



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2018) 2240 final

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

Brussels, 7 March 2018

TEXTE EN

MINUTES

of the 2240th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 24 January 2018

(morning)

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TABLE OF CONTENTS

Attendance list	4-6
1. AGENDAS (OJ(2018) 2240/FINAL; SEC(2018) 2240/FINAL)	7
2. WEEKLY MEETING OF CHEFS DE CABINET (RCC(2018) 2240).....	7
3. APPROVAL OF THE MINUTES OF THE 2235 TH , 2236 TH , 2237 TH , 2238 TH AND 2239 TH MEETINGS OF THE COMMISSION (6, 12 AND 20 DECEMBER 2017, 10 AND 16 JANUARY 2018).....	7
4. INTERINSTITUTIONAL RELATIONS (RCC(2018) 8)	7
4.1. LEGISLATIVE MATTERS	8
4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL	9
4.3. RELATIONS WITH PARLIAMENT	10
5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW	10
STATE AID AND OTHER COMPETITION RULES.....	10
6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS.....	11
6.1. WRITTEN PROCEDURES APPROVED (SEC(2018) 61 ET SEQ.).....	11
6.2. EMPOWERMENT (SEC(2018) 62 ET SEQ.)	11
6.3. DELEGATION / SUBDELEGATION OF POWERS (SEC(2018) 63 ET SEQ.)	11
6.4. SENSITIVE WRITTEN PROCEDURES (SEC(2018) 64 AND /2)	11
7. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 102 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 54 OF THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA [CASE AT.40220 – QUALCOMM	

(EXCLUSIVITY PAYMENTS)] (C(2018) 240 TO /6; RCC(2018) 12).....	12
8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – STRONGER PROTECTION, NEW OPPORTUNITIES – COMMISSION GUIDANCE ON THE DIRECT APPLICATION OF THE GENERAL DATA PROTECTION REGULATION AS OF 25 MAY 2018 (COM(2018) 43 TO /3; RCC(2018) 10).....	13
9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL – THIRTEENTH PROGRESS REPORT TOWARDS AN EFFECTIVE AND GENUINE SECURITY UNION (COM(2018) 46 AND /2; RCC(2018) 9).....	15
10. OTHER BUSINESS.....	17
10.1. LATEST DEVELOPMENTS IN ROMANIA CONCERNING THE NEW ANTI- CORRUPTION LEGISLATION	17
10.2. SITUATION AND OUTLOOK AS REGARDS EU-TURKEY RELATIONS	17
10.3. RELOCATION OF THE GALILEO SECURITY MONITORING CENTRE BACK-UP SITE – COMMISSION IMPLEMENTING DECISION.....	17
10.4. DIVERSITY AND GENDER BALANCE ON CONFERENCE PANELS.....	18

Single sitting: Wednesday 24 January 2018 (morning)

The meeting opened at 10.05, with Mr TIMMERMANS in the chair, the PRESIDENT being absent.

Present:

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	Items 10.2 to 10.4
Mr HAHN	Member	Items 8 to 10
Ms MALMSTRÖM	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Ms THYSEN	Member	
Mr STYLIANIDES	Member	
Mr HOGAN	Member	
Ms BULC	Member	
Ms BIENKOWSKA	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Ms VESTAGER	Member	Items 1 to 10.2 (in part)
Sir Julian KING	Member	
Ms GABRIEL	Member	

Absent:

Mr JUNCKER	President
Mr ŠEFČOVIČ	Vice-President
Mr MIMICA	Member
Mr ARIAS CAÑETE	Member
Mr MOSCOVICI	Member
Mr MOEDAS	Member

(24 January 2018)

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

Mr NOCIAR	Chef de cabinet to Mr ŠEFČOVIČ
Mr BEHRNDT	Chef de cabinet to Mr MIMICA
Ms LOBILLO BORRERO	Chef de cabinet to Mr ARIAS CAÑETE
Mr BAILLY	Chef de cabinet to Mr MOSCOVICI
Ms DEL BRENNNA	Deputy Chef de cabinet to Mr MOEDAS

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	
Mr MOTOC	European Political Strategy Centre	
Ms MICHOU	Deputy Secretary-General	Items 8 (in part) to 10.2
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Mr SZOSTAK	Adviser in the PRESIDENT's Office	Item 10.2
Mr GRASSI	Adviser in the PRESIDENT's Office	Items 1 to 10.2
Ms ARKI	PRESIDENT's Office	
Mr SMULDERS	Chef de cabinet to Mr TIMMERMANS	
Mr HAGER	Chef de cabinet to Mr OETTINGER	Items 1 to 10.2 (in part)
Ms SCHMITT	Chef de cabinet to Mr AVRAMOPOULOS	Item 9
Ms NIKOLAY	Chef de cabinet to Ms JOUROVÁ	Items 1 to 8
Ms JUUL-JØRGENSEN	Chef de cabinet to Ms VESTAGER	Items 10.2 (in part) to 10.4
Ms ANDREEVA	Commission Spokesperson's Service	

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

PV(2018) 2240 final

1. AGENDAS

(OJ(2018) 2240/FINAL; SEC(2018) 2240/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(2018) 2240)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 22 January 2018.

3. APPROVAL OF THE MINUTES OF THE 2235TH, 2236TH, 2237TH, 2238TH AND 2239TH MEETINGS OF THE COMMISSION (6, 12 AND 20 DECEMBER 2017, 10 AND 16 JANUARY 2018)

The Commission decided to hold over to a subsequent meeting the approval of the minutes of its 2235th, 2236th, 2237th, 2238th and 2239th meetings.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2018) 8)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 19 January 2018 (RCC(2018) 8).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Trilogues

(point 3.1 of the IRG record)

- Amendment of Regulation (EU) 1295/2013 establishing the Creative Europe programme (2014 to 2020) (Regulation) – COSTA report – 2017/0163 (COD)

The Commission approved the line set out in SI(2018) 12.

- Circular economy package – Rules on the making available on the market of CE marked fertilising products and amendment of Regulations (EC) 1069/2009 and (EC) 1107/2009 (Regulation) – TURCANU report – 2016/0084 (COD)

The Commission approved the line set out in SI(2018) 15 and /2.

- Proportionality test before adoption of new regulation of professions (Directive) – SCHWAB report – 2016/0404 (COD)

The Commission approved the line set out in SI(2018) 16.

- Amendment of Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities (Directive) – VERHEYEN/KAMMEREVERT report – 2016/0151 (COD)

The Commission approved the line set out in SI(2018) 13/2.

- Amendment of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (Directive) – MORIN-CHARTIER/JONGERIUS report – 2016/0070 (COD)

The Commission took note of the information in SI(2018) 18.

ii) Council dossier

(point 3.3 of the IRG record)

- Supplement to the Council Decision of 22 May 2017 authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for an agreement setting out the arrangements for its withdrawal from the European Union (Council Decision) – COM(2017) 830

The Commission approved the line set out in SI(2018) 21/2.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business

(SI(2018) 20)

The Commission took note of the information on the programming of Council business from 25 January to 7 February in SI(2018) 20.

iv) Non-legislative dossier

(point 4.1 of the IRG record)

- Investment in Youth for Accelerated Inclusive Growth and Sustainable Development – Joint Priority Initiatives 2018-2020 – Follow-up of the African Union and European Union Summit (Abidjan, 29 and 30 November 2017)

The Commission took note of SI(2018) 14 and of the Draft Action Plan annexed to SI(2018) 14/2.

4.3. RELATIONS WITH PARLIAMENT

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

(SP(2018) 30)

The Commission decided to empower the Members of the Commission responsible for the sectors concerned, in agreement with the PRESIDENT and Mr TIMMERMANS and, where appropriate, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2018) 30, drawn up following Parliament's January part-session, the contents of which were noted.

vi) Action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its December 2017 part-session

(point 5.6.1 of the IRG record)

The Commission approved document SP(2018) 32 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its December 2017 part-session, for transmission to Parliament.

vii) Results of the Parliament's January part-session

(SP(2018) 21; SP(2018) 22)

The Commission took note of the information in SP(2018) 21 and SP(2018) 22 on the proceedings of the part-session of Parliament held in Strasbourg from 15 to 18 January.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

STATE AID AND OTHER COMPETITION RULES

The Commission's decisions on this item are recorded in the special minutes.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2018) 61 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 15 and 19 January.

6.2. EMPOWERMENT

(SEC(2018) 62 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 15 and 19 January.

6.3. DELEGATION / SUBDELEGATION OF POWERS

(SEC(2018) 63 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 15 and 19 January, as archived in Decide.

6.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2018) 64 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 22 and 26 January and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on Monday 22 January.

**7. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 102 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 54 OF THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA [CASE AT.40220 – QUALCOMM (EXCLUSIVITY PAYMENTS)]
(C(2018) 240 TO /6; RCC(2018) 12)**

At the invitation of Mr TIMMERMANS, Ms VESTAGER briefly presented the main points of the decision she was tabling for adoption by the Commission that day on a proceeding under Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the Agreement on the European Economic Area, concerning an abuse of a dominant position on the internal market.

She reminded the meeting that under EU competition law, a company which held a dominant position on a market could not, in principle, grant exclusionary rebates. In the case of the company *Qualcomm*, the Commission's investigation had demonstrated that it held a dominant position on the global market for baseband chipsets complying with the Long-Term Evolution (LTE) standard and that between 2011 and 2016 it had made exclusivity payments to Apple on condition that Apple sourced its baseband chipsets exclusively from Qualcomm.

Ms VESTAGER proposed that the Commission adopt the decision fining the company € 997 439 000. The fine had been set at a level that would effectively deter the company from adopting illegal practices of this kind. She concluded by pointing out that the investigation had been completed in less than two and a half years, which was a credit to the efficiency and expertise of the Commission's departments.

At the end of this presentation, the Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 19 and 23 January 2018 in C(2018) 240/2 and /4 respectively;
- took note of the final report of the Hearing Officer of 23 January 2018 in C(2018) 240/5;

- adopted in the authentic language (English) the decision in C(2018) 240/6 finding that the company 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 it to put an end to the infringement immediately and imposing on that company a fine of € 997 439 000;
- decided that the decision in C(2018) 240/6 would be notified to the company concerned in the authentic language (English), together with the Hearing Officer's final report;
- 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 languages of the Union in the Official Journal of the European Union (with business secrets and other confidential information removed);
- decided to make the decision (with business secrets and other confidential information removed) available on the internet.

8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL – STRONGER PROTECTION, NEW OPPORTUNITIES – COMMISSION GUIDANCE ON THE DIRECT APPLICATION OF THE GENERAL DATA PROTECTION REGULATION AS OF 25 MAY 2018

(COM(2018) 43 TO /3; RCC(2018) 10)

Ms JOUROVÁ presented the guidelines she was submitting for the Commission's approval on the application throughout the European Union, from 25 May, of the new General Data Protection Regulation.

With just a few months to go, these guidelines related to the measures that the European Commission, the national data protection authorities and the national

administrations should still take in the coming months to complete the preparatory work for correct application of the Regulation in question.

While the new General Regulation provided for a single set of rules directly applicable in all Member States, significant adjustments would still be required, such as the amendment by the Member States of certain national laws and the creation by the data protection authorities of the European Data Protection Board. The guidelines presented that day also referred to the main innovations and opportunities opened up by the new provisions, took stock of the preparatory work already undertaken and outlined the work still ahead.

Ms JOUROVÁ pointed out that the data protection rules still in force today were over 20 years old. They were therefore no longer suitable for the current digital revolution, as demonstrated by the numerous cases of personal data breaches.

The new rules that would be applicable from 25 May reflected the fact that personal data protection had acquired the status of a fundamental right in the Union. From now on, citizens would not just be able to request their personal data from any body holding them; they would also be able to ask for these data to be transferred or erased, in accordance with the ‘right to be forgotten’ principle.

The new rules would also benefit businesses, since these rules would be adapted to technological development, would apply uniformly in all Member States, and would provide for a one-stop shop for dispute resolution and for exemptions for SMEs.

The application of these rules was not solely the Commission’s responsibility. It was also that of the national data protection authorities, who could, in cases of infringements, impose fines of up to €20 million or, for companies, up to 4% of worldwide annual turnover.

Ms JOUROVÁ invited the Members of the Commission to make an active contribution to the information campaign, which would both explain the benefits of the new data protection legislation to the public and stakeholders and help them to gain maximum benefit from the numerous possibilities offered by the development

of the digital economy. Various information and communication tools would be made available to them for this purpose, in particular online tools.

In conclusion, she asked the Commission Members to inform her of any problems arising as a result of application of the new rules in their areas of responsibility, for follow-up by the relevant Commission departments.

Winding up the presentation, Mr TIMMERMANS thanked Ms JOUROVÁ and called on the Commission Members to step up vigilance in the area of data protection until the new rules came into force on 25 May.

The Commission approved the communication in COM(2018) 43/3, for transmission to the European Parliament and the Council and, for information, to the national parliaments.

**9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL – THIRTEENTH PROGRESS REPORT TOWARDS AN EFFECTIVE AND GENUINE SECURITY UNION
(COM(2018) 46 AND /2; RCC(2018) 9)**

Sir Julian KING presented the Commission's thirteenth progress report towards an effective and genuine Security Union, which covered three main areas: (i) the initiatives set out in the Joint Declaration on the EU's legislative priorities for 2018-2019 signed in December 2017 by the President of the European Parliament, the Prime Minister of Estonia, which held the presidency of the Council, and the President of the Commission, (ii) stepping up the Union's work to counter radicalisation, and (iii) the progress made in non-legislative dossiers, for example on strengthening cybersecurity and the protection of public spaces.

With regard to the legislative priorities, the first priority set out by the Joint Declaration was to better protect the security of European citizens. He highlighted

the legislative progress made in this field, particularly as regards the exchange of information, efforts to cut terrorists' access to funding and money laundering, and cybersecurity, with a view to the informal summit of EU leaders in Vienna in September 2018 on internal security.

On the second point, anti-radicalisation, much work was already being done by the Union, but it needed to continue its efforts. He mentioned his recent meetings with high-level representatives of online platforms and also the recommendation to be presented by the Commission in February to reinforce the means available to market operators for responding to online radicalisation.

Lastly, on the third point, non-legislative dossiers, Sir Julian KING said that the report highlighted the way in which the Commission was adopting a cross-sector approach to address security challenges. He took the opportunity of thanking Mr TIMMERMANS, Ms MOGHERINI, Mr ANSIP, Mr AVRAMOPOULOS, Ms JOUROVÁ, Ms BULC, Mr NAVRACSICS and Ms GABRIEL for their invaluable contribution in their respective areas of responsibility.

Mr AVRAMOPOULOS welcomed the progress made in building the Security Union, while calling for vigilance and close cooperation in this field with the Member States. He referred to certain work in progress and welcomed in particular the partnership and relation of trust that was being established with the main internet access providers, which were willing to work with the Commission on the issue of illegal online content. He supported the idea of leaving the sector time to adjust its strategy and obtain results, which justified the proposed recommendation to be presented by the Commission next month.

A brief discussion ensued, in the course of which the Commission emphasised the role of regional and local authorities in the measures to make the Security Union a reality, and their willingness to work with the Commission to that end.

Following this discussion, the Commission approved the report in COM(2018) 46/2, for transmission to the European Parliament, the European Council and the Council and, for information, to the national parliaments.

10. OTHER BUSINESS

10.1. LATEST DEVELOPMENTS IN ROMANIA CONCERNING THE NEW ANTI-CORRUPTION LEGISLATION

Mr TIMMERMANS and Ms JOUROVÁ reported on the latest developments concerning the fight against corruption in Romania.

10.2. SITUATION AND OUTLOOK AS REGARDS EU-TURKEY RELATIONS

Mr TIMMERMANS asked Ms MOGHERINI and Mr HAHN to report on the situation as regards EU-Turkey relations, and the outlook in the short and medium term.

10.3. RELOCATION OF THE GALILEO SECURITY MONITORING CENTRE BACK-UP SITE – COMMISSION IMPLEMENTING DECISION

Ms BIENKOWSKA gave a brief update on developments since December 2017 in the dossier concerning relocation of the back-up site for the Galileo Security Monitoring Centre.

She began by noting that this was vital infrastructure because the Centre ensured the security of the signal and the encryption for the Public Regulated Service used by certain Member States for military purposes. The Monitoring Centre's main site was located in France and its backup site, currently in the United Kingdom, would have to be transferred to the territory of the Union of 27, due to the UK's withdrawal from the EU and security considerations. She stressed that the Centre was not an EU agency, but a technical infrastructure which ensured monitoring of the Galileo system and countered potential

threats to the security of the programme.

She described the open and transparent procedure by which the Commission had selected the new site. This procedure had been launched in August 2017 and, after a technical evaluation, had identified Spain's proposal as the one that best met the requirements, particularly as regards security, time constraints and costs.

She concluded by reporting that the Member States had approved the Commission's proposal on 18 January and, as a result, the College would formally start the procedure for moving the back-up site to Spain after the decision adopted by written procedure that day. The new site would have to be accredited by the Security Accreditation Board before the headquarters agreement was signed in March.

The Commission took note of this information and confirmed the adoption of the Commission's implementing decision by urgent written procedure, the deadline for which was set at 12.00 that day, Wednesday 24 January (PE/2018/388).

10.4. DIVERSITY AND GENDER BALANCE ON CONFERENCE PANELS

Ms GABRIEL informed the College about the awareness-raising campaign launched by the Commission to ensure the gender balance of panels at conferences and other public events in the field of information and communication technologies.

The Commission Members gave their support to the voluntary initiative announced by Ms GABRIEL. They felt that the efforts under this initiative to achieve rebalancing were important.

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

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The meeting closed at 12.06.