



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2010)1930 final**

Brussels, 7 October 2010

**MINUTES**  
**of the 1930th meeting of the Commission**  
**held in Brussels**  
**(Berlaymont)**  
**on Wednesday 29 September 2010**  
**(morning)**

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**Single sitting: Wednesday 29 September 2010 (afternoon)**

The sitting opened at 09.09 with Mr Barroso, President, in the chair.

Present:

|                    |                |                            |
|--------------------|----------------|----------------------------|
| Mr BARROSO         | President      |                            |
| Ms REDING          | Vice-President |                            |
| Mr ALMUNIA         | Vice-President |                            |
| Ms KROES           | Vice-President |                            |
| Mr TAJANI          | Vice-President |                            |
| Mr ŠEFČOVIČ        | Vice-President |                            |
| Mr POTOČNIK        |                |                            |
| Mr REHN            |                | Items 1 to 15 (in part)    |
| Mr BARNIER         |                | Items 8/14 (in part) to 16 |
| Ms VASSILIOU       |                | Items 1 to 15 (in part)    |
| Mr DE GUCHT        |                | Items 1 to 15 (in part)    |
| Mr DALLI           |                |                            |
| Ms GEOGHEGAN-QUINN |                |                            |
| Mr LEWANDOWSKI     |                | Items 1 to 15 (in part)    |
| Ms DAMANAKI        |                |                            |
| Ms GEORGIEVA       |                |                            |
| Mr OETTINGER       |                |                            |
| Mr HAHN            |                | Items 1 to 15 (in part)    |
| Ms HEDEGAARD       |                |                            |
| Mr FÜLE            |                |                            |
| Mr ANDOR           |                |                            |
| Ms MALMSTRÖM       |                | Items 1 to 15              |
| Mr CIOLOŞ          |                |                            |

Absent:

Baroness ASHTON

High  
Representative/Vice-  
President

Mr KALLAS

Vice-President

Mr PIEBALGS

Mr ŠEMETA

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

|              |                                     |                                         |
|--------------|-------------------------------------|-----------------------------------------|
| Mr BANNERMAN | A member of Baroness ASHTON's staff |                                         |
| Mr FITCH     | Deputy Chef de cabinet to Mr KALLAS |                                         |
| Mr KARHUNEN  | Adviser in Mr PIEBALGS's Office     |                                         |
| Mr SADAUSKAS | Chef de cabinet to Mr ŠEMETA        | Items 1 to 8/14 (in part),<br>15 and 16 |
| Mr BAUDRU    | Deputy Chef de cabinet to Mr ŠEMETA | Items 8/14 (in part)                    |

The following also sat in:

|                      |                                                      |                      |
|----------------------|------------------------------------------------------|----------------------|
| Mr LAITENBERGER      | Chef de cabinet to the PRESIDENT                     | Items 1 to 15        |
| Mr CABRAL            | Adviser <i>hors classe</i> in the PRESIDENT's Office |                      |
| Mr ROMERO REQUENA    | Director-General, Legal Service                      |                      |
| Mr SØRENSEN          | Director-General, DG Communication                   |                      |
| Mr DOENS             | Head of the European Commission Spokesperson Service | Items 1 to 15        |
| Ms AHRENKILDE HANSEN | Commission Spokeswoman                               | Items 1 to 15        |
| Mr THEBAULT          | Head of the Bureau of European Policy Advisers       | Items 1 to 15        |
| Ms MARTÍNEZ ALBEROLA | Adviser in the PRESIDENT's Office                    | Item 15              |
| Ms VANNINI           | Adviser in the PRESIDENT's Office                    | Item 16              |
| Ms SKURATOWICZ       | A member of the PRESIDENT's staff                    | Items 8/14 (in part) |
| Mr SELMAYR           | Chef de cabinet to Ms REDING                         | Item 15              |
| Mr MARTÍNEZ MONGAY   | Chef de cabinet to Mr ALMUNIA                        | Item 16              |
| Ms RISO              | Deputy Chef de cabinet to Mr REHN                    | Items 1 to 14        |

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

**1. AGENDAS**

**(OJ(2010)1930/3; SEC(2010)1135/3)**

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings. It also noted the addition to the agenda of item 14 concerning an information note from the PRESIDENT.

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

**(SEC(2010)1930)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 27 September.

**3. APPROVAL OF THE CORRIGENDUM TO THE MINUTES OF 1922<sup>ND</sup> MEETING (15 JUNE), OF THE MINUTES OF THE 1928<sup>TH</sup> MEETING (7 SEPTEMBER) AND OF THE MINUTES AND SPECIAL MINUTES OF THE 1929<sup>TH</sup> MEETING (15 SEPTEMBER)**

**(PV(2010)1922/2; PV(2010)1928; PV(2010)1929 AND /2; PV(2010)1929, PART II)**

The Commission approved the corrigendum to the final minutes of its 1922<sup>th</sup> meeting, and the minutes of its 1928<sup>th</sup> and 1929<sup>th</sup> meetings.

#### **4. INTERINSTITUTIONAL RELATIONS**

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

###### **i) Action to be taken on Parliament's legislative opinions**

(SP(2010)6675)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Mr ŠEFČOVIČ 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(2010) 6675, drawn up following the September II part-session of Parliament, the contents of which were noted.

###### **ii) Follow-up to the trialogue of 27 September and preparation of Parliament's October II part-session**

(SPI(2010)56)

###### Ordinary legislative procedure – Preparation of agreement at first reading

- Amendment of the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities (Regulation) – RAPKAY report – 2010/0171 (COD)

The Commission approved the line set out in SPI(2010)56.

###### **iii) Preparation of COREPER meeting of 1 October and trialogue of 6 October**

(SPI(2010)55)

###### Ordinary legislative procedure – Preparation of agreement at first reading

- Amendment of Regulation (EC) No 663/2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy (Regulation) – VAN BREMPT report – 2010/0150 (COD)

The Commission approved the line set out in SPI(2010) 55.

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

##### **iv) *Programming of Council business***

(SI(2010)246)

The Commission took note of the information in SI(2010)246 on the Council meetings between 30 September and 13 October 2010.

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

##### **v) *Results of September II part-session***

(SP(2010)6584 TO /3)

The Commission took note of the information in SP(2010)6584 to /3 on the proceedings of the part-session of Parliament held in Strasbourg from 20 to 23 September.

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

#### **5.1. *WRITTEN PROCEDURES APPROVED***

**(SEC(2010)1071 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 24 September.

#### **5.2. *EMPOWERMENT***

**(SEC(2010)1072 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 24 September.

**5.3. DELEGATION AND SUBDELEGATION OF POWERS  
(SEC(2010)1073 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 13 and 24 September, as archived in e-Greffe.

**5.4. SENSITIVE WRITTEN PROCEDURES  
(SEC(2010)1074/2 AND /3)**

The Commission took note of the sensitive written procedures for which the time limit expired between 27 September and 1 October and of the "finalisation" written procedures initiated following the weekly meeting of Chefs de cabinet on 27 September.

**5.5. DELEGATION OF POWERS IN THE FIELD OF INFORMATION  
SOCIETY AND MEDIA – ADOPTION OF MEASURES FOR THE  
IMPLEMENTATION OF THE MULTIANNUAL COMMUNITY  
PROGRAMME ON PROTECTING CHILDREN USING THE INTERNET  
AND OTHER COMMUNICATION TECHNOLOGIES  
(SEC(2010)1146 AND /2)**

The Commission decided to delegate to the Director-General of DG Information Society and Media the power to adopt, on its behalf and under its responsibility, certain measures implementing the multiannual Community Programme on protecting children using the Internet and other communication technologies (Safer Internet programme), under the terms set out in SEC(2010)1146.

**6. ADMINISTRATIVE AND BUDGETARY MATTERS**  
**(SEC(2010)1136)**

**ADMINISTRATIVE MATTERS**  
**(PERS(2010)128)**

**6.1. DG HEALTH AND CONSUMERS – PUBLICATION AT GRADE AD 15  
OF A VACANCY NOTICE FOR THE POST OF DIRECTOR OF THE  
EUROPEAN MEDICINES AGENCY**  
**(PERS(2010)107)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr DALLI, the Commission decided to authorise the publication at grade AD15 of the vacancy notice in PERS(2010)107 for the post of Executive Director of the European Medicines Agency (EMA).

The publication at that grade was the result of the discussions with Parliament and the Council on amending the Agency's founding regulation. However, the Commission felt that this decision could not be taken as a precedent, noting that the issue of recruitment grades of agency directors was still unresolved, and discussions would continue in the interinstitutional working party on agencies.

This decision would take effect immediately.

**6.2. DG AGRICULTURE AND RURAL DEVELOPMENT – TEMPORARY  
POSTING AS DIRECTOR**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, the Commission decided, under Article 7(2) of the Staff Regulations, to grant a temporary posting as Director 'Direct support, market measures, promotion' in DG Agriculture and Rural Development to Mr Jean-Jacques JAFFRELOT, an AD14 official and head of unit in DG Agriculture and Rural Development, from 1 April 2009 to 28 February 2010.

This decision would take effect immediately.

**6.3. *DG AGRICULTURE AND RURAL DEVELOPMENT – TEMPORARY POSTING AS DIRECTOR***

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, the Commission decided, under Article 7(2) of the Staff Regulations, to grant a temporary posting as Director 'Economic analysis, perspectives and evaluations' in DG Agriculture and Rural Development to Mr Léopold MAIER, an AD14 official and head of unit in DG Agriculture and Rural Development, from 1 July to 15 November 2009.

This decision would take effect immediately.

**6.4. *DG AGRICULTURE AND RURAL DEVELOPMENT – TEMPORARY POSTING AS DIRECTOR***

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, the Commission decided, under Article 7(2) of the Staff Regulations, to grant a temporary posting as Director, 'Rural development programmes I' in DG Agriculture and Rural Development to Mr Pedro TARNO, AD14 official and head of unit in DG Agriculture and Rural Development, from 1 July 2008 until such time as the post was filled, taking into account the interest of the service and in order to ensure fair treatment of the official concerned.

This decision would take effect immediately.

**6.5. *DG ENLARGEMENT – TEMPORARY POSTING AS DIRECTOR***

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr FÜLE, the Commission decided, under Article 7(2) of the Staff Regulations, to grant a temporary posting as Director 'Resources' in DG Enlargement to Ms Michaela DI BUCCI, AD12 official and head of unit in DG Enlargement, from 1 May to 30 September 2010.

This decision would take effect immediately.

**6.6. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS**

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an AD15 official.

**6.7. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS**

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an AD15 official.

**6.8. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS**

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an AD15 official.

**6.9. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS**

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an AD15 official.

**6.10. DG AGRICULTURE AND RURAL DEVELOPMENT – INTERNAL PUBLICATION OF A VACANCY NOTICE FOR AN AD 15/16 DEPUTY DIRECTOR-GENERAL  
(PERS(2010)129)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2010)129 for the post of Deputy Director-General in DG Agriculture and Rural Development, with responsibility for Directorates I, J and K.

This decision would take effect immediately.

**6.11. DG AGRICULTURE AND RURAL DEVELOPMENT – INTERNAL  
PUBLICATION OF A VACANCY NOTICE FOR AN AD 15/16 DEPUTY  
DIRECTOR-GENERAL  
(PERS(2010)130)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOȘ, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2010)130 for the post of Deputy Director-General in DG Agriculture and Rural Development, with responsibility for Directorates C and D.

This decision would take effect immediately.

**7. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 102 OF  
THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND  
ARTICLE 54 OF THE EEA AGREEMENT (CASE COMP/39.315 – ENI)  
(C(2010)6701 TO /5)**

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 9 September in C(2010)6701/3;
- took note of the final report of the Hearing Officer of 13 September in C(2010)6701/4;
- adopted in the authentic language (Italian) the decision in C(2010)6701/5, making the commitments proposed by the company concerned binding;
- decided to notify the company concerned of the decision in C(2010)6701/5 and of the Hearing Officer's final report;

- decided to authorise Mr ALMUNIA, Member of the Commission responsible for competition, acting in agreement with the PRESIDENT, to adopt the decisions necessary to implement the commitments forming part of this decision, in order to ensure that the company concerned complied with them;
- decided that the key parts of the decision, together with the Advisory Committee's opinion and the Hearing Officer's final report, would be published in the official languages of the Union in the Official Journal of the European Union (with business secrets and other confidential information removed);
- decided to make the decision (minus any business secrets and other confidential information) also accessible on the Internet.

**8. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1466/97 ON THE STRENGTHENING OF THE SURVEILLANCE OF BUDGETARY POSITIONS AND THE SURVEILLANCE AND COORDINATION OF ECONOMIC POLICIES**

**(COM(2010)526 AND /2; SEC(2010)1130; SEC(2010)1132)**

**9. PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EC) NO 1467/97 ON SPEEDING UP AND CLARIFYING THE IMPLEMENTATION OF THE EXCESSIVE DEFICIT PROCEDURE**

**(COM(2010)522 TO /3; SEC(2010)1130; SEC(2010)1132)**

**10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EFFECTIVE ENFORCEMENT OF BUDGETARY SURVEILLANCE IN THE EURO AREA**

**(COM(2010)524 AND /2; SEC(2010)1130; SEC(2010)1132)**

- 11. PROPOSAL FOR A COUNCIL DIRECTIVE ON REQUIREMENTS FOR BUDGETARY FRAMEWORKS OF THE MEMBER STATES  
(COM(2010)523 AND /2; SEC(2010)1130; SEC(2010)1132)**
- 12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PREVENTION AND CORRECTION OF MACROECONOMIC IMBALANCES  
(COM(2010)527 AND /2; SEC(2010)1134; SEC(2010)1132)**
- 13. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ENFORCEMENT MEASURES TO CORRECT EXCESSIVE MACROECONOMIC IMBALANCES IN THE EURO AREA  
(COM(2010)525 AND /2; SEC(2010)1134; SEC(2010)1132)**
- 14. INTERNAL PREPARATION OF AND PROCEDURE FOR ADOPTING COMMISSION DECISIONS WITHIN THE FRAMEWORK OF THE COORDINATION AND SURVEILLANCE OF THE ECONOMIC AND BUDGETARY POLICIES OF THE MEMBER STATES  
(SEC(2010)2010)**

The PRESIDENT introduced, firstly, the debate on items 8 to 13 of the minutes, stressing the historical nature of the proposed set of measures, which marked a major transition in the way in which economic governance was organised in the European Union and in particular in the euro area.

He thanked Mr REHN and the services under his authority for the scope and quality of the work done, pointing out that the main aspects of the proposed set of measures had been announced in the communications of 12 May and 30 June 2010 setting out, respectively, the goal of enhancing economic policy coordination and putting in place specific tools by the end of September.

In fulfilling this commitment, the Commission had drawn on the work of the Task Force on economic governance chaired by Mr Herman Van Rompuy, to which the

Commission itself had made a significant contribution in a spirit of constructive and loyal cooperation. The PRESIDENT felt that this set of proposals did not exhaust the remit of the Task Force, which was to present its final report at the October European Council. In particular, the Task Force was examining the extension of penalties to non-euro-area Member States, the introduction of other non-financial penalties that would require an amendment to the Treaty, and the setting up of a permanent crisis resolution mechanism.

In adopting these proposals today, the Commission was showing the markets and public opinion that it was continuing to work steadily towards setting up a new system of governance by mid-2011.

He felt that these were historic proposals, since they deepened and extended the governance system by substantially reinforcing the Stability and Growth Pact (SGP) and by increasing surveillance not just of budgetary policies but of macroeconomic imbalances in general, in order to move beyond monetary union and towards a genuine economic union. Lastly, since these proposals were directly and immediately applicable in the euro-area Member States, he considered that they would address the root causes of the recent sovereign debt crisis in the euro area and help to avert a future crisis.

Mr REHN thanked the other Commission members and their cabinets for their excellent cooperation during the preparation of this dossier. He pointed out that in May and June 2010 the Commission had adopted two communications setting out its ideas and principles concerning stronger economic governance and that the proposals he was submitting set out the means of implementing them through the relevant legal instruments. He referred also to the Task Force meetings chaired by Mr Van Rompuy and the usefulness of this group's work and discussions.

He went on to present the proposals, which comprised three main strands: budgetary surveillance, the prevention and correction of macroeconomic imbalances, and control mechanisms. With regard to budgetary surveillance, he referred first to the four legislative proposals, namely two proposals to amend the two regulations underpinning the Stability and Growth Pact, a new regulation aimed at effective

enforcement of budgetary surveillance of the Member States in the euro area and a directive on the budgetary frameworks of the Member States. He went on to mention the two proposals for regulations on macroeconomic imbalances, aimed at setting up a structured surveillance mechanism for all the Member States and another control mechanism solely for the Member States in the euro area.

Mr REHN then presented the key aspects of the six proposals. With regard to the preventive part of the SGP, he noted that the proposals introduced the concept of prudent budgetary policy, the main objective of which was to provide the Commission with guidelines on how to achieve the budgetary objective in the mid-term. This simple and measurable concept was at the heart of the preventive part in that it specified that in the long term public expenditure could grow more quickly than GDP or, if necessary, must be financed with new revenues. He added that a substantial departure from this rule would make the Member State concerned liable to a warning from the Commission and, if the divergence were particularly persistent and serious, the Council would adopt a recommendation on a proposal from the Commission. For the Member States in the euro area, such a recommendation would be accompanied by the obligation to make available to the Commission a interest-bearing deposit of 0.2% of the GDP of the Member State concerned.

The second main innovation was that closer attention was paid to the debt criterion. He proposed to quantify the level of debt simply using a numerical benchmark. A debt would be diminishing satisfactorily if its distance with respect to the 60% of GDP reference value had reduced over the previous three years at a rate of one-twentieth per year. He stressed that, solely on this basis and by means of a detailed analysis, taking into account all the relevant factors, a Member State could be subject to the excessive deficit procedure if it did not reach this reference point.

With regard to the preventive part, a systematic response was being proposed to the question of pension reform in the Member States, the impact of which must be duly taken into account when deciding whether or not to apply the excessive deficit procedure to a Member State with a debt threshold of under 60%. In this connection he had the following statement entered in the minutes:

*"In the establishment of the existence of an excessive deficit based on the deficit criterion, in case the debt ratio is below the reference value, the whole range of relevant factors covered by the report under Article 126.3 TFEU shall be taken into account. That includes in particular the implementation of pension reforms introducing a multipillar system that includes a mandatory, fully funded pillar. Specifically, in case the deficit is somewhat above what is considered as close to the reference value, the Commission will not consider that an excessive deficit exists (provided the other conditions are met) if, after deducting the cost of such pension reforms, the deficit does not exceed the reference value".*

Mr REHN explained that it would be possible to deduct the cost of reforming the pension systems from the debt ratio on a degressive scale over five years, as was currently possible only in cases of deficit. This provision would apply from the entry into force of the regulation in question or when the Member State's pension system was reformed in the future, without however watering down or weakening the rules and principles of the SGP.

He went on to describe the new mechanism for monitoring Member States in the euro area, which would be activated earlier and more gradually and would apply from the preventive phase of the SGP. As regards the corrective part, a Member State would have to make a non-interest-bearing deposit as soon as it was subject to the excessive deficit procedure. This deposit (0.2% of GDP) could be converted into a fine if the Member State in question did not comply with the recommendations concerning correction of its deficit and/or its debt.

He also mentioned the proposal for a directive on the budgetary framework requirements to be met by Member States, which clearly indicated that States would have a choice of instruments to implement these requirements provided the instruments were effective and credible.

Mr REHN also referred to the question of macroeconomic imbalances and the introduction of a regular mechanism, similar but not identical to the SGP mechanism, which would enable imbalances to be identified, prevented and addressed before they become threats to the stability of the European economy. A

scoreboard would be established based on indicators that had not yet been defined. Since it was advisable to retain some flexibility concerning the choice of indicators and the changes that would need to be made to them, these indicators had not been included in the proposal for a regulation.

He went on to refer to the introduction of a mechanism to monitor enforcement of the measures, with annual sanctions of up to 0.1% of GDP for euro-area Member States which repeatedly and continuously failed to comply with the recommendations concerning their excessive imbalance situation.

He referred to the work done by the Task Force on economic governance and welcomed the fact that its members had advocated extending these measures as quickly as possible to all the EU Member States. Work on this should begin at once, in close cooperation with the Commission Members concerned and their departments.

Winding up his presentation, Mr REHN spoke about the interinstitutional legislative procedure and the negotiations in prospect in order to get the Commission's proposals adopted. He hoped that in the months ahead the Members of the Commission would continue to offer their collective support and cooperation with regard to the follow-up measures that would subsequently be required: extension of the enforcement mechanism to all 27 Member States by applying budget conditionality as widely as possible, a scoreboard to monitor macroeconomic imbalances, and the proposal to set up a permanent crisis resolution mechanism.

Taking the floor again, the PRESIDENT spoke in general terms about the package of measures and how it would be communicated to the public, stressing the heavy additional responsibility it implied for the Commission. Although the Commission was equal to this task, it would have to ensure that it was perceived to be so in the outside world, particularly from the point of view of its independence and objectivity. While noting that the problems in applying the Stability and Growth Pact mainly concerned the implementation of the Commission's proposals, he conceded that there was a case for examining how these reforms should be reflected in the Commission's decision-making process for implementing the Pact. He was

convinced that changes to that effect would show the Commission's willingness to assume new responsibilities as a fully independent player in the new decision-making arrangements in the Council.

He therefore proposed that greater objectivity be introduced into the Commission's work by drawing a clear distinction between the analytical phase and the policy phase. The analytical phase would come under the sole responsibility of the Commissioner responsible for Economic and Monetary Affairs, with a new internal system of dual checks guaranteeing the quality and objectivity of the analysis made by the Directorate-General for Economic and Financial Affairs. The policy phase, culminating in recommendations to the Council, would remain the province of the College of Commissioners, acting by written procedure, thereby maintaining the Commission's collective responsibility. This new arrangement would send a strong signal that the Commission was capable of accomplishing its new mission. The PRESIDENT explained that the practical details of the new system were set out in the briefing note distributed as SEC(2010)2010, mentioned under item 14 of these minutes.

The PRESIDENT was convinced that, among the options considered, this set of internal rules was the best way of safeguarding the Commission's role while maintaining a clear definition of its responsibilities and those of the European Central Bank. On this basis the Commission could support the creation of an advisory group that would provide added value to the general process of economic surveillance laid down by the Treaty. He felt that such a group should be made up of competent individuals who were well versed in European affairs and that it should evaluate independently the work of both the Commission and the Council, while remaining outside the decision-making process, its evaluations being conducted *ex post*.

The remit of the Task Force on the other hand would end when it submitted its final report in October, leaving certain issues unresolved, among them the question of establishing a permanent crisis resolution mechanism. A debate on these issues would be valuable but would have to continue after the Task Force's remit had ended.

The Commission then held a discussion during which the following main points were made:

***General aspects***

- the quality, ambition, relevance and timeliness of the proposals, which were being put forward at a particularly important juncture for the European Union, as it faced up to the consequences of the economic and financial crisis;
- satisfaction at the measures taken by the Commission in recent months to help certain Member States overcome a difficult economic and budgetary situation;
- a reminder of the complexity and political sensitivity of the forthcoming discussions on these proposals, particularly among the institutions and taking into account the fact some Member States viewed them as interference in national issues, such as budgetary policy;
- the importance of the proposed strengthening of the preventive side of budgetary surveillance and the monitoring of macroeconomic imbalances, with sanctions being used only as a last resort;
- the feeling that there was a certain imbalance in the approach to the consolidation of public finances and that matters relating to government revenue deserved more attention;
- the need to ensure that implementation of the proposed measures did not jeopardise growth and employment in the Member States concerned;
- regret that the proposed tightening of macroeconomic surveillance failed to take account of other important factors, such as jobs, investment or growth, and a question about the Member States whose public finances were in surplus;
- the importance of not making it more difficult to join the euro area;
- the importance of adopting and implementing all the proposals as quickly as possible and a question as to whether the deadline for Member States to

transpose the Directive on requirements for their budgetary frameworks (2013) should be brought forward;

- the importance of good *ex ante* evaluation so that the reforms announced by the Member States could produce the desired effects in budgetary terms;
- the need to develop the capacity for analysis and expertise of the departments under the Commissioner responsible for Economic and Monetary Affairs, while ensuring that the Commission itself retained its collective, political decision-making role; the proposed new system was welcomed in this respect;
- a reminder of the work of the Task Force on economic governance chaired by Herman Van Rompuy, although this body should not remain in place once its mission had come to an end;

***On the debt criterion***

- the importance of taking into account each Member State's government deficit and level of debt;
- the need to take into consideration the level of both public and private debt, as well as other relevant factors;
- certain questions about the 'automatic' nature of the sanctions, which could help ensure that the necessary decisions were indeed taken, although political decisions would still have to be reserved for the appropriate level.

***On the proposed sanctions***

- agreement on the need for tougher sanctions against Member States that failed to abide by the rules and at the same time incentives for Member States that adhered to those rules;
- questions about a possible transitional period;

- the importance of being aware of the political problems likely to crop up in due course when it came to deciding on and implementing some of the proposed measures, for example on debt resolution;
- the importance of examining the possibility of eventually extending the sanctions to all Member States, and the need to ensure everyone was treated fairly;
- the need to cover all financial transfers, including those under the Common Agricultural Policy; the technical arrangements for this would need to be examined at a later stage;
- a reminder of the risk of speculation on international markets and hence the usefulness of setting up a permanent assistance mechanism, while being careful not to fuel rumours if one or several Member States encounter specific or structural difficulties;

#### ***National pension reforms***

- satisfaction with the constructive approach in the proposals, which did not pre-empt future decisions in this area;
- a reminder that, in the context of the sustainable reform of national pension systems, it was important to take account of current and future reforms and their impact on Member States' public finances in terms of public deficits and debt;

#### ***Communication***

- the need for appropriate communication on this issue, including its implications for Member States with economic difficulties, especially aimed at European citizens and national parliaments; the vital role that Commission representations in Member States can play in ensuring that these matters are properly understood;

- the importance of highlighting the link between these proposals and other Commission proposals, for example, those on financial surveillance or on sectoral policies to implement the ‘Europe 2020’ strategy.

In answering the questions posed, Mr REHN agreed on the need for clear, effective and targeted communication and highlighted that, thanks to their structural reforms, some Member States were now better equipped to deal with the consequences of the economic crisis and return to growth more quickly. He agreed that the preventive aspect of the measures should be given greater emphasis and touched upon the proposed voting system in the Council and how it related to Commission powers in opening excessive deficit procedures against Member States. If the Commission’s proposals were adopted in summer 2011, the preventive measures could be implemented very quickly, such as the non-interest-bearing deposit for Member States which failed to adhere to the new principle of a prudent budgetary policy. Finally, Mr REHN stressed that account would be taken systematically and objectively of the systemic factors that could have a bearing on an excessive deficit procedure based on the deficit criterion when a country's debt was below 60% of GDP. Pension reform was just one of these factors.

The PRESIDENT also stressed the importance of communication in this area; he mentioned in particular the need to explain the issues clearly to the general public, for example, by highlighting the serious social and financial consequences of high levels of public debt. The proposals should therefore be presented not as technical adjustments or changes to the Stability and Growth Pact, but rather as the only way to safeguard the social market economy; this meant establishing a very clear link between the Commission’s proposals and the public's desire for sustainable growth and social cohesion.

He wished to see the College take strong ownership of the proposals and asked each Member to recommend them to the outside world, including to national parliaments. He noted that Members agreed to the proposal to strengthen the analytical role of the Commission and of the departments under the Commissioner responsible for Economic and Monetary Affairs and stressed it was important that the Commission’s decisions were objective and were considered to be so by the public

and by economic and political stakeholders. In any case, the Commission would always shoulder political responsibility for its decisions and would retain its discretion.

The institutional stakes on these issues were high and it was important for the Commission to avoid politicising them too much. Finally, he alluded to the link between the proposals on strengthening economic governance and those in some other important fields, such as financial surveillance or the European Semester, and said it was now time for the Commission to make proposals and move ahead in several other areas. He concluded by noting that, apart from some questions on specific points, there was general agreement among Members on the proposals presented by Mr REHN.

After this discussion, the Commission adopted the proposals for a Regulation and the proposal for a Directive in COM(2010)526/2, COM(2010)522/3, COM(2010)524/2, COM(2010)523/2, COM(2010)527/2 and COM(2010)525/2, and decided to send:

- the proposal for a Regulation in COM(2010)526/2 to the European Parliament, the Council and national parliaments, and, for information, to the European Economic and Social Committee and the European Central Bank;
- the proposal for a Regulation in COM(2010)522/3 to the European Parliament, the Council, the European Central Bank and national parliaments, and, for information, to the European Economic and Social Committee;
- the proposal for a Regulation in COM(2010)524/2 to the European Parliament, the Council, the European Economic and Social Committee and national parliaments, and, for information, to the European Central Bank;
- the proposal for a Directive in COM(2010)523/2 to the European Parliament, the Council and national parliaments, and, for information, to the European Economic and Social Committee and the European Central Bank;

- the proposal for a Regulation in COM(2010)527/2 to the European Parliament, the Council, the European Economic and Social Committee and national parliaments, and, for information, to the European Central Bank; and
- the proposal for a Regulation in COM(2010)525/2 to the European Parliament, the Council, the European Economic and Social Committee and national parliaments, and, for information, to the European Central Bank.

The Commission also took note of the PRESIDENT's briefing note in document SEC(2010)2010 on the internal preparation of and procedure for adopting Commission decisions within the framework of the coordination and surveillance of the economic and budgetary policies of the Member States.

## **15. OTHER BUSINESS**

### ***SITUATION OF THE ROMA IN EUROPE***

Ms REDING reminded the Commission that it had already discussed this topic in depth at its seminar on 1 September as well as at its Strasbourg meeting on 7 September. She thanked Ms MALMSTRÖM and Mr ANDOR for their close cooperation and the PRESIDENT for his support, and said that together they had agreed to examine progress on the transposition and application by the Member States of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

In the case of France in particular, meetings and discussions had been held with the French authorities on this matter in recent weeks, following the events of the summer, and, while assurances had been given, doubts remained regarding the content of the Administrative Circular of 5 August and certain statements calling into question the role of the Commission.

She said that a legal assessment had been carried out into two aspects, the transposition of the 2004 Directive and the way it had been applied, and thanked the

Legal Service for its close cooperation in this matter.

On the question of transposition, the assessment had found that France had failed to transpose the procedural safeguards laid down in the event of expulsion, which were particularly important in these difficult circumstances. She therefore proposed that a letter of formal notice be sent to the French authorities on this specific point.

As regards the possibility that the application of the Directive was discriminatory, Ms REDING noted that the Circular of 5 August 2010 had been cancelled and replaced with a new Circular on 13 September; however, she felt that more information and further details were needed in order to establish that no discrimination on grounds of ethnic origin was occurring in the application of the Directive. A letter requesting clarification on a number of points would therefore be sent to the French authorities.

Ms REDING also called for more to be done with regard to the policy for the social and economic inclusion of Roma, and for the authorities to make a greater effort in the field of education, housing, health and access to employment. She pointed out that the Commission had already made substantial sums available and she announced that a European framework for national Roma inclusion strategies would be presented in 2011.

Mr ANDOR gave his full support to Ms REDING, stressing not only the legal dimension but also the political dimension to this issue and highlighting the need, in the present context, to draw attention to the steps that had already been taken to help the Roma and to announce plans for the future.

In particular, work was needed to improve the effectiveness of the Structural Funds, which, in the case of Roma, were not producing the desired results; the task force on this matter would have to draw up new proposals to encourage inclusion. He also referred to the contribution that could be made by the initiatives on employment and poverty reduction contained in the Europe 2020 Strategy, and the importance of the Union continuing to organise high-level meetings on this question, like the one scheduled for October in Bucharest.

Ms MALMSTRÖM also supported Ms REDING's approach, which was to be presented by the three members that day at a European Parliament hearing. She also confirmed that a large number of funds could be mobilised to help the Roma and that the task force was studying the best way of using them as part of a long-term commitment, in addition to the legal aspect of the dossier.

The discussion that followed focused on the following points:

- questions on the progress made in transposing the 2004 Directive in the Member States as a whole and what the intention might be as regards taking action against other Member States;
- the specific nature nonetheless of the situation in France following the expulsions carried out during the summer;
- the importance of all the Member States concerned enjoying the same level of cooperation with the Commission before any infringement proceedings were initiated;
- the need to make a clear distinction, in communications with the outside world, between the two procedures concerning, on the one hand, progress on transposing the Directive, and, on the other, the way in which it was being applied;
- satisfaction with the intentions expressed regarding the stepping up of inclusion measures;
- the role of education in particular in this regard; the experience acquired by the Commission in this field and the benefits of informing all the Member States of the best practices identified.

Ms REDING thanked the Commission Members for their contributions. She highlighted the complexity of the issue of the transposition of the 2004 Directive in the EU, since progress in this field varied considerably from one country to another. In the case of France, the national authorities would be notified that they had until

15 October to come into line, failing which they would be sent a letter of formal notice.

The PRESIDENT added that, from the procedural point of view, the matter would if necessary be handled as part of the October infringement “package”, on the agenda for the meeting of 27 October; an analysis of the situation as regards transposition in other Member States was also planned in order to assess the need to launch other infringement proceedings. He also went on to stress that, as regards application, the purpose of the letter which was to be sent to France was at this stage only to obtain additional information with a view to determining whether or not discriminatory practices existed.

At the PRESIDENT’s request, the Director-General of the Legal Service reminded the meeting of the Commission’s role in relation to infringements of EU law. In the case of France, he too made a distinction between the two aspects of transposition and application, confirming that, while the Commission had information indicating that it was possible that a letter of formal notice would be sent to France, and to other Member States, in the near future for failure to transpose or to transpose properly certain aspects of the Directive, further information would be necessary before it could be determined whether a letter of formal notice could be sent for incorrect application of the Directive.

The PRESIDENT thanked all those who had taken part in the discussion for their contributions and noted that the Commission’s deliberations had reached the following conclusions:

(1) The right of every EU citizen to move freely within the Union was one of the fundamental principles of the European Union. As guardian of the Treaties, the Commission had a duty to ensure their full and effective enforcement in all the Member States.

(2) The Member States were responsible for and were entitled to take measures to ensure respect for public policy and public safety on their territory. In so doing, they were required to comply with the rules laid down by the 2004 Directive on free

movement, respect the fundamental rights of Union citizens, and avoid all discrimination, especially on grounds of nationality or membership of an ethnic minority.

(3) The recent events in France had led to in-depth discussions between the Commission and the French authorities on the application of EU law in relation to the free movement of persons. The Commission took note at the meeting of the assurances provided by France at the highest political level on 22 September to the effect that:

- the measures taken by the French authorities since the summer had not been intended to target a specific ethnic minority but had treated all Union citizens in the same way;
- the Circular of 5 August 2010, which had not conformed to that policy, had been cancelled and replaced with another circular adopted on 13 September 2010;
- the French authorities applied European Union law in a way that was totally effective and non-discriminatory, and in accordance with the Treaties and with the Charter of Fundamental Rights.

(4) The Commission also noted that France once again stressed its commitment to close and loyal cooperation on these issues. The Commission would continue this exchange with the French authorities and was sending a letter that day to the French authorities with detailed questions on the practical application of the political assurances they had provided.

(5) In order to provide Member States and European Union citizens with legal certainty, particularly in controversial situations, it was extremely important to make sure that the procedural and substantive procedures provided for in the 2004 Directive on free movement were properly and fully transposed by the Member States. At this stage, the Commission considered that France had not transposed the Directive on free movement into national law in such a way as to make these rights fully effective and transparent. Consequently, the Commission today decided to send France a letter of formal notice requesting the full

transposition of the Directive, unless it received - before 15 October - a draft of transposition measures and an exact calendar for its adoption. The letter of formal notice would be sent as part of the infringement proceedings package for the month of October.

(6) At the same time, the Commission was analysing the situation in all the other Member States in terms of the transposition of the Directive on the free movement of persons, to assess whether or not there was a need to launch infringement proceedings against other Member States too. If the need arose, it would send a letter of formal notice for all similar cases as part of future infringement proceedings packages.

(7) The Commission stressed again that the social and economic inclusion of the Roma was a joint challenge and a responsibility shared by all Member States. The Commission Communication on this issue, adopted on 7 April, listed a series of important measures which must be taken at national and European Union level to improve the situation of the Roma as soon as possible.

(8) To this end, and on the basis of the work of the Roma platform and the task force set up by the Commission on 7 September to analyse the use and effectiveness of national and European Union funds for Roma inclusion in all Member States, the Commission would present a European framework for national Roma inclusion strategies next April. This European framework, which would be based on the Roma task force report, would assess specifically the use of national and European funds and make proposals for a more effective implementation of European Union funds in dealing with Roma exclusion for current and future programming periods. The multidimensional problems of the Roma minority would be discussed in the context of the ten basic principles of the Communication on Roma inclusion and as part of closer cooperation by all stakeholders. Furthermore, the objective of the European framework would be to provide better follow-up and support for national and European efforts for Roma inclusion. To this end, and as part of the 'Europe 2020' strategy, the Commission would ask the Member States to present their own national strategies for Roma inclusion, strategies which could be part of their national reform programmes. The future flagship initiative relating to a 'Platform to

combat poverty' would constitute an integrated framework of measures to support horizontal priorities such as inclusion of Roma citizens. The European Commission also expected clarity and ambition on the issue of the Roma from Member States when they set their 'Europe 2020' national objectives in the fields of poverty reduction, employment and education.

(9) The Commission would work closely with all Member States to prepare the European framework of national Roma inclusion strategies. The European Agency for Fundamental Rights would also take part in this work.

(10) The Commission would report on the progress achieved to the European Parliament and the European Council before summer 2011.

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

### ***STATE AID – INDIVIDUAL CASES***

***(SEC(2010)1142; SEC(2010)1141)***

**N 178/2010**

***Spain***

***Title:*** *Public service compensation linked to a preferential dispatch mechanism for indigenous coal power plants*

(C(2010)4499, /2, /3, /4, /5, /6 and /7)

**Proposal:** Not to raise objections

Mr ALMUNIA presented the above decision which he was tabling for adoption by the Commission. He reminded the Members that this state aid case concerned compensation for a public service obligation imposed by Spain on electricity producers pursuant to Article 11(4) of Directive 2003/54/EC. This provision allowed Member States to impose such obligations for reasons of security of supply, to an extent not exceeding 15% of energy consumption. The examination of the case by the Commission services responsible had found the aid to be compatible with the provisions of the Treaty on the Functioning of the European Union. Mr ALMUNIA

moreover stressed that the measure would cease at the latest by the end of 2014, a commitment the Spanish authorities had substantiated in a Royal Decree, confirmed by a letter from the Minister responsible. He considered furthermore that the measure was compatible with the proposal for a regulation on State aid to facilitate the closure of uncompetitive coal mines, adopted by the Commission on 20 July.

The Commission then had a brief exchange of views. It discussed the importance of halting aid to uncompetitive coal mines by the end of 2014 at the latest, and examined the relationship between this decision and the 'Europe 2020' strategy, the liberalisation of the European energy market, the functioning of the internal market, environmental policy and measures to combat climate change, as well as the timeliness of such a measure in the current economic and budgetary context.

Following this exchange of views, the Commission adopted in the authentic language (Spanish) the decision in document C(2010)4499/7, as well as the other decisions in document SEC(2010)1142.

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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 13.57