



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2014) 2101 final

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

Brussels, 30 October 2014

TEXTE EN

MINUTES

of the 2101st meeting of the Commission

held in Brussels

(Berlaymont building)

on Tuesday 15 October 2014

(morning)

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Single sitting: Wednesday 15 October 2014 (morning)

The sitting opened at 9.09 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	Chair	
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr BARNIER	Vice-President	
Mr KATAINEN	Vice-President	Items 1 to 8 (in part)
Mr PIEBALGS	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Ms GEOGHEGAN-QUINN	Member	
Ms DAMANAKI	Member	Items 1 to 8
Ms GEORGIEVA	Member	
Mr HAHN	Member	
Ms HEDEGAARD	Member	Items 1 to 9 (in part)
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	
Mr BORG	Member	
Mr MIMICA	Member	
Mr NELLI FEROCI	Member	
Ms REICHERTS	Member	Item 9 (in part)
Mr DOMINIK	Member	

Absent:

Baroness ASHTON	High Representative/ Vice-President
Mr OETTINGER	Vice-President
Mr POTOČNIK	Member
Mr DE GUCHT	Member
Mr FÜLE	Member

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

Mr CEBALLOS BARÓN	A member of Baroness ASHTON's staff	Item 9
Mr MALGAJ	Chef de cabinet to Mr POTOČNIK	Item 9 (in part)
Ms CAREMIER	Adviser in Mr POTOČNIK's Office	Item 9 (in part)
Mr BENGTTSSON	A member of Mr DE GUCHT's staff	Item 9
Mr BRUNET	Chef de cabinet to Mr FÜLE	Item 9

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	Item 9
Ms AHRENKILDE HANSEN	Commission Spokeswoman	Item 9
Ms BENÍTEZ SALAS	Bureau of European Policy Advisers	Item 9
Mr DANDOY	A member of the PRESIDENT's staff	Item 9
Ms HARDEMAN	Deputy Chef de cabinet to Mr KATAINEN	Item 9
Mr GIOTAKOS	A member of Ms DAMANAKI's staff	Item 9
Ms JENSEN	Deputy Chef de cabinet to Ms HEDEGAARD	Item 9 (in part)
Mr RADZIEJEWSKI	Chef de cabinet to Mr DOMINIK	Item 9
Ms PARI	A member of Mr DOMINIK's staff	Item 9

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

1. AGENDAS

(OJ(2014) 2101/FINAL; SEC(2014) 521)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings. It also took note of the addition of item 8.5 (on an administrative decision) to that day's agenda.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2014) 2101)

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

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 2100TH MEETING
(8 OCTOBER)**

(PV(2014) 2100; PV(2014) 2100, PART II)

The Commission held over approval of the minutes of its 2100th meeting for the following week.

4. INTERINSTITUTIONAL RELATIONS

4.1. LEGISLATIVE MATTERS

i) Incorporation of the ESAs Regulations and ESAs powers in the EEA Agreement

(SI(2014) 369 and /2)

The Commission took note of the information sheet in SI(2014) 369/2.

ii) Establishment of the position to be taken by the European Union within the Committee on Government Procurement on the withdrawal of the Union objections to the delisting of three entities from Japan's Annex 3 to Appendix I to the Agreement on Government Procurement (Council Decision) – 2014/0249 (NLE)

(SI(2014) 370)

The Commission approved the line set out in SI(2014) 370.

iii) Adjustment, from 1 July 2011, 1 July 2012 and 1 July 2013, of the rate of contribution to the pension scheme of officials and other servants of the European Union (Council Regulation) – 2014/0214 (NLE)

(SI(2014) 379)

The Commission approved the line set out in SI(2014) 379.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iv) Programming of Council business

(SI(2014) 373)

The Commission took note of the information in SI(2014) 373 on the Council meetings between 16 and 29 October.

4.3. RELATIONS WITH PARLIAMENT

v) Action taken on non-legislative resolutions adopted by Parliament at its July I and II part-sessions

(SP(2014) 596)

The Commission approved document SP(2014) 596 on the action taken on the non-legislative resolutions adopted by Parliament at its July I and II part-sessions, for transmission to Parliament.

vi) Action taken on non-legislative resolutions adopted by Parliament at its July II part-session

(SP(2014) 597 and /2)

The Commission approved document SP(2014) 597/2 on the action taken on the non-legislative resolutions adopted by Parliament at its July II part-session, for transmission to Parliament.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

5.1. STATE AID – INDIVIDUAL CASES

(SEC(2014) 530 AND /2)

The Commission adopted the decisions in SEC(2014) 530/2.

5.2. STATE AID AND OTHER COMPETITION RULES

(SEC(2014) 534 TO /3; (RCC(2014) 80)

The Commission's decision on this item is recorded in the special minutes.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2014) 522 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 6 and 10 October.

6.2. EMPOWERMENT

(SEC(2014) 523 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 6 and 10 October.

6.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2014) 524 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 6 and 10 October, as archived in e-Greffe.

6.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2014) 525 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 13 and 17 October and of the finalisation written

procedures initiated following the weekly meeting of Chefs de cabinet on 13 October.

7. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 102 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 54 OF THE EEA AGREEMENT (CASE AT.39523 – SLOVAK TELEKOM)
(C(2014) 7465 TO /7; RCC(2014) 82)

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 9 October in C(2014) 7465/3;
- took note of the final report of the Hearing Officer of 10 October in C(2014) 7465/4;
- adopted in the authentic languages (German and English) the decision in C(2014) 7465/7 finding that the companies to which the decision was addressed had infringed Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the Agreement on the European Economic Area, requiring the parties to put an end to the infringements immediately and imposing on these companies fines totalling EUR 69 908 000;
- decided that the decision in C(2014) 7465/7 would be notified to the companies concerned, together with the final report of the Hearing Officer;
- decided that the key parts of the decision, together with the Advisory Committee’s opinion and the Hearing Officer’s final report, would be published

in the *Official Journal of the European Union* (with business secrets and other confidential information removed);

- decided to publish the decision on the internet (with business secrets and other confidential information removed).

8. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2014) 526)

ADMINISTRATIVE MATTERS (PERS(2014) 130)

8.1. DG REGIONAL AND URBAN POLICY – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2014) 83 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, Audit, in the Directorate-General for Regional and Urban Policy (PERS(2014) 83).

It took note of the opinions of the Consultative Committee on Appointments of 8 July and 18 September 2014 (PERS(2014) 83/2 and /3).

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

This decision would take effect on 16 October 2014.

**8.2. DG HUMAN RESOURCES AND SECURITY – TERMINATION OF SELECTION PROCEDURE FOR THE APPOINTMENT OF A DIRECTOR AND OF A PRINCIPAL ADVISER, AND AMENDMENT OF ORGANISATION CHART
(PERS(2014) 33 TO /4; PERS(2013) 135 TO /3)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr NELLI FEROCI and Mr DOMINIK, the Commission decided:

- to terminate the internal selection procedure COM/2014/229 for the post of Director, ‘Resources and internal control’, in the Directorate-General for Enterprise and Industry, without making an appointment;
- to terminate internal and interinstitutional selection procedure COM/2013/2546, and external procedure COM/2013/10343, for a temporary post of principal adviser at the Directorate-General for Budget, without making an appointment;
- to abolish this temporary post of principal adviser at the Directorate-General for Budget.

These decisions would take effect immediately.

**8.3. DG HUMAN RESOURCES AND SECURITY – CONDITIONS OF EMPLOYMENT OF CONTRACT STAFF
(SEC(2014) 543)**

The Commission took note of the information at point 3 of PERS(2014) 130 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to suspend for an additional year, until 31 December 2015, the application of Article 3(1) of Commission Decision C(2011) 1264 of 2 March 2011 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union,

governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b of the said Conditions, with regard to auxiliary contract staff (CA 3b).

This decision would take effect immediately.

8.4. DG MOBILITY AND TRANSPORT – APPOINTMENT OF AD14 DIRECTOR

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr KALLAS, the Commission decided:

- to reinstate Mr Margus RAHUOJA, an AD14 official and currently chef de cabinet to Mr KALLAS, in the post of Principal Adviser in the Directorate-General for Energy;
- to transfer Mr Margus RAHUOJA in the interest of the service, under Article 7 of the Staff Regulations, to the post of Director, Directorate 'Aviation and international transport affairs' in the Directorate-General for Mobility and Transport;
- to abolish the post of principal adviser at the Directorate-General for Energy.

These decisions would take effect on 1 November 2014.

8.5. RESIGNATION OF A SENIOR MANAGER OFFICIAL UNDER ARTICLE 48 OF THE STAFF REGULATIONS

The Commission decided to accept, pursuant to Article 48 of the Staff Regulations, the resignation of Ms Paola TESTORI COGGI, currently Director-General of the Directorate-General for Health and Consumers.

This decision would take effect on 31 October 2014.

**9. AMENDING LETTER No 1 TO THE DRAFT GENERAL BUDGET 2015 –
STATEMENT OF EXPENDITURE BY SECTION – SECTION III –
COMMISSION, SECTION VIII – EUROPEAN OMBUDSMAN
(COM(2014) 637)**

The PRESIDENT opened the discussion on Amending Letter No 1 to the draft general budget 2015 tabled by Mr DOMINIK. He pointed out that the Commission had already held a detailed discussion on 10 September on the difficulties facing the institution in complying with its contractual commitments because of the shortfall in payment appropriations available in this first year of the multiannual financial framework (MFF) 2014-2020. The College had already agreed on the principle of prioritisation of expenditure between the budget headings and spreading the burden of the lack of resources evenly. However, there was a need to respond to a request for clarification made in particular by Mr CIOLOŞ.

The PRESIDENT explained that the Member of the Commission responsible for the budget was tabling that day Amending Letter No 1 in compliance with the guidelines laid down by the College. In this way, he intended to reduce the heavy pressure on certain headings in the MFF. He added that this reduction would not be carried out to the detriment of heading 2 of the MFF – which was devoted to sustainable growth and natural resources – because it was fully offset by new assigned revenue.

The proposal in Amending Letter No 1 was to finance the support measures for European farmers, in the context of the Russian embargo on agricultural products from the Union. The intention was to withdraw the amount needed for these support measures from a crisis reserve set up for this purpose in the budget of the common agricultural policy (CAP); the measures already adopted for European producers of fruit and vegetables, and those soon to be adopted for milk producers in Finland and

in the Baltic States, would not exhaust all the resources allocated to this reserve.

The PRESIDENT reaffirmed Union support for farmers who were in difficulty following the political tensions with Russia, which was why the Commission had facilitated the rapid adoption of decisions to grant them assistance. Mr DOMINIK had already drawn attention to the question of the financing of this assistance and at that time it had been agreed that the Commission would follow the line adopted during the discussion on 10 September. Moreover, heading 2 of the MFF would retain a degree of flexibility enabling subsequent measures to be financed, if necessary.

Mr DOMINIK detailed the content of Amending Letter No 1 to the draft budget 2015 adopted in June by the Commission, and in particular the impact of this update of needs and appropriations on agricultural expenditure. First, an additional €17 million would be allocated to agricultural expenditure. Second, the necessary appropriations for the reserve for crises in the agricultural sector were already included in the draft budget 2015, which therefore obviated the need to request additional appropriations to address the difficulties caused to European farmers by the Russian embargo. This crisis reserve of €433 million would cover the full estimated cost of the support measures adopted so far by the Commission to mitigate the consequences of the Russian retaliatory trade measures. The estimated cost of the measures was €344.3 million, which left a margin of €88.7 million for further possible support measures.

Mr DOMINIK explained that the crisis reserve was financed by a ‘financial discipline’ mechanism whereby a flat-rate levy was taken from the direct aid for farmers at the start of the year. Nonetheless, the mobilisation of the crisis reserve did not imply that the support measures were financed by farmers, firstly because the unused amounts were repaid to them at the beginning of the following year, and, secondly, because at the year-end, there was an average balance of some €0.5 billion that was used to repay farmers and make direct aid payments, up to the amount set

aside for financial discipline. Furthermore, the forecasts for additional assigned revenue were very positive this year.

Mr DOMINIK concluded by expressing his conviction that the proposed Amending Letter provided an appropriate response to the political context, by suggesting the use of additional revenue to deal with the current difficulties collectively, while complying with the current budgetary rules. He also indicated that it would be possible to make redeployments if the appropriations required during the budget year turned out to exceed the estimated margin of €88.7 million available at present.

Mr CIOLOŞ, for his part, wished to address the specific impact on the agricultural sector of the proposed redeployment of payment appropriations in the general budget of the Union for 2015.

He took the view that using the agricultural crisis reserve to finance the exceptional support measures, which had been agreed following the Russian embargo, would reduce the overall level of direct payments to farmers under the revised CAP. He argued that, under the rules laid down for the CAP in the budgetary architecture of the Multiannual Financial Framework 2014-2020, it was the farmers themselves who generated the crisis reserve, because a flat-rate amount was levied on the direct payments made to them by the European Agricultural Guarantee Fund (EAGF). He reiterated that, in the event that the crisis reserve were not used, the funds in question were intended to be refunded to farmers in the form of direct payments.

He then mentioned the firm stance taken by Parliament and the Council, which had argued that the cost of the exceptional support measures adopted by the EU should not be borne by the agricultural sector itself. He therefore felt that the Union's policy decisions could place greater emphasis on solidarity and not impose a disproportionate burden on the agricultural sector. Moreover, under the rules of the current MFF, the agricultural crisis reserve was to be deployed only as a last resort, once the resources available in the CAP budget had been exhausted. He proposed

that the €344.3 million already committed for exceptional support measures be funded from the residual margin of the CAP budget for the 2015 financial year, thereby obviating the need to call on the crisis reserve at this stage. Adopting this approach would also allow the Union to react swiftly to any urgent, unforeseen requirements in the agricultural sector in 2015. He mentioned here a number of risks that might affect the markets for dairy products and meat.

Mr CIOLOŞ also reiterated his support for the principle of solidarity between headings in the general budget of the Union in what had become a very tight budgetary situation. He mentioned in passing the redeployment of €1 billion from heading 2 of the MFF in the first half of 2014, well before the crisis sparked by the Russian embargo. Since the crisis had now begun to have a severe effect, he disagreed with the budgetary reallocation in the proportions indicated in the amending letter. However, in view of the extremely difficult overall budgetary situation, he could accept the redeployment of the remainder of the margin, provided that the exceptional support measures already committed were funded from the residual margin in the CAP budget.

In the course of the ensuing debate, the Commission discussed the following main points:

- the need for the Commission to honour its immediate contractual obligations and maintain the Union's credibility, which had led among other things to the transfer in June of €1 billion from heading 2 of the MFF of the Union budget ('Sustainable growth: natural resources') to headings 1a ('Competitiveness for growth and jobs') and 4 ('Global Europe');
- the increase in costs triggered by the payment of interest in the event of late disbursements, and the untenable situation of EU aid beneficiaries, in particular small and medium-sized enterprises, which were sometimes compelled to take out loans while waiting for payments from the Commission;

- the case for using the agricultural crisis reserve, which had been designed precisely to deal with situations of this nature;
- the importance of supporting agricultural producers experiencing difficulties as a result of the Russian embargo on European imports, but without making farmers suffer the consequences of a political crisis via the crisis reserve mechanism, which would imply taking funds from direct aid for farmers;
- consequently, a suggestion that the crisis reserve be mobilised only as a last resort and that its use be reserved for providing support in the event of economic crises on the agricultural markets rather than in a political crisis;
- the prospect of the crisis worsening as a result of Russian trade sanctions in certain sectors, in particular the dairy industry; in the months ahead this sector would need additional support measures which should already be taken into account now;
- more specifically, the dominant role played by the dairy industry in farming in Finland, Estonia, Latvia and Lithuania, which were severely affected by the significant drop in exports to the Russian Federation, and, in the longer term, the risk of the dairy industry collapsing in those countries.

In reply to these comments, Mr DOMINIK again stressed that the question on the table that day was primarily a budgetary one, namely how to use as much flexibility as possible within the budget in order to honour the Union's financial commitments. In the context of a new Multiannual Financial Framework, new rules and limited resources, the crisis reserve had been created to deal with emergency situations. If there were bottlenecks in payments, the Commission had to consider the possibilities of redeployment using any budgetary resource available, no matter which heading was involved. He repeated that EU farmers would not receive less direct aid and that the Union would not be short of funds to pay for this direct aid, as heading 2 of the MFF always contained a margin and resources could be used from

other available margins or other budgetary instruments. Lastly, he insisted on the need to prioritise between existing commitments that had to be met very soon and additional requirements that might arise in the future.

Winding up the debate, the PRESIDENT acknowledged that the current shortfall in payment appropriations caused difficulties on all sides, but welcomed the assurances given by Mr DOMINIK that the agricultural sector would continue to receive appropriate support. As regards the particularly difficult situation of the dairy industry in Finland, Estonia, Latvia and Lithuania because of the Russian embargo, the Commission would undertake to do what was necessary to provide EU support for the producers in question.

Following this discussion, the Commission adopted Amending Letter No 1 to the draft General Budget 2015 set out in COM(2014) 637, for transmission to Parliament and the Council, and, for information, to the national parliaments.

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The Commission's other discussions and decisions on certain agenda items are recorded in the special minutes.

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The meeting closed at 11.30.