

PV(2017) 2197 final

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Brussels, 8 February 2017

TEXTE EN

MINUTES

of the 2197th meeting of the Commission held in Brussels (Berlaymont) on Wednesday 25 January 2017 (morning)

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Single sitting: Wednesday 25 January 2017 (morning)

The sitting opened at 9.04 with Mr JUNCKER, President, in the chair.

Present:

Mr JUNCKER President

Mr TIMMERMANS First Vice-President

Ms MOGHERINI High Representative /

Vice-President

Mr ANSIP Vice-President
Mr DOMBROVSKIS Vice-President
Mr KATAINEN Vice-President

Mr OETTINGER Member

Mr HAHN Member Items 12/13 (in part)

Ms MALMSTRÖM Member
Mr MIMICA Member
Mr ARIAS CAÑETE Member
Mr VELLA Member
Mr ANDRILIK ALTIS Member

Mr ANDRIUKAITIS Member
Mr AVRAMOPOULOS Member
Ms THYSSEN Member
Mr MOSCOVICI Member
Mr STYLIANIDES Member
Mr HOGAN Member
Ms BULC Member

Ms BIEŃKOWSKA Member
Ms JOUROVÁ Member
Mr NAVRACSICS Member
Ms CREŢU Member
Ms VESTAGER Member
Mr MOEDAS Member
Sir Julian KING Member

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Absent:

Mr ŠEFČOVIČ

Vice-President

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

Mr BIERVERT Deputy Chef de cabinet to Mr ŠEFČOVIČ

The following also sat in:

Mr SELMAYR Chef de cabinet to the PRESIDENT

Mr ROMERO REQUENA Director-General, Legal Service

Mr PESONEN Director-General, DG Communication

Mr SCHINAS Head of the Spokesperson's Service and

Chief Spokesperson of the Commission

Ms METTLER Head of the European Political Strategy

Centre

Ms MARTÍNEZ ALBEROLA Deputy Chef de cabinet to the PRESIDENT

Mr GRASSI Adviser in the PRESIDENT's Office Items 1 to 11

Mr SHOTTER Chief adviser in the PRESIDENT's Office Items 8 to 11

Ms SILLAVEE PRESIDENT's Office

Ms BALTA A member of Mr TIMMERMANS's staff Items 1 to 11

Ms PANZETTI Chef de cabinet to Ms MOGHERINI Items 8 to 10

Mr KARNITSCHNIG Chef de cabinet to Mr HAHN Items 1 to 12/13 (in

part)

Ms SCHMITT Chef de cabinet to Mr AVRAMOPOULOS Items 8 to 11

Ms ANDREEVA Commission Spokesperson's Service

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

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1. AGENDAS

(OJ(2017) 2197/FINAL; SEC(2017) 54/FINAL/2)

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(2017) 2197)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 23 January.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2195TH MEETING OF THE COMMISSION (10 JANUARY) AND THE MINUTES OF THE 2196TH MEETING (17 JANUARY)

 $(PV(2017)\ 2195; PV(2017)\ 2195, 2^{ND}\ PART)$

The Commission approved the minutes of its 2195th meeting, and decided to hold over for one week approval of the minutes of its 2196th meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2017) 7)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 20 January (RCC(2017) 7).

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It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Trilogue

(item 3.1 of the IRG record)

 Amendment of Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets (Regulation) – KUMPULA-NATRI report – 2016/0185 (COD)

The Commission took note of the information in SI(2017) 12 and /2, further to the technical information in the annex to note SI(2017) 3, which the Commission had approved on 17 January.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

ii) Programming of Council business

(SI(2017) 13)

The Commission took note of the information in SI(2017) 13 on the Council meetings between 26 January and 8 February.

4.3. RELATIONS WITH PARLIAMENT

iii) Non-legislative dossier

(item 5.1 of the IRG record)

Article 5(2) of Regulation (EC) 715/2007

Committee of inquiry into Emission Measurements in the Automotive Sector (EMIS) – Draft reply of the Commission to a letter from Ms VAN BREMPT, Chair of the EMIS Committee, dated 6 January 2017 – Interpretation guidelines on the defeat devices and exceptions under

The Commission approved the line set out in SP(2017) 29, and took note of the draft reply of the Commission in the annex thereto.

iv) Results from Parliament's January part-session

(SP(2017) 10; SP(2017) 11)

The Commission took note of the information in SP(2017) 10 and SP(2017) 11 on the proceedings of the part-session of Parliament held in Strasbourg from 16 to 19 January.

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

(SP(2017) 12)

The Commission decided to empower the Members of the Commission responsible for the sectors in question, in agreement with the PRESIDENT and Mr TIMMERMANS and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2017) 12, drawn up following the part-session of Parliament of 16 to 19 January, the contents of which were noted.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2017) 55 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 and 20 January.

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5.2. EMPOWERMENT

(SEC(2017) 56 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 and 20 January.

5.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2017) 57 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 16 and 20 January, as archived in Decide.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2017) 58/2)

The Commission took note of the sensitive written procedures for which the time limit expired between 23 and 27 January and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 23 January.

- 6. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PROGRESS IN BULGARIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (COM(2017) 43 AND /2; SWD(2017) 24 AND /2)
- 7. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PROGRESS IN ROMANIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (COM(2017) 44 AND /2; SWD(2017) 25 AND /2)

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Mr TIMMERMANS presented jointly the reports on progress made by Bulgaria, on the one hand, and by Romania, on the other, under the Cooperation and Verification Mechanism set up upon the accession of the two countries to the European Union in 2007. The aim of the mechanism was to enable both of these Member States to address the shortcomings identified in the reform of their judicial systems and in the measures to fight corruption and organised crime, using clearly defined benchmarks.

He explained that the reports reviewed the progress made by Bulgaria and Romania in these different areas over the last 10 years and showed that the two countries had made real and very positive progress, thus illustrating the successful functioning of the Cooperation and Verification Mechanism. However, he noted that, as things stood, the process needed to continue until the Commission could conclude that the progress made was irreversible, which was not the case as yet.

He emphasised the very important concept of irreversibility included in that year's reports, the aim of which was to ensure that the Member State in question could not reverse legislative and institutional measures taken which fully guaranteed the rule of law, and thereby to provide certainty for its citizens.

Mr TIMMERMANS concluded by reminding those present of the objective announced by the PRESIDENT to finalise the cooperation and verification process applied to Bulgaria and Romania before the end of the current Commission's term of office.

Ms JOUROVÁ, as well as Mr AVRAMOPOULOS, welcomed the signal given that day to the new Bulgarian and Romanian governments as a result of the new approach, which not only involved setting clear objectives but set a specific end date for the process and offered their citizens the prospect of real legal certainty. They both pointed to the significant reforms implemented in the last 10 years by the two Member States in question and felt that the Commission must now help the Bulgarian and Romanian authorities make the reforms irreversible. They hoped that the right conditions would be in place by the end of the current Commission's term

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of office to enable it to bring the mechanism to a conclusion. Ms JOUROVÁ referred to the fact that once the mechanism was brought to a conclusion, the EU had other permanent tools in place, such as the EU Justice Scoreboard, to ensure that Member States' judicial systems were working correctly.

The Commission approved the reports in COM(2017) 43/2 and COM(2017) 44/2 for transmission to Parliament and the Council and, for information, to the national parliaments, together with staff working documents SWD(2017) 24/2 and SWD(2017) 25/2 respectively, the contents of which were noted.

8. JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL – MIGRATION ON THE CENTRAL MEDITERRANEAN ROUTE – MANAGING FLOWS, SAVING LIVES

(JOIN(2017) 4; RCC(2017) 10)

9. PROPOSAL FOR A COUNCIL IMPLEMENTING DECISION SETTING OUT A RECOMMENDATION FOR PROLONGING TEMPORARY INTERNAL BORDER CONTROL IN EXCEPTIONAL CIRCUMSTANCES PUTTING THE OVERALL FUNCTIONING OF THE SCHENGEN AREA AT RISK

(COM(2017) 40 AND /2; RCC(2017) 10)

10. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT,
THE EUROPEAN COUNCIL AND THE COUNCIL ON THE
OPERATIONALISATION OF THE EUROPEAN BORDER AND COAST
GUARD

(COM(2017) 42 TO /3; RCC(2017) 10)

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Mr TIMMERMANS presented the Joint Communication on migration on the Central Mediterranean route put before the Commission for approval. The Communication was the Commission's input for the informal meeting of Heads of State or Government of the European Union to be held in Valletta on 3 February (point 8 of these minutes).

He began by stressing that the Communication was not a migration pact or a replica of the EU-Turkey agreement on migrants, but rather it was a series of operational measures designed to be implemented in the coming months in order to better manage flows of migrants using the Central Mediterranean route. The envisaged measures set realistic objectives given the efforts needed in the long term, but the Commission's primary motivation was to put an end to the tragic experiences of migrants at sea and, in order to achieve this, to break the business model of the people smugglers and traffickers. For that reason, he emphasised the moral dimension of the Commission's approach.

He indicated that the measures drawn up in close cooperation with Ms MOGHERINI took account of the political situation and difficult security conditions in Libya and the North African countries. He felt that the measures would be effective only if the EU continued with its efforts to implement, as soon as possible, the decisions adopted in the last two years to manage a migration crisis that was far from being resolved. He added that the measures would complement and support the efforts made by the Italian and Maltese governments regarding migrant flows on the Central Mediterranean route.

However, Mr TIMMERMANS pointed out that none of the proposed measures could be deployed without the agreement of Libya's national unity government and the involvement of the International Organisation for Migration and the United Nations High Commissioner for Refugees. Furthermore, he stressed how important it was for Member States to contribute fully to the strategy implemented in a spirit of shared responsibility and solidarity.

Lastly, he pointed out that while Libya had to be at the heart of the Union's concerns in the Mediterranean region, Libya should itself prevent any displacement of the migratory routes that would have a negative impact on the neighbouring countries and ensure it respected fundamental rights and international law at all times.

Ms MOGHERINI felt it was very important to stress in any communication with the public or the media that the Union wanted to prevent migrant tragedies, whether they happened in the middle of the sea or close to the Libyan coast as was currently the case, and to convey that message in cooperation with the International Organisation for Migration and the non-governmental organisations working in the region. She did not believe there was a silver-bullet solution and felt that all aspects of the migration crisis should be dealt with, including the political stabilisation of Libya and the development of long-term cooperation with the countries of Africa with regard to migration. Libya should not just be seen from the migration point of view or as just an access route towards Europe. It should be seen as a country with which it was important to establish long-term cooperation in a whole range of fields.

In operational terms, Ms MOGHERINI argued in favour of stepping up the creation of a Libyan Coast Guard financed by the Union so that these guards would have the resources necessary to carry out both their humanitarian and economic duties by ensuring boats were used for fishing and not for people trafficking. She added to this the need to better secure the southern border of Libya, in cooperation with Niger and Tunisia in particular. Lastly she explained that the International Organisation for Migration and the United Nations High Commissioner for Refugees should be more involved in managing the situation of the many migrants currently trapped in Libya, often in appalling conditions. On this point, she was of the opinion that if Libya implemented an assisted voluntary return policy and the Union implemented a refugee resettlement policy, it should be possible to reduce the urgency of the situation of those migrants in the coming months.

Mr AVRAMOPOULOS highlighted the strategic importance of the proposed

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measures, providing they were implemented quickly and in their entirety, in order to reduce significantly the illegal migrant flows that took the central Mediterranean route. He also pointed out that if these measures were successful, they would facilitate the discussions between the Member States on the reception of refugees, move forward on the changes in the Common European Asylum System and improve the effectiveness of the return policy.

He went on to mention the proposal for a Council Implementing Decision on the prolongation of the temporary internal border controls established by five Member States in 2015 (item 9 of these minutes). He pointed out that although the main objective was to remove these controls as soon as possible, the situation on the ground meant this was not yet possible. He explained that the controls carried out were considered to be proportionate and in compliance with the applicable rules, but that the Commission encouraged the Member States concerned to use alternative methods such as checks in the area close to the border rather than at the border itself. He also noted that the checks carried out at internal borders on the basis of the current recommendation had not given rise to particular difficulties for citizens and hauliers.

Finally, Mr AVRAMOPOULOS described the progress made over the previous three months with regard to the making of the European Border and Coast Guard operational. It was one of the central elements of the Union's strategy for securing its external borders and better managing the migratory flows (item 10 of these minutes). He pointed out that the different reserves in terms of both human and technical resources now available would underpin the action of the Member States in rapid intervention operations and in the implementation of decisions to return migrants.

He also highlighted the importance of the vulnerability assessment carried out by the European Border and Coast Guard, which should make it possible to identify the main weaknesses in the system for protecting the Union's external borders.

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Lastly, he said that the European Border and Coast Guard's mandate had been extended with regard to returns and cooperation with third countries.

To conclude his presentation, Mr AVRAMOPOULOS pointed out that the European Border and Coast Guard did not encroach on the Member States' responsibilities and competencies, but rather it was there to complement and reinforce them for an effective implementation of the Union's overall strategy.

In the course of the brief discussion that followed, the Commission stressed the importance of explaining properly to the public and the media that the measures proposed by the Union with regard to the Central Mediterranean migration route aimed to put an end to the tragedies that the migrants were exposing themselves to at sea and to ensure that those currently trapped in Libya would be treated in accordance with the international law governing asylum and the protection of their fundamental rights.

Ms MOGHERINI closed the discussion by referring again to the need to encourage the strengthening of the institutions in Libya and by Libya and, consequently, the stabilisation of the country by cooperating closely in the immediate future with the main municipalities in the country without weakening the institutions already in place. She believed it was necessary to deploy diplomatic efforts in this respect while taking account of the interests of the countries bordering Libya.

Following this discussion the Commission:

- approved the joint communication and the report in JOIN(2017) 4 and COM(2017) 42/3, for transmission to Parliament, the European Council and the Council and, for information, to the national parliaments;
- adopted the proposal for a Council Implementing Decision set out in COM(2017) 40/2, for transmission to the Council and, for information, to the European Parliament and the national parliaments.

11. FOURTH PROGRESS REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL TOWARDS AN EFFECTIVE AND GENUINE SECURITY UNION (COM(2017) 41 TO /4; RCC(2017) 10)

Sir Julian KING very briefly presented the Commission's fourth progress report towards an effective and genuine security union. The report examined the measures taken and also the developments in the field of security, the need for which was highlighted by the Berlin attack in December 2016. It was necessary, in particular, to ensure the interoperability of the Member States' information systems and facilitate access to the data contained in them for the law enforcement and border control measures to be deployed on the ground. The report also covered the work carried out on protecting soft targets, and on the highly topical issues of cyber security, protection of privacy in electronic communications and data retention.

He highlighted the fact that the report was a result of team work and thanked the cabinets and Commission departments that had taken part for their commitment, pointing out that over 20 Commission Directorates-General were now involved.

Lastly, Sir Julian KING reported that in agreement with Mr OETTINGER, the Commission's head of security was willing to offer individual information sessions to Members of the Commission who so requested, as some Commissioners had expressed their wish for such sessions at a previous meeting.

The Commission approved the report in COM(2017) 41/4, for transmission to Parliament, the European Council and the Council and, for information, to the national parliaments.

12. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND

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SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – THE ROLE OF WASTE-TO-ENERGY IN THE CIRCULAR ECONOMY (COM(2017) 34 AND /2; RCC(2017) 9)

13. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ON THE IMPLEMENTATION OF THE CIRCULAR ECONOMY ACTION PLAN (COM(2017) 33 AND /2; RCC(2017) 9)

Mr KATAINEN briefly presented the initiatives proposed that day on the circular economy, with the communication on the recovery of energy from waste and the report on the implementation of the circular economy action plan, accompanied by a financing platform. On a general note, he stressed the importance of the circular economy in modernising the European economy, since it put Europe's economy decisively on the path of sustainable development and opened up numerous new sources of growth and employment.

He began by explaining that the aim of the Commission's communication on the recovery of energy from waste was to send a clear political signal to the Member States when they reviewed their waste management plans, in particular the role played by incineration. The communication indicated how to bring these plans into line with the recycling and landfill targets set out in EU legislation on waste, and would enable the Member States to gear investment towards the most efficient technologies.

He then turned to the report on the implementation of the circular economy action plan, according to which the Union was on the right track. He welcomed this, particularly as further significant concrete steps would be taken in 2017, for example with the Plastic Strategy. He also highlighted the message addressed to the co-legislators urging them to rapidly adopt the Commission's proposals on

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management of waste and fertiliser.

Lastly, Mr KATAINEN gave an overview of the platform designed by the Commission, together with the European Investment Bank, to encourage and develop the financing of projects in the circular economy. Its aim was to bring those with ideas and those with the means of financing them round the same table, so as to bring together stakeholders, improve the advice provided and suggest financing possibilities.

Mr VELLA welcomed the significant progress made in the last two years across a whole range of areas with a view to building a circular economy in the Union. He referred to the legislative proposals being drawn up that the Commission would be presenting in 2017, which included a proposal on the use of water resources.

As regards the communication, he stressed that its aim was precisely to ensure that the recovery of waste contributed to the objectives of the circular economy. With this view in mind, it made the case for investment guided by the waste hierarchy and supported measures that would make it possible to implement the Energy Union strategy and the objectives of the agreement concluded in Paris at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) in December 2015.

Following these brief presentations, the Commission, on a proposal from the PRESIDENT, confirmed the formal adoption of the decisions in COM(2017) 34/2 and COM(2017) 33/2 by finalisation written procedure, the deadline for which was set at 10.00 on Thursday 26 January 2017 (PE/2017/300 and PE/2017/314).

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The meeting closed at 9.39.