



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2017) 2198 final

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Brussels, 22 February 2017

TEXTE EN

MINUTES

of the 2198th meeting of the Commission

held in Brussels

(Berlaymont)

(Wednesday 1 February 2017)

(morning)

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Single sitting: Wednesday 1 February 2017 (morning)

The sitting opened at 10.31 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 9 (in part)
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	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	
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	
Mr STYLIANIDES	Member	
Mr HOGAN	Member	
Ms BIENKOWSKA	Member	Items 1 to 8 (in part)
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Ms VESTAGER	Member	
Mr MOEDAS	Member	
Sir Julian KING	Member	

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Absent:

Ms BULC

Member

1. AGENDAS

(OJ(2017) 2198/FINAL; SEC(2017) 64/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(2017) 2198)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 30 January.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2196TH MEETING OF THE COMMISSION (17 JANUARY), AND THE MINUTES OF THE 2197TH MEETING (25 JANUARY)

(PV(2017) 2196; PV(2017) 2196, 2ND PART)

The Commission approved the minutes of its 2196th meeting, and decided to hold over for one week approval of the minutes of its 2197th meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2017) 8)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 27 January (RCC(2017) 8).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Trilogues

(item 3.1 of the IRG record)

- 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(2017) 23.

- Measures to safeguard the security of gas supply and repealing Regulation (EU) 994/2010 (Regulation) – BUZEK report – 2016/0030 (COD)

The Commission approved the line set out in SI(2017) 9/2.

- Amendment of Regulation (EU) 531/2012 as regards rules for wholesale roaming markets (Regulation) – KUMPULA-NATRI report – 2016/0185 (COD)

The Commission approved the line set out in SI(2017) 15.

- Ensuring the cross-border portability of online content services in the internal market (Regulation) – CAVADA report – 2015/0284 (COD)

The Commission approved the line set out in SI(2017) 16/2.

ii) European Parliament dossiers – February I part-session

(item 3.2 of the IRG record)

Ordinary legislative procedure – First reading

- Sustainable management of the external fleets and repeal of Council Regulation (EC) 1006/2008 (Regulation) – ENGSTRÖM report – 2015/0289 (COD)

The Commission approved the line set out in SP(2017) 33 and /2.

- Amendment of Council Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement (Georgia) (Regulation) – GABRIEL report – 2016/0075 (COD)

The Commission approved the line set out in SP(2017) 34.

- Amendment of Regulation (EU) 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amendment of Regulation (EU) 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (Regulation) – DE SARNEZ report – 2015/0112 (COD)

The Commission took note of SP(2017) 35, further to note SI(2016) 519, which it had already approved on 13 December 2016.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business

(SI(2017) 21)

The Commission took note of the information in SI(2017) 21 on the Council meetings between 2 and 15 February.

4.3. RELATIONS WITH PARLIAMENT

iv) Non-legislative dossier

- Concept paper on data flows in trade agreements

The Commission approved the line set out in SP(2017) 40.

v) Participation by Members of the European Parliament in international conferences

(item 5.7.1 of the IRG record)

- High-Level United Nations (UN) Conference to support the implementation of Sustainable Development Goal No 14 'Conserve and sustainably use the oceans, seas and marine resources for sustainable development' (New York, 5 to 9 June 2017).

The Commission agreed to the request to the PRESIDENT from the President of the European Parliament concerning the attendance of four Members of the European Parliament at the above-mentioned meeting from 5 to 9 June 2017 as observers in the EU delegation, with a reminder about the procedure to be followed as set out in SP(2017) 32.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2017) 65 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 23 and 27 January.

5.2. EMPOWERMENT

(SEC(2017) 66 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 23 and 27 January.

5.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2017) 67 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 23 and 27 January, as archived in *Decide*.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2017) 68 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 30 January and 3 February.

5.5. DELEGATION OF POWERS RELATING TO THE PILLAR ASSESSED GRANT OR DELEGATION AGREEMENT (PAGoDA 2)

(C(2017) 490)

The Commission adopted the decision set out in C(2017) 490.

It decided to delegate to the Director-General responsible for International

Cooperation and Development the power to adopt, on behalf of the Commission and under its responsibility, measures concerning the amendment of the model Pillar Assessed Grant or Delegation Agreement (PAGoDA 2), in accordance with the conditions set out in C(2017) 490.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2017) 69/2)

ADMINISTRATIVE MATTERS

(PERS(2017) 1/2)

6.1. DG AGRICULTURE AND RURAL DEVELOPMENT – AMENDMENT OF ORGANISATION CHART, TRANSFER AND SECONDMENT OF AD14 OFFICIAL

On a proposal from Mr OETTINGER, in agreement with the PRESIDENT, and after consulting Mr HOGAN and also Mr ŠEFČOVIČ and Mr KATAINEN, the Commission decided:

- to create a temporary principal adviser post in DG Agriculture and Rural Development; this post would be abolished upon the departure of the job holder;
- to transfer to the post, in the interest of the service, under Article 7 of the Staff Regulations, Mr Diego CANGA FANO, currently Director of the ‘Quality, Research & Innovation, Outreach’ Directorate in DG Agriculture and Rural Development;
- to second Mr Diego CANGA FANO, in the interest of the service, under Articles 37 and 38 of the Staff Regulations, to Parliament in order to fill

the post of Chef de cabinet to the President of the European Parliament,
Mr Antonio TAJANI.

All expenses will be borne by Parliament during this secondment.

These decisions would take effect immediately.

**6.2. DG MARITIME AFFAIRS AND FISHERIES – APPOINTMENT OF
AD14/15 DIRECTOR
(PERS(2016) 99 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Fisheries Policy – Mediterranean and Black Sea’ Directorate in DG Maritime Affairs and Fisheries (PERS(2016) 99).

It took note of the opinions of the Consultative Committee on Appointments of 15 November and 8 December 2016 (PERS(2016) 99/2 and /3).

The Commission proceeded to compare the applicants’ qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Mr VELLA and also Mr ŠEFČOVIČ and Mr KATAINEN, it decided to appoint Ms Veronika VEITS to the post.

This decision would take effect on a date to be determined.

**6.3. DG MOBILITY AND TRANSPORT – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2016) 91 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Investment, Innovative

and Sustainable Transport' Directorate in DG Mobility and Transport (PERS(2016) 91).

It took note of the opinions of the Consultative Committee on Appointments of 14 November and 2 December 2016 (PERS(2016) 91/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Ms BULC and also Mr ŠEFČOVIČ and Mr KATAINEN, it decided to appoint Mr Herald RUIJTERS to the post.

This decision would take effect immediately.

6.4. DG REGIONAL AND URBAN POLICY – APPOINTMENT OF AD14/15 DIRECTOR

(PERS(2016) 117 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the 'Budget, Communication and General Affairs' Directorate in DG Regional and Urban Policy (PERS(2016) 117).

It took note of the opinions of the Consultative Committee on Appointments of 28 November and 8 December 2016 (PERS(2016) 117/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Ms CREȚU and also Mr ANSIP, Mr ŠEFČOVIČ and Mr KATAINEN, it decided to appoint Ms Daniela SPINANT to the post.

This decision would take effect immediately.

**6.5. DG RESEARCH AND INNOVATION – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2016) 64 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Open Innovation and Open Science’ Directorate in DG Research and Innovation (PERS(2016) 64).

It took note of the opinions of the Consultative Committee on Appointments of 27 September and 13 October 2016 (PERS(2016) 64/2 and /3).

The Commission proceeded to compare the applicants’ qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Mr MOEDAS and also Mr ANSIP, Mr ŠEFČOVIČ, Mr DOMBROVSKIS and Mr KATAINEN, it decided to appoint Mr Jean-David MALO to the post.

This decision would take effect immediately.

**6.6. DG INTERPRETATION – APPOINTMENT OF AD14/15 DIRECTOR
(PERS(2016) 96 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Interpreters’ Directorate in DG Interpretation (PERS(2016) 96).

The Commission took note of the opinions of the Consultative Committee on Appointments of 7 November and 1 December 2016 (PERS(2016) 96/2 and /3).

The Commission proceeded to compare the applicants’ qualifications for the post. It also considered their ability, efficiency and conduct in the service. On

a proposal from Mr OETTINGER, in agreement with the PRESIDENT, it then decided to appoint Ms Alexandra PANAGAKOU to the post.

This decision would take effect immediately.

**6.7. DG TRADE – APPOINTMENT OF AD14/15 DIRECTOR
(PERS(2016) 100 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Services and Investment, Intellectual Property and Public Procurement’ Directorate in DG Trade (PERS(2016) 100).

It took note of the opinions of the Consultative Committee on Appointments of 24 November and 15 December 2016 (PERS(2016) 100/2 and /3).

The Commission proceeded to compare the applicants’ qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Ms MALMSTRÖM and also Ms MOGHERINI and Mr KATAINEN, it decided to appoint Ms Maria MARTIN-PRAT DE ABREU to the post.

This decision would take effect on a date to be determined.

**6.8. DG INFORMATICS – APPOINTMENT OF AD14/15 AND AD14
DIRECTOR
(PERS(2016) 48 TO /4)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii), Article 29(1)(b) and Article 29(2) of the Staff Regulations for the post of Director of the ‘Digital Business Solutions’ Directorate in DG Informatics (PERS(2016) 48 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 26 October and 10 November (PERS(2016) 48/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr OETTINGER, in agreement with the PRESIDENT and after consulting Mr ANSIP and Mr KATAINEN, it then decided to appoint Mr Thomas GAGEIK to the post.

This decision would take effect on a date to be determined.

**6.9. SECRETARIAT-GENERAL / REGULATORY SCRUTINY BOARD –
APPOINTMENT OF AD14 PRINCIPAL ADVISER
(PERS(2016) 51 TO /4)**

The Commission had before it applications under Article 29(2) of the Staff Regulations for a principal adviser post on the Regulatory Scrutiny Board in the Secretariat-General (PERS(2016) 51 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 19 October and 17 November (PERS(2016) 51/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from the PRESIDENT, in agreement with Mr TIMMERMANS and Mr OETTINGER, the Commission decided to appoint Mr Andreas KOPP to the post and to recruit him as a member of the temporary staff under Article 2(a) of the Conditions of Employment of Other Servants of the European Union for a non-renewable three-year period.

This decision would take effect on a date to be determined.

**6.10. DG COMMUNICATIONS NETWORKS, CONTENT AND
TECHNOLOGY – APPOINTMENT OF AD14 DIRECTOR**

On a proposal from Mr OETTINGER, in agreement with the PRESIDENT,

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and after consulting Mr ANSIP and Mr KATAINEN, the Commission decided to transfer in the interest of the service, under Article 7 of the Staff Regulations, Ms Despina SPANOU, currently Director of the ‘Consumers’ Directorate in DG Justice and Consumers, to the post of Director of the ‘Digital Society, Trust and Cybersecurity’ Directorate in DG Communications Networks, Content and Technology.

This decision would take effect on 16 February 2017.

6.11. DG MOBILITY AND TRANSPORT – AMENDMENT OF THE ORGANISATION CHART

On a proposal from Mr OETTINGER, in agreement with the PRESIDENT, and after consulting Ms BULC and also Mr ŠEFČOVIČ and Mr KATAINEN, the Commission decided to create a temporary principal adviser post in DG Mobility and Transport.

This decision would take effect immediately.

6.12. DG HUMAN RESOURCES AND SECURITY – FOLLOW-UP TO THE REVIEW OF SYNERGIES AND EFFICIENCIES IN THE COMMISSION – AMENDMENT OF THE ORGANISATION CHART (SEC(2017) 81)

On a proposal from Mr OETTINGER, in agreement with the PRESIDENT, the Commission decided:

- to create a new HR.DDG.AMC ‘Account Management Centre’ Directorate;
- to create eight ‘Account Management’ units in the HR.DDG.AMC ‘Account Management Centre’ Directorate;
- to abolish three units in DG Human Resources and Security:

Unit HR.DDG.R.1 ‘Local HR – pilot AMC’, Unit HR.R.2 ‘HR for the College – pilot AMC’ and Unit HR.02 ‘Luxembourg Site Coordination – pilot AMC’;

- to adopt the new organisation chart set out in SEC(2017) 81.

These decisions would take effect immediately. Their technical implementation would be carried out by 16 February 2017 at the latest.

Following the reorganisation, the number of units in DG Human Resources and Security would increase from 29 to 34.

7. SECOND REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE EUROPEAN INVESTMENT BANK ON THE STATE OF THE ENERGY UNION

(COM(2017) 53 AND /2 ; RCC(2017) 11)

The Commission approved the report in COM(2017) 53/2 for transmission to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, and, for information, to the national parliaments.

8. OTHER BUSINESS

8.1. US DECISION TO CLOSE ITS BORDERS TO NATIONALS OF CERTAIN COUNTRIES

At the invitation of the PRESIDENT, Mr TIMMERMANS referred to the consequences for Europe of the Executive Order signed on 27 January in the United States with the aim of combating terrorism, which banned the nationals of Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen (with the exception of nationals holding official diplomatic visas and working for international institutions) from entering American territory for a period of three months.

Mr TIMMERMANS explained that, on hearing of the order, the Union had immediately sought to clarify the situation for the nationals of its Member States with dual citizenship, an issue to which Ms MOGHERINI and Mr AVRAMOPOULOS would return. Beyond the measure itself, he focused on the recent public statements by the United States directed against the Union, its institutions and the single currency. He pointed out that these events reflected an unprecedented shift in the United States' traditional view of international relations in general and of transatlantic ties in particular. In his view, this fundamental change, inspired by a nationalist ideology, opened up a period of uncertainty, which, he hoped, would be attenuated by the way US institutions functioned.

Against this backdrop, he argued that Europe should take advantage of the forthcoming informal meeting of Heads of State or Government on 3 February in Valletta and the gathering in Rome on 25 March for the 60th anniversary of the Treaty of Rome to send a powerful message of unity. He suggested building on shared values and focusing on the major common priorities such as restoring growth and employment, developing the internal market, combating climate change, bolstering defence and managing the migrant crisis.

Ms MOGHERINI pointed out, firstly, that the European Union was a structure built on the fundamental pillars of the principles of the rule of law,

non-discrimination and membership of a rules-based world order. She wanted the Union to reiterate unequivocally that it continued and would continue to believe in such values, adding that, given its history, traditions and its very nature, Europe was built out of the walls knocked down to overcome divisions and the bridges built to move forward together.

To return to the US Executive Order banning the entry of nationals from seven predominantly Muslim countries into the territory of the United States for three months, she observed that the measure was doubtless meant to be of more symbolic value than any practical effect in combating terrorism, but also to enable the new President of the United States to show his electors that he was keeping his promises now that he was in power. Nonetheless, the Executive Order had given rise to major concern around the world and brought about rarely witnessed divisions in the country itself against the backdrop of the new administration's shambolic entry into office. For all of those reasons, there was, she held, a major responsibility weighing on the US institutions.

From the European perspective, Ms MOGHERINI repeated the points she had made publicly on the previous day, namely that, first, the Union would not accept any outside interference in its internal affairs, much less attacks against its institutions and the euro, and, secondly, it would seek to maintain friendly relations as a partner of the United States, based on shared values, including that of non-discrimination. She stated once again that the Union would defend its interests in the field of foreign affairs, for example on key issues such as multilateralism, free trade and security cooperation, as was expected of it by a large number of partner countries and regions throughout the world.

Consequently, she hoped that the Union would take advantage of the Valletta summit on Friday to put across the image of a Europe that was confident in itself, in its values and in its capacity for action, proud of its

achievements and a reliable international partner. On the last point, she observed that the new foreign policy strategy that seemed to be taking shape in the United States had already prompted a realignment among a number of major world players which viewed the European Union, along with the UN system, as a point of reference.

Mr AVRAMOPOULOS explained that he had closely monitored developments since the Executive Order had been signed and it had caused considerable confusion and even real problems at US borders for dual nationals holding passports from EU Member States. He said that this problem had now been resolved, as those holding a passport from one of the EU Member States could enter the United States without restrictions. He referred to the contact he had had on the issue with the new US Homeland Security Secretary, who had proved to be relatively open to discussion and to cooperation, in particular on combating terrorism.

While the PRESIDENT was pleased to note that the problem for dual nationals with European passports had been solved, he deeply deplored the ban adopted on the nationals of a certain number of predominantly Muslim countries.

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

- as well as a desire for the circumstances of a number of EU citizens to be resolved, the concern aroused by the initial measures taken by the new US government banning entry into the territory of the United States; the discriminatory nature of these measures and the substantial risk they represented of further inflaming tensions around the world;
- the need to bear in mind that the transatlantic relationship was a cornerstone of the EU's foreign policy; notwithstanding this, the need for

the Union to prepare without naivety for the consequences of the measures taken or announced by the new US President;

- the many areas of international affairs in which the policy of the new US leadership team could arouse great uncertainty and worrying changes;
- encouragement to respond with a strong message of unity to the criticism of the EU's institutions and the attempts to divide Europeans that the US president appeared to be tempted to make; a desire for a firm EU response based on its fundamental principles but devoid of any ideological element, to avoid fanning the flames of populism on either side of the political spectrum;
- the chance to take advantage of that week's informal meeting of EU Heads of State or Government in Valletta and the 60th Anniversary of the Treaty of Rome on 25 March to issue a powerful declaration to EU citizens and the rest of the world on the spirit of the Treaties and the values upheld by Europe, namely the rule of law, partnership, free trade and the aim of fostering development;
- the desire to project a dynamic image of a Union with the capacity to act, that was confident in itself and its future and boasted many strengths and achievements;
- the need to explain what measures the EU was taking to fight terrorism, while upholding its values;
- a reminder of the US Vice-President's forthcoming visit to Europe for the Munich Security Conference on 17-19 February, and potential contact with EU leaders;

- the vigilance needed to ensure compliance with the renewed EU-US framework for transatlantic exchanges of personal data (the ‘privacy shield’);
- the expectations placed in the Union by a great many international partners, who were hoping to see it show clear leadership on the major global issues, such as climate change.

The PRESIDENT wound up the discussion by stressing the need for a message of unity and an energetic European response to the US President’s recent actions, to which the Union should present a united front.

The Commission took note of this information.

8.2. THE FIGHT AGAINST CORRUPTION IN ROMANIA

Mr TIMMERMANS referred to a number of recent developments concerning the fight against corruption in Romania. The country had made significant progress in this area since joining the EU around a decade ago, as confirmed by the Commission’s report on the cooperation and verification mechanism issued on 25 January, which gave a fairly positive assessment of the general status of reform of the judicial system and the measures taken to fight corruption and organised crime. The report nonetheless stressed the important concept of ensuring the irreversibility of the reforms in order to ensure that the Member State could not reverse legislative and institutional measures taken with the aim of complying fully with the rule of law and reassuring its citizens that it would be respected. However, some measures, adopted by the Romanian government by emergency order on 31 January with the aim of decriminalising certain offences and establishing pardons for certain sentences, appeared to undermine the progress made in terms of fighting high-level corruption.

Accordingly, by virtue of the task explicitly entrusted to the Commission

under the cooperation and verification mechanism to closely monitor the progress of judicial reforms and the measures to fight corruption and crime in Romania, Mr TIMMERMANS proposed the adoption that day of a joint declaration with the PRESIDENT, expressing the Commission's concern regarding these recent developments. He felt it necessary to continue to monitor the situation closely and undertook to keep the College informed in good time.

In the course of the discussion that followed, the members of the Commission expressed (i) their concern about the basis for the Emergency Orders which had been adopted on 31 January without any public consultation, and the risk they could represent for the fight against corruption in Romania, (ii) the large-scale demonstrations sparked by these Orders, and (iii) the need for the Commission to examine the measures taken in detail and to monitor their progress.

The PRESIDENT said that he, too, was concerned about these events, which could result in a reversal of the progress made by Romania in the last decade, particularly with regard to the fight against high-level corruption. He confirmed his approval of the publication that day of a political declaration, as proposed by Mr TIMMERMANS, in accordance both with the provisions of the cooperation and verification mechanism and with the Commission's responsibility under the Treaties to ensure compliance with all of the pillars of the rule of law in all the Member States.

The Commission took note of this information.

9. POLICY DEBATE ON MORE DEMOCRACY FOR THE PROCEDURES FOR THE ADOPTION OF DELEGATED AND IMPLEMENTING ACTS (SEC(2017) 72 ; RCC(2017) 12)

Mr TIMMERMANS introduced the College's policy debate on the procedures in force for the adoption of delegated and implementing acts. He pointed out that the PRESIDENT had announced the Commission's intention of presenting an initiative for the amendment of these procedures in his latest State of the Union address in September 2016, and that this intention had been confirmed in the 2017 work programme.

As indicated in the background note on which this policy debate was based, the main purpose of the initiative was to prevent the Commission from being made a scapegoat when it had to take unpopular decisions, for example authorising the marketing of glyphosate or of genetically modified organisms (GMOs) for crops, as it was legally bound to do when the Member States refused to take responsibility for acts that they themselves had adopted.

There were two possible options for resolving this problem. The first was to amend the regulation laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February 2011), and the second was to amend the sectoral legislation on which the authorisation decisions were based.

He explained that this last option, even if it seemed to be more targeted, would be more complex and would take longer to implement since it involved legal constraints linked to the Union's obligations as a member of the World Trade Organisation and to the protection of fundamental rights, as well as the need to carry out new impact studies. Furthermore, recent experience, for example the proposal to amend the legislation on GMOs in food and feed, showed that the success of such an initiative was not guaranteed.

He therefore believed that changes to the horizontal regulation on ‘comitology’ would be the most realistic option. Based on this hypothesis, he referred to the possible sub-options, ranging from options designed to prevent the absence of a committee opinion to options for better managing the consequences of the absence of an opinion. The range of possible solutions was presented in terms of their effects on the Commission’s capacity to act.

Winding up, Mr TIMMERMANS underlined the complexity of the problem to be resolved and the difficulties that a proposal to review the comitology procedures would inevitably cause between the Union’s institutions during the legislative procedure.

Mr ANDRIUKAITIS took the floor and said that in certain publicly controversial cases within his portfolio, the Member States were tempted to evade their responsibilities under comitology procedures by leaving the Commission to take unpopular decisions alone. He urged the Members of the College to ponder the reasons for such behaviour. He felt that the main problem was the public's lack of confidence in science and the feeling that Europe was not sufficiently protecting them from the effects of certain chemical substances. He therefore felt that a review of comitology procedures alone would not solve the problems and that consideration should also be given to a political response and to strengthening the scientific basis for the decisions. This implied a reform of the EU agencies responsible for providing the scientific basis for these decisions and of their procedures, to make them more transparent.

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

- the importance of ensuring that implementing acts were adopted through transparent procedures and in an institutional framework that clearly distinguished the respective roles of the legislators and the executive;

- the need to ensure that democratic control mechanisms accompanied the adoption of the implementing acts which were essential to guarantee that EU legislation was always adapted to the latest scientific and technological developments;
- the initiatives already taken by the Commission to enable the most politically sensitive implementing acts to be identified prior to their adoption so that they could be submitted for discussion by the Commission and the accompanying information campaign prepared;
- the responsibilities that the Commission must continue to assume under the comitology procedures as the Union’s executive power and as a political organisation that had to make political choices;
- the clear delineation of the powers granted to the Commission by the legislators for implementing acts, which allowed it to lead the decision-making process while leaving the Member States the possibility of putting the brake on when they considered it necessary;
- the importance of maintaining the Commission’s role and capacity for action in the process of adoption of implementing acts, and of providing for pragmatic solutions for adapting the procedures so that all the players involved assumed their responsibilities;
- the desirability of better coordinating scientific opinions and the resulting policy decisions, in particular by explaining to the public the different stages in the decision-making process and the respective responsibilities of scientists and the political authorities in that process;
- in the longer term, the need to restore public confidence in science and to restate the procedures for applying the precautionary principle to ensure that this principle did not give rise to abuses and was uniformly applied;

- with specific regard to comitology procedures, the observation that the failure to make committee votes public, unlike Member State votes in Council, allowed the Member States to avoid exposure to public criticism;
- the utility of the comitology procedures from the point of view of legal certainty, given that, in certain cases, these procedures allowed the Commission to adopt acts without the opinion of the relevant committee;
- the risk of the co-legislators distorting or diluting the content of a potential legislative proposal amending the current procedures for adopting implementing acts to suit their own interests and, in this case, the need to make provision for the Commission to withdraw its proposal in the course of the legislative procedure; questions related to the conditions under which such a withdrawal would be allowed in the light of the Treaties;
- the major risks connected with adopting a proposal amending the comitology procedures, given that these procedures had proved effective in the vast majority of cases;
- consequently, the importance of giving consideration only to pragmatic and targeted changes to the comitology procedures;
- the preference of some for a sectoral approach when revising the comitology procedures to produce solutions specifically tailored, on a case-by-case basis, to each of the problems identified, particularly when they affected only a specific sector;
- support by others for revision of the horizontal regulation on comitology by means of a targeted review of certain provisions, ensuring that Member State votes relating to committees were made public;
- whatever the option chosen, the desire to avoid interinstitutional wrangling, which would be futile and incomprehensible to European citizens.

Questioned on the possibility for the Commission to withdraw a proposal in the course of a legislative procedure at the PRESIDENT's request, the Director-General of the Legal Service explained that according to recent case-law, the Commission could indeed exercise the right to withdraw a proposal, irrespective of the stage it had reached in the legislative procedure, if it considered that the text as amended by the co-legislators was no longer compatible with the objectives pursued. He pointed out that the right of withdrawal now recognised by the Court of Justice of the European Union was considered as inseparable from the Commission's right of initiative.

Mr TIMMERMANS took note of the views expressed by the Members of the Commission. He concluded from the policy debate that a targeted revision of the horizontal regulation on the procedures currently applicable to the adoption of implementing acts was the best way to resolve problems in terms of political responsibility arising from the adoption of certain acts, without undermining respect for fundamental rights and the EU's obligations vis-à-vis the World Trade Organisation. He added that the proposed amendment of the horizontal regulation in question would seek in particular to prevent the absence of a committee opinion and ensure that votes in committee were made public.

The PRESIDENT also supported the option of carrying out a targeted review of the horizontal regulation setting out the comitology procedures in order to make them more transparent and, consequently, to allow each of the institutions involved in the process to discharge their respective responsibilities. He referred at this point to the internal measures that the Commission had put in place right from the start of its term of office to allow for discussion at political level, i.e. in the College, prior to the submission of a proposal for a delegated or implementing act with a political dimension. He stressed that the aim of these measures was precisely to allow the Commission to discharge its responsibilities in full. He considered, therefore, that this should also apply to the other stakeholders concerned, and that a review of the comitology procedures was essential, in particular where they required the

Commission to take a decision in the absence of a committee opinion. This would include introducing the possibility of referring the matter to the Council of Ministers.

In general terms, he also felt that it was important for the Commission not to rely on a single source of scientific expertise, but rather to draw on a broader range of expertise to strengthen the scientific basis for its proposals.

The PRESIDENT wound up the policy debate by noting that, on the basis of these conclusions and certain elements presented in the background note relating to the horizontal option chosen, the Commission would discuss and adopt, at its weekly meeting on 14 February, a proposal amending the Regulation laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (Regulation (EU) 182/2011).

The Commission took note of the results and conclusions of the policy debate and of the background note in SEC(2017) 72.

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The meeting closed at 12.17.