiting their ability to access the necessary resources – money, weapons and explosives. He also referred to the measures taken to prevent the use of online communication methods to plan attacks and radicalise individuals using the internet.

He then turned to the proposal to strengthen the Schengen Information System (SIS), one of the main information tools available to the Union to combat terrorism, organised crime and illegal immigration. The proposal would improve, in particular, the exchange of information between Member States by incorporating a system of alerts linked to the risks of terrorism and organised crime, which would also cover entry bans in order to make it easier to manage borders and take decisions to return immigrants.

Mr AVRAMOPOULOS considered that, faced with the diverse forms of terrorism and the asymmetric threat it posed, the only response was trust and cooperation between the EU Member States and, beyond that, at international level, in order to provide joint responses to the threats that were transnational by their nature.

Mr MOSCOVICI explained that the proposals tabled for adoption to combat money laundering and the financing of terrorism would enable action to be taken upstream on the sources of terrorism financing by giving customs authorities more possibilities to monitor movements of cash at EU borders. The Commission, after examining the rules in place since 2007 in the Union, was proposing to strengthen them where weaknesses had been identified, in line with the development of

international rules in this area.

He also pointed out that the proposal for a Regulation on controls on cash entering the Union would increase customs powers on four points in particular.

First, the proposal for a Regulation extended the obligation to disclose the origin and destination of cash of more than EUR 10 000 sent by post, bearing in mind that, according to investigations, criminals were increasingly resorting to sending cash by parcel post. Second, the obligation to declare amounts of more than EUR 10 000, which currently applied to cash and bearer securities, was now extended to gold coins and gold bullion and all other valuable goods, as well as prepaid cards not linked to any financial account. Third, the proposal for a Regulation also gave customs authorities the possibility of intervening and seizing cash where they intercepted amounts below EUR 10 000 if they had reason to believe that the amounts originated from or were intended for a criminal activity. Fourth and last, a system for the automatic exchange of information would be set up so that customs authorities, financial intelligence units and competent authorities could rapidly receive the information they needed.

Mr MOSCOVICI concluded by pointing out that, thanks to these improvements, customs authorities would be much better equipped to monitor movements of cash at the borders, take action if necessary and inform the authorities responsible for the fight against terrorism and crime.

Following these presentations, the Commission:

- adopted the proposal for a Regulation in COM(2016) 882/2, for transmission to Parliament, the Council and the national parliaments and, for information, to the European Data Protection Supervisor;
- adopted the proposal for a Regulation in COM(2016) 883/2, for transmission to Parliament, the Council and the national parliaments and, for information, to the European Data Protection Supervisor;

- adopted the proposal for a Regulation in COM(2016) 881/2, for transmission to Parliament, the Council and the national parliaments and, for information, to the European Data Protection Supervisor;
- approved the report in COM(2016) 880/2, for transmission to Parliament and the Council and, for information, to the national parliaments, together with the staff working document SWD(2016) 450, the contents of which were noted;
- approved the communication in COM(2016) 816/2, for transmission to Parliament and the Council and, for information, to the national parliaments;
- adopted the proposal for a Directive in COM(2016) 826/2, for transmission to Parliament, the Council and the national parliaments;
- adopted the proposal for a Regulation in COM(2016) 825/2 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments, and, for information, to the European Data Protection Supervisor, together with the impact assessment and the summary thereof in staff working documents SWD(2016) 470/2 and SWD(2016) 471, the contents of which were noted;
- took note of the opinion of the Regulatory Scrutiny Board, distributed as SEC(2016) 553;
- adopted the proposal for a Regulation in COM(2016) 819/2 for transmission to Parliament, the Council and the national parliaments, accompanied by the impact assessment and the summary thereof in staff working documents SWD(2016) 468/2 and SWD(2016) 469, the contents of which were noted;
- took note of the opinion of the Regulatory Scrutiny Board, distributed as SEC(2016) 552;
- approved the report in COM(2016) 831/4, for transmission to Parliament, the

European Council and the Council and, for information, to the national parliaments.

18. RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS WITH TURKEY ON AN AGREEMENT TO EXTEND THE SCOPE OF THE BILATERAL PREFERENTIAL TRADE RELATIONSHIP AND MODERNISE THE CUSTOMS UNION (COM(2016) 830 AND /2; SWD(2016) 475; SWD(2016) 476; SEC(2016) 554; RCC(2016) 169)

Mr KATAINEN presented the recommendation for a Council Decision authorising the opening of negotiations with Turkey on an agreement to extend the scope of the bilateral preferential trade relationship and modernise the EU-Turkey customs union submitted to the Commission for approval.

This recommendation had been preceded by a long strategic economic and trade relationship, and, in particular, by over twenty years implementing the final phase of the customs union. The aim of opening new trade negotiations was to extend trade with Turkey to the services and procurement sector above all, and to adapt the EU-Turkey customs union to developments in the economic environment and to the significant growth in trade between the two parties, while correcting certain existing shortcomings. Deepening EU-Turkey trade relations was not a favour granted to Turkey but rather a gesture intended to enable this fifth largest trading partner to move even closer to the Union, as desired by the European Council and Turkish business circles.

Ms MALMSTRÖM noted that until now the EU-Turkey customs union had been concerned only with goods and that it was therefore time to extend it to other economic sectors. She stressed that modernisation was in both parties' economic interest and that the negotiations to be initiated on this issue would also have the

effect of leading the Turkish authorities to undertake reforms in the field of the rule of law. She referred to the follow-up to the process, once the Commission had adopted this recommendation, on the basis of the mandate for negotiation that the Council would confer upon it.

Ms MOGHERINI considered that this was a good instrument for taking a step towards Turkey, contributing to growth and employment in Europe and also moving forward on certain international issues such as the reunification of Cyprus, the reception of refugees and the resolution of the Syrian conflict. She welcomed the fact that the channel of communication was more open than ever and hoped that the Union would use it to reassert firmly the need for respect for the rule of law and human rights at a time of significant internal tensions and a very anti-European public discourse in Turkey.

A brief exchange of views was held during which the Commission approved the strategic approach of helping to bring Turkey closer to the Union through enhanced cooperation, the message thereby sent to the Turkish people and the economic and political benefits for the two parties of deepening their trade links.

Following this exchange of views, the Commission adopted the recommendation for a Council Decision in COM(2016) 830/2 for transmission to the Council, accompanied by the impact assessment and the summary thereof in staff working documents SWD(2016) 475 and SWD(2016) 476, the contents of which were noted.

It also took note of the opinion of the Regulatory Scrutiny Board in SEC(2016) 554.

19. OTHER BUSINESS (CONTINUED)

19.1. COMMISSION DECISION ON THE ADMISSIBILITY OF A PROPOSED CITIZENS' INITIATIVE ENTITLED 'EUROPEAN FREE

MOVEMENT INSTRUMENT'**(C(2016) 8900 AND /2)**

Mr TIMMERMANS informed the College that a citizens' initiative had been submitted to the Commission under the title 'European Free Movement Instrument'.

He pointed out that, under the procedure in force, the Commission at this stage had to give a view only on the legal admissibility of the proposal and therefore on its registration. He confirmed that, according to the analyses carried out by his departments, the legal conditions laid down by the Treaties were duly fulfilled in this case. He therefore proposed that the Members of the Commission should adopt the decision recording the formal registration of this initiative on 11 January 2017.

The Commission found, pursuant to Article 4(2) of Regulation (EU) 211/2011, that the conditions of admissibility of the citizens' initiative 'European Free Movement Instrument' were fulfilled. It therefore decided to register the initiative, in accordance with document C(2016) 8900/2, and authorised Mr TIMMERMANS to sign the decision on its behalf and to notify the organisers of the initiative.

**19.2. EURONEWS TELEVISION CHANNEL – SITUATION AND OUTLOOK
(INFO(2016) 130/3)**

Mr ANSIP informed the Commission of the latest developments in the Euronews television channel, in particular the possibility of an agreement between Euronews and the US channel NBC Universal.

He pointed out that the Commission was not a shareholder in Euronews but that it co-financed the production of programmes on European current affairs and the translation of content. In 2016 this financing amounted to around EUR 25 million.

Mr OETTINGER recommended maintaining similar financing for 2017, but also redefining the Commission's future relations with Euronews in the light of the forthcoming developments in the channel.

The PRESIDENT concluded by noting that the College agreed with the approach recommended.

The Commission took note of this point and of the note distributed in INFO(2016) 130/3.

19.3. MS GEORGIEVA'S LAST ATTENDANCE AT A COMMISSION MEETING

Speaking on behalf of the Commission and on his own personal behalf, the PRESIDENT said that it was a sad day for the College to see Ms GEORGIEVA attend her last meeting as a Member of the Commission, as she had resigned from her post and would be leaving on 31 December to join the World Bank in Washington.

He emphasised how much they had all appreciated Ms GEORGIEVA's skills, abilities and team spirit over the last two years and, in the case of some Members, during the Commission's previous term of office. He congratulated her on the important work she had carried out for the Union on behalf of the Commission and wished her every success in the future, while sincerely hoping that she would keep in touch with the Members of the Commission.

Ms GEORGIEVA warmly thanked the PRESIDENT for having done her the honour of appointing her to his team and expressed her gratitude to the College as a whole for the intense political times they had shared. With only a few days left before leaving her post, she stressed that working for the Union had been a thoroughly rewarding experience.

She ended by emphasising her desire to maintain friendly relations with the

Members of the Commission and invited them to a ceremony that day which would be more of an *au revoir* than goodbye.

The PRESIDENT reminded the meeting of his decision, taken on 28 October 2016 and notified to the President of the European Parliament in a letter that day, to entrust budget and human resources portfolio to Mr OETTINGER, with effect from 1 January 2017. In that letter he had given the European Parliament the opportunity to hold the exchange of views provided for in Article 7 of the framework agreement on relations between the European Parliament and the European Commission, before Mr OETTINGER's took up the duties. He also communicated his decision to transfer temporarily Mr OETTINGER's current portfolio – the digital economy and society – to Mr ANSIP, also with effect from 1 January 2017. This would ensure perfect continuity, as Mr ANSIP was already in charge of the digital single market.

The Commission took note of this information and of the PRESIDENT's decisions.

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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 12.54.