



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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

Brussels, 22 April 2015

TEXTE EN

MINUTES

of the 2122nd meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 15 April 2015

(morning)

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Single sitting: Wednesday 15 April 2015 (morning)

The sitting opened at 10.03 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER	President	
Ms GEORGIEVA	Vice-President	
Mr ANSIP	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	Items 1 to 7 (in part)
Mr KATAINEN	Vice-President	
Mr OETTINGER	Member	Items 1 to 7 (in part)
Mr HAHN	Member	Item 7 (in part)
Mr ARIAS CAÑETE	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSSEN	Member	
Mr MOSCOVICI	Member	Items 1 to 7 (in part)
Mr HOGAN	Member	
Lord HILL	Member	
Ms BULC	Member	
Ms BIENKOWSKA	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	Item 7 (in part)
Ms VESTAGER	Member	
Mr MOEDAS	Member	

Absent:

Mr TIMMERMANS	First Vice-President
Ms MOGHERINI	High Representative / Vice-President
Ms MALMSTRÖM	Member
Mr MIMICA	Member
Mr VELLA	Member
Mr ANDRIUKAITIS	Member
Mr STYLIANIDES	Member
Ms CREȚU	Member

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*- English language version of the French text which is authentic -*The following sat in to represent absent Members of the Commission:

Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	Item 7 (in part)
Mr USTUBS	Expert from Ms MOGHERINI's cabinet	
Ms EICHHORN	A member of Ms MALMSTRÖM's staff	
Mr BEHRNDT	Chef de cabinet to Mr MIMICA	
Mr COSTELLO	Chef de cabinet to Mr VELLA	
Mr VINČIŪNAS	Chef de cabinet to Mr ANDRIUKAITIS	
Mr ELING	Deputy Chef de cabinet to Mr STYLIANIDES	
Mr LANDABASO	Chef de cabinet to Ms CREȚU	

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Acting Director-General, DG Communication	
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr THOLONIAT	A member of the PRESIDENT's staff	
Ms DEJMEK-HACK	A member of the PRESIDENT's staff	
Mr SUARDI	Deputy Chef de cabinet to Mr DOMBROVSKIS	Item 7 (in part)

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Mr HILL	Chef de cabinet to Mr NAVRACSICS	Items 1 to 7 (in part)
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER	
Ms ANDREEVA	Commission Spokesperson's Service	

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

1. AGENDAS

(OJ(2015) 2122/FINAL; SEC(2015) 157)

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(2015) 2122)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 13 April.

3. APPROVAL OF THE MINUTES OF THE 2121ST MEETING OF THE COMMISSION (25 MARCH)

The Commission held over approval of the minutes of its 2121st meeting for the following week.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2015) 30)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 10 April (RCC(2015) 30).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Trialogues

(point 3.1 of the IRG record)

- Trade mark package - Amendment of Council Regulation (EC) 207/2009 of 26 February 2009 on the Community Trade Mark (Regulation) / Approximation of the laws of the Member States relating to trade marks (Directive - recast) – WIKSTRÖM reports – 2013/0088 (COD) / 2013/0089 (COD)

The Commission approved the line set out in SI(2015) 121.

- Package travel and assisted travel arrangements, amending Regulation (EC) 2006/2004 and Directive 2011/83/EU and repealing Council Directive 90/314/EEC (Directive) – COLLIN-LANGEN report – 2013/0246 (COD)

The Commission approved the line set out in SI(2015) 122/2.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

ii) Programming of Council business

(SI(2015) 119; SI(2015) 129)

The Commission took note of the information in SI(2015) 119 and SI(2015) 129 on the Council meetings between 2 and 29 April.

iii) Non-legislative dossier

(point 4.1 of the IRG record)

- Vienna Convention for the protection of the Ozone Layer – Montreal Protocol on substances that deplete the Ozone Layer

The Commission approved the line set out in SI(2015) 124.

4.3. RELATIONS WITH PARLIAMENT

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

(SP(2015) 188)

The Commission took note of document SP(2015) 188, drawn up following Parliament's March II part-session.

v) Results of Parliament's March II part-session

(SP(2015) 190)

The Commission took note of the information on Parliament's part-session held on 25 March in Brussels, set out in SP(2015) 190.

4.4. OTHER BUSINESS

vi) United Nations Human Settlements Program (*UN Habitat III*)

(point 7.2 of the IRG record)

The Commission took note of document SI(2015) 128/2.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2015) 158 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 23 March and 10 April.

5.2. EMPOWERMENT

(SEC(2015) 159 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 23 March and 10 April.

5.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2015) 160 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 23 March and 10 April, as archived in Decide.

5.4. SENSITIVE WRITTEN PROCEDURES

SEC(2015) 161)

The Commission took note of the sensitive written procedures for which the time limit expired between 13 and 17 April.

**5.5. COMMISSION DECISION UPDATING THE DELEGATION PREVIOUSLY GRANTED IN THE FIELD OF RESEARCH AND INNOVATION FOR DECISIONS SELECTING PROPOSALS AND AWARDING GRANTS OR PRIZES
(C(2015) 2581)**

The Commission decided:

- to update as set out in C(2015) 2518 the delegation granted in the field of research and innovation by Decision C(2014) 7046 of 1 October 2014 for decisions selecting proposals and awarding grants or prizes;
- in particular, to add the Director-General for Migration and Home Affairs (DG HOME) to the list of Directors-General to whom delegations have been granted, on the basis of their respective responsibilities, for the implementation of the Horizon 2020 Framework Programme and the Euratom Research and Training Programme;
- to replace in every instance the Director-General for Enterprise and Industry (DG ENTR) with the Director-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) in the list of Directors-General to whom delegations have been granted;
- and, finally, to replace the words ‘Enterprise and Industry (DG ENTR)’ with the words ‘DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW)’ in the last paragraph of Section IV (page 8, second and third lines).

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2015) 162)

ADMINISTRATIVE MATTERS

(PERS(2015) 38)

***6.1. DG RESEARCH AND INNOVATION / IMI JOINT UNDERTAKING –
LIST OF CANDIDATES FOR THE POST (AT GRADE AD14) OF
EXECUTIVE DIRECTOR OF THE JOINT UNDERTAKING FOR THE
IMPLEMENTATION OF THE JOINT TECHNOLOGY INITIATIVE ON
INNOVATIVE MEDICINES (IMI)
(PERS(2014) 116 TO /5)***

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

- to approve the list before it, consisting of two candidates in order of preference as set out in point 1 of PERS(2015) 38 for the post of Executive Director of the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (IMI), and to consider this list as the Commission proposal;
- to instruct Mr MOEDAS, the Member of the Commission in charge of research, science and innovation, to submit this list to the Governing Board of the Joint Undertaking for the implementation of the Joint Technology Initiative on Innovative Medicines (IMI).

These decisions would take effect immediately.

6.2. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE

(C(2015) 2448)

The Commission adopted the decision set out in C(2015) 2448.

The Commission decided that the activities planned by its former President, Mr José Manuel BARROSO, as Distinguished Visiting Professor of Public Policy at the University of California (Berkeley) and as President of the ‘*Fondation d'intérêt public Palais des Beaux-Arts*’ in Brussels were compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU).

The Commission instructed the Secretary-General to inform Mr BARROSO of this decision.

6.3. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE

(C(2015) 2449)

The Commission adopted the decision set out in C(2015) 2449.

The Commission took note of the intention of the former Vice-President, Baroness ASHTON OF UPHOLLAND, to resume her duties as a member of the House of Lords.

Furthermore, the Commission decided that:

- the unpaid academic activities planned by Baroness ASHTON as a Visiting Professor at King's College (London), in particular in the field of foreign affairs, and as a Visiting Fellow at the University of Yale (New Haven) were compatible with Article 245(2) of the Treaty on the

Functioning of the European Union (TFEU), provided that Baroness ASHTON took care to fulfil her obligations under Articles 245 and 339 of the TFEU and Section 1.7 of the Code of Conduct for Commissioners to behave with discretion and protect collective responsibility and confidentiality;

- Baroness ASHTON's plans to take part in the discussions to be held as part of the Oslo Forum in June 2015 on Serbia and Kosovo were compatible with Article 245(2) of the TFEU, provided that Baroness ASHTON took care to fulfil her obligations under Articles 245 and 339 of the TFEU and Section 1.7 of the Code of Conduct for Commissioners to behave with discretion and protect collective responsibility and confidentiality and that she refrained from any lobbying in relation to any request the Oslo Forum might make with a view to obtaining EU support.

The Commission instructed the Secretary-General to inform Baroness ASHTON of this decision and of the above conditions.

6.4. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE

(C(2015) 2474)

The Commission adopted the decision set out in C(2015) 2474.

The Commission decided that the activity planned by former Vice-President Mr Siim KALLAS as a consultant for *Nortal* was compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU), provided that Mr KALLAS fulfilled, in all circumstances, his obligations under Articles 245(2) and 339 TFEU and the Code of Conduct for Commissioners, and in particular that he proceeded with integrity and

discretion and protected collective responsibility and confidentiality in respect of matters covered by the Commission during his terms of office, and refrained from lobbying the Commission and/or its departments on behalf of *Nortal* within eighteen months of leaving office.

The Commission instructed the Secretary-General to inform Mr KALLAS of this decision and of the above conditions.

6.5. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE
(C(2015) 2475)

The Commission adopted the decision set out in C(2015) 2475.

The Commission decided that:

- the activity planned by former Member of the Commission Mr Janez POTOČNIK as a member of the 'A vision for Europe towards sustainable and circular economy' Steering Committee was compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU), provided that Mr POTOČNIK fulfilled his obligations under Articles 245(2) and 339 TFEU and the Code of Conduct for Commissioners, in particular with regard to the protection of collective responsibility and confidentiality in respect of matters covered by the Commission during his three terms of office, and refrained from lobbying the Commission and/or its departments in his role as a member of the 'A vision for Europe towards sustainable and circular economy' Steering Committee and in general terms on behalf of the *Stiftungsfonds für Umweltökonomie und Nachhaltigkeit*, the Ellen McArthur Foundation, and the McKinsey Center for Business & Environment within eighteen months of leaving office;

- the activity planned by Mr POTOČNIK as President of the Long-term vision for the Balkans sub-region of the Mediterranean Biodiversity Hotspot in the framework of the Critical Ecosystem Partnership Fund was compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU), provided that Mr POTOČNIK fulfilled his obligations under Articles 245(2) and 339 TFEU and the Code of Conduct for Commissioners, in particular with regard to the protection of collective responsibility and confidentiality in respect of matters covered by the Commission during his three terms of office, and refrained from lobbying the Commission and/or its departments within eighteen months of leaving office.

The Commission instructed the Secretary-General to inform Mr POTOČNIK of this decision and of the above conditions.

6.6. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE
(C(2015) 2476)

The Commission adopted the decision set out in C(2015) 2476.

The Commission decided that the activity planned by former Member of the Commission Mr Karel DE GUCHT as a member of the European Advisory Board of the leading equity provider CVC Capital Partners was compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU), provided that Mr DE GUCHT protected the collective responsibility and confidentiality in respect of matters covered by the Commission during his term of office, and refrained from lobbying the Commission and/or its departments on behalf that company within eighteen months of leaving office.

The Commission instructed the Secretary-General to inform Mr DE GUCHT of this decision and of the above conditions.

6.7. ACTIVITIES OF A MEMBER OF THE COMMISSION AFTER LEAVING OFFICE
(C(2015) 2477)

The Commission adopted the decision set out in C(2015) 2477.

The Commission decided that the plans of the former Member of the Commission, Ms Máire GEOGHEGAN-QUINN, to take part in the High Level Group on Industrial Innovation for Competitiveness 124C was compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU), provided that Ms GEOGHEGAN-QUINN fulfilled her obligations under Articles 245(2) and 339 TFEU and the Code of Conduct for Commissioners, and in particular that she proceeded in all circumstances with integrity and discretion, protected the collective responsibility and confidentiality in respect of matters covered by the Commission during her terms of office, and refrained from lobbying the Commission and/or its departments on behalf of the High Level Group on Industrial Innovation for Competitiveness 124C and/or the interests of the entities of that company involved in the High Level Group within eighteen months of leaving office and that she ensured that none of the participants in the High Level Group on Industrial Innovation for Competitiveness 124C would unduly benefit from the knowledge and experience Ms GEOGHEGAN-QUINN gained during her term of office.

The Commission instructed the Secretary-General to inform Ms GEOGHEGAN-QUINN of this decision and of the above conditions.

7. OTHER BUSINESS

7.1. ECONOMIC SITUATION IN GREECE

The Commission reported on the latest developments as regards the economic situation of Greece.

7.2. PROGRESS IN THE LEGISLATIVE PROCEDURE RELATING TO THE EUROPEAN FUND FOR STRATEGIC INVESTMENTS

The Commission was briefed on progress in the parliamentary proceedings relating to the adoption of the regulation establishing the European Fund for Strategic Investments (EFSI).

7.3. GOOGLE – STATEMENT OF OBJECTIONS ON COMPARISON SHOPPING SERVICE AND OPENING OF A SEPARATE FORMAL INVESTIGATION ON ANDROID

Ms VESTAGER submitted two separate decisions relating to the same company, adopted that day under the normal empowerment procedure granted to the Commission Member responsible for competition, to accompany her note to Members and a presentation distributed at the meeting. These decisions concerned (i) a statement of objections which the Commission was sending to Google concerning the abuse of its dominant position in the markets for general internet search services and (ii) the opening of a formal investigation into Google's behaviour in relation to the Android mobile operating system.

By way of introduction, she explained that Google had a dominant position in providing general online search services, with market shares above 90 % in

most countries of the European Economic Area (EEA). She also reviewed the history of the antitrust investigation launched by the Commission in 2010, the settlement proposed to Google and the Commission's appraisal which concluded three times that the corrective measures suggested by Google were inadequate.

Turning to the first decision adopted that day, she explained that in its statement of objections the Commission was setting out its preliminary position that Google's behaviour on the general online search services market breached EU antitrust rules and as a result distorted competition and restricted consumers' freedom of choice.

The main objection to Google was that it systematically favoured its own comparison shopping service in its general search results pages in the EEA. The Commission was therefore concerned that users did not necessarily see the most relevant results in response to queries, which was not only to the detriment of consumers and rival comparison shopping services but also stifled innovation. Ms VESTAGER therefore set out the Commission's preliminary position, which was that Google should meet this objection by treating its own comparison shopping service and those of its rivals in the same way.

Ms VESTAGER stressed that the Statement of Objections was an adversarial procedure, and Google now had ten weeks in which to respond in writing to the Commission's allegations; it could also request a hearing. She insisted that the document did not in any way prejudge the outcome of the investigation, and the Commission would fully respect Google's rights of defence and give careful consideration to its comments before taking a decision. However, if the investigation confirmed the Commission's concerns, Google would have to face the legal consequences and change the way it did business in Europe.

Without going into detail, she added that, in parallel to the procedure initiated in relation to Google's comparison shopping service, the Commission was continuing to investigate Google's conduct with regard to three other concerns, namely copying of rivals' web content (known as 'scraping'), advertising exclusivity and undue restrictions on advertisers. She again stressed that sending a Statement of Objections did not prejudice the investigation into the last three points.

Ms VESTAGER then moved on to the second decision, which concerned the launching of an investigation into the Android mobile operating system following complaints. In this case, the Commission would have to establish whether Google had entered into non-compete arrangements or abused a possible dominant position in the field of operating systems, applications and services for smart mobile devices. The purpose of such an investigation was to allow the markets for smartphones, tablets and similar devices, which played an increasing role in millions of people's daily lives, to flourish without constraints and in a climate of fair competition.

She pointed out that Google had led development of the Android mobile operating system since 2005, and the majority of smartphone and tablet manufacturers used this system, having concluded agreements with Google to obtain the right to install Google's applications on their devices. She explained that the Commission's in-depth investigation would focus on whether, by doing so, Google had breached EU antitrust rules by hindering the development and market access of rival mobile operating systems, applications and services to the detriment of consumers and developers of innovative services and products. Here too she stressed that initiating a formal procedure did not in any way prejudice the outcome of the investigation.

More generally, Ms VESTAGER stated clearly that the two decisions adopted

that day were part of a process based on facts and rules of law, on which the College would have to adopt a position and take a final decision at the appropriate time.

On a more political level, she rejected the idea put forward in some quarters that, through the giant Google, the EU was engaging in some sort of standoff with the United States. She countered this misleading argument by referring to the law; in this case, the Commission had no argument with Google's performance, but it had a duty to ensure that European law was respected and, where necessary, to rectify potential competitive abuses.

She accordingly suggested exercising the utmost restraint in communications regarding the two decisions adopted that day, given the complexity and sensitivity of the political, commercial and financial interests at stake, until the Commission had taken its final decision. In particular, she warned against any public speculation about the outcome of these two investigations launched by the Commission and about any procedural follow-up, pointing out once again that all options were open at this stage.

During the discussion which followed, the Commission expressed in particular the total confidence of its Members in the actions and judgement of Ms VESTAGER, its full support for the proposed approach and course of action recommended, especially on the matter of communication, and the appropriateness of the underlying message on the determination of the EU to use all the means at its disposal to create a digital single market.

Replying to a question on possible measures by the American authorities regarding the activities of Google, Ms VESTAGER indicated that Google's market shares in the US were not as large as in the EU. She added that she intended to further explain the Commission's approach to her American partners during her forthcoming visit to Washington.

The PRESIDENT concluded by thanking Ms VESTAGER for her presentation and assuring her of the College's confidence and support. He asked the other Members of the Commission to leave the task of communication on this particularly sensitive matter to the Commissioner responsible.

The Commission took note of this information.

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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 11.09.