



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2021) 2387 final

- English translation of the French version which is authentic -

Brussels, 13 October 2021

TEXTE EN

MINUTES

of the 2387th meeting of the Commission

held in Brussels

(Berlaymont)

on Tuesday 20 July 2021

(morning)

PV(2021) 2387 final

- English translation of the French version which is authentic -

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Single sitting: Tuesday 20 July 2021 (morning)

The sitting opened at 12.00 with Ms von der LEYEN, President, in the chair.

Present:

Ms von der LEYEN	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
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 VÁLEAN	Member
Mr VÁRHELYI	Member
Ms SIMSON	Member
Ms McGUINNESS	Member

Absent:

Mr TIMMERMANS	Executive Vice-President
Ms VESTAGER	Executive Vice-President
Ms URPILAINEN	Member
Mr SINKEVIČIUS	Member

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

Mr AGOTHA	Expert in Mr TIMMERMANS's Office
Mr JØRGENSEN	Chef de cabinet to Ms VESTAGER
Mr LAHTI	Chef de cabinet to Ms URPILAINEN
Ms PREISING	Deputy Chef de cabinet to Mr SINKEVIČIUS

The following also sat in:

Mr SEIBERT	Chef de cabinet to the PRESIDENT	
Mr CALLEJA CRESPO	Director-General, Legal Service	
Ms AHRENKILDE HANSEN	Director-General, DG Communication	
Ms SPINANT	Deputy Chief Spokesperson of the Commission	
Ms PETKOVA	Director of Coordination and Administration in the PRESIDENT's Office	
Ms HILI	Adviser in the PRESIDENT's Office	Item 8
Ms SCHULTZ	Policy Coordinator in the PRESIDENT's Office	
Ms MICELI	Policy Coordinator in the PRESIDENT's Office	Items 9 to 12

Secretary: Ms JUHANSONE, Secretary-General, assisted by Ms ALLOUIS-LE LOSTEC, Head of Unit in the Secretariat-General.

The Commission started the meeting by holding a minute's silence in memory of the victims of the floods that recently struck Belgium, Germany, Austria, Luxembourg and the Netherlands.

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1. AGENDAS

(OJ(2021) 2387/FINAL; SEC(2021) 2387/FINAL)

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(2021) 2387)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 19 July 2021.

3. APPROVAL OF THE MINUTES OF THE 2381ST, 2382ND, 2383RD, 2384TH, 2385TH AND 2386TH MEETINGS OF THE COMMISSION (8, 15, 23 AND 30 JUNE, 6 AND 14 JULY 2021)

(PV(2021) 2381; PV(2021) 2381, 2ND PART; PV(2021) 2382; PV(2021) 2383; PV(2021) 2383, 2ND PART; PV(2021) 2384)

The Commission approved the minutes of its 2381st, 2382nd, 2383rd and 2384th meetings, and decided to hold over approval of the minutes of its 2385th and 2386th meetings.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2021) 158)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held by videoconference on Friday 16 July 2021 (RCC(2021) 158).

The Commission approved the lines proposed for the following points:

- **Amendment of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (Regulation) – DOLESCHAL report – 2020/0289 (COD)**

Line set out in SI(2021) 243.

- **Amendment of Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights (Council Regulation) – MANDL report – 2020/0112 (APP)**

Line set out in SI(2021) 237.

- **Extension of the term of Community plant variety rights for the species asparagus and the species groups flower bulbs, woody small fruits and woody ornamentals (Regulation) – RUISSEN report – 2021/0019 (COD)**

Line set out in SI(2021) 239.

- **Amendment of Regulation (EC) No 851/2004 establishing a European Centre for Disease Prevention and Control (Regulation) – KOPCIŃSKA report – 2020/0320 (COD)**

Line set out in SI(2021) 240.

- **Serious cross-border threats to health and repeal of Decision No 1082/2013/EU (Regulation) – TRILLET-LENOIR report – 2020/0322 (COD)**

Line set out in SI(2021) 241.

- **Resolution of the European Parliament under Article 225 of the Treaty on the Functioning of the European Union (TFEU) – Challenges of sport event organisers in the digital environment – DZHAMBAZKI report – 2020/2073 (INL)**

Line set out in SP(2021) 508.

- **Tripartite agreement between the European Commission, the European Court of Auditors and the European Investment Bank – Revision of the current agreement of 26 September 2016**

Line set out in SPI(2021) 37.

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

Line set out in SPI(2021) 38.

The Commission approved the lines set out for the following points, for transmission to Parliament:

- **Commission replies to the non-legislative resolutions adopted by Parliament at its part-session of May 2021 (Part II)**

Line set out in SP(2021) 507/3.

- **Commission replies to the legislative resolutions adopted by Parliament at its part-session of June II 2021**

Line set out in SP(2021) 514.

The Commission approved the line set out for the following point, for transmission to the Committee of the Regions:

- **Follow-up to opinions of the Committee of the Regions – Plenary session of March 2021**

Line set out in SR(2021) 19/2.

The Commission approved the **statement on the own resources package** as set out in C(2015) 5507/2, and to be brought to the attention of the European Parliament and the Council.

5. COORDINATION OF EXTERNAL ACTION (RCC(2021) 36)

The Commission took note of the operational conclusions in RCC(2021) 36 of the meeting of the Group for External Coordination (EXCO) held by videoconference on Wednesday 14 July 2021.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED (SEC(2021) 282 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 July 2021.

6.2. EMPOWERMENT

(SEC(2021) 283 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 July 2021.

6.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2021) 284 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 12 and 18 July 2021 archived in Decide.

6.4. SIGNIFICANT WRITTEN PROCEDURES

(SEC(2021) 285 AND /2)

The Commission took note of the significant written procedures for which the time limit expired between 19 and 23 July 2021.

**6.5. GRANTING OF AN AD HOC EMPOWERMENT WITH A VIEW TO
ADOPTING MEASURES INTENDED TO INDUCE THE REPUBLIC OF
POLAND TO COMPLY WITH AN ORDER AND A JUDGMENT OF THE
COURT OF JUSTICE OF THE EUROPEAN UNION**

(C(2021) 5555)

The Commission adopted the decision in C(2021) 5555.

The Commission decided to empower Mr REYNDERS, the Member of the Commission in charge of Justice, to adopt, in agreement with the PRESIDENT, on behalf of the Commission and under its responsibility, measures intended to induce the Republic of Poland to comply with an order and a judgment of the Court of Justice of the European Union, as set out in C(2021) 5555.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2021) 286/2 AND /3)

ADMINISTRATIVE MATTERS

(PERS(2021) 67 AND /2)

7.1. DG INTERNATIONAL PARTNERSHIPS – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL (PERS(2021) 73 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General in charge of Directorates A, B and C in DG International Partnerships (PERS(2021) 73).

It took note of the opinions of the Consultative Committee on Appointments of 21 May and 2 June 2021 (PERS(2021) 73/2 and /3).

The Commission then examined the applicants' qualifications for the post. On a proposal from Mr HAHN, in agreement with the PRESIDENT and after consulting Ms URPILAINEN, it then decided to appoint Ms Myriam FERRAN to the post.

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

7.2. DG ENVIRONMENT / DG RESEARCH AND INNOVATION - TRANSFER OF TWO AD15 OFFICIALS UNDER ARTICLE 7 OF THE STAFF REGULATIONS

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

- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Ms Joanna DRAKE, an AD15 official, currently a Deputy

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Director-General in DG Environment, to the post of Deputy Director-General in charge of ‘Implementation Impact and Sustainable Investment Strategies’ in DG Research and Innovation;

- to transfer in the interest of the service, under Article 7 of the Staff Regulations, Mr Patrick CHILD, an AD15 official, currently Deputy Director-General in charge of ‘Implementation Impact and Sustainable Investment Strategies’ in DG Research and Innovation, to the post of Deputy Director-General in DG Environment.

These decisions would take effect on 1 October 2021.

7.3. DG COMMUNICATION – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2021) 38 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director-Head of the Commission Representation in Paris, France (PERS(2021) 38 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 21 and 24 June 2021 (PERS(2021) 38/3 and /4).

The Commission then examined 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, it then decided to appoint Ms Valérie DREZET-HUMEZ to the post.

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

7.4. DG REGIONAL AND URBAN POLICY – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2021) 68 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Policy’ Directorate in DG Regional and Urban Policy (PERS(2021) 68).

It took note of the opinions of the Consultative Committee on Appointments of 14 and 24 June 2021 (PERS(2021) 68/2 and /3).

The Commission then examined 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 FERREIRA, it then decided to appoint Mr Peter BERKOWITZ to the post.

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

**7.5. DG REGIONAL AND URBAN POLICY – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2021) 69 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Administrative Capacity Building and Programmes Implementation II’ Directorate in DG Regional and Urban Policy (PERS(2021) 69).

The Commission took note of the opinions of the Consultative Committee on Appointments of 30 June and 1 July 2021 (PERS(2021) 69/2 and /3).

The Commission then examined 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 FERREIRA, it then decided to appoint Ms Sofia ALVES to the post.

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

**7.6. DG REGIONAL AND URBAN POLICY – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2021) 70 TO /3)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director of the ‘Better Implementation, Closure and Programme Implementation III’ Directorate in DG Regional and Urban Policy (PERS(2021) 70).

It took note of the opinions of the Consultative Committee on Appointments of 30 June and 8 July 2021 (PERS(2021) 70/2 and /3).

The Commission then examined 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 FERREIRA, it then decided to appoint Ms Emma TOLEDANO LAREDO to the post.

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

**7.7. EUROPEAN ANTI-FRAUD OFFICE – PROCEDURE FOR
APPOINTING MEMBERS AND DESIGNATING ALTERNATE
MEMBERS OF THE SUPERVISORY COMMITTEE OF THE
EUROPEAN ANTI-FRAUD OFFICE
(PERS(2021) 71)**

The Commission took note of the information in point 5 of PERS(2021) 67 and, on a proposal from Mr HAHN, in agreement with the PRESIDENT, decided:

- to approve the procedure agreed with the European Parliament and the Council for appointing members and designating alternate members of the Supervisory Committee of the European Anti-Fraud Office;

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- to authorise the publication in the *Official Journal of the European Union* of the call for expressions of interest in PERS(2021) 71;
- to instruct Mr HAHN to appoint the three Commission representatives on the joint selection committee;
- to amend Article 1 of Commission Decision C(2006) 6595 of 8 December 2006 on the reimbursement of costs incurred by members of the Supervisory Committee in the performance of their duties, replacing the words ‘of €525’ in the first and fifth paragraphs with the following phrase: ‘equivalent to 1/22 of the basic salary of an official in the first step of grade AD14’.

The decision concerning the proposed list of five candidates for the position of member and of at least seven candidates (listed in order of priority) to be included on the reserve list would be presented to the College at a later date.

These decisions would take effect immediately.

7.8. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF A LIST OF CANDIDATES FOR THE POST OF HEAD OF THE EUROPEAN UNION DELEGATION IN NORWAY (AT GRADE AD14/15) (PERS(2021) 72)

On a proposal from Mr HAHN, in agreement with the PRESIDENT, the Commission decided to approve the list of candidates for the post of Head of the EU Delegation in Norway (at grade AD14/15) set out in PERS(2021) 72.

The competent authority of the European External Action Service (EEAS) would make the final appointment on the basis of this list.

This decision would take effect immediately.

**7.9. SECRETARIAT-GENERAL – COMMISSION DECISION ON POST TERM-OF-OFFICE ACTIVITY OF A FORMER MEMBER OF THE COMMISSION
(C(2021) 9017)**

The Commission adopted the Decision set out in C(2021) 9017.

The Commission specifically decided that the professional activity envisaged by Ms Cecilia MALMSTRÖM after leaving office as a Member of the Commission was compatible with Article 245(2) of the Treaty on the Functioning of the European Union and with the Code of Conduct for Commissioners, subject to certain specific conditions and obligations.

This decision would take effect immediately.

7.10. DG COMMUNICATION – APPOINTMENT OF A HEAD OF A EUROPEAN COMMISSION REPRESENTATION

The Commission took note of the decision taken by the Appointing Authority to appoint Ms Anne CALTEUX to the post of Head of the European Commission's Representation in Luxembourg.

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

**7.11. ANNUAL REPORT ON THE APPLICATION OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN 2020
(SEC(2021) 299)**

The Commission took note of the annual report on the application of the Code of Conduct for the Members of the European Commission in 2020 set out in SEC(2021) 299.

8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – 2021 RULE OF LAW REPORT – THE RULE OF LAW SITUATION IN THE EUROPEAN UNION

(COM(2021) 700 TO /3; SWD(2021) 701 AND /2; SWD(2021) 702 AND /2; SWD(2021) 703; SWD(2021) 704 AND /2; SWD(2021) 705 AND /2; SWD(2021) 706; SWD(2021) 707; SWD(2021) 708; SWD(2021) 709 AND /2; SWD(2021) 710 AND /2; SWD(2021) 711; SWD(2021) 712; SWD(2021) 713 AND /2; SWD(2021) 714 AND /2; SWD(2021) 715; SWD(2021) 716; SWD(2021) 717; SWD(2021) 718; SWD(2021) 719; SWD(2021) 720 AND /2; SWD(2021) 721 AND /2; SWD(2021) 722 TO /3; SWD(2021) 723; SWD(2021) 724 AND /2; SWD(2021) 725; SWD(2021) 726 AND /2; SWD(2021) 727; RCC(2021) 166)

Ms JOUROVÁ presented the Commission's second Report on the Rule of Law situation in the European Union, underlining the importance of respect for the rule of law for the EU's very existence, improvements reported in some Member States since the first Report, for 2020, and the possibility for the EU to intervene by means of preventive or corrective measures in certain situations of concern. She stated that the Report, which was preventive in nature, covered the 27 Member States and explained that it had prompted a debate in the Member States as soon as it had been first published in 2020. The edition presented that day consolidated the method used and the inclusive process involving the Member States. The Commission had maintained a continuous and meaningful dialogue with the Member States, while fully retaining its analytical autonomy, and the vast majority of comments received from them on the various country chapters had been taken into account, without in any way diluting the content of the main messages.

The Report had also become an integral part of the work of the General Affairs Council, which held regular debates on the basis of this document, and it would also

be discussed in the European Parliament. Ms JOUROVÁ indicated that she and Mr REYNDERS would shortly make another tour of national parliaments to discuss with them the findings of the Report, as had been done over the past year.

The fact that this was now a consolidated exercise meant that it had a remarkable and real impact on the ground, in that it was discussed in the national press and sparked debates in academic and civil society contexts. In particular, it had influenced the ongoing or planned rule of law-related reforms in the Member States, as illustrated by positive examples from Spain, Slovakia and Bulgaria, to name only a few.

Therefore, the Report was slowly but surely achieving its goal of protecting the rule of law in the EU in a preventive way, without stigmatising anyone. It was an objective exercise, in which everyone was treated in the same way with the aim of protecting one of the most precious of the EU's founding values. For that reason the introductory Communication, when describing the trends and main findings of the Report, contained references to all Member States.

As regards the substance of the Report, she explained that, this year, special attention was paid to the impact of the COVID-19 crisis, which had served as a stress test for democracy but had also accelerated processes such as digitalisation. Ms JOUROVÁ briefly presented the thematic headings of the Report, pointing out that, from the point of view of judicial independence, the situation varied from one Member State to another, while positive trends were observed as regards the independence of prosecution services and the digitalisation of justice. She also mentioned the growing threats to the primacy of EU law and stated that the Commission was taking further action on this matter that day. As regards the fight against corruption, although the implementation of legislative frameworks was almost complete, practical execution remained challenging. Unfortunately, the situation of the media had generally deteriorated, both in relation to media freedom and pluralism and the safety of journalists; these negative trends had been exacerbated by the pandemic. Finally, as regards checks and balances, the public

health situation had put national systems under extraordinary pressure, which had led to increased tensions but also allowed those systems to show remarkable resilience.

In summary, the Report painted a complex picture, which corresponded to the situation on the ground. Nonetheless, Ms JOUROVÁ was satisfied that this part of the EU's toolbox, now fully consolidated, could address citizens' concerns about the rule of law.

Mr REYNDERS first briefly presented the lessons learnt from the 2020 Rule of Law Report. He pointed out that the Report was not an end in itself, but rather a tool to prevent the emergence and worsening of problematic situations, to raise awareness among the authorities and to promote a rule of law culture throughout the EU. At the national level, the Report proved to be a constructive way to foster reforms in Member States. He gave a few examples: Bulgaria had presented a judicial reform and anti-corruption plan in response to the 2020 Report; Luxemburg had begun technical-level discussions to create a Council for the Judiciary; Malta had launched a significant reform process to strengthen the independence of its judiciary.

At EU level, the Council had modernised its dialogue on the rule of law on the basis of the Commission's Report. The General Affairs Council had also held a discussion on general trends, and a country-specific discussion on the situation of the rule of law, in a first group of five Member States during the German presidency. The Portuguese Presidency had continued this approach, discussing five other Member States, and the current Slovenian Presidency had committed to continuing the approach, based on the second annual Report. At the European Parliament, the 2020 Rule of Law Report was debated in the plenary session and several committees, on the basis of which a resolution welcoming the Report was adopted. Mr REYNDERS said that he had made virtual visits to twenty national parliaments, and that he intended to organise further visits after the summer. Finally he noted that, in the context of promoting a rule of law culture, the Commission, in

cooperation with the Portuguese Presidency, had co-organised the first conference on the rule of law in Europe, which had brought together policy makers, civil society organisations, European judicial networks, academics and journalists.

Mr REYNDERS then presented the 27 country chapters of the Report, which were structured in exactly the same way as the previous year and covered four key areas: justice systems, the anti-corruption framework, media pluralism and freedom, and other institutional issues linked to checks and balances. The country chapters began with an abstract giving an overview of the main findings under each of the four areas, and covering new developments since the adoption of the first annual Report in September 2020 and follow-up on the issues identified in it that required particular attention. At the end of each country chapter, two annexes presented the list of sources used and the meetings held during the country visit. This was essential to ensure the transparency of the sources used for the Commission's assessment.

Mr REYNDERS then went into greater depth on the 2021 Rule of Law Report's main findings for two of the four pillars under analysis, namely justice systems and checks and balances.

He explained that the pillar on national justice systems examined developments, both positive and negative, relating to the three key parameters of an efficient justice system: independence, quality and efficiency. The Commission's assessment was based on well-established standards, particularly the requirements of EU law, including the case-law of the Court of Justice of the European Union and the European Court of Human Rights and the recommendations of the Committee of Ministers and the Group of States against Corruption (GRECO) within the Council of Europe. The 2021 Justice Scoreboard was also taken into account in the Commission's analyses; these revealed a number of significant trends in the Member States. Mr REYNDERS noted that one trend related to reforms to strengthen key safeguards for judicial independence. These included the creation of national councils for the judiciary, efforts to enhance the powers of existing

councils, and reforms in the system for judicial appointments. The report also found that judicial independence remained a cause for concern in some Member States. In such cases, references to the Court of Justice of the European Union for preliminary rulings, Commission infringement proceedings and judgments by the European Court of Human Rights played a vital role in clarifying the situation. As a result, case-law had developed very dynamically over the period covered by the report. Investment in justice and digitalisation remained a key issue too. Where Member States were already highly digitalised and had appropriate procedural rules in place, their judicial systems were better able to cope with the impact of the pandemic. For that reason, new initiatives to improve digitalisation were already under way in many Member States. Some Member States had also included investments in justice in their national recovery and resilience plans.

As regards other institutional issues related to checks and balances, Mr REYNDEERS said that in most Member States, civil society space remained open. However, civil society organisations faced challenges in several Member States, in particular because the authorities subjected them to financial restrictions or controls or because they lacked adequate protection from physical or verbal violence. With regard to the inclusiveness, quality and transparency of the legislative process, some challenges remained in several Member States, where stakeholders had trouble participating in dialogue on the rule of law. However, the Commission had also observed promising good practices aimed at improving citizen and stakeholder involvement in policymaking. As regards the impact of the COVID-19 pandemic on checks and balances, the report highlighted the importance of scrutiny by parliaments, courts and independent authorities as a counterweight to the extensive powers of the executive branch. Finally, Mr REYNDEERS flagged up recent, worrying developments relating to the principle of primacy of EU law: the supreme and constitutional courts of several Member States had questioned this principle or challenged the authority of rulings by the Court of Justice of the European Union.

Mr REYNDERS concluded by extending his heartfelt thanks to all those who had contributed to preparing the report, pointing out that it was a real team effort that had involved at least 10 Commission Directorates-General plus the Commission representations in all the Member States.

Mr BRETON spoke about the report's findings for the pillar relating to media pluralism and freedom, highlighting their importance for discussions with the European Parliament and the Member States on the subject of European democracy. In particular, he raised concerns about the media's economic situation and journalists' safety. From an economic point of view, the crisis resulting from the pandemic had affected every area of the media. It had revealed that capital was lacking almost everywhere, that the media was controlled by public authorities in some Member States, and that media ownership was concentrated in the hands of a very small number of companies. As regards the independence of the media, it was vital for regulators to be entirely independent, which was not currently the case in many Member States. With regard to journalists' safety, the report highlighted several cases in Europe where journalists had lost their jobs or even their lives. This state of affairs was extremely worrying; a situation like this should never come about. Against this backdrop, Mr BRETON wished to work with Ms JOUROVÁ to put forward, next year, legislation on media freedom to safeguard the media's independence, including through its financial structures.

Finally, Ms JOHANSSON commented on the Rule of Law Report's findings on efforts to fight corruption. On the whole, the Member States had cooperated very well with the Commission's assessment process; this process was crucial for promoting European-level police and judicial cooperation in this field, among other things. Six Member States had scored very highly on the criterion linked to perception of corruption, which was based on a strict methodology. The situation had improved in some Member States in this regard, but had deteriorated in others. The report also looked at other criteria, including national anti-corruption strategies, the legal and institutional anti-corruption framework, and measures to prevent

corruption, focusing on the impact of the health crisis. Ms JOHANSSON noted that in general, the pandemic had heightened the risk of corruption. In her view, this was because of the sharp rise in non-competitive public procurement and the ever greater involvement of organised crime groups in corruption.

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

- general support for the work that had been done and for the idea of examining the situation in each Member State in order to promote checks and balances;
- general support for the methodology applied in the report, which involved using the same criteria, implementing a transparent and inclusive process and analysing a wide range of issues to gain an overview of different aspects of the rule of law;
- the general question of how responsibility for the rule of law was divided between the EU and the Member States;
- a reminder that the justice system was the responsibility of the Member States and that there were differences between Member States' justice systems; the associated need to ensure, on the one hand, that all Member States were treated equally when drafting the Rule of Law Report and, on the other, that the Commission did not overreach its powers; in this connection, doubts raised by some regarding the methodology and specific parts of the report;
- the influence of the rule of law on the movement of capital and the confidence of cross-border investors;
- the importance of promoting a genuine debate on the rule of law within the various institutions at European level, but also in all the Member States, without exception.

The PRESIDENT concluded that the rule of law was a topic of increasingly intense political debate in the EU. This fostered mutual understanding between European and national institutions and made it possible to gain in-depth knowledge of the situation on the ground. The Commission had also initiated a structured dialogue between the highest courts at national and European level to develop a shared vision of the way forward.

Following these presentations, the Commission approved the Communication in COM(2020) 700/3 for transmission to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and, for information, to the national parliaments, together with the staff working documents distributed as SWD(2021) 701/2, SWD(2021) 702/2, SWD(2021) 703, SWD(2021) 704/2, SWD(2021) 705/2, SWD(2021) 706, SWD(2021) 707, SWD(2021) 708, SWD(2021) 709/2, SWD(2021) 710/2, SWD(2021) 711, SWD(2021) 712, SWD(2021) 713/2, SWD(2021) 714/2, SWD(2021) 715, SWD(2021) 716, SWD(2021) 717, SWD(2021) 718, SWD(2021) 719, SWD(2021) 720/2, SWD(2021) 721/2, SWD(2021) 722/3, SWD(2021) 723, SWD(2021) 724/2, SWD(2021) 725, SWD(2021) 726/2 and SWD(2021) 727, the contents of which were noted.

- 9. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE AUTHORITY FOR ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM AND AMENDING REGULATIONS (EU) NO 1093/2010, (EU) 1094/2010, (EU) 1095/2010
(COM(2021) 421 TO 3; SWD(2021) 190; SWD(2021) 191; SEC(2021) 391; RCC(2021) 167)**
- 10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PREVENTION OF THE USE OF THE**

**FINANCIAL SYSTEM FOR THE PURPOSES OF MONEY LAUNDERING
OR TERRORIST FINANCING**

**(COM(2021) 420 AND /2; SWD(2021) 190; SWD(2021) 191; SEC(2021) 391;
RCC(2021) 167)**

**11. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ON INFORMATION ACCOMPANYING
TRANSFERS OF FUNDS AND CERTAIN CRYPTO-ASSETS (RECAST)**

**(COM(2021) 422 AND /2; SWD(2021) 190; SWD(2021) 191; SEC(2021) 391;
RCC(2021) 167)**

**12. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL ON THE MECHANISMS TO BE PUT IN PLACE BY
THE MEMBER STATES FOR THE PREVENTION OF THE USE OF THE
FINANCIAL SYSTEM FOR THE PURPOSES OF MONEY LAUNDERING
OR TERRORIST FINANCING AND REPEALING DIRECTIVE (EU)
2015/849**

**(COM(2021) 423 AND /2; SWD(2021) 190; SWD(2021) 191; SEC(2021) 391;
RCC(2021) 167)**

By way of introduction, Mr DOMBROVSKIS said that already before the pandemic, there had been a number of cases of money laundering involving EU banks and that, in that context, fighting money laundering was as relevant currently as it had been before the health crisis, and indeed even more so since there was evidence that crime and the laundering of its proceeds were on the rise.

He said that the proposed package followed on from the previous year's Action Plan to fight against money laundering and terrorist financing, and stressed that the EU's anti-money laundering rules were already among the toughest in the world but they were not properly enforced or even applied equally across the EU, as was clear from recent scandals. More must therefore be done to shut off remaining loopholes, to remove weak links and to coordinate better between the Member States.

He considered that everyone in both the private and public sectors needed to apply the rules more rigorously and he pointed out that the Commission had already launched many infringement procedures to ensure full transposition and application of the two core directives in the fight against money laundering, namely Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AMLD IV) and Directive (EU) 2018/843 of 30 May 2018, which amended it (AMLD V). However, he considered that it was necessary to go further.

Mr DOMBROVSKIS said that the EU supervisory system was only as strong as its weakest link. That was why an EU-level supervisor, the Authority for Anti-Money Laundering (AMLA), was being proposed that day, which would have strong and direct supervisory powers over the most risky obliged entities. The Authority would not replace national supervisors; rather it would work with them and would also coordinate the supervision of the non-financial sector and of the less risky obliged entities by the national supervisors.

In parallel to stronger EU-level supervision, the EU also needed to strengthen its rules and tackle remaining weaknesses so that the EU rules became more harmonised and less subject to diverging interpretation between the Member States. The proposed Regulation would make the rules become directly applicable, but the provisions that required national transposition would be left in a Directive.

He welcomed the fact that, as part of the revamped rules, a coordination and support mechanism would be put in place to support the national Financial Intelligence Units (FIUs), which played a crucial role in detecting suspicious transactions. He added that it was proposed to bring all transfers of crypto-assets under the new EU rules.

Mr DOMBROVSKIS recalled, finally, that a new approach to third countries and to money laundering and terrorism financing threats from outside of the EU was being proposed.

He concluded by emphasising that a strong system would be established to protect the EU's financial system, with a harmonised approach at EU level, but also a more granular, proportionate and risk-sensitive approach.

Ms McGUINNESS said that an EU-wide limit on large cash payments was being introduced for the first time, pointing out that two-thirds of the Member States already had their own limits. She considered that it was a necessary measure and said that it was proposed to set the threshold at EUR 10 000. She pointed out that organised crime used large cash payments to conceal the illicit source of their funds by buying high value goods. This measure would make that harder for them.

She stressed at the same time that that did not mean doing away with cash; cash would remain extremely important, particularly for financial inclusion, and it was a particularly sensitive issue in some Member States. In summary, cash would continue to be king, but it would also be clean, and the Member States that had lower limits would be able to keep those lower limits.

She noted that cash was the old way to launder money and crypto-currency was the new way. The proposed reforms therefore included transparency for crypto-transfers, bringing them into line with money transfers, as well as a ban on anonymous crypto-wallets, just as anonymous bank accounts had already been banned.

With regard to third countries, she said that some tweaks were proposed and that the Commission would be able to list risky third countries autonomously.

Ms McGUINNESS concluded by stressing that the Commission would be judged according to what it did to combat money laundering, which now accounted for almost 1% of the EU's GDP, and she welcomed the fact that over time, as it developed its operations, the new authority would gain in know-how.

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

- full support for the proposed measures and the importance of ceaselessly combating organised crime in all its forms, including terrorist financing;
- a reminder of the need, in order to combat money laundering effectively, to use all competences at all relevant levels, for example with regard to inquiries, investigations and on-the-spot checks, including those of Europol;
- the essential and exemplary role to be played by the newly created decentralised agency and, in that context, the satisfaction expressed with the powers proposed for the Commission in relation to the budget, governance and human resources of the future AMLA;
- a reminder that in the autumn the Commission would propose new rules and procedures for existing decentralised agencies, which would subsequently require amendments to their founding regulations;
- the wish that the seat of the new agency be chosen on the basis of objective criteria, such as a good connection to a European transport network or the presence of infrastructure in the field of education, which would then enable the agency to be attractive in terms of human resources and efficient in its day-to-day operation;
- with regard to third countries, the particular attention to be paid to the issue of ‘tax havens’ in the criteria for drawing up lists and a reminder of the economic consequences for some European operators of the inclusion of third countries on a given list; the value of the possibility of a more targeted and autonomous approach towards third countries, including in the EU’s neighbourhood.

Following these presentations, the Commission adopted the proposals for a Regulation and the proposal for a Directive in COM(2021) 421/3, COM(2021) 420/2, COM(2021) 422/2 and COM(2021) 423/2, respectively, for transmission to Parliament, the Council, the European Central Bank, the European Economic and Social Committee, 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 distributed as SWD(2021) 190, SWD(2021) 191 and SEC(2021) 391, the contents of which were noted.

13. RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS FOR AN AGREEMENT BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART, IN RESPECT OF GIBRALTAR

(COM(2021) 411 AND /2; RCC(2021) 165)

At the invitation of the PRESIDENT, Mr ŠEFČOVIČ presented to the College the draft mandate authorising the Commission to negotiate an agreement with the United Kingdom of Great Britain and Northern Ireland on the British Overseas Territory of Gibraltar. The negotiations would be conducted on the basis of the Council's negotiating directives.

He stated, first of all, that the Trade and Cooperation Agreement between the European Union and Euratom, of the one part, and the United Kingdom, of the other part, which had applied provisionally since 1 January 2021 and entered into force on 1 May 2021, was not applicable to Gibraltar and had no effects in that territory. He went on to point out that, as early as 2018, the European Council had supported the idea of a separate agreement between the Kingdom of Spain and the United Kingdom concerning Gibraltar and that, since then, the two countries had reached an understanding on a possible framework for an agreement. On 31 December 2020, Spain had asked the Commission to start negotiating the agreement at EU level.

The Commission had stated on several occasions that it stood ready to accommodate Spain's request, provided that it was compatible with EU law and interests. This

proposal was a legal translation of the political commitment made to Spain.

Mr ŠEFČOVIČ continued his presentation by focusing on two aspects.

First, as regards the movement of persons, he reminded the meeting of Spain's concern on checks at the external land border between Spain and Gibraltar. He said that Spain's red line followed an initial proposal to abolish the fence and install control facilities at the external land border, but that the approach finally adopted in this proposal guaranteed 'equivalent protection' of the external land border and the Schengen area as a whole.

He then spoke about three key elements, namely (i) that the objective of the agreement was to abolish the current physical structures while maintaining the principle that Gibraltar was not part of the Schengen area or the customs union, (ii) that control and surveillance of the external borders would be carried out at the port, airport and in Gibraltar waters by Spain, in accordance with the relevant EU rules, and (iii) that border checks and surveillance carried out by Spain would be complemented by other specific cooperation arrangements ('safeguard measures') to ensure the security of the Schengen area in an equivalent manner without internal border controls. He referred to several examples in this regard, such as the Dublin Regulation, the Prüm Treaty, short-stay visas for Gibraltar in accordance with applicable EU rules, rules on the exchange of operational information and possibly other safeguard measures as an alternative to the Schengen Information System.

Concluding on this aspect, he reminded the College that, in accordance with the negotiating directives, these measures would require a targeted amendment to the Schengen Borders Code.

Secondly, as regards the free movement of goods, Mr ŠEFČOVIČ said that Spain recognised that, for the removal of the border, Gibraltar would have to be fully integrated into the internal market, not least in order to maintain equal treatment between the Member States. He then listed the consequences of that measure by referring to (i) the full application, in Gibraltar and in the territory of Gibraltar, of

the EU *acquis* relating to the single market for goods, (ii) the implementation of a customs union established between the EU and the United Kingdom in respect of Gibraltar, and (iii) the responsibility of the Spanish authorities for controlling the external customs border of Gibraltar.

On the same subject, he spoke of the need for the EU to supervise the implementation and functioning of the prospective agreement and also stressed the need for administrative cooperation and mutual administrative assistance between the Member States, including in tax and customs matters. Finally, he recalled the crucial role of the European institutions, including the Court of Justice of the European Union, in ensuring the implementation of the proposed measures.

The next step would be to get the Council to approve the mandate to authorise the start of negotiations with the United Kingdom. That mandate was demanding and covered a number of sensitive issues, and he felt that some aspects of the safeguard measures would be difficult for the UK. He also informed the College of a recent telephone conversation with the UK Foreign Minister on the matter.

He stressed that it would be important to defend the EU's red lines and that the margin of negotiation provided by this mandate was therefore very narrow. He assured Members that they would be kept updated on the progress of the negotiations once the Council had approved the mandate.

Mr ŠEFČOVIČ concluded his presentation by thanking Mr DOMBROVSKIS, Mr SCHINAS, Mr GENTILONI, Mr REYNDERS, Ms JOHANSSON, Ms VĂLEAN and Mr SINKEVIČIUS, and their respective departments, for their fruitful cooperation and work in finalising the text.

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

- the prospective agreement between the EU and the United Kingdom fully respected the legal position of Spain as regards sovereignty and jurisdiction over Gibraltar;
- it was important to ensure the proportionality of the role played by the European Border and Coast Guard Agency (Frontex);
- it was up to Spain to protect the Schengen area at its external border and Spain was responsible for that border vis-à-vis the other Member States, and, in this context, any reference to the Frontex Regulation would necessarily have to reflect the fact that responsibility for requesting such assistance lay with the Spanish authorities.

Following these presentations, the Commission approved the recommendation for a Council Decision in COM(2021) 411/2, for transmission to the Council and, for information, to the European Parliament and the national parliaments.

14. OTHER BUSINESS

14.1. COMMISSION RESPONSE TO A RESOLUTION BY THE EUROPEAN PARLIAMENT PURSUANT TO ARTICLE 225 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (SP(2021) 508)

Mr BRETON informed the College that, on 19 May 2021, the European Parliament had adopted a resolution on the basis of Article 225 of the Treaty on the Functioning of the European Union (TFEU), asking the Commission to submit legislative proposals to address the challenges facing sport event organisers in the digital environment (see also point 4 of these Minutes).

He began by explaining that the European Parliament had asked the Commission to carry out an impact assessment and to present a legislative

proposal to combat the piracy of live sport events, by proposing proportionate solutions facilitating the prompt removal of illegal live sport broadcasts.

This was not a new issue: the Commission had undertaken to assess the issues related to illegal online broadcasts of sport events with the adoption of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market.

Mr BRETON also pointed out that some of the requests in the resolution overlapped with certain provisions of the proposal for a Digital Services Act, while others called for the further harmonisation and strengthening of enforcement remedies provided in existing EU legislation. Accordingly, the Commission's actions should build on the horizontal rules arising from the proposed Digital Services Act.

He also emphasised the complexity of the matter and felt it necessary to carry out an in-depth analysis of both the problems posed and the available remedies. In this regard, the Commission would first need to finalise the study on the existing remedies against the online piracy of sport content, launched following the statement made upon the conclusion of negotiations on the 2019 Directive on copyright in the Digital Single Market.

On this basis, he proposed that the Commission inform the European Parliament that, upon the conclusion of the assessment mentioned above, the Commission would announce concrete measures during the first half of 2022. These measures would focus on the piracy of live sport events, while also taking into account the live streaming of other types of content.

In conclusion, Mr BRETON emphasised that, while the measures should complement legislation on digital services in a coherent manner, they should also respond in the most appropriate way to the recommendations of the European Parliament.

The Commission took note of this information and approved the draft reply annexed to note SP(2021) 508, which Mr ŠEFČOVIČ was instructed to notify, on its behalf, to Mr David SASSOLI, President of the European Parliament.

14.2. LATEST DEVELOPMENTS IN EXTERNAL RELATIONS

Mr BORRELL reported to the College on the latest developments in the EU's external relations.

He began by referring to the visit the day before to the Turkish community on Cyprus by the President of Turkey, Recep Tayyip ERDOĞAN and the statement made by the leader of that community on the military territory of Varosha, the closed area of Famagusta on Cyprus. He said that the matter would be discussed by the Security Council on 21 July.

Mr BORRELL then reported that, on 19 July, he had hosted the second edition of the Belgrade – Pristina Dialogue, under the new configuration with the participation of Aleksandar VUČIĆ, the President of Serbia, and Albin KURTI, the Prime Minister of Kosovo*. The meeting had been very difficult and had demonstrated that the two sides were very far apart, but the parties had managed to agree to continue the dialogue.

He also spoke about his attendance the week before at a Conference on Connectivity in Tashkent, which was a good opportunity to position the EU as a geopolitical actor and demonstrate its commitment to connectivity with Central Asia, South Asia, China and beyond. Afghanistan had also been the focus of discussions, as increasing instability there was already affecting neighbouring countries and could undermine efforts to enhance connectivity

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

and economic development in the region. In the margins of the conference, he had spoken with the President of Afghanistan, the Prime Minister of Pakistan, the President of Uzbekistan and the Foreign Ministers of China, India, Tajikistan and Uzbekistan on how a deterioration of the situation in Afghanistan and further regional stability could be prevented. He would visit Doha at the end of the month to bring together a group of countries concerned with preserving stability in Afghanistan.

Mr BORRELL concluded his presentation by summarising the political situation in Latin America, in particular Peru, Brazil, Chile, Colombia and Venezuela.

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

- the issue of respect for United Nations Security Council resolutions, which was essential for all Cypriots;
- the Commission's role in preparing a declaration on behalf of the European Union calling upon the Chinese authorities to take immediate measures against malicious cyber activities committed from China;
- the situation on the Lithuania-Belarus border, where migrants from various countries outside Europe were gathered and were being actively directed towards Lithuanian territory by the Belarusian authorities; the assistance to Lithuania, provided on the ground by Frontex and the European Asylum Support Office, and the possibility of alleviating the situation with voluntary returns.

The Commission took note of this information.

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At this final meeting of the first half of the year, the PRESIDENT thanked the

members of the College warmly for the team spirit they had shown in recent months and for their efforts and successes, in both the Commission's reactions to events and its own initiatives, for example with the Green Deal for Europe and the Recovery and Resilience Facility.

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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 ended at 14.28.