



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2020) 2361 final

- English translation of the French version which is authentic -

Brussels, 27 January 2021

TEXTE EN

MINUTES

of the 2361st meeting of the Commission

held in Brussels

(Berlaymont)

on Tuesday 15 December 2020

(afternoon)

and

Thursday 24 December 2020

(afternoon)

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The 2361st meeting of the Commission was held in two parts:

- Tuesday 15 December 2020 (afternoon)
- Thursday 24 December 2020 (afternoon)

First sitting: Tuesday 15 December 2020 (afternoon)

The sitting opened at 13.10 with Ms von der LEYEN, President, in the chair.

Present:

Ms von der LEYEN	President	
Mr TIMMERMANS	Executive Vice-President	
Ms VESTAGER	Executive Vice-President	Items 1 to 14 (in part)
Mr DOMBROVSKIS	Executive Vice-President	Items 1 to 14 (in part)
Mr BORRELL i FONTELLES	High Representative / Vice-President	Items 1 to 8/10 (in part)
Mr ŠEFČOVIČ	Vice-President	
Ms JOUROVÁ	Vice-President	Items 1 to 8/10 (in part)
Ms ŠUICA	Vice-President	
Mr SCHINAS	Vice-President	
Mr HAHN	Member	
Mr SCHMIT	Member	Items 1 to 14 (in part)
Mr GENTILONI	Member	
Mr WOJCIECHOWSKI	Member	Items 1 to 8/10
Mr BRETON	Member	Items 1 to 14 (in part)
Ms FERREIRA	Member	
Mr REYNDERS	Member	
Ms DALLI	Member	
Ms JOHANSSON	Member	
Mr LENARČIČ	Member	Items 1 to 14 (in part)
Ms VÁLEAN	Member	Items 1 to 14 (in part)
Ms URPILAINEN	Member	NATO item (in part)

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Ms SIMSON	Member	Items 1 to 8/10 (in part)
Mr SINKEVIČIUS	Member	Item 14 (in part)
Ms McGUINNESS	Member	

Absent:

Ms GABRIEL	Member
Ms KYRIAKIDES	Member
Mr VÁRHELYI	Member

The following sat in to represent an absent Member of the Commission:

Ms KIRÁLY	Chef de cabinet to Ms GABRIEL	
Mr ROSSIDES	Chef de cabinet to Ms KYRIAKIDES	
Mr HORVÁTH	Expert in Mr VÁRHELYI's office	
Mr VAŠČEGA	Chef de cabinet to Mr SINKEVIČIUS	Items 1 to 14 (in part)

The following also sat in:

M. STOLTENBERG	Secretary-General of the North Atlantic Treaty Organisation (NATO)	NATO item
Ms SCHMID	Secretary-General, European External Action Service (EEAS)	NATO item
Mr MEYER-MINNEMANN	<i>Executive Coordinator and First Deputy Director of the Private Office of the Secretary General of NATO</i>	NATO item
Mr SEIBERT	Chef de cabinet to the PRESIDENT	
Ms BANKS	Deputy Director-General, Legal Service	
Ms AHRENKILDE HANSEN	Director-General, DG Communication	
Mr MAMER	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	

Ms PETKOVA	Director of Coordination and Administration in the PRESIDENT's Office	
Mr FLOSDORFF	Executive Adviser in the PRESIDENT's Office	
Mr WHELAN	Adviser in the PRESIDENT's Office	Items 8/10 to 11/12
Mr HAUGAARD	Adviser in the PRESIDENT's Office	NATO item
Ms HILI	Adviser in the PRESIDENT's Office	Items 8/10 to 11/12
Ms MICELI	PRESIDENT's Office	Item 13
Mr BRIENS	Deputy Chef de cabinet to Mr BORRELL i FONTELLES	Items 8/10 (in part) to 14
Mr LAHTI	Chef de cabinet to Ms URPILAINEN	NATO item (in part) to 14
Ms CHAPUIS	Expert in Ms SIMSON's Office	Items 11/12 to 14
Ms SPINANT	Deputy Chief Spokesperson of the Commission	
Mr BARNIER	Head of the Task Force for Relations with the United Kingdom	Item 14 (in part)
Ms ALLOUIS-LE LOSTEC	Head of Unit in the Secretariat-General	

Secretary: Ms JUHANSONE, Secretary-General, assisted by Ms DEPREZ, Director in the Secretariat-General.

The PRESIDENT opened the meeting of the Commission by warmly welcoming Mr Jens STOLTENBERG, Secretary-General of the North Atlantic Treaty Organization (NATO).

She emphasised the sustained cooperation that existed between the EU and NATO, symbolised by 74 joint projects. This cooperation was based on the 2016 Warsaw Joint Declaration and the 2018 Brussels Joint Declaration.

However, it could be deepened still further and could take on a more strategic dimension.

Jens STOLTENBERG thanked the PRESIDENT and the rest of the College for doing him the honour of inviting him to the start of this Commission meeting.

He welcomed the unprecedented cooperation that had existed between the European Union and the North Atlantic Treaty Organisation since 2016. Although the EU and NATO were different kinds of organisation, they faced the same risks and threats in their neighbourhoods. He briefly reviewed these.

Following the discussion, the PRESIDENT warmly thanked Jens STOLTENBERG for having provided valuable insights on the key current issues of security and defence, and on the prospects for the future EU-NATO relationship.

The Commission took note of this information.

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1. AGENDAS

(OJ(2020) 2361/FINAL; SEC(2020) 2361)

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(2020) 2361)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 14 and Tuesday 15 December 2020.

**3. APPROVAL OF THE MINUTES OF THE 2358TH, 2359TH AND
2360TH MEETINGS OF THE COMMISSION (24 NOVEMBER, 2 AND
9 DECEMBER 2020)
(PV(2020) 2358)**

The Commission approved the minutes of its 2358th meeting, and decided to hold over approval of the minutes of its 2359th and 2360th meetings until a later meeting.

**4. INTERINSTITUTIONAL RELATIONS
(RCC(2020) 202; RCC(2020) 206)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held by videoconference on Friday 11 December 2020 (RCC(2020) 202), and also of the record of the extraordinary meeting of the IRG held by videoconference on Thursday 10 December 2020 (RCC(2020) 206).

It paid particular attention to the following points.

4.1. HORIZONTAL MATTERS

i) 2021-2027 Multiannual Financial Framework

(record of the extraordinary IRG of 10 December 2020 and point 1.1 of the IRG record of 11 December 2020)

- Protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (Regulation) – SARVAMAA & GARDÍAZABAL RUBIAL report – 2018/0136 (COD)

The Commission approved the line set out in SI(2020) 492/2.

- Interinstitutional agreement, and joint and multilateral declarations

The Commission approved the line set out in SI(2020) 483/2.

ii) 2021-2027 Multiannual Financial Framework – Trilogues
(point 1.1.1 of the IRG record)

- Common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument (Regulation) – NOVAKOV & KREHL report – 2018/0196 (COD)

The Commission approved the line set out in SI(2020) 465/2.

- European Regional Development Fund and Cohesion Fund (Regulation) – COZZOLINO report – 2018/0197 (COD)

The Commission approved the line set out in SI(2020) 466.

- Specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (Regulation) – ARIMONT report – 2018/0199 (COD)

The Commission approved the line set out in SI(2020) 467.

- Just Transition Fund (Regulation) – KEFALOGIANNIS report – 2020/0006 (COD)

The Commission approved the line set out in SI(2020) 470.

- European Maritime and Fisheries Fund and repeal of Regulation (EU) No 508/2014 of the European Parliament and of the Council (Regulation) – MATO report – 2018/0210 (COD)

The Commission approved the line set out in SI(2020) 468/2.

- Programme for single market, competitiveness of enterprises, including small and medium-sized enterprises, and European statistics and repeal of Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014, (EU) No 258/2014, (EU) No 652/2014 and (EU) 2017/826 (Regulation) – BENIFEI report – 2018/0231 (COD)

The Commission approved the line set out in SI(2020) 448.

- Establishment of Horizon Europe – the Framework Programme for Research and Innovation, and laying down of its rules for participation and dissemination (Regulation) – NICA report – 2018/0224 (COD) / Establishment of the specific programme implementing Horizon Europe – the Framework Programme for Research and Innovation (Decision) – EHLEER report – 2018/0225 (COD)

The Commission approved the line set out in SI(2020) 484/2.

- Exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (Pericles IV Programme) (Regulation) – DALY report – 2018/194 (COD)

The Commission approved the line set out in SI(2020) 471.

- InvestEU Programme (Regulation) – FERNANDES & TINAGLI report – 2020/0108 (COD)

The Commission approved the line set out in SI(2020) 477.

- EU Anti-Fraud Programme (Regulation) – DEUTSCH report – 2018/0211 (COD)

The Commission approved the line set out in SI(2020) 485/2.

- Asylum and Migration Fund (Regulation) – FAJON report – 2018/0248 (COD)

The Commission approved the line set out in SI(2020) 486.

- Establishment, as part of the Integrated Border Management Fund, of the instrument for financial support for border management and visa (Regulation) – FAJON report – 2018/0249 (COD)

The Commission approved the line set out in SI(2020) 487.

- Space programme of the Union and European Union Agency for the Space Programme and repeal of Regulations (EU) No 912/2010, (EU) No 1285/2013, (EU) No 377/2014 and Decision 541/2014/EU (Regulation) – SALINI report – 2018/0236 (COD)

The Commission approved the line set out in SI(2020) 494 and /2.

iii) 2021-2027 Multiannual Financial Framework – European Parliament dossiers – December 2020 part-session
(point 1.1.2 of the IRG record)

Ordinary legislative procedure – First reading

- Transitional provisions for the support by the European Agricultural Fund for Rural Development (EAFRD) and by the

European Agricultural Guarantee Fund (EAGF) in the year 2021, and amendment of Regulations (EU) No 228/2013, (EU) No 229/2013 and (EU) No 1308/2013 as regards resources and their distribution in respect of the year 2021 and amendment of Regulations (EU) No 1305/2013, (EU) No 1306/2013 and (EU) No 1307/2013 as regards their resources and application in the year 2021 (Regulation) – KATAINEN report – 2019/0254 (COD)

The Commission took note of the compromise text in SP(2020) 680, further to note SI(2020) 447, which it had already approved on 9 December 2020.

iv) 2021-2027 Multiannual Financial Framework – Council Dossiers

(point 1.1.3 of the IRG record)

- Draft Council Decision establishing a European Peace Facility – HR(2018) 94

The Commission approved the line set out in SI(2020) 472.

- Amendment of Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the COVID-19 crisis (Regulation) – ĎURIŠ NICHOLSONOVÁ report – 2020/0105 (COD)

The Commission approved the line set out in SI(2020) 473.

- Internal Security Fund (Regulation) – HOHLMEIER report – 2018/0250 (COD)

The Commission approved the line set out in SI(2020) 488/2.

4.2. LEGISLATIVE MATTERS

v) Trilogues

(point 3.1 of the IRG record)

- Temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual abuse online (Regulation) – SIPPEL report – 2020/0259 (COD)

The Commission approved the line set out in SI(2020) 464/2.

- Amendment of Regulation (EC) No 767/2008, Regulation (EC) No 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation (EU) XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repeal of Council Decision 2008/633/JHA (Regulation) – RANGEL report – 2018/0152A (COD)

The Commission approved the line set out in SI(2020) 469/2.

- Amendment of Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (Regulation) – DE LANGE report – 2019/0101 (COD)

The Commission approved the line set out in SI(2020) 479.

- Amendment of Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries to help the recovery from the COVID-19 pandemic (Regulation) – KOVAŘÍK report – 2020/0155 (COD)

The Commission approved the line set out in SI(2020) 481/2.

- Amendment of Directive 2014/65/EU as regards information requirements, product governance and position limits to help the recovery from the COVID-19 pandemic (Directive) – FERBER report – 2020/0152 (COD)

The Commission approved the line set out in SI(2020) 482.

- Amendment of Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 pandemic (Regulation) – TANG report – 2020/0151(COD)

The Commission approved the line set out in SI(2020) 490.

vi) European Parliament dossiers – December 2020 part-session
(point 3.2 of the IRG record)

Implementing acts and measures

- Objection pursuant to Article 112(2) and (3) of the Rules of Procedure of the European Parliament – Genetically modified soybean MON 87751 × MON 87701 × MON 87708 × MON 89788 – 2020/2891 (RSP)
- Objection pursuant to Article 112(2) and (3) of the Rules of Procedure of the European Parliament – Genetically modified maize MON 87427 × MON 89034 × MIR162 × MON 87411 and genetically modified maize combining two or three of the single events MON 87427, MON 89034, MIR162 and MON 87411 – 2020/2892 (RSP)

- Objection pursuant to Article 112(2) and (3) of the Rules of Procedure of the European Parliament – Genetically modified maize MIR604 (SYN-IR6Ø4-5) – 2020/2893 (RSP)
- Objection pursuant to Article 112(2) and (3) of the Rules of Procedure of the European Parliament – Genetically modified maize MON 88017 (MON-88Ø17-3) – 2020/2894 (RSP)
- Objection pursuant to Article 112(2) and (3) of the Rules of Procedure of the European Parliament – Genetically modified maize MON 89034 (MON-89Ø34-3) – 2020/2895 (RSP)

The Commission took note of document SP(2020) 693.

vii) Council Dossiers

(point 3.3 of the IRG record)

- Prevention of the dissemination of terrorist content online (Regulation) – JAKI report – 2018/0331 (COD)

The Commission took note of the information in SI(2020) 478/2.

4.3. RELATIONS WITH PARLIAMENT

viii) Action taken on the non-legislative resolutions adopted by Parliament at its October I 2020 part-session

(point 5.6.1 of the IRG record)

The Commission approved document SP(2020) 686 on the action taken on the non-legislative resolutions adopted by Parliament at its October I 2020 part-session, for transmission to Parliament.

ix) Action taken on the legislative opinions adopted by Parliament at its November II 2020 part-session

(point 5.6.2 of the IRG record)

The Commission approved document SP(2020) 694 on the action taken on the legislative opinions adopted by Parliament at its November II 2020 part-session, for transmission to Parliament.

x) Parliament resolutions based on Article 225 of the Treaty on the Functioning of the European Union (TFEU)
(point 5.7 of the IRG record)

- Digital Services Act; Improving the functioning of the Single Market – AGIUS SALIBA report – 2020/2018 (INL) / Digital Services Act: Adapting commercial and civil law rules for commercial entities operating online – WÖLKEN report – 2020/2019 (INL)

The Commission approved the line set out in SP(2020) 659.

- Framework of ethical aspects of artificial intelligence, robotics and related technologies – GARCÍA DEL BLANCO report – 2020/2012 (INL)

The Commission approved the line set out in SP(2020) 660.

- Civil liability regime for artificial intelligence – VOSS report – 2020/2014 (INL)

The Commission approved the line set out in SP(2020) 662.

xi) Latest developments at the European Parliament
(point 5.8 of the IRG record)

- Amendments to the Rules of Procedure in order to ensure the functioning of Parliament in extraordinary circumstances – BISCHOFF report – 2020/2098 (REG)

The Commission approved the line set out in SP(2020) 657.

4.4. RELATIONS WITH NATIONAL PARLIAMENTS, THE OTHER INSTITUTIONS AND BODIES, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

xii) Relations with the other institutions and bodies

(point 6.2 of the IRG record)

- Follow-up to the European Supervisory Authorities' failure to submit draft regulatory standards on Packaged Retail Investment and Insurance Products

The Commission approved the line set out in SPI(2020) 44/2.

xiii) Follow-up to opinions of the European Economic and Social Committee – Plenary session of July 2020

(point 6.3.1 of the IRG record)

The Commission approved document SC(2020) 34/3 on the follow-up by the Commission to the opinions adopted by the European Economic and Social Committee during the July 2020 session, for transmission to that Committee.

**5. COORDINATION OF EXTERNAL ACTION
(RCC(2020) 115 AND /2)**

The Commission took note of the operational conclusions in RCC(2020) 115/2 of the meeting of the Group for External Coordination (EXCO) held by videoconference on Wednesday 9 December 2020.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED (SEC(2020) 413 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 December 2020.

6.2. EMPOWERMENT (SEC(2020) 414 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 December 2020.

6.3. DELEGATION / SUBDELEGATION OF POWERS (SEC(2020) 415 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 7 and 12 December 2020 archived in Decide.

6.4. SIGNIFICANT WRITTEN PROCEDURES (SEC(2020) 416 AND /2)

The Commission took note of the significant written procedures for which the time limit expired between 14 December 2020 and 8 January 2021 and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 14 and Tuesday 15 December 2020.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2020) 417 AND /2)

ADMINISTRATIVE MATTERS

(PERS(2020) 123 AND /2)

**7.1. SECRETARIAT-GENERAL – APPOINTMENT OF AN AD14/15
DEPUTY SECRETARY-GENERAL**

(PERS(2020) 69 TO /3)

The Commission had before it the list of applications under Article 29(1)(a)(i) and (iii) and Article 29(1)(b) of the Staff Regulations for the post of Deputy Secretary-General in the Secretariat-General in charge of Interinstitutional and External Relations (PERS(2020) 69).

It took note of the opinions of the Consultative Committee on Appointments of 3 and 6 July 2020 (PERS(2020) 69/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr HAHN, in agreement with the PRESIDENT, it then decided to appoint Mr John WATSON to the post.

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

**7.2. DG RESEARCH AND INNOVATION – EXTENSION OF THE
MANDATE OF THE EUROPEAN INNOVATION COUNCIL TASK
FORCE**

The Commission took note of the information in point 1 of PERS(2020) 123 and, on a proposal from Mr HAHN, in agreement with the PRESIDENT, and after consulting Ms GABRIEL, decided to approve the extension of the mandate of the European Innovation Council Task Force beyond 31 December 2020, until the effective transfer of activities and staff to the future European Innovation Council and SMEs Executive Agency.

This decision would take effect immediately.

**7.3. APPOINTMENT OF RAPPORTEURS FOR SELECTION PROCEDURES
FOR SENIOR MANAGEMENT POSTS
(PERS(2020) 124)**

On a proposal from Mr HAHN, in agreement with the PRESIDENT, and in accordance with Article 7 of the Rules of Procedure for the Consultative Committee on Appointments, the Commission decided to appoint new rapporteurs for a full term of office of three years and to reappoint the current rapporteurs for a new term of office of three years, as set out in PERS(2020) 124.

These decisions would take effect on 1 January 2021.

- 8. JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL – THE EU'S CYBERSECURITY STRATEGY FOR THE
DIGITAL DECADE
(JOIN(2020) 18 TO /3; RCC(2020) 105)**
- 9. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL ON MEASURES FOR A HIGH COMMON LEVEL OF
CYBERSECURITY ACROSS THE UNION, REPEALING DIRECTIVE
(EU) 2016/1148
(COM(2020) 823 TO /3; SWD(2020) 345 AND /2; SWD(2020) 344 AND /2;
SEC(2020) 430; RCC(2020) 105)**
- 10. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL ON THE RESILIENCE OF CRITICAL ENTITIES
(COM(2020) 829 TO /3; SWD(2020) 358; SWD(2020) 359; SEC(2020) 433;
RCC(2020) 105)**

Ms VESTAGER introduced the College's discussion on the **EU's cybersecurity strategy** for the digital decade.

She began by noting that 40% of European citizens felt unable to keep themselves secure online on their own. This fact hindered the digitalisation of the economy and society, which could be fully rolled out only if the online security of users were guaranteed.

At a time when more and more services were connected and physical infrastructure was being increasingly digitalised, the security of users was vital if all citizens and all businesses in the EU were to benefit from secure and reliable digital tools and services.

Ms VESTAGER stressed that there could be no digitalisation without cybersecurity and that the main thrust of the strategy being presented that day was to propose practical measures to increase Europe's collective resilience in the face of cyber threats.

Mr BORRELL highlighted the importance of including an international dimension in the EU's cybersecurity strategy, the success of which would depend in part on the stability of global cyberspace. The EU would therefore step up work with its international partners to promote an open, stable and secure cyberspace grounded in the rule of law, human rights, fundamental freedoms and democratic values. It would also promote international standards that reflected those values in the United Nations and other competent forums.

The EU would therefore strengthen its cyber diplomacy toolbox in order to encourage the efforts of third country partners to boost their own capacities. The EU would also step up dialogue on cyberspace with third countries and regional and international organisations, and set up a European cyber diplomacy network.

Mr SCHINAS considered that cybersecurity played a key role in the Security Union as there was no longer any distinction between online and offline threats and the

digital and physical worlds were now inextricably linked. In his view, the package of measures being presented that day showed that the EU was prepared to use its resources and expertise to prepare itself for physical and digital threats and respond to them with the same determination, at a time when it was increasingly the target of cyberattacks.

The EU's cybersecurity strategy defined the Union's approach in this field for the coming decade and was based on two proposals for directives. The first contained measures to ensure a high common level of cybersecurity across the Union and covered large and medium-sized entities in a growing number of key sectors for the economy and society. The second concerned the resilience of critical entities, now seen as systems, and expanded both the scope and depth of the 2008 European Critical Infrastructure Directive.

Mr BRETON stressed the importance for political decision-makers of raising the Union's ambitions on cybersecurity, as it was the target of a growing number of cyberattacks, which were always aimed at destabilising it as a political player, as an economic power or as a protagonist in global security matters.

The risk of cyberattack was now a reality and the European Medicines Agency had recently been targeted. Over 450 attacks on operators of essential services had been detected in the EU in 2020, of which 120 were in the health sector and 80 in digital infrastructure. He noted that the European institutions themselves were regular targets of online attacks.

In light of the recent attacks on US government institutions, and given increasing connectivity, the exponential rise in the number of connected objects and the advent of industrial data, the areas potentially at risk were growing everywhere, including in the EU.

Yet the Union was not always organised politically, operationally and technologically to face up to such threats.

In particular, there was a tendency for research and development efforts to be dispersed, whereas the EU and its Member States should be joining forces to resolve the current fragmentation.

Moreover, he stressed that in the event of an attack, the operational protocols were not clear enough and the wide range of players and decision-making levels involved served to heighten the EU's vulnerability.

For that reason the strategy being presented that day established a European Cyber Shield to protect, detect, defend and deter.

Firstly, as regards protection, it was proposed to introduce tougher requirements in the internal market both for essential economic operators and for connected objects. The proposed revision of the Directive on the security of information systems and networks was designed to broaden its scope to include new sectors such as health, manufacturing and large online platforms.

Mr BRETON also announced that the Commission would soon be proposing a regulation on the cybersecurity of products and services in the Single Market and that it was continuing to make progress on implementing the toolbox developed for 5G in order to roll out secure networks. He added that, from now on, the Commission would organise technological research through the Cybersecurity Competence Centre on which the co-legislators had reached agreement after three years of negotiations.

Secondly, on the detection front, it was proposed to set up a network of security operation centres whose role would be to scan the network using artificial intelligence and detect weak signals indicating cyberattacks. He noted that it currently took an average of 190 days to detect a sophisticated attack and that this response time should be reduced to just a few hours.

Thirdly, as regards defence, the aim was to set higher levels of ambition so that the Union did not act in a disjointed fashion and rely on the capacities of certain

Member States, by ensuring that information was exchanged, that a common crisis management capacity was set up and that the foundations were finally laid for real solidarity and European mutual assistance. He explained that this would be the objective of the Joint Cyber Unit called for by the PRESIDENT.

The fourth and last point was deterrence, where the strategy proposed to give the Union a clearly defined approach to cyberattacks and cyber defence so that it could become a global player in cybersecurity. The European External Action Service was thus working on the design of a cyber diplomacy toolbox which should make it possible to attribute responsibility for attacks, to name the perpetrators publicly and to impose sanctions more systematically through decisions by qualified majority.

Mr BRETON felt that this package of initiatives laid the basis for a clear European strategy in a Union that was giving itself the wherewithal to guarantee its cybersecurity – a vital prerequisite for reaping the full benefit of the digitalisation of the economy and society.

Ms JOHANSSON took the floor to explain that the proposal for a **Directive on the resilience of critical entities** aimed to cover a wide range of physical infrastructure including energy and transport, banking services, financial markets infrastructure, health infrastructure, the supply of drinking water, waste water systems, digital infrastructure, public administration and space.

Although the Member States still considered that infrastructure security fell under their responsibility, the growing interdependence of such infrastructure at EU level called for EU-level action. She was pleased that the Commission was that day able to present coherent and complementary response strategies to tackle current and future risks both online and offline – from cyberattacks and natural disasters to the activities of criminal networks.

Mr HAHN pointed out that the EU institutions should set an example on cybersecurity at a time when the regulatory framework applicable at European level was being thoroughly overhauled. He noted that the recent cyberattack on the

European Medicines Agency had attracted a lot of attention but that this type of incident had become increasingly common. Since the start of 2020, the EU institutions and agencies had suffered at least 840 cyberattacks, of which 11 had been considered major. This was an increase of 150% on 2019. He acknowledged that the pandemic had contributed to this increase.

He said that it was vital for the institutions and agencies to be properly armed in order to cope with increasingly sophisticated attacks. In the course of 2021 the Commission would therefore set out binding rules applicable to all the institutions and agencies and also to their subcontractors, which was not always the case at present.

The next EU Multiannual Financial Framework for 2021-2027 contained a budget allocation for strengthening the institutions' resilience against and preparedness for cyberattacks. He announced that the Commission would also launch a campaign to raise awareness of cybersecurity among all staff of EU institutions and agencies.

The PRESIDENT concluded the College's discussion by noting that the comprehensive cybersecurity strategy being proposed was a key component of the 'Shaping Europe's digital future' strategy, the NextGenerationEU recovery plan and the EU's Security Union Strategy.

Following these presentations, the Commission, on a proposal from the PRESIDENT, confirmed the adoption of the joint Communication and the proposals for Directives currently set out in JOIN(2020) 18/3, COM(2020) 823/3 and COM(2020) 829/3 by finalisation written procedure, the deadline for which was set at 10.00 on Wednesday 16 December 2020 (PE/2017/9369, PE/2018/9346 and PE/2017/9442).

11. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON A SINGLE MARKET FOR DIGITAL

**SERVICES (DIGITAL SERVICES ACT) AND AMENDING DIRECTIVE
2000/31/EC**

**(COM(2020) 825 TO /3; SWD(2020) 348; SWD(2020) 349; SEC(2020) 432;
(RCC(2020) 201)**

**12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ON CONTESTABLE AND FAIR MARKETS IN
THE DIGITAL SECTOR (DIGITAL MARKETS ACT)**

**(COM(2020) 842 TO /3; SWD(2020) 363; SWD(2020) 364; SEC(2020) 437;
(RCC(2020) 199)**

The PRESIDENT asked Ms VESTAGER and Mr BRETON to present the proposal for the reform of the digital space that the Commission was presenting that day. She began by highlighting the scope of this reform and the historic nature of this set of new rules, which would apply to all digital service providers operating in the European Union.

Ms VESTAGER and Mr BRETON outlined the aim of the proposed major reform.

Its purpose was to perfect the digital single market by providing a European response, firmly based on the Union's values, to the challenges of the rapidly changing digital space. The COVID-19 pandemic had exacerbated these challenges further by increasing the dependence of a proportion of society on certain major online platforms.

This European response would provide citizens and consumers with a diverse range of reliable, better-quality online products and services that respected their fundamental rights and freedoms, thanks to healthy competition that would make the Union a space conducive to innovation, growth and competitiveness. In other words, the aim of the harmonised rulebook presented that day was to ensure that all digital service providers in Europe and their users enjoyed greater security, trust, innovation and business opportunities.

Mr BRETON said that this response was the result of a widespread consultation process which had yielded more than 3 000 contributions from a diverse range of backgrounds, both private and public, including one-third from non-European partners. Above all, detailed analysis of these contributions had made it possible to devise an innovative and ambitious reform, which he felt was the most objective, inclusive and balanced possible.

At a time when the whole world was examining the thorny issue of digital regulation, this reform was the first concrete proposal to be presented.

Ms VESTAGER and Mr BRETON explained that this European response comprised, on the one hand, a proposal for legislation on digital services and, on the other, a proposal for legislation on digital markets, which they presented in turn.

They began by addressing the **proposal for legislation on digital services**.

Ms VESTAGER emphasised that this proposal was designed to enable the internal market for digital services to function effectively, taking into account the considerable changes within this sector since 2000, the date of the last legislative reform in this area, commonly known as the 'e-Commerce Directive'.

The proposal therefore took the form of a regulation, rather than a directive, in order to correct the legal fragmentation currently discernible on the internal market, the effect of which was to strengthen the position of a few major players who could afford to bear the costs of compliance with the current regulatory patchwork.

The rationale behind this proposal was to benefit all actors and under no circumstances to deter or penalise some of them. It set out to give economic operators legal certainty, enable smaller operators to enter the market, and provide conditions for open and fair competition conducive to innovation and competitiveness. For consumers, it aimed to offer a wider and more reliable choice online at optimal cost. It would benefit society as a whole by preventing undesirable manipulation and interference in democratic processes, and by limiting

citizens' exposure to illegal content online, while preserving freedom of expression, which was a fundamental EU value.

Ms VESTAGER then explained the structure of the proposal, which promoted these advances through a smoother-functioning digital internal market thanks to uniform rules across the EU, improved enforceability and enhanced coordination at EU level for better application and implementation of the law.

In particular, new, harmonised EU-wide obligations for digital services would be introduced and carefully graduated on the basis of the size and possible impact of these services on the single market.

Thus, smaller digital service intermediaries would not face unnecessary constraints, while very large platforms, characterised by their capacity to reach around 10% of the EU's population, would be subject to specific obligations regarding the transparency of advertising and information on removed illegal content, as well as specific obligations to control their own risks.

In addition, these very large platforms, which were regarded as systemic in nature, would be subject to a new supervisory structure. This new framework of accountability would comprise a Committee of national digital services coordinators and give the Commission special powers for supervising very large platforms, including the possibility of penalising them directly.

Mr BRETON then emphasised the cross-cutting nature of this proposal for legislation on digital services.

The aim was to regulate the digital information space fairly and in a manner proportionate to the influence that operators were likely to have on the digital single market.

He highlighted the fact that the proposed rules would apply to all digital service intermediaries, irrespective of their place of establishment, once they were operating in the European market.

He confirmed that the platforms would have due diligence obligations in terms of both means and results, which would be progressive and proportionate to their size and impact. He drew a parallel with the obligations imposed on the very large banks after the 2008 and 2009 banking crisis in order to avoid conduct incompatible with the general interest.

Above all, the multiplier impact of the very large platforms was capable of influencing all areas of citizens' lives. These platforms would be audited at least once a year and would therefore be expected to invest in both technological and human resources to comply with their obligations. The Commission would be able to verify whether they had equipped themselves with adequate resources for this purpose.

Moreover, the cross-cutting obligations laid down in this legislation could be supplemented by more specific requirements linked to certain types of online activities or content, such as the online sale of illegal products or the online dissemination of terrorist content, hate speech and child pornography.

He stressed that the proposal's guiding principle would be that any illegal activity or content offline should also be considered and treated as illegal online.

He gave a firm assurance that this proposal by no means paved the way for general monitoring. On the contrary, it ensured absolute respect for fundamental rights and freedoms.

Lastly, Mr BRETON briefly mentioned the governance of the proposal, stating in particular that the authorities designated by each Member State would become part of a European network, which would operate around the clock and be able to act swiftly.

Ms VESTAGER and Mr BRETON then referred to the **proposed legislation on digital markets**.

Ms VESTAGER noted that the aim of this initiative was to ensure that online

platforms with a solid and sustainable position as ‘gatekeepers’ in the single market could not engage in unfair practices that prevented business users and their competitors from providing digital services to consumers.

This was not only a concern in Europe; in recent years, countries around the world – the United States, Australia, Japan, South Korea and others – had been discussing the need to modify the current legal framework in order to safeguard competition on online markets. This debate had begun, among other reasons, as a result of the digital transition and awareness of the concentration of online markets.

The digital markets legislation proposed that day focused on ‘core platform services’, such as online intermediation services, search engines and operating systems, which posed the most problems. It was designed to supplement competition law rules by regulating systemic problems caused by gatekeepers and preventing unfair practices that eluded EU competition law.

Ms VESTAGER then outlined the objective characteristics which, taken together, led to a provider of core platform services being designated as a gatekeeper under the digital markets legislation. This was the case where the provider in question, first, had a significant impact on the internal market, second, controlled an important gateway for business users to reach end users and, third, had an entrenched and durable position or would likely benefit from such a position in the near future.

These three conditions were presumed to be met when the quantitative thresholds revealed that day in the legislative proposal were reached. Mr BRETON would elaborate on the thresholds.

Even if all the quantitative thresholds were not met, the Commission could still classify a provider of core platform services as a gatekeeper under the digital markets legislation following a qualitative assessment carried out as part of a market investigation.

That qualitative assessment would make the legislative proposal future-proof as the Commission would be able to prevent any new unfair practices likely to restrict the ‘contestability’ of markets and rapidly monitor developments in digital markets.

She then touched on the obligations which entities classified as gatekeepers would have to comply with, within six months of being designated, in order to ensure contestable and fair markets in the digital sector. The idea was to prevent this small number of powerful operators in the internal market from being able to create bottlenecks between businesses and consumers, thereby dominating digital markets and creating barriers to market entry that prevented the emergence of competitors, in particular smaller ones.

Mr BRETON reiterated that the fundamental aim was to prevent competition from being distorted in the digital market. While competition rules had proved their worth, penalising infringements of them took time. It therefore seemed more effective to introduce ex ante rules that prevented infringements upstream and thus made it unnecessary to penalise them downstream.

He then picked up on the quantitative thresholds which established the rebuttable presumption of classification as a gatekeeper. These were objective criteria for assessing the power of the operator concerned and the extent of its impact on the internal market.

The first requirement was presence in at least three Member States combined with an average turnover over three years of EUR 6.5 billion or an average market capitalisation of EUR 65 billion.

The second was to have 45 million active end-users a month and 10 000 active business users a year in the previous three years.

Mr BRETON also explained the obligations that platforms designated as gatekeepers would have to comply with within six months of being designated in order for digital markets to remain fair and open. Certain abusive conduct would be

prohibited immediately, such as the unfair use of data from companies operating on those platforms or lock-in effects.

Lastly, in order to ensure the effectiveness of the new rules, the proposal would enable the Commission to impose on gatekeepers failing to comply with the rules fines of up to 10% of their worldwide annual turnover and periodic penalty payments of up to 5% of that turnover. The Commission would be able to impose additional corrective measures in the event of systematic infringements, going as far as the obligation to divest certain activities if no equally effective measure was available to ensure compliance.

Mr BRETON concluded by saying that, in line with the EU's founding values, the two proposals presented that day were two sides of the same coin and sought to create a virtuous circle thanks to clear and predictable rules. The aim was in no way to dismantle large platforms. While the proposed digital services legislation organised the information space, the proposed digital markets legislation ensured fair competition in the digital space.

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

- the major importance of the proposals presented and the right balance struck between security and the protection of fundamental rights and freedoms, in particular freedom of expression, but also protection of personal data;
- the proposed reform seen in the context of the new transatlantic programme and the importance for Europe of entering into a dialogue with the United States to explain its approach and join forces as technological allies facing the same challenges in relation to the digital transition and increasingly sharing the same view of technological governance;
- a question about how the various international players would be likely to react to this reform;

- the instructive parallel drawn in the proposed digital services legislation between the obligations envisaged for very large platforms and those which had been imposed on the banking sector after the 2008-2009 crisis;
- the College’s wholehearted support for the need to tackle illegal content online and the usefulness of supplementing the cross-cutting framework with sector-specific provisions to meet specific requirements;
- in this regard, the announcement of a political agreement reached between the co-legislators on 10 December concerning the proposal for a Regulation on preventing the dissemination of terrorist content online and the continuation of negotiations on the proposal for a Regulation to encourage the fight against child sexual abuse online in order to reach an agreement as soon as possible;
- a reference to two major pitfalls to be avoided, namely the risk of excessive removal of online content and the risk of inadequate removal of illegal content online.

In response to the discussion, Ms VESTAGER confirmed that the reform presented that day sought to give users control over their personal data, including on the very large platforms.

As regards how the proposals might be received, she pointed out that they were eagerly awaited by the European Parliament, the Member States, some of which had begun to regulate this sector, and smaller economic operators.

Mr BRETON added that the very large platforms would have to evolve in any case to address their declining appeal among young people.

At the start of the interinstitutional negotiations on these two texts, which would undoubtedly be fraught with difficulty, even though the foundations had been carefully laid for the broadest possible consensus, Ms VESTAGER and Mr BRETON considered it very likely that these visionary Commission initiatives

would come under intense pressure.

The PRESIDENT warmly thanked the cabinets and departments which had rallied round to enable this dual proposal to be made before the end of 2020.

She concluded by noting the Commission's unanimous support for the innovative and ambitious reform presented, which marked a turning point in Europe's adaptation to the digital age.

Following these presentations, the Commission:

- adopted the proposal for a Regulation in COM(2020) 825/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions, the European Data Protection Supervisor and the national parliaments, together with the impact assessment, the summary thereof and the opinion of the Regulatory Scrutiny Board in SWD(2020) 348, SWD(2020) 349 and SEC(2020) 432, the contents of which were noted;
- adopted, subject to a final general clean-up of the text, the proposal for a Regulation in COM(2020) 842/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions, the European Data Protection Supervisor and the national parliaments, together with the impact assessment, the summary thereof and the opinion of the Regulatory Scrutiny Board in SWD(2020) 363, SWD(2020) 364 and SEC(2020) 437, the contents of which were noted.

**13. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN CENTRAL BANK – TACKLING NON-PERFORMING LOANS IN THE AFTERMATH OF THE COVID-19 PANDEMIC
(COM(2020) 822 TO /3; RCC(2020) 203)**

PV(2020) 2361 final

- English translation of the French version which is authentic -

EN

The PRESIDENT asked Mr DOMBROVSKIS and Ms McGUINNESS to present to the College the Communication entitled ‘Tackling non-performing loans in the aftermath of the COVID-19 pandemic’.

Mr DOMBROVSKIS pointed out that when the COVID-19 pandemic broke out in the spring, EU banks were in a relatively strong position. They were better capitalised and more resilient in terms of liquidity. Levels of non-performing loans (NPLs) in the banking sector had fallen substantially in recent years.

In this second wave of the pandemic, he considered it essential for banks to keep lending to support the economic recovery. However, given the pandemic’s considerable impact on the EU economy, it seemed inevitable that the quality of banks’ assets would deteriorate. More and more NPLs would appear on banks’ balance sheets. He therefore called for preventative action, failing which NPLs could rise for years afterwards and hamper the recovery.

Ms McGUINNESS noted that despite the strong lending by banks throughout the crisis, the average NPL ratio had so far remained low. She added that the origins of the current crisis were different from those of the 2008 financial crisis, since this time they could not be attributed to reckless lending or excessive borrowing. Therefore, the action plan presented today was not a strategy to reduce risks, but to act to support the economic recovery.

She explained that the action plan was based on four main areas of activity, namely (i) the development of secondary markets for NPLs, (ii) the creation of Asset Management Companies throughout the EU, (iii) a reform of the insolvency frameworks, and (iv) precautionary measures under the bank resolution and State aid frameworks.

She noted that, in order to develop secondary markets for NPLs, the quality and availability of information had to be improved. The action plan therefore proposed mainly to simplify the templates for NPL transactions, to create a central hub at European level for the collection of transaction data, which would also cover the

supply of information to markets, and to remove inconsistencies in bank capital regulation, while ensuring borrower protection.

As regards the creation of Asset Management Companies, which remained voluntary, she noted that Member States would be able to receive support, in compliance with EU banking and State aid rules.

As regards insolvency, the aim was to improve the efficiency of insolvency and loan enforcement frameworks.

Finally, Ms McGUINNESS pointed out that the proposal also clarified how the bank resolution and State aid frameworks should be applied, in exceptional circumstances, to provide precautionary public support measures to support the economic recovery. The COVID-19 pandemic represented a serious challenge to the economy and precautionary recapitalisation would allow banks to continue lending to the real economy. She highlighted the flexibility provided for under the Bank Recovery and Resolution Directive (BRRD).

She concluded by saying that the financial crisis had left people with a bitter taste, and they would now not understand if no measures were taken regarding NPLs.

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

- questions about the likelihood of banks continuing to perform well in terms of insolvency; hence the need for the Commission's proposal, which aimed to take the initiative to prepare the banking sector for future imbalances;
- the support of the College regarding this necessary first step and more generally the efforts made to establish a genuine Banking Union, which was still far from being completed;
- the importance of clarifying the issue of precautionary recapitalisation, which clearly showed that the COVID-19 pandemic was seriously disrupting the

economy in general and the banking system in particular. This was in keeping with the meaning of the Bank Recovery and Resolution Directive (BRRD) and was essential to enable this tool to become useful in the year(s) ahead;

- the need to avoid the mistakes made in the past, otherwise there would be a significant negative impact on the financial sector and banking system;
- the usefulness of flexible arrangements as regards the use of the Recovery and Resilience Facility.

The PRESIDENT thanked Mr DOMBROVSKIS and Ms McGUINNESS for their presentation.

Following these presentations, the Commission, on a proposal from the PRESIDENT, confirmed the adoption of the Communication in COM(2020) 822/3 by the finalisation written procedure, the deadline for which was set at 9.00 on Wednesday 16 December 2020 (PE/2020/9334).

14. OTHER BUSINESS

14.1. COMMISSION RESPONSE TO RESOLUTIONS BY THE EUROPEAN PARLIAMENT PURSUANT TO ARTICLE 225 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

At the PRESIDENT's invitation, Mr REYNDERS touched on the four new positive responses to resolutions by which the European Parliament, under Article 225 of the Treaty on the Functioning of the European Union, asked the Commission to submit appropriate proposals on matters on which it considered that a Union act was required for the purpose of implementing the Treaties (see also point 4.3(x) of these minutes). These new positive responses followed the two responses already given in the preceding weeks.

Two of the four resolutions on that day's agenda related to the digital services legislation and the other two concerned artificial intelligence.

On behalf of Ms VESTAGER and Mr BRETON, he began by outlining the first two.

One addressed the matter of improving the functioning of the single market by reforming the existing e-commerce legal framework with a view to ensuring consumer trust in the digital economy, and the other, adapting the rules for commercial entities operating online in order to ensure greater fairness, transparency and accountability for digital services' content moderation procedures.

The objectives pursued by these resolutions and many of their key proposals were reflected in the proposals submitted to the Commission for adoption that day.

Likewise, on behalf of Ms VESTAGER and Ms JOUROVÁ, Mr REYNDERS touched on the other two Parliament resolutions to which the Commission was able to give a positive response that day.

The first addressed the establishment of a civil liability regime for artificial intelligence, and the second, a strong ethical framework for artificial intelligence, robotics and related technologies.

These resolutions reflected the importance of Union action on artificial intelligence, something that the Commission could only welcome as it broadly shared the objectives set out in them. In particular, the Commission was committed to the risk-based approach for which the European Parliament had also called.

The Commission would be able to give positive follow-up to these Parliament resolutions as it intended to adopt a legislative proposal in the coming months, as announced in its work programme for 2021. Analysis of the

various options available to achieve the objectives was underway.

Mr REYNDERS concluded by remarking that these four cases illustrated the benefits for the Union and its citizens of early and close cooperation between the European Parliament and the Commission.

The Commission took note of this information.

**14.2. OUTCOME OF THE EUROPEAN COUNCIL (BRUSSELS, 10 AND 11 DECEMBER 2020)
(SI(2020) 474)**

The PRESIDENT reviewed the conclusions of the European Council held on 11 and 12 December.

Among the main items on the agenda, she referred first to the discussion of the **Multiannual Financial Framework for 2021-2027**. Two Member States had been making the negotiations difficult on account of their opposition to making payments from the European budget conditional on respect for the rule of law. The stakes were high in the immediate term as, without an agreement, it would have been necessary to use the provisional twelfths system at the start of the 2021 budget year, but also in the medium term as the NextGenerationEU recovery plan would have been delayed.

She welcomed the fact that, thanks to the groundwork laid by the German presidency of the Council and a compromise offer, the discussions had in the end been brought to a successful conclusion. The next financial framework, and its mechanism to protect the budget from breaches of the rule of law, would be deployed on 1 January, together with the recovery plan, in 27 Member States.

The conditionality mechanism would apply from that date and any breach from 1 January 2021 onwards would be dealt with.

The second main item on the agenda was the objective of a **climate-neutral** EU by 2050 in line with the Paris Agreement. The Commission had proposed raising the Union's level of ambition for the coming decade. While most Member States were in favour, it had been necessary to convince all the Member States of the feasibility of the binding target of a net reduction of at least 55% in greenhouse gas emissions in the EU by 2030 compared with 1990. The discussions had been particularly intense and had lasted close on 24 hours, but had been fruitful in the end, producing a positive conclusion at the very last minute.

The PRESIDENT also highlighted the very favourable response by EU leaders to the package of initiatives proposed by the Commission on 9 December in the **security** field.

She added that the European Council had welcomed the recent positive announcements on the development of effective vaccines against **COVID-19** and the conclusion of advance purchase agreements by the Commission. She took the opportunity to confirm that the European Medicines Agency would give its decision authorising the Pfizer-BioNTech vaccine on 21 December, and not on 29 December as initially planned. If the vaccine were authorised, the Commission would adopt an emergency decision so that it could be made available as quickly as possible.

Lastly, the PRESIDENT turned to the difficult **negotiations between the EU and the United Kingdom** regarding an agreement on their future relationship. Progress had been made in the last few days, but fundamental disagreements remained. In any event, the Union for its part had prepared for the possibility of the United Kingdom's withdrawing without an agreement.

The Commission took note of this information.

14.3. CURRENT STATE OF NEGOTIATIONS ON THE FUTURE RELATIONSHIP BETWEEN THE EUROPEAN UNION AND THE

UNITED KINGDOM
SEC(2020) 440)

The PRESIDENT asked Mr BARNIER to inform the College of the latest developments in the negotiations between the EU and the United Kingdom on their future relationship, which had been very briefly touched on during the European Council on 11 and 12 December.

* * *

The first sitting closed at 16.59.

Second sitting: Thursday 24 December 2020 (afternoon)

The sitting opened at 16.36 with the PRESIDENT in the chair.

Attended by videoconference:

Ms von der LEYEN	President
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 SCHMIT	Member
Mr WOJCIECHOWSKI	Member
Ms FERREIRA	Member
Ms KYRIAKIDES	Member
Mr REYNDEERS	Member
Ms DALLI	Member
Ms JOHANSSON	Member
Ms VÁLEAN	Member
Mr VÁRHELYI	Member
Ms SIMSON	Member
Mr SINKEVIČIUS	Member
Ms McGUINNESS	Member

Absent:

Mr HAHN	Member
Ms GABRIEL	Member

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EN

Mr GENTILONI	Member
Mr BRETON	Member
Mr LENARČIČ	Member
Ms URPILAINEN	Member

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

Mr MUELLER	Chef de cabinet to M. HAHN
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The following also sat in by videoconference:

Mr SEIBERT	Chef de cabinet to the PRESIDENT
Mr CALLEJA CRESPO	Director-General, Legal Service
Ms AHRENKILDE HANSEN	Director-General, DG Communication
Mr FLOSDORFF	Executive Adviser in the PRESIDENT's Office
Mr BARNIER	Head of the Task Force for Relations with the United Kingdom
Ms ALLOUIS-LE LOSTEC	Head of Unit in the Secretariat-General

Secretary: Ms JUHANSONE, Secretary-General, assisted by Ms DEPREZ, Director in the Secretariat-General.

15. EU-UK TRADE AND COOPERATION AGREEMENT

Following the Commission meeting on 15 December, at which she and Mr BARNIER had reported on the latest developments on the future relationship between the EU and the UK, the PRESIDENT informed the Members of the Commission that after intensive negotiations, the European Commission had reached an agreement with the UK authorities on the terms of future cooperation between the parties. This was why she had convened this extraordinary meeting by videoconference, in the presence of Mr BARNIER.

She welcomed the successful outcome of these difficult negotiations, which had been concluded in record time just a few days from the deadline of 31 December 2020, the date of expiry of the transition period set by the EU-UK withdrawal agreement. She explained that given these exceptional circumstances, the Commission proposed to apply the agreement provisionally for a limited period, until 28 February 2021, to allow for its formal approval by the European Parliament and the Member States.

She stressed that the determination shown in the last few days to continue discussions in an attempt to reach a fair and balanced agreement with the UK was fully justified. The agreement would protect the interests of Europeans and the integrity of the single market, ensure fair competition and provide much-needed predictability for EU fishermen. She also welcomed the fact that the EU could finally turn the page on Brexit and look to the future.

Even with the entry into force of the new EU-UK trade and cooperation agreement, major changes would take place on 1 January 2021, which would highlight the difference between being a full member of the EU and being a third-country partner. In particular, from 1 January 2021 the UK would leave the Single Market and the Customs Union, as well as all EU policies and international agreements. That date would also mark the end of the free movement of persons, goods, services and capital between the EU and the UK.

The PRESIDENT said that on the subject of governance, which was one of the three main pillars of the agreement, binding enforcement and dispute settlement mechanisms would ensure that the rights and obligations of the signatories were respected. She pointed out that establishing a level playing field was an essential condition for concluding an agreement. The governance framework that was to be implemented would place EU and UK businesses on an equal footing, with neither party being able to use its regulatory autonomy to grant unfair subsidies or distort competition.

In the event of violations of the agreement, both parties would be able to take retaliatory measures in all areas of the economic partnership.

She regarded the agreement reached as more than a starting point; it provided a lasting structure for a far-reaching relationship.

The free trade framework, which was the second major pillar of the agreement, would cover not just all trade in goods and services but also a wide range of other areas of interest to the EU. These included investment, competition, State aid, tax transparency, air and road transport, energy and sustainable development, fisheries, data protection, and social security coordination. The framework provided for zero customs duties and quotas for trade in goods complying with the applicable rules of origin.

The agreement also provided for the UK's participation in the EU's Horizon Europe programme in the areas of research and innovation, subject to a financial contribution. She regretted that the UK authorities had decided not to participate in the Erasmus exchange programme, although this would be the subject of further discussions.

On fisheries, one of the stumbling blocks of the negotiations, the EU and UK had agreed on a new framework for the joint management of fish stocks in their respective waters. The rhetoric on sovereignty of the British Prime Minister, Boris JOHNSON, had made it particularly difficult to find a compromise, given that

it was illusory for the UK to demand recovery of full control of its territorial waters while seeking free access to the Single Market.

The PRESIDENT explained that under the terms of the agreement, changes would be phased in to the allocation of fishing quotas and provisions on access to EU and UK territorial waters would gradually be introduced. After a transitional period of five and a half years, during which the current rules on reciprocal access would remain in force, annual consultations would be held to establish the degree of reciprocal access to the two parties' exclusive economic zones and territorial waters, and the conditions for such access. The EU would have strong mechanisms to encourage this reciprocal access.

She also noted with satisfaction that these changes would take into account the need to ensure sustainable management of marine resources and preserve the activities and livelihoods of the fishing occupations, which depended on those waters and these resources.

On security, the third major pillar of the Trade and Cooperation Agreement, the PRESIDENT explained that this pillar introduced a new framework for police and judicial cooperation in criminal and civil law matters. It recognised the need for close cooperation between national police and judicial authorities, in particular for fighting and prosecuting cross-border crime and terrorism.

She concluded by saying that she was pleased at the announcement of the conclusion of an agreement, but also deeply saddened that the UK was leaving the EU in order to become a third country. However, she felt that this agreement would provide a good start for the EU-UK relationship, which was a new relationship with an old friend. The UK's withdrawal from the EU without an agreement would necessarily have left wounds, and each party would have been led to blame the other for a failure that would have had serious consequences. She therefore wholeheartedly recommended this balanced and fair agreement to the Council. As a first step, the Council would have to adopt, by unanimous vote of the

27 Member States, a decision authorising the signing of the agreement and its provisional application from 1 January 2021.

The very next day, the Commission would have to adopt, by written procedure, the corresponding proposal for a decision, and a recommendation for a Council decision on the conclusion of the agreement, which it would send to the Council. At the end of this process, the EU-UK Trade and Cooperation Agreement could be formally signed and the European Parliament would then be asked to approve it.

Without going into the content of the agreement, Mr BARNIER pointed out that it was based on the agreement setting out the arrangements for the withdrawal of the United Kingdom from the EU that had come into force on 1 February 2020, accompanied by a political declaration setting out the framework for the future relationship between the United Kingdom and the European Union.

He said that thanks to the hard work of the negotiating teams, particularly over the last nine months, the Commission could congratulate itself on submitting to the European Parliament and the Council a trade and cooperation agreement of an unprecedented scale, which protected the EU's interests and identity.

He stressed that the solid governance framework accompanying the agreement had been designed in the light of the lessons drawn from the complex implementation of the withdrawal agreement overseen by Mr ŠEFČOVIČ and his teams. He thanked them warmly for their work.

He also thanked the PRESIDENT, who in the very last stage of the negotiations had conducted the final trade-offs directly with the British Prime Minister on the particularly sensitive issues of fisheries and the rules of origin.

To conclude, Mr BARNIER gave warm and heartfelt thanks to the College as a whole and also to the PRESIDENT, each Member of the Commission, the Secretary-General and their respective teams and departments, as well as the European External Action Service and the Legal Service. He felt honoured for the

trust they had placed in him and grateful for the valuable support they had given him in the form of sound advice, unwavering commitment and availability at all times.

He was proud of having served the European Commission for some fifteen years as a Member of the College, Special Adviser to the President, Chief Negotiator of the Commission with the United Kingdom and Head of the Task Force for Relations with the United Kingdom.

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

- the warm thanks of the Members of the College to Mr BARNIER for the huge task he had carried out with admirable determination and a European commitment that commanded respect, as well as the skill, creativity and resilience which he and his team had shown in tackling this challenging issue;
- the historic nature of a day which had seen the last-minute conclusion of a draft partnership agreement with the UK, negotiated in record time, involving a massive effort as a result of the date of 31 December 2020 set by the UK for the end of the transition period, a date it had resolutely maintained;
- satisfaction and relief that the agreement had been secured, but also deep regret associated with the loss of a Member State for the EU;
- satisfaction that the partnership negotiated had preserved the clear difference between Member State status and status as a third country;
- for all these reasons and for the determination they had shown to preserve the founding principles of the EU, warm thanks to Mr BARNIER and his team;
- emphasis of the balance struck by the agreement as regards the level playing field and the conditions for data flows between the parties;

- thanks also to the PRESIDENT and her team for the compromise reached on fisheries, and to Mr ŠEFČOVIČ for his successful work on the implementation of the withdrawal agreement;
- the significant contribution that this partnership would make to a positive start to 2021, after a turbulent 2020 on many fronts;
- with this in mind, the value of the Brexit Adjustment Reserve, which would help the Member States and the sectors hardest hit by the UK's withdrawal from the EU to overcome the consequences of Brexit.

Winding up this brief exchange, the PRESIDENT pointed out that the Trade and Cooperation Agreement approved that day at political level with the UK was an additional achievement for which the current College could take the credit, at the end of a very bumpy year.

She praised the remarkable work carried out under Mr BARNIER's outstanding leadership during four years of negotiations with the UK. She paid tribute to his unwavering and exemplary commitment and said that European integration would always be indebted to him.

She took the opportunity to warmly thank the College for its conviction, its courage, its work and its efforts throughout a particularly difficult year. She felt that 2021 was getting off to as good a start as possible, with a multiannual budget for 2021-2027, a vaccine against COVID-19, which would start to be administered throughout Europe on 27 December, and, lastly, a partnership of unprecedented scale with the UK.

She wished the Members of the College a good end of the year, despite the special circumstances imposed by the health situation, and called on them to continue to promote the general European interest, with the ambition of a strong and united Europe.

In conclusion, she thanked the Commission services for their dedication and their determination to implement the EU's fundamental values, in the highest sense of the term.

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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 17.17.