EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2020) 2336 final

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

Brussels, 10 June 2020

TEXTE EN

MINUTES

of the 2336th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 6 May 2020

(morning)

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Single sitting: Wednesday 6 May 2020 (morning)

The sitting opened at 9.00 with Ms von der LEYEN, President, in the chair.

Present:

Ms von der LEYEN	President	

The following members attended by videoconference or teleconference:

Mr TIMMERMANS	Executive Vice-President	
Ms VESTAGER	Executive Vice-President	
Mr DOMBROVSKIS	Executive Vice-President	
Mr BORRELL i FONTELLES	High Representative / Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Ms JOUROVÁ	Vice-President	
Ms ŠUICA	Vice-President	
Mr SCHINAS	Vice-President	
Mr HAHN	Member	
Mr HOGAN	Member	Items 1 to 10/11
Ms GABRIEL	Member	
Mr SCHMIT	Member	
Mr GENTILONI	Member	
Mr WOJCIECHOWSKI	Member	
Mr BRETON	Member	
Ms FERREIRA	Member	
Ms KYRIAKIDES	Member	
Mr REYNDERS	Member	
Ms DALLI	Member	
Ms JOHANSSON	Member	
Mr LENARČIČ	Member	
Ms VĂLEAN	Member	
Mr VÁRHELYI	Member	

Ms URPILAINEN	Member
Ms SIMSON	Member
Mr SINKEVIČIUS	Member

The following also sat in:

Mr SEIBERT	Chef de cabinet to the PRESIDENT	
Mr MAMER	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms RISO	Deputy Chef de cabinet to the PRESIDENT	
Mr FLOSDORFF	Executive Adviser in the PRESIDENT's Office	
Ms HILI	Adviser in the PRESIDENT's Office	Item 12 (in part)
Mr HEMMELGARN	Secretariat-General	
Ms SPINANT	Commission Spokesperson's Service	

The following also sat in by videoconference or teleconference:

Mr ROMERO REQUENA	Director-General, Legal Service
Ms AHRENKILDE HANSEN	Director-General, DG Communication
Mr LEARDINI	Deputy Secretary-General
Ms GAUER	Deputy Secretary-General
Ms PETKOVA	Director of Coordination and Administration in the PRESIDENT's Office
Ms VILA NUÑEZ	Policy Coordinator in the PRESIDENT's Office
Mr GRITSCH	Secretariat-General
Mr TAQUET-GRAZIANI	Secretariat-General

Secretary: Ms JUHANSONE, Secretary-General, present, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General, attending by videoconference.

1. AGENDAS
(OJ(2020) 2336/FINAL; SEC(2020) 2336/FINAL)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

The PRESIDENT opened the meeting of the College by stating that, given the gradual lifting across the Union of the emergency measures linked to the COVID-19 pandemic, and in particular the lockdown measures, the meetings of the Commission would again take place with Members of the College being physically present from the second half of May. She therefore invited them, if they were currently in a Member State, to plan their return to Brussels for that time. She said that the principle of physical distancing would be observed during the meetings in Brussels.

2. WEEKLY MEETING OF CHEFS DE CABINET

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 May 2020 by videoconference and teleconference.

3. APPROVAL OF THE MINUTES OF THE 2334TH AND 2335TH MEETINGS OF THE COMMISSION (22 AND 29 APRIL 2020)

The Commission held over approval of the minutes of its 2334th and 2335th meetings for a later meeting.

4. INTERINSTITUTIONAL RELATIONS (RCC(2020) 58)

The Commission took note of the record of the virtual meeting of the Interinstitutional Relations Group (IRG) held by videoconference and teleconference during the week of 27 to 30 April 2020 (RCC(2020) 58).

It paid particular attention to the following points.

4.1. RESPONSE TO THE COVID-19 PANDEMIC

i) Amendment of Annexes II, III and IV to Regulation (EC) No 396/2005 as regards maximum residue levels for cycloxydim, flonicamid, haloxyfop, mandestrobin, mepiquat, Metschnikowia fructicola strain NRRL Y-27328 and prohexadione in or on certain products (Commission Regulation) – 2020/2603 (RPS) – Proposed withdrawal of a measure under the regulatory procedure with scrutiny in view of impossibility of the European Parliament to exercise its right of scrutiny due to COVID-19 related restrictions

The Commission approved the line set out in SP(2020) 117 and /2.

ii) Establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak (Council Regulation) – 2020/0057 (NLE)

The Commission approved the line set out in SI(2020) 141/2.

iii) The Coronavirus Global Response Pledging Marathon – Mobilisation of Funds from the European Union Programmes ('Horizon 2020')

The Commission approved the line set out in SI(2020) 142 and /2.

4.2. RELATIONS WITH PARLIAMENT

iv) Action taken on the legislative opinions adopted by Parliament at its April 2020 part-session

The Commission approved, for transmission to Parliament, document SP(2020) 159 on the action taken on the legislative opinions adopted by Parliament at its April 2020 part-session.

4.3. OTHER BUSINESS

v) Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community – Revised note on required UK implementation measures under the Protocol on Ireland / Northern Ireland during the transition period

The Commission took note of the information in SI(2020) 139.

5. COORDINATION OF EXTERNAL ACTION (RCC(2020) 64)

The Commission took note of the operational conclusions in RCC(2020) 64 of the meeting of the Group for External Coordination (EXCO) held by videoconference and teleconference on Wednesday 29 April 2020.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED (SEC(2020) 151 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 and 30 April 2020.

6.2. EMPOWERMENT
(SEC(2020) 152 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 and 30 April 2020.

6.3. DELEGATION / SUBDELEGATION OF POWERS
(SEC(2020) 153 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 27 and 30 April 2020 archived in D*e*cide.

6.4. SIGNIFICANT WRITTEN PROCEDURES
(SEC(2020) 154 AND /2)

The Commission took note of the significant written procedures for which the time limit expired between 4 and 8 May 2020 and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 4 May 2020.

7. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2020) 155)

ADMINISTRATIVE MATTERS
(PERS(2020) 38)

7.1. DG HEALTH AND FOOD SAFETY – LIST OF CANDIDATES FOR THE POST OF EXECUTIVE DIRECTOR OF THE EUROPEAN MEDICINES AGENCY (EMA) AT GRADE AD14
(PERS(2020) 8 TO /3)

On a proposal from Mr HAHN, in agreement with the PRESIDENT and after consulting Ms KYRIAKIDES, the Commission decided:

– to approve the list of two candidates, presented in order of preference, set out in point 1 of PERS(2020) 38, for the post of Executive Director of the European Medicines Agency (EMA), and to consider this list as the Commission proposal;

– to ask Ms KYRIAKIDES, the Member of the Commission responsible, to communicate this decision to the Management Board of the European Medicines Agency.

These decisions would take effect immediately.

7.2. DG INTERNATIONAL COOPERATION AND DEVELOPMENT – APPOINTMENT TO A PERMANENT PRINCIPAL ADVISER POST AT GRADE AD14/15
(PERS(2019) 85 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) and Article 29(1)(b) of the Staff Regulations for the permanent post of Principal Adviser in charge of Trade and Development in DG International Cooperation and Development (PERS(2019) 85 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 20 and 30 January 2020 (PERS(2019) 85/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr HAHN, in agreement with the PRESIDENT and after consulting Ms URPILAINEN, it then decided to appoint Mr Antti KARHUNEN to the post.

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

7.3. COMMISSION DECISIONS ON POST TERM-OF-OFFICE ACTIVITIES OF TWO FORMER MEMBERS OF THE COMMISSION (C(2020) 9019; C(2020) 9020; C(2020) 9021)

The Commission adopted the Decisions set out in C(2020) 9019, C(2020) 9020 and C(2020) 9021.

The Commission specifically decided that the professional activities envisaged by Mr Günther OETTINGER and Mr Christos STYLIANIDES after leaving office as Members of the Commission were compatible with Article 245(2) of the Treaty on the Functioning of the European Union (TFEU) and with the Code of Conduct for Commissioners, subject to certain specific conditions and obligations.

8. LATEST DEVELOPMENTS CONCERNING THE CORONAVIRUS (COVID-19) PANDEMIC AND THE EUROPEAN UNION'S RESPONSE (INFO(2020) 16/6)

The PRESIDENT referred to the donors' conference that the European Union, Canada, France, Germany, Italy, which would be the next to hold the presidency of G20, Japan, Norway, Saudi Arabia, which currently held the presidency of the G20, Spain and United Kingdom had organised at the request of the World Health Organisation and a group stakeholders in the health sector, and launched on 4 May as part of the global response to the coronavirus ('Coronavirus Global Response online pledging event'). She explained that the objective of this global donors' marathon was to raise sufficient funds for the joint financing and development of diagnostics, treatments and a vaccine against the coronavirus and to distribute them worldwide at affordable prices. She stressed that this vaccine would be a universal, common good. This was why the organisers had invited governments, business leaders, philanthropists, artists and citizens to form a united front against COVID-19.

She welcomed the success of the launch of this exceptional operation, which had entailed substantial work for the Commission, its Members, their cabinets and the Commission's departments, in particular DG Informatics and the SCIC, all of which she thanked very warmly. She considered that the dominant role taken by the Union in this huge global operation demonstrated its strength as a driving force.

She felt it was of the utmost importance for the world to be firmly committed to the goal of the donors' conference, as was now the case with 40 countries participating, and for there to be coordination in the field of health care linked to the fight against COVID-19, which was also the case with the many partners who had responded to the call. She added that many NGOs and civil society organisations were also ready to become involved in this cause.

She informed that funds of EUR 7.4 billion had been pledged at the conference, but stressed that this was only a start and that the call for additional funding would continue in the coming months.

She concluded by expressing her deepest satisfaction that the Member States and the EU institutions, united in this noble combat, had taken the initiative and contributed EUR 4 billion of funding pledges.

The Commission took note of this information and of the note distributed in INFO(2020) 16/6.

9. OTHER BUSINESS

PRESENTATION OF SPRING 2020 ECONOMIC FORECASTS

The PRESIDENT asked Mr DOMBROVSKIS and Mr GENTILONI to give the College an overview of the spring 2020 economic forecasts to be published by the Commission that day.

Mr DOMBROVSKIS began by explaining that the COVID-19 pandemic was a major shock for the world economy, as a result of which the Union would experience a recession of historic proportions in 2020. The current forecasts pointed to a contraction in GDP of -7.4% in 2020 for the EU as a whole and -7.7% for the euro area. Growth projections for the EU and the euro area had been revised down by around nine percentage points compared to the autumn 2019 economic forecast. He added, however, that the fulfilment of these forecasts was not inevitable and would depend, on the one hand, on the evolution of the pandemic, and, on the other, on the measures to be taken under the European Semester for the coordination of economic and budgetary policies, and the recovery plan to be linked to the multiannual financial framework for the period 2021-2027.

He pointed out that the year 2020 should not be considered in isolation; it was necessary also to take into account 2021, when a strong recovery was forecast, with estimated growth of 6.1% for the EU and 6.3% for the euro area. However, he acknowledged that the current crisis would result in high levels of public and private debt, as well as a substantial increase in government deficits in all the Member States, with the exception of a single State – Bulgaria – whose deficit was set to remain below the 3% ceiling set by the Stability and Growth Pact.

He also said that for the first time, the spring economic forecasts presented an assessment of the long-term sustainability of the euro-area Member States' public debt levels, including with the possible support of the European Stability Mechanism. According to this assessment, which would be discussed at the Eurogroup meeting on Friday 8 May, the public debt of all the Member States appeared to be sustainable, but its gradual reduction would take time.

Mr DOMBROVSKIS stressed that although the shock of the health and economic crisis was symmetric, hitting all the Member States, the scale of its macroeconomic and social consequences was asymmetric, varying from one Member State to another, in terms of the evolution of both GDP and unemployment. He added that the strength of the recovery expected in 2021 was also likely to be very uneven. However, given the interdependence of the EU economies, he believed that the

dynamics of recovery in each Member State would affect that of the others. He reaffirmed that joint and decisive action at European level could lessen these divergences, which posed a risk for the single market and the Economic and Monetary Union.

Mr GENTILONI began by acknowledging the difficulty, in the current situation, both of making forecasts, in view of the uncertainties concerning the evolution of the pandemic and its repercussions on the labour market, and of assessing the scale of the economic rebound expected in 2021, since the projections for this recovery were partly based on hypotheses.

Nevertheless, he stressed that the economic forecasts to be published that day were sound and drew six broad conclusions from them.

First, as Mr DOMBROVSKIS had indicated, the Union was preparing to face this year the worst recession in its history, with a fall in growth set to be twice as severe as the shock of the 2008 financial crisis. Nonetheless, he welcomed the significant recovery announced (6.1% for the UE as a whole and 6.3% for the euro area) even if this rebound would not be enough to make up for all the ground lost in 2020.

Second, he observed that both the recession and the subsequent recovery would vary from one Member State to another, leading to different levels of GDP, unemployment, public debt and government deficit. Although a small number of Member States could be in a better macroeconomic situation at the end of 2021 than in the last quarter of 2019, some others might be in a very difficult situation, while on average, the Member States' GDP was expected to decrease by 3% between 2019 and 2021.

Third, he said that the inflation rate was expected to be low in 2020 (around 0.2% in the euro area), due chiefly to the lockdown measures and the fall in oil prices.

Fourth, Mr GENTILONI referred to the issue of unemployment, which was expected to increase in the EU, but not to the extent of what was happening, for example, in the United States, where 30 million workers had been made redundant

in just a few weeks. He explained that the huge difference between the two economic systems was due to the fact that, on the one hand, the level of protection in the EU labour market was much higher than elsewhere, and on the other, this protection was based largely on short-time working schemes. However, he could not deny that the considerable drop in the number of hours worked this year would adversely affect European household income, a point that should not be overlooked.

Fifth, he confirmed that the measures taken by the Member States to cushion the impact of the economic crisis would lead to a rise in government deficits in all the Member States, with a single exception. On average, in 2020 public debt was expected to reach 103% in the euro area and 95% in the EU as a whole. However, he believed that these measures were necessary to address the pandemic and its multiple effects, and that they supplemented those taken at EU level over the last two months.

Lastly, Mr GENTILONI admitted that there were a number of uncertainties that might bring the figures down and recognised that the spring economic forecasts might underestimate the true situation for a number of reasons. First of all, the forecasts were based on the assumption that state of emergency measures would be gradually lifted, with no serious new wave of infections. Second, the forecasts did not include the risk of financial turbulence, which could not be ruled out if the pressure on liquidity caused serious solvency problems for businesses. Nor did they take into account the possibility of a recovery that was not coordinated at European level, which could increase the risk of economic and financial divergence within the Union with possible distortion effects on the single market and economic and monetary union. Lastly, the forecasts did not consider the possibility of a return to protectionism at international level once the pandemic was over.

On the other hand, he thought that certain other factors could also lead to a situation that was considerably better than that described in the spring economic forecasts. For example, the forthcoming joint measures being prepared as the Union’s response to the pandemic had not been taken into account. But if the future recovery plan were strong enough, it would spur economic recovery and minimise the impact

of the current crisis. The efforts reported by the PRESIDENT on the development of a vaccine against the coronavirus could also change the situation.

During the exchange of views which ensued, the Commission raised the following main points:

– the warning that had been given of an unprecedented recession at EU level and in all the Member States, but also the forecast of a recovery from 2021, which implied protecting and strengthening the single market;

– the clear mandate the Commission had to present very soon a recovery plan that was commensurate with the extraordinary challenges and the responsibility it had to propose common ways for the Member States to jointly tackle an unprecedented situation;

– the need to draw lessons from the spring economic forecasts for the next stage of the European Semester of economic and fiscal policy coordination and the upcoming recovery plan;

– a reminder of the request made to the Commission by EU leaders to produce a precise evaluation of the financial needs to be met, sector by sector, as part of European macroeconomic assistance;

– the good progress that had been made in the Commission’s work on that evaluation;

– the question of whether the figures presented in the spring economic forecasts would serve as a basis for evaluating the financing needs of the Member States in the context of the recovery plan, which would make it possible to respond to the specific realities in each country;

– for some, the observation that there were major discrepancies between the economic forecasts of different institutions: for example, the recent recession predictions by the European Central Bank were much more pessimistic than those of the Commission;

– for others, the fact that the Commission's estimated figures for financing needs were close to those of the European Central Bank;

– a call to make the recovery plan as broad as possible in order to cover situations in which the most pessimistic macroeconomic assumptions turned out to be true;

– the large number of factors and unknowns to be taken into account in future recovery scenarios, but the importance too of macroeconomic and microeconomic forecasts that were fact-based and consistent, so that they were seen to be realistic;

– a reminder that State aid was being granted very extensively, after the Commission had temporarily relaxed the rules to enable Member States to mitigate the crisis in certain economic sectors; this would be taken into account in the pan-European approach to recovery through the drafting of the forthcoming new proposal for a multiannual financial framework and recovery instruments;

– the positive effects on the recovery of the forthcoming set of Commission proposals for the tourist sector;

– the desire to see the recovery at Union level guided by the principle of an open, strategic economy in the context of an open trading environment.

The PRESIDENT replied in the affirmative to the question of whether the figures presented in the spring economic forecasts would serve as a basis for assessing the financing needs of the Member States in the context of the recovery plan. She referred in this regard to the conclusions of the College's policy debate of 22 April on strategies for exiting the crisis and for recovery, in which she had asked for a precise evaluation to be made of each Member State's needs based on the spring economic forecasts and on an analysis of each economic sector. She confirmed that this evaluation would be the first stage in the Union's response and would serve as a basis for the second stage, i.e. the drafting of a reinforced multiannual financial framework for 2012 to 2027 and the accompanying recovery instrument, which

would all be presented in a general communication setting out the whole recovery strategy and the Union's political priorities for the coming years.

She closed the discussion, thanking Mr DOMBROVSKIS and Mr GENTILONI for presenting the spring economic forecasts, which they would make public at a press conference later that day.

The Commission took note of this information.

10. COMMUNICATION FROM THE COMMISSION – ACTION PLAN FOR A COMPREHENSIVE UNION POLICY ON PREVENTING MONEY LAUNDERING AND TERRORIST FINANCING
(C(2020) 2800 TO /3; SWD(2020) 99; RCC(2020) 61)

11. COMMISSION DELEGATED REGULATION AMENDING DELEGATED REGULATION (EU) 2016/1675 SUPPLEMENTING DIRECTIVE (EU) 2015/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AS REGARDS ADDING THE BAHAMAS, BARBADOS, BOTSWANA, CAMBODIA, GHANA, JAMAICA, MAURITIUS, MONGOLIA, MYANMAR, NICARAGUA, PANAMA AND ZIMBABWE TO THE TABLE IN POINT I OF THE ANNEX AND DELETING BOSNIA-HERZEGOVINA, ETHIOPIA, GUYANA, LAO PEOPLE'S DEMOCRATIC REPUBLIC, SRI LANKA AND TUNISIA FROM THIS TABLE
(C(2020) 2801 AND /2; SWD(2020) 99; RCC(2020) 61)

Mr DOMBROVSKIS presented to the College a set of proposals being submitted for approval consisting of a communication on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing, a Commission Delegated Regulation amending the list of third countries identified as being high risk in that regard, and a new approach to the identification methodology.

He began by pointing out that the Commission was using as a basis the work carried

out during the last term of office, which had culminated in the adoption in July 2019 of a package of measures to combat money laundering. He thanked the Members of the Commission, their cabinets and their departments that had actively contributed to this collective effort, in particular as regards its external dimension, with the list of high-risk third countries, but also its internal dimension, with a strengthened rulebook, to which would be added an integrated EU supervisory system.

Mr DOMBROVSKIS explained that the six-point **action plan** was aimed at countering money laundering in all its forms and establishing a comprehensive system that could put an end to crime in this area.

Firstly, he stressed that the EU rules in this field should be applied consistently and effectively and lamented the fact that the Commission had had to open many infringement proceedings against Member States in order to ensure the full transposition and application of the two basic directives in force. He concluded that application of the rules needed to be monitored more tightly and explained that, in future, the EU supervisory authority should ensure the effectiveness of the system for combating money laundering on the ground.

He felt that the Union rules should also seek to rectify existing shortcomings, for example in relation to online money laundering, for which the competent authorities should have the power to freeze any suspicious transaction. He noted that the action plan also provided for the possibility of interconnection between national bank account registries.

Secondly, he considered that Union legislation should be made more precise in order to reduce the scope for divergences in implementation. That was the main reason why the Commission was proposing a regulation to supplement the existing framework by making the rules directly applicable.

Thirdly, as regards the introduction of supervision at EU level, he felt that the recent scandals brought to light in several Member States showed that the national supervisors could not ensure compliance with the rules on their own. To remedy this, the Commission was presenting various options, which would be put to

consultation. He explained in particular that depending on the outcome of this consultation, the Commission could ultimately propose the creation of a new EU agency responsible for supervising the implementation of the applicable rules or entrust that responsibility to the European Banking Authority, provided that it had developed more experience in issues related to money laundering and better governance.

His fourth point was that, subsequently, the EU would have to establish a mechanism to improve the locating and reporting of suspicious capital flows and better coordinate analyses between the Member States in order to detect cross-border money laundering operations more effectively.

His fifth point related to the creation of new tools and new structures to improve the efficiency of criminal investigations and prosecutions in relation to money laundering. He pointed out that the private sector and the public sector would have to work together in this field and that the Commission would put forward guidelines for such partnerships.

In his sixth and last point, he noted that the objective of the action plan was also to give the EU a stronger global role in the fight against money laundering and terrorist financing. The Commission would work with the Member States to raise the level of international standards within the Financial Action Task Force (FATF) in the global fight against money laundering.

Concerning in particular the **list of high-risk third countries**, Mr DOMBROVSKIS explained that the EU would initially draw up a list based on the countries where the Financial Action Task Force had identified weak anti-money-laundering systems. He stressed, however, that the EU would not stop there and that it would then conduct an independent assessment of the other countries whose deficiencies posed a high risk to the EU, with a view to possibly including them on that list.

On this point, he highlighted the importance that the European Parliament attached to this autonomous designation process, which would have to be fully transparent and made public, as would the actions to be carried out. He pointed out, however,

that this full transparency could hamper the EU's foreign policy, hence the need for extreme caution. He therefore suggested that in future, the Commission should present its action in an annual report drawn up in cooperation with the European External Action Service.

In this context, Mr DOMBROVSKIS presented the draft Commission Delegated Regulation updating the list of countries presenting a high risk of money laundering and terrorist financing.

He indicated that in view of the progress made, it was proposed that six countries be removed from the current list of high-risk countries, namely Bosnia and Herzegovina, Guyana, the Lao People's Democratic Republic, Ethiopia, Sri Lanka and Tunisia. He stressed that at the same time, 12 other countries, which had poorly performing systems according to the Financial Action Task Force, had been added. These were the Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar, Nicaragua, Panama and Zimbabwe.

He reminded the meeting that banks and other banking operators were required to monitor more closely all commercial transactions involving operators located in the territory of the listed countries. He also pointed out the consequences of this list for EU funding: in accordance with the Financial Regulation, such funding could no longer transit through a country included on the list, unless the projects justifying such financing were physically carried out in one of those countries. This was the case of Mauritius in particular, which often served as a platform for channelling EU funding to Africa.

Lastly, Mr DOMBROVSKIS indicated that in preparing that day's package of measures, the Commission had taken due account of the disruptions caused by the COVID-19 pandemic and had therefore given the authorities and stakeholders sufficient time to prepare for the possible repercussions of their inclusion on the list of high-risk third countries. Indeed, the revised list would not enter into force until 1 October 2020.. He stressed that deferring the application of this delegated act was exceptional. He added that other third countries were likely to be included on the list

next year and that these countries had been offered technical assistance by the Commission in order to avoid such an eventuality.

He concluded his presentation by saying that the Commission departments would soon launch an impact assessment of the proposed package of measures with a view to presenting an ambitious legislative proposal in the fourth quarter of 2021.

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

– recognition that money laundering crime patterns had evolved, particularly online, and that this went hand in hand with an increased risk of corruption;

– the need to strengthen the EU's anti-money-laundering framework in view of the shortcomings noted with regard to the implementation of European legislation by the Member States, which had given rise to infringement proceedings;

– the advisability of reinforcing the preventive component of the EU's action to combat money laundering and terrorist financing, in particular with the support of the European Union Agency for Criminal Justice Cooperation (Eurojust) and the European Public Prosecutor's Office;

– the diplomatic sensitivity of the EU's action to combat money laundering, in particular in view of the legal obligation to draw up an autonomous list;

– the importance, however, for the EU adopt a firm and factual approach on these issues in order to strengthen its capacity to combat financial crime at international level and thus reinforce its geopolitical influence;

– the need to ensure that recipients of EU financial assistance on the ground were not unfairly penalised by the inclusion of a third country on the list of high-risk countries.

The PRESIDENT wound up the discussion by noting that when presenting her

political guidelines, she had undertaken to work towards a comprehensive policy to combat money laundering and terrorist financing. She underlined that the complexity and sophistication of the financial system had opened the door to new risks. She also noted the recent rise in criminal activities in the context of the current health crisis, which illustrated the evolving nature of these risks. She therefore considered the package of measures presented to be particularly justified and thanked the Members of the Commission and the Commission departments concerned for the quality of their work.

On a proposal from the PRESIDENT, the Commission confirmed the formal adoption of the Communication and of the Delegated Regulation currently set out in documents C(2020) 2800/3 and C(2020) 2801/2, respectively, by finalisation written procedure, the deadline for which was set at 10.00 on Thursday 7 May 2020 (PE/2020/1650 and PE/2020/2730).

12. OTHER BUSINESS (CONTINUED)

12.1. RECENT DEVELOPMENTS IN EXTERNAL RELATIONS

At the invitation of the PRESIDENT, Mr BORRELL presented a brief overview of the latest developments in the field of external action.

Mr BORRELL began by referring to the serious economic consequences of the COVID-19 pandemic in Africa and Latin America in particular, where a severe recession would lead to social suffering that could become even worse if the current lockdown measures continued.

At EU level, he announced that there would be a meeting of the European defence ministers on 12 May by videoconference to discuss the implications of the pandemic from the point of view of the Common Security and Defence Policy in strategic terms and also from the point of view of missions and operations carried out in that respect. He noted in that connection that some Member States were withdrawing their troops and their

personnel. This should be followed closely. He said that he would report to the EU's defence ministers on the ongoing emergency aid and humanitarian aid actions.

He then referred to the Foreign Affairs Council meeting that was to be held on 15 May, also by videoconference, which would look into the repercussions of the pandemic in the widest sense in North Africa and the Middle East, focussing in particular on discussions on the peace process in the latter region. The EU ministers would examine the means for the EU to maintain full and constructive bilateral relations with the parties following the Israeli elections, in particular the matter of a clear mandate that could be given to the European External Action Service and the Commission to present specific measures if the occupied West Bank was unilaterally annexed.

At geopolitical level, Mr BORRELL also referred to the current confrontation between the United States and China in which both parties were looking for support from the European Union, which continued to follow a balanced approach between the two sides.

Lastly he spoke about the new operation *Irini*, which had been finalised the week before and for which the air and sea missions would begin this week in order to enforce the embargo on the sale of arms. He stressed that another mandate of this operation was to contribute to a permanent ceasefire and a relaunch of the peace process in Libya. It was regrettable that the resources allocated to the operation were still insufficient but he noted that four Member States had nonetheless contributed material that would make it possible to begin the first activities at least. He closed by saying that he was thinking about the idea of appointing a special envoy for Libya.

The Commission took note of this information.

12.2. JUDGMENT DELIVERED BY THE GERMAN FEDERAL CONSTITUIONAL COURT ON A SECONDARY MARKETS PUBLIC SECTOR PURCHASE PROGRAMME LAUNCHED BY THE EUROPEAN CENTRAL BANK IN 2015

The PRESIDENT invited Mr ROMERO REQUENA, Director-General of the Legal Service, to tell the College about his initial analysis of the judgment delivered by the German Federal Constitutional Court (*Bundesverfassungsgericht*) the day before with regard to a secondary markets public sector purchase programme launched by the European Central Bank in 2015 to support the economy of the euro zone, which was then in the grip of an economic crisis and at risk of deflation.

Mr ROMERO REQUENA began by saying that before ruling on the constitutional appeals before it in this case, the German Constitutional Court had submitted to the European Court of Justice questions for preliminary rulings about the validity of the disputed programme under Union law, in particular with regard, on the one hand, to the division of responsibilities' between the EU and the Member States, and, on the other, the mandate of the European Central Bank.

He explained that the Luxembourg Court had decided, by its ruling of 11 December 2018, that examining these requests for preliminary rulings had not revealed anything that would challenge the validity of the programme. In particular, it believed that the programme fell within the remit of the monetary policy for which the Union had exclusive competence, for those Member States whose currency was the euro, and that it respected the principle of proportionality which must be applied in this matter, by not manifestly exceeding what was necessary to achieve the main objective of the policy, i.e. to maintain price stability.

Mr ROMERO REQUENA then presented an overview of the ruling of the German Federal Constitutional Court of 5 May 2020.

He explained that the German Court believed that the European Court of Justice, in its judgment of 11 December 2018, had exceptionally gone beyond its mandate by wrongly omitting to include, in its assessment of the proportionality of the programme, the effects of the programme in terms of economic and budgetary policy, thereby running the risk of extending the mandate of the European Central Bank beyond monetary policy.

Also, the Karlsruhe Court considered that this judgment by the European Court of Justice was not binding on Germany.

He said that the German Constitutional Court had then decided to assess itself whether the disputed programme was proportional or not. It had found that it was not possible to conclude that the European Central Bank had correctly identified and weighed up the objective of the monetary policy followed by the programme in question with its economic effects and that, in doing so, it had ignored the principle of proportionality and therefore overstepped its mandate.

The German Constitutional Court therefore considered that the *Bundesbank* would no longer be able to participate in the implementation and the execution of the programme in question and would have to sell all the bonds already acquired in that respect unless the European Central Bank adopted a new decision showing in a comprehensible and substantiated manner that the objectives of the monetary policy followed by the programme were not disproportionate to the effects of the resulting economic and fiscal policy.

He specified that the Karlsruhe Court proposed to that end a transition period of three months during which the European Central Bank and the *Bundesbank* could continue to implement the programme.

The Director-General of the Legal Service then reported on the action to be taken on this judgment and its scope.

He started by stressing that the independence of the European Central Bank

meant not interfering in its intended follow-up to this judgment. He went on to add that if an appeal was brought before the German Federal Constitutional Court against a new decision of the European Central Bank, the German Court would have to refer questions once again to the European Court of Justice for preliminary rulings in case of any doubts about the legality of the decision.

He closed by highlighting the seriousness of the blow dealt by this judgment to the EU's judicial system. He noted that the refusal to recognise, in respect of a judgment, the final and binding nature of the judicial decisions of the European Court of Justice in all the Member States of the EU endangered the principle of the primacy of Union law. He also pointed out that the principle of sincere cooperation, and Article 267 of the Treaty on the Functioning of the European Union, required a national court of last instance, such as the Karlsruhe Court, to refer requests for preliminary rulings to the European Court of Justice if one of the CJE's judgments gave rise to difficulties in interpretation. He observed that such a dialogue between an EU judge and a national judge was at the heart of the architecture of the EU’s legal system.

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

– support for the approach adopted at the institution’s press conference the previous day, just after the judgment of the German Constitutional Court had been handed down, in confirming that the Commission would fully assume its role as the guardian of the Treaties and reiterating that the judicial decisions of the Court of Justice of the European Union applied in the whole of the EU;

– the suggestion that a statement be made by the Commission as the guardian of the Treaties to reaffirm the independence of the European Central Bank and/or to reiterate the commitment made in 2017 of systematically launching infringement proceedings if national rules or

general practice stood in the way of the proper functioning of preliminary referral to the Court of Justice of the European Union or if national law prevented national courts from acknowledging the primacy of EU law;

– a warning of the risk that other Member States might take advantage of the judgment and allusion to the disastrous consequences this would have for the EU's legal order and values;

– the serious concerns prompted by the possible economic, legal and political fallout from the ruling, in particular at a time when there were many other causes of instability;

– fear of the challenges to the emergency measures adopted by the European Central Bank in response to the COVID-19 crisis that the judgment might incite and the uncertainty this would cast over the extensive support for the European economy that it had rolled out;

– reference to possible instability in the financial markets if they were to regard as a real possibility the withdrawal of the *Bundesbank* from the programme referred to in the 5 May judgment of Germany's Constitutional Court; allusion to the negative repercussions such instability could have on bringing about an economic recovery following the COVID-19 crisis;

– the destabilisation of the financial markets that could be caused by a challenge to the independence of the European Central Bank and the vital necessity of rallying around its independence;

– the advisability of taking the time to analyse thoroughly the provisions of the German Federal Constitutional Court's complex judgment in both substantive and institutional terms;

– an invitation to consider practical measures based on a detailed analysis.

The PRESIDENT thanked the Director-General of the Legal Service for his

initial analysis and asked to examine thoroughly this judgment before deciding on the steps that might be taken in response.

She deeply regretted the seriousness of the attack conveyed by the ruling on the institutional and legal basis of the European Union. She vigorously reaffirmed the independence of the European Central Bank and re-emphasised the primacy of European Union law, a key principle of the EU legal order.

The Commission took note of this information.

12.3. PRESIDENTIAL ELECTION IN POLAND ON 10 MAY 2020

Ms JOUROVÁ and Mr REYNDERS brought to the attention of the College the democratic risks involved in holding a postal vote for the first round of Poland's presidential election as planned for Sunday 10 May even though the lockdown measures in force to tackle the COVID-19 pandemic had severely hindered the election campaign.

Following a discussion, the PRESIDENT asked Ms JOUROVÁ and Mr REYNDERS to finalise the Commission's position.

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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 10.46.