



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2014) 2071 final

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

Brussels, 29 January 2014

TEXTE EN

MINUTES

of the 2071st meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 14 January 2014

(afternoon)

PV(2014) 2071 final

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

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Single sitting: Tuesday 14 January 2014 (afternoon)

The sitting opened at 13.08 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President
Ms REDING	Vice-President
Mr ALMUNIA	Vice-President
Mr KALLAS	Vice-President
Ms KROES	Vice-President
Mr TAJANI	Vice-President
Mr ŠEFČOVIČ	Vice-President
Mr POTOČNIK	Member
Mr PIEBALGS	Member
Mr BARNIER	Member
Ms VASSILIOU	Member
Mr ŠEMETA	Member
Mr DE GUCHT	Member
Ms DAMANAKI	Member
Mr OETTINGER	Member
Mr HAHN	Member
Ms HEDEGAARD	Member
Mr FÜLE	Member
Mr ANDOR	Member
Ms MALMSTRÖM	Member
Mr CIOLOŞ	Member
Mr BORG	Member
Mr MIMICA	Member

Absent:

Baroness ASHTON	High Representative/ Vice-President
Mr REHN	Vice-President
Ms GEOGHEGAN-QUINN	Member
Mr LEWANDOWSKI	Member
Ms GEORGIEVA	Member

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

Ms CASTAGNOLI	Adviser in Baroness ASHTON's Office
Ms JERN	A member of Mr REHN's staff
Mr SUTHERLAND	A member of Ms GEOGHEGAN- QUINN's staff

The following also sat in:

Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office
Mr ROMERO REQUENA	Director-General, Legal Service
Ms AHRENKILDE HANSEN	Commission Spokeswoman
Mr THEBAULT	Head of the Bureau of European Policy Advisers
Mr KLAUS	A member of the PRESIDENT's staff
Mr BIERVERT	Deputy Chef de cabinet to Mr ŠEFČOVIČ

Secretary: Ms DAY, Secretary-General, assisted by Ms COLLOMP and Ms TOBER, administrators in the Secretariat-General.

1. AGENDAS

(OJ(2014) 2071/FINAL; SEC(2014) 41/2)

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(2014) 2071)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 13 January.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 2070TH MEETING
(18 DECEMBER 2013)**

(PV(2013) 2070; PV(2013) 2070, PART II)

The Commission approved the minutes of its 2070th meeting.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED (SEC(2013) 685 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 December 2013 and 10 January 2014.

4.2. EMPOWERMENT (SEC(2013) 686 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 December 2013 and 10 January 2014.

4.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2013) 687 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 16 December 2013 and 10 January 2014, as archived in e-Greffe.

4.4. SENSITIVE WRITTEN PROCEDURES (SEC(2013) 688 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 13 and 17 January and of the 'finalisation' written procedures initiated following the weekly meeting of Chefs de cabinet on 13 January.

5. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2014) 42/2)

ADMINISTRATIVE MATTERS
(PERS(2014) 1/2)

**5.1. SECRETARIAT-GENERAL – SELECTION PROCEDURE FOR THE
POSTS OF EUROPEAN DATA PROTECTION SUPERVISOR AND
ASSISTANT SUPERVISOR**
(PERS(2013) 104 TO /6)

The Commission noted the procedure followed, as set out at point 1 of PERS(2014) 1/2, and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

- not to draw up a list of candidates in accordance with Article 42 of Regulation (EC) 45/2001;
- to propose to Parliament and the Council to close ongoing selection procedure COM/2013/10338 for the posts of European Data Protection Supervisor and Assistant Supervisor with a view to a new publication;
- to ask the Secretariat-General to communicate these decisions to Parliament and the Council.

These decisions would take effect immediately.

**5.2. DG DEVELOPMENT AND COOPERATION - EUROPEAID -
INTERNAL, INTERINSTITUTIONAL (AT GRADE AD14/15) AND
EXTERNAL (AT GRADE AD14 – EU/28) PUBLICATION OF THREE
DIRECTOR POSTS
(PERS(2014) 2/2; PERS(2014) 3/2; PERS(2014) 4/2)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr FÜLE and Mr PIEBALGS, the Commission decided to authorise, under Article 29(1)(a)(i) and (iii), Article 29(1)(b) and Article 29(2) of the Staff Regulations, the internal and interinstitutional publication (at grade AD14/15) and external publication (at grade AD14– EU/28) of the vacancy notices for the posts of Director of the Directorates 'Human and Society Development', 'East and Southern Africa and ACP Coordination' and 'Asia, Central Asia, Middle East/Gulf and Pacific' in DG Development and Cooperation - EuropeAid in PERS(2014) 2/2, PERS(2014) 3/2 and PERS(2014) 4/2 respectively.

These decisions would take effect immediately.

**5.3. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF
SHORTLISTS OF CANDIDATES FOR THE POSTS OF HEAD OF
DELEGATION TO BANGLADESH, IVORY COAST, SENEGAL,
ZIMBABWE, GEORGIA AND THE REPUBLIC OF TAJIKISTAN
(PERS(2014) 5; (PERS(2014) 6; (PERS(2014) 7; (PERS(2014) 8;
(PERS(2014) 9; (PERS(2014) 10)**

The Commission took note of the information at point 3 of PERS(2014) 1/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the lists of candidates in PERS(2014) 5, PERS(2014) 6, PERS(2014) 7, PERS(2014) 8, PERS(2014) 9 and PERS(2014) 10 respectively, for the posts of Head of the European Union Delegations to Bangladesh, Ivory Coast, Senegal and Zimbabwe (at grade AD13-14/AD13)

and to Georgia and the Republic of Tajikistan (at grade AD9-14/AD12); these lists would serve as a basis for the competent authority of the European External Action Service to make the final appointments.

These decisions would take effect immediately.

6. INTERINSTITUTIONAL RELATIONS

(RCC(2014) 1)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 10 January (RCC(2014) 1).

It paid particular attention to the following points.

6.1. LEGISLATIVE MATTERS

i) Ordinary legislative procedure

(point 1.2 of the IRG record)

Dossiers at Parliament first reading

- Harmonisation of the laws of Member States relating to the making available on the market of radio equipment (Directive) – WEILER report – 2012/0283 (COD)

The PRESIDENT prefaced his remarks by saying that the matter submitted to the Commission for discussion that day was of an institutional nature since it concerned the division of powers between the European institutions in the context of implementing Union legislation.

He reminded that under the Treaty on the Functioning of the European Union

(TFEU) and Article 291 of this, implementation of legislation at Union level was essentially the responsibility of the Commission, under the control of the Member States only, in the context of what was known as comitology. He pointed out that the Parliament did not have any implementing powers and thus played no part in comitology but, like the Council, it was informed of the committees' work by the Commission, essentially by means of the comitology register.

He noted that, in the case of the proposal for a Directive on the harmonisation of the laws of Member States relating to the making available on the market of radio equipment, and on three other occasions in the recent past, the Council had extended the role of the committee set up under the comitology arrangements by introducing a provision to turn it into a kind of experts' group. He underlined that, as a result, the Commission was forced to discuss issues in the committee that it would normally only deal with in experts' groups set up at its own initiative.

He added that, in turn, for the European Parliament, had asked to take part in the experts' groups meetings. This way he explained the compromise reached, in the form of a recital, stating that, in line with practice, Parliament could be invited to such meetings when matters other than implementation or infringements were discussed.

The PRESIDENT said that the measure extending the committee's role to an experts' group's role and the recital on Parliament's participation in those meetings created confusion between the Rules of Procedure and the powers of the institutions in the implementation process. He considered that it was in the interest of the Commission, but also and above all in the general interest, to have clear rules of procedure under which each institution could assume its responsibilities in full transparency and independence. Furthermore, this would meet the need for greater efficiency, which was particularly important

for the Commission in view of the proliferation of experts' groups set up by the legislator, the establishment of which should in fact fall within the institutional remit of the Commission.

Having set out the terms of the discussion, the PRESIDENT said that, in the decision to be taken that day, the Commission should also weigh up the risks that opposition by the Commission to the compromise proposed by the Council and Parliament could involve by delaying the adoption of this proposal for a Directive (and others in future). He emphasised the importance of the matter for citizens as it concerned the introduction of a standard single charger for mobile telephones and provided for significant simplification of the current legislative framework for economic operators and supervisory authorities, for instance as regards declarations of compliance.

The PRESIDENT therefore suggested that the Commission give its views on the choice offered to it. He pointed out that, in the first instance, if the Commission chose to oppose the compromise, the Council would have to decide unanimously, which would be difficult given the differences of views between Member States. He indicated that, in this case, the matter would go to a second reading and would probably not be adopted during the current Parliament.

If, on the contrary, the Commission accepted the compromise, the Council would be able to adopt the proposal for a Directive on a qualified majority basis. He noted that, in this case, the Commission could consider the case for making a statement underlining the fact that, after weighing up the need to reach agreement on the substance as compared with the need to clearly define the role of each institution, the Commission had decided in this case to opt for the former. Before embarking on the discussion, the PRESIDENT asked the Director-General of the Legal Service to provide some additional clarifications.

The Director-General of the Legal Service said that the compromise proposed by the Council and Parliament did not breach any European primary or secondary law provisions, but that it was nevertheless a distortion of the institutional rules as it made it necessary to set up a kind of experts' committee. He noted that the provisions envisaged by the Council and Parliament gave rise to some confusion between the committees provided for in the specific comitology procedure under Article 291 of the TFEU and an experts' group. He reminded that the initiative of setting up experts' groups is part of the institutional autonomy of the Commission.

Before addressing the institutional question per se, Mr TAJANI, the Commission Member responsible for the dossier in substance, emphasised that the aim of the proposal for a Directive was to introduce a single charger for all mobile telephones, a measure that would be of direct benefit for European consumers. He indicated that, in the past, producers in the sector had concluded a voluntary agreement to harmonise chargers and until now there had therefore been no need to legislate. However, the agreement entered into by a number of manufacturers (though not all) had expired on 1 January 2014.

As regards the options suggested, he felt that if the Commission opposed the compromise text, thereby submitting the proposal for a Directive to a second reading, this would send a signal that would risk being interpreted negatively as opposition to the introduction of a universal charger.

On the subject of interinstitutional procedures, he explained that the Council had made a request for the committee to be able to submit for discussion issues not strictly relating to the implementation of a legislative act, and that Parliament had endorsed this point. He drew attention to the confusion caused by the fact that, in theory, the committees had to take decisions on specific issues rather than opening up further discussion topics. However, he pointed

out that this provision extending the committee's mandate had already been approved in the past, the Commission having opposed it without being backed by the Council or Parliament.

Consequently, Mr TAJANI felt that extending the committee's mandate did not affect the Commission's right of initiative and prerogatives, the EU budget, or EU external relations. He therefore proposed that rather than opposing the compromise, the Commission, as done on past occasions, should issue a declaration in order to preserve its interinstitutional prerogatives.

Mr ŠEFČOVIČ took the floor and said that these issues had been addressed in detail during the negotiations on the revision of the Framework Agreement on relations between the European Parliament and the Commission in 2010. While he understood the Legal Service's concerns, he felt it would be politically difficult to explain to the public that a piece of legislation important for European consumers could be paralysed or even deferred for reasons relating to comitology. He therefore called for a pragmatic solution: not to oppose the adoption of the proposal for a Directive, but at the same time to draw up a Commission declaration.

The Commission went on to discuss the following matters:

- the support of the Members of the Commission for the option of facilitating the adoption of the proposal for a Directive as quickly as possible, given the direct benefit of the measure for European consumers and the advanced stage of the dossier; the desirability of a binding approach to the harmonisation of mobile phone chargers, given that the voluntary approach had proved ineffective;
- nevertheless, the need for an appropriate response in defence of the good practices in the field of interinstitutional cooperation that underpinned the balance provided for by the treaties; the specific role of comitology in this

context; the importance of ensuring full compliance with the Framework Agreement on relations between the European Parliament and the Commission;

- after analysis of these two aspects of the question, the need for an approach that would facilitate the rapid adoption of the proposal for a Directive rather than risking delays for legal and institutional reasons which it would be difficult to justify to the European public opinion;
- the importance, therefore, of stressing that this option was an exceptional one that would in no way determine the position the Commission would take in other comparable cases; the need to highlight the importance the Commission attached to full compliance with the provisions on interinstitutional cooperation; the need, consequently, to draw up a declaration clearly setting out its position;
- questions, for some Members, as to whether the previous cases of infringement of the rules on interinstitutional cooperation, in particular comitology, could be referred to the European Court of Justice.

Concerning this last point, the Director-General of the Legal Service replied that since, as indicated, in this case there was no infringement of EU primary or secondary law but rather a bad practice affecting the established interinstitutional balance, the Commission could not refer to the Court of Justice.

The PRESIDENT concluded by noting the Commission's broad support for the second option put forward, namely (i) to accept the compromise proposed by the co-legislators, thereby enabling the proposal for a Directive to be adopted by qualified majority vote at the Council and to come rapidly into force to the benefit of European consumers, and (ii) to issue a declaration underlining the need to respect the role of each institution in the specific

context of comitology, making clear the harmful consequences for the functioning of the EU institutions mixing-up their functions. He confirmed that this declaration would also state that the position taken by the Commission in this case was in response to the specific context of this dossier and would in no way determine its future position in the event of a similar derogation from the rules of good interinstitutional operation. As regard to the pressure equipment file, the PRESIDENT invited Mr TAJANI to express the Commission's opposition, should the co-legislator agree a position similar to the one agreed on this file.

Following this discussion, the Commission approved an approach incorporating the two points in the PRESIDENT's conclusion above.

Dossier at Council first reading

- Amendment of Council Regulation (EC) 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (Regulation) – FJELLNER report – 2011/0310 (COD)

The Commission approved the line set out in SI(2014) 3.

ii) Preparation for Parliament's January part-session

(point 1.3 of the IRG record)

Ordinary legislative procedure – First reading

- Multiannual Financial Framework 2014-2020 – Hercule III programme to promote activities in the field of the protection of the European Union's financial interests (Regulation) – MACOVEI report – 2011/0454 (COD)

The Commission approved the line set out in SP(2014) 2.

- Multiannual Financial Framework 2014-2020 – Consumer Programme 2014-2020 (Regulation) – ROCHEFORT report – 2011/0340 (COD)

The Commission took note of the compromise text in SP(2014) 3, further to note SI(2013) 511, which it had already approved on 8 October 2013.

- Amendment of Council Regulation (EC) 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues (Regulation) – MOREIRA report – 2011/0445 (COD)

The Commission approved the line set out in SP(2014) 4.

- Amendment of Council Regulations (EC) 2008/97, 779/98 and 1506/98 in the field of imports of olive oil and other agricultural products from Turkey as regards the delegated and implementing powers to be conferred on the Commission (Regulation) – MOREIRA report – 2011/0453 (COD)

The Commission approved the line set out in SP(2014) 6.

- Award of concession contracts (Directive) – JUVIN report – 2011/0437 (COD) / Public procurement (Directive) – TARABELLA report – 2011/0438 (COD) / Procurement by entities operating in the water, energy, transport and postal services sectors (Directive) – TARABELLA report – 2011/0439 (COD)

The Commission approved the line set out in SP(2014) 7.

- Access of third-country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries (Regulation) – CASPARY report – 2012/0060 (COD)

The Commission approved the line set out in SP(2014) 8 and /2.

- Amendment of Council Directive 2001/110/EC relating to honey (Directive) – GIRLING report – 2012/0260 (COD)

The Commission approved the line set out in SP(2014) 9 and /2.

- Amendment of Regulation (EU) 510/2011 to define the modalities for reaching the 2020 target to reduce CO2 emissions from new light commercial vehicles (Regulation) – KRAHMER report – 2012/0191 (COD)

The Commission took note of the compromise text in SP(2014) 10, further to note SI(2013) 395/3, which it had already approved on 2 July 2013.

- Definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products (Regulation) – BARTOLOZZI report – 2011/0231 (COD)

The Commission took note of the compromise text in SP(2014) 11, further to notes SI(2013) 506/2 and /3, which it had already approved on 8 October 2013.

- Amendment of Regulation (EC) 638/2004 on Community statistics relating to trading of goods between Member States as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures, the communication of information by the customs administration, the exchange of confidential data between Member States and the definition of statistical value (Regulation) – MARTIN report – 2013/0278 (COD)

The Commission approved the line set out in SP(2014) 26.

Ordinary legislative procedure – Second reading – Empowerment

- Amendment of Council Regulation (EEC) 3821/85 on recording equipment in road transport (tachographs) and amendment of Regulation (EC) 561/2006 of the European Parliament and of the Council (Regulation) – TICAŮ report – 2011/0196 (COD)

The Commission took note of the compromise text in SP(2014) 5 and, under Article 13 of its Rules of Procedure, empowered Mr KALLAS, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and any other members associated, to adopt its opinion on the amendments together with any amended proposals, on the basis of the line set out in SI(2013) 232/3, already approved by the Commission on 8 May 2013, once Parliament had given its opinion, and to transmit them to the Council in accordance with Article 294(7)(c) of the Treaty on the Functioning of the European Union.

6.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business

(SI(2014) 6)

The Commission took note of the information in SI(2014) 6 on the Council meetings between 16 and 29 January.

iv) COREPER I meeting of 8 January

(point 2.2.1 of the IRG record)

- Joint Statement on the separate discharge for Joint Undertakings under Article 209 of the Financial Regulation

The Commission approved the line set out in SI(2014) 1.

6.3. *EXTERNAL RELATIONS*

- v) Commission Recommendation to the Council authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to negotiate, on behalf of the European Union, the provisions of a Political Dialogue and Cooperation Agreement between the European Union and the Republic of Cuba**

(point 5.1 of the IRG record)

The Commission approved the line set out in SI(2014) 5.

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The meeting closed at 13.48.