



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2019) 2284 final

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

Brussels, 6 March 2019

TEXTE EN

MINUTES

**of the 2284th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 20 February 2019
(morning)**

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Single sitting: Wednesday 20 February 2019 (morning)

The sitting opened at 10.19 with Mr TIMMERMANS in the chair, the PRESIDENT being absent. The discussion of item 7 was chaired in part by the PRESIDENT.

Present:

Mr JUNCKER	President	Item 7 (in part)
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	Item 7 (in part)
Mr ANSIP	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr HAHN	Member	
Mr MIMICA	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Ms THYSEN	Member	
Mr MOSCOVICI	Member	
Mr HOGAN	Member	
Ms BULC	Member	
Ms BIENKOWSKA	Member	
Ms JOUROVÁ	Member	Item 7 (in part)
Mr NAVRACSICS	Member	
Ms CREȚU	Member	Items 1 to 7 (in part)
Ms VESTAGER	Member	
Mr MOEDAS	Member	
Sir Julian KING	Member	
Ms GABRIEL	Member	

Absent:

Mr ŠEFČOVIČ	Vice-President
Mr KATAINEN	Vice-President
Mr OETTINGER	Member
Ms MALMSTRÖM	Member
Mr AVRAMOPOULOS	Member
Mr STYLIANIDES	Member

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

Mr ARTJOKI	Chef de cabinet to Mr KATAINEN	Items 1 to 6
Mr HAGER	Chef de cabinet to Mr OETTINGER	Items 1 to 6
Ms ÅSENIUS	Chef de cabinet to Ms MALMSTRÖM	Items 1 to 6
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Items 1 to 6
Mr BRIENS	Chef de cabinet to Mr STYLIANIDES	Items 1 to 6

The following also sat in:

Ms MARTÍNEZ ALBEROLA	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Director-General, DG Communication	Items 1 to 6
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Mr MOTOC	European Political Strategy Centre	Items 1 to 6
Ms DEJMEK HACK	Adviser in the PRESIDENT's Office	Items 6 and 7
Ms ARKI	PRESIDENT's Office	Items 1 to 6
Mr GRASSI	Chef de cabinet to Ms MOGHERINI	Items 1 to 6
Mr BARNIER	Chief negotiator and Head of the Article 50 Task Force	
Mr SNELS	Secretariat-General	
Ms ANDREEVA	Commission Spokesperson's Service	

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

1. AGENDAS

(OJ(2019) 2284/FINAL; SEC(2019) 2284)

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(2019) 2284)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 18 February 2019.

3. APPROVAL OF THE MINUTES OF THE 2281ST, 2282ND AND 2283RD MEETINGS OF THE COMMISSION (30 JANUARY AND 6 AND 12 FEBRUARY 2019)

(PV(2019) 2281 AND /2; PV(2019) 2281, 2ND PART; PV(2019) 2282; PV(2019) 2282, 2ND PART)

The Commission approved the minutes of its 2281st and 2282nd meetings and decided to hold over approval of the minutes of its 2283rd meeting for a later meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2019) 17)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 15 February 2019 (RCC(2019) 17).

It paid particular attention to the following points.

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4.1. HORIZONTAL ITEM

i) 2021-2027 Multiannual Financial Framework – Trilogues

(point 1.1.1 of the IRG record)

- European Defence Fund (Regulation) – KRASNODEBSKI report 2018/0254 (COD)

The Commission approved the line set out in SI(2019) 147/2, supplemented with the minutes of the IRG held on 15 February 2019.

- ‘Rights and Values’ programme (Regulation) – VALERO report – 2018/0207 (COD)

The Commission approved the line set out in SI(2019) 148.

- Establishment of Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination (Regulation) – NICA report – 2018/0224 (COD)

The Commission approved the line set out in SI(2019) 149.

- ‘Fiscalis’ programme for cooperation in the field of taxation (Regulation) – GIEGOLD report – 2018/0233 (COD)

The Commission approved the line set out in SI(2019) 177/2.

ii) 2021-2027 Multiannual Financial Framework – Council

(point 1.1.3 of the IRG record)

- InvestEU Programme (Regulation) – FERNANDES & GUALTIERI report – 2018/0229 (COD)

The Commission approved the line set out in SI(2019) 146.

- Neighbourhood, Development and International Cooperation Instrument (Regulation) – ENGEL & PREDA & PANZERI & GOERENS report – 2018/0243 (COD)

The Commission approved the line set out in SI(2019) 173/2.

4.2. LEGISLATIVE MATTERS

iii) Trilogues

(point 3.1 of the IRG Record)

- Amendment of Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (Directive) – REGNER report – 2018/0114 (COD)

The Commission approved the line set out in SI(2019) 152.

- Rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repeal of Council Decision 2000/642/JHA (Directive) – RADEV report – 2018/0105 (COD)

The Commission approved the line set out in SI(2019) 153.

- European Labour Authority (Regulation) – LENAERS report – 2018/0064 (COD)

The Commission approved the line set out in SI(2019) 154.

- Transparent and predictable working conditions in the European Union (Directive) – CALVET CHAMBON report – 2017/0355 (COD)

The Commission approved the line set out in SI(2019) 155/2.

- Amendment of Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Directive) – AGEA report – 2018/0081 (COD)

The Commission approved the line set out in SI(2019) 156.

- Persistent organic pollutants (Regulation – recast) – GIRLING report – 2018/0070 (COD)

The Commission approved the line set out in SI(2019) 158/2.

- Re-use of public sector information (Directive – recast) – SYLIKOTIS report – 2018/0111 (COD)

The Commission approved the line set out in SI(2019) 159.

- Copyright in the Digital Single Market (Directive) – VOSS report – 2016/0280 (COD)

The Commission approved the line set out in SI(2019) 183.

- Amendment of Regulation (EU) 648/2012 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivatives contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories (Regulation) – LANGEN report – 2017/0090 (COD)

The Commission approved the line set out in SI(2019) 162.

- Amendment of Regulation (EU) 575/2013 as regards minimum loss coverage for nonperforming exposures (Regulation) – DE LANGE & GUALTIERI report – 2018/0060 (COD)

The Commission approved the line set out in SI(2019) 174.

- Banking Package – Amendment of Regulation (EU) 806/2014 as regards loss-absorbing and Recapitalisation Capacity for credit institutions and investment firms (Regulation) – HÖKMARK report – 2016/0361 (COD) / Amendment of Directive 2014/59/EU on loss-absorbing and recapitalisation capacity of credit institutions and investment firms and amending Directive 98/26/EC, Directive 2002/47/EC, Directive 2012/30/EU, Directive 2011/35/EU, Directive 2005/56/EC, Directive 2004/25/EC and Directive 2007/36/EC (Directive) – HÖKMARK report – 2016/0362 (COD) / Amendment of Regulation (EU) 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements and amending Regulation (EU) 648/2012 (Regulation) – SIMON report – 2016/0360A (COD) / Amendment of Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (Directive) – SIMON report – 2016/0364 (COD)

The Commission approved the line set out in SI(2019) 184.

- Transparency and sustainability of the EU risk assessment in the food chain, amendment of Regulation (EC) 178/2002 [on general food law], Directive 2001/18/EC [on the deliberate release into the environment of GMOs], Regulation (EC) 1829/2003 [on GM food and feed], Regulation (EC) 1831/2003 [on feed additives], Regulation (EC) 2065/2003 [on smoke flavourings], Regulation (EC) 1935/2004 [on food contact materials], Regulation (EC) 1331/2008 [on the common authorisation procedure for food additives, food enzymes and food flavourings], Regulation (EC) 1107/2009 [on plant protection products] and Regulation (EU) 2015/2283 [on novel foods] (Regulation) – AYUSO report – 2018/0088 (COD)

The Commission approved the line set out in SI(2019) 164.

- Adaptation of a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Regulation) – SZÁJER report – 2016/0400 (COD)

The Commission approved the line set out in SI(2019) 165.

- Amendment of Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles (Directive) – GRZYB report – 2017/0291 (COD)

The Commission approved the line set out in SI(2019) 170.

- Amendment of Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance (Decision) – DELLI report – 2018/0130 (COD)

The Commission approved the line set out in SI(2019) 168.

- Amendment of Directive 2009/73/EC concerning common rules for the internal market in natural gas (Directive) – BUZEK report – 2017/0294 (COD)

The Commission approved the line set out in SI(2019) 163.

- Conservation and control measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation and repeal of Council Regulation (EC) 2115/2005 and Council Regulation (EC) 1386/2007 (Regulation) – SERRÃO SANTOS report – 2018/0304 (COD)

The Commission approved the line set out in SI(2019) 166.

- Conservation of fishery resources and the protection of marine ecosystems through technical measures, amendment of Council Regulations (EC) 1967/2006, (EC) 1098/2007, (EC) 1224/2009 and Regulations (EU) 1343/2011 and (EU) 1380/2013 of the European Parliament and of the Council, and repeal of Council Regulations (EC) 894/97, (EC) 850/98, (EC) 2549/2000, (EC) 254/2002, (EC) 812/2004 and (EC) 2187/2005 (Regulation) – MATO report – 2016/0074 (COD)

The Commission approved the line set out in SI(2019) 178.

- Amendment of Regulation (EC) 810/2009 establishing a Community Code on Visas (Visa Code) (Regulation) – LÓPEZ AGUILAR report – 2018/0061 (COD)

The Commission approved the line set out in SI(2019) 179.

iv) Council dossiers

(point 3.3 of the IRG Record)

- Labelling of tyres with respect to fuel efficiency and other essential parameters and repeal of Regulation (EC) 1222/2009 (Regulation) – BONI report – 2018/0148 (COD)

The Commission approved the line set out in SI(2019) 175/2.

- Preparation for the United Kingdom's withdrawal from the Union – Provisions for the continuation of ongoing learning mobility activities under the Erasmus+ programme in the context of the withdrawal of the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') from the European Union (Regulation) – ZDROJEWSKI report – 2019/0030 (COD)

The Commission approved the line set out in SI(2019) 171.

4.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

v) Programming of Council business

(SI(2019) 180)

The Commission took note of the information in SI(2019) 180 on the Council meetings between 21 February and 6 March 2019.

vi) Latest developments in the Council

(point 4.4 of the IRG Record)

- Conclusion of the International Agreement on Olive Oil and Table Olives, 2015 – FORENZA report (Council Decision) – 2017/0107 (NLE)

The Commission approved the line set out in SI(2019) 182 and /2.

4.4. RELATIONS WITH PARLIAMENT

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

(SP(2019) 103)

The Commission decided to empower the Members of the Commission responsible for the sectors in question, in agreement with the PRESIDENT and Mr TIMMERMANS and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2019) 103, drawn up following the part-session of Parliament of 11 to 14 February 2019, the contents of which were noted.

viii) Action taken on the non-legislative resolutions adopted by Parliament at its December 2018 part-session

(point 5.6.1 of the IRG record)

The Commission approved document SP(2019) 129/2 on the action taken in the resolution containing recommendations to the Commission on expedited settlement of commercial disputes (ZWIEFKA report – 2018/2079 (INL)),

adopted by Parliament at its December 2018 part-session, for transmission to Parliament.

ix) Results of February 2019 part-session

(SP(2019) 135)

The Commission took note of the information on the proceedings of the part-session of Parliament held in Strasbourg from 11 to 14 February 2019, as set out in SP(2019) 135.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2019) 67 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 11 and 15 February 2019.

5.2. EMPOWERMENT

(SEC(2019) 68 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 11 and 15 February 2019.

5.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2019) 69 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 11 and 15 February 2019 archived in Decide.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2019) 70)

The Commission took note of the sensitive written procedures for which the time limit expired between 18 and 22 February 2019.

6. NOTICE FROM THE COMMISSION – MODIFICATION OF THE CALCULATION METHOD FOR LUMP SUM PAYMENTS AND DAILY PENALTY PAYMENTS PROPOSED BY THE COMMISSION IN INFRINGEMENTS PROCEEDINGS BEFORE THE COURT OF JUSTICE OF THE EUROPEAN UNION

(C(2019) 1396 TO /3; RCC(2019) 20)

Mr TIMMERMANS presented the Notice tabled for approval by the College in which the Commission agreed to modify the calculation method for lump sum payments and daily penalty payments proposed by it in certain infringement proceedings before the Court of Justice of the European Union.

He explained that when the Commission referred a Member State to the EU Court of Justice for having infringed EU law, the Court could, in certain situations, impose financial sanctions on that Member State. In that case, the Commission proposed an amount to the Court, which then took the final decision.

When calculating the proposed financial sanction, the Commission took into account not only the seriousness and the duration of the infringement but also the ‘n-factor’, i.e. the Member State’s economic situation and institutional weight. Until now, when deciding a figure on the basis of these two elements, the Commission had taken into consideration the gross domestic product (GDP) of the Member State concerned and the number of votes it held in the Council.

However, since the Court of Justice of the European Union had ruled in a recent judgment that the number of votes in the Council as modified by the Treaty of

Lisbon could no longer be used, the Commission considered that not just the Member States' GDP, but also their institutional weight, should continue to be taken into account, since it reasoned that Member States had an institutional role which went beyond their economic weight. The Commission therefore proposed using the number of seats allocated to each Member State in the European Parliament, i.e. a weighting factor based on the European treaties.

Mr TIMMERMANS observed that the amounts resulting from this new calculation method would not give rise to unjustified differences between Member States and would remain as close as possible to the amounts calculated using the current method, which were both proportionate and sufficiently deterring.

The Notice presented that day consequently set out the reasoning underpinning the new method and explained the interaction between the different factors taken into account, while its annexes listed the new amounts resulting from the revised calculation method. These amounts would be revised annually in line with inflation. He specified that once the withdrawal of the United Kingdom from the European Union became legally effective, irrespective of whether or not the Withdrawal Agreement entered into force, the Commission would recalculate the relevant averages and would adjust the figures set out in this Notice accordingly.

Mr TIMMERMANS concluded by highlighting that the new calculation method would be published in the Official Journal of the European Union in time to allow it to be applied to the new cycle of infringements which the Commission would adopt on 7 March 2019.

The Commission adopted the Notice set out in C(2019) 1396/3, for publication in the Official Journal of the European Union.

7. OTHER BUSINESS

7.1. *WITHDRAWAL OF THE UNITED KINGDOM FROM THE UNION UNDER ARTICLE 50 OF THE TREATY ON EUROPEAN UNION*

The PRESIDENT asked Mr BARNIER to inform the College about the latest developments concerning the agreement with the United Kingdom setting out the arrangements for its withdrawal from the Union under Article 50 of the Treaty on European Union.

7.2. *STATE OF PLAY OF THE WORK AT THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE PROPOSED CONTINGENCY MEASURES TO BE TAKEN IN THE EVENT OF A WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION WITHOUT AN AGREEMENT*

The PRESIDENT asked the Members of the College to report on the state of play of the work of the European Parliament and the Council on the contingency measures proposed by the Commission in order to prepare the Union for the UK's withdrawal from the EU, including in a no-deal scenario.

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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 11.39.