



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2022) 2409 final

- English translation of the French version which is authentic -

Brussels, 23 March 2022

TEXTE EN

MINUTES

of the 2409th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 2 March 2022

(morning)

PV(2022) 2409 final

- English translation of the French version which is authentic -

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Single sitting: Wednesday 2 March 2022 (morning)

The sitting opened at 9.10 with Ms von der LEYEN, President, in the chair.

Present:

Ms von der LEYEN	President	
Mr TIMMERMANS	Executive Vice-President	
Ms VESTAGER	Executive Vice-President	
Mr DOMBROVSKIS	Executive 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	Items 1 to 11 (in part)
Mr WOJCIECHOWSKI	Member	
Mr BRETON	Member	
Ms FERREIRA	Member	
Ms KYRIAKIDES	Member	
Mr REYNDERS	Member	
Ms DALLI	Member	
Ms JOHANSSON	Member	Items 1 to 8 (in part)
Mr LENARČIČ	Member	Items 1 to 8 (in part)
Ms VÁLEAN	Member	
Ms URPILAINEN	Member	Items 1 to 11 (in part)
Ms SIMSON	Member	
Ms McGUINNESS	Member	

Absent:

Mr BORRELL i FONTELLES	High Representative / Vice-President
Mr VÁRHELYI	Member
Mr SINKEVIČIUS	Member

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

Ms BERGENFELT	Senior Adviser in Mr BORRELL's Office	
Ms WEBBER	Chef de cabinet to Ms JOHANSSON	Items 8 (in part) to 11
Mr ELING	Deputy Chef de cabinet to Mr LENARČIČ	Items 8 (in part) to 11
Mr ANDREJKÓ	A member of Mr VÁRHELYI's staff	
Mr ŠATŪNAS	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	
Mr MAMER	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms RISO	Deputy Chef de cabinet to the PRESIDENT	
Ms PETKOVA	Director of Coordination and Administration in the PRESIDENT's Office	
Mr FLOSDORFF	Executive Adviser in the PRESIDENT's Office	
Ms HILI	Adviser in the PRESIDENT's Office	Item 11
Ms SPINANT	Deputy Chief Spokesperson of the Commission	
Ms ALLOUIS-LE LOSTEC	Head of Unit in the Secretariat-General	

Secretary: Ms JUHANSONE, Secretary-General, assisted by Ms DEPREZ, Director in the Secretariat-General.

1. AGENDAS

(OJ(2022) 2409/FINAL; SEC(2022) 2409/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(2022) 2409)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Tuesday 1 March 2022.

3. APPROVAL OF THE MINUTES

The Commission held over approval of the minutes of its 2405th, 2406th, 2407th and 2408th meetings of 2, 8, 15 and 23/24 February 2022 for a later date.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2022) 73)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held by videoconference on Friday 25 February 2022 (RCC(2022) 73).

The Commission approved the lines proposed for the following points:

- **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)**

Line set out in SI(2022) 43.

- **Contestable and fair markets in the digital sector (Digital Markets Act) (Regulation) – SCHWAB report – 2020/0374 (COD)**

Line set out in SI(2022) 44/2.

- **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(2022) 45.

- **Improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (Directive) – KRATSA-TSAGAROPOULOU & REGNER report – 2012/0299 (COD)**

Line set out in SI(2022) 48.

- **Amendment of Regulation (EU, Euratom) No 609/2014 in order to enhance predictability for Member States and to clarify procedures for dispute resolution when making available the traditional, VAT and GNI based own resources (Council Regulation) – FERNANDES & HAYER report – 2021/0161 (NLE)**

Line set out in SI(2022) 51.

- **Joint Declaration of the French Minister of Finance, and of the Commissioner for Budget and Administration to be signed at the Ministerial Conference ‘Decarbonising the EU economy’ on 9 March 2022**

Line set out in SI(2022) 49/2.

- **Commission participation at the plenary of the Conference on the Future of Europe (Strasbourg, 11 and 12 March 2022)**

Lines set out in SPI(2022) 12/2 and SPI(2022) 13/2.

- **Amendment of Directives 2001/20/EC and 2001/83/EC as regards derogations from certain obligations concerning certain medicinal products for human use made available in the United Kingdom in respect of Northern Ireland and in Cyprus, Ireland and Malta (Directive) – CANFIN report – 2021/0431 (COD)**
- **Amendment of Regulation (EU) No 536/2014 as regards a derogation from certain obligations with regard to investigational medicinal products made available in the United Kingdom in respect of Northern Ireland and in Cyprus, Ireland and Malta (Regulation) — CANFIN report — 2021/0432 (COD)**

Line set out in SI(2022) 37/2.

The Commission took note of the following points:

- **Batteries and waste batteries, repeal of Directive 2006/66/EC and amendment of Regulation (EU) 2019/1020 (Regulation) – BONAFÈ report – 2020/0353 (COD)**

Information set out in SP(2022) 111.

- **General Union Environment Action Programme to 2030 (Decision) – O’SULLIVAN report – 2020/0300 (COD)**

Compromise text in SP(2022) 112, further to note SI(2021) 379, which the Commission had already approved on 14 December 2021.

- **Amendment of Regulation (EC) No 138/2004 of the European Parliament and of the Council as regards regional economic accounts for agriculture (Regulation) – KOKKALIS report – 2021/0031 (COD)**

Compromise text in SP(2022) 113, further to note SI(2021) 378, which the

Commission had already approved on 22 December 2021.

– **Schengen – State of play and political governance**

Information set out in SI(2022) 52/2.

The Commission approved the line set out for the following point, for transmission to the European Economic and Social Committee:

– **Follow-up to opinions of the European Economic and Social Committee – Plenary session of October 2021**

Line set out in SC(2022) 8/2.

**5. COORDINATION OF EXTERNAL ACTION
(RCC(2022) 11)**

The Commission took note of the operational conclusions in RCC(2022) 11 of the meeting of the Group for External Coordination (EXCO) held on Wednesday 23 February 2022.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

**6.1. WRITTEN PROCEDURES APPROVED
(SEC(2022) 112 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 21 and 27 February 2022.

**6.2. EMPOWERMENT
(SEC(2022) 113 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 21 and 27 February 2022.

6.3. *DELEGATION / SUBDELEGATION OF POWERS*
(SEC(2022) 114 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedures between 21 and 27 February 2022 archived in Decide.

6.4. *SIGNIFICANT WRITTEN PROCEDURES*
(SEC(2022) 115 AND /2)

The Commission took note of the significant written procedures for which the time limit expired between 28 February and 4 March 2022.

7. *ADMINISTRATIVE AND BUDGETARY MATTERS*
(SEC(2022) 116)

ADMINISTRATIVE MATTERS
(PERS(2022) 13)

7.1. *DG COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY*
– APPOINTMENT OF A DIRECTOR AT GRADE AD14/15
(PERS(2022) 14 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 'Data' Directorate in DG Communication Networks, Content and Technology (PERS(2022) 14).

It took note of the opinions of the Consultative Committee on Appointments of 6 and 10 February 2022 (PERS(2022) 14/2 and /3).

(2 March 2022)

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 Mr BRETON, it then decided to appoint Mr Yves VOLMAN to the post.

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

**7.2. MIGRATION AND HOME AFFAIRS – APPOINTMENT OF A
PRINCIPAL ADVISER AT GRADE AD14
(PERS(2021) 77 TO /4)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii), Article 29(1)(b) and Article 29(2) of the Staff Regulations for the post of Principal Adviser 'Return Coordinator' at DG Migration and Home Affairs (PERS(2021) 77 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 2 and 17 February 2022 (PERS(2021) 77/3 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, and after consulting Ms JOHANSSON, it then decided to appoint Ms Mari JURITSCH to the post.

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

**7.3. DG MIGRATION AND HOME AFFAIRS – AMENDMENT OF THE
ORGANISATION CHART
(SEC(2022) 122)**

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

- to extend the mandate of the ‘Migration Management’ Task Force until September 2024;
- to create a permanent unit ‘Migration Management Coordination’ (HOME.01);
- to approve the new organisation chart set out in SEC(2022) 122.

After the restructuring, the total number of directorates in DG Migration and Home Affairs would increase from 25 to 26.

These decisions would take effect on 16 March 2022.

8. OTHER BUSINESS

LATEST DEVELOPMENTS IN UKRAINE

The PRESIDENT took stock of the situation one week after Russia’s invasion of Ukraine and the adoption by the EU of sanctions against Russia.

In just a few days, the world had profoundly changed. She referred to the moving plea for Ukraine delivered by its president, Volodymyr Zelensky, during the plenary session of the European Parliament on 1 March. She was convinced that his videoconference address would remain in people’s minds for a long time to come.

She hailed the courage being shown by the authorities and population of Ukraine and stressed the absolute necessity of maintaining the unity of the 27 Member States, which was the key to the success of the measures that the EU had taken to date.

On 2 March the Commission had adopted by written procedure a third package of sanctions against Russia, while the rapid implementation of the previous

two packages was already having marked effects on the Russian economy and financial sector.

Ms JOHANSSON reported that the Commission had that very day adopted a proposal to activate the mechanism under the Temporary Protection Directive in order to simplify and speed up procedures to admit displaced persons from Ukraine into the EU. Once it had been adopted by the Council, in principle on 3 March, this mechanism would take immediate effect.

Mr LENARČIČ referred to the funding that the EU planned to allocate to humanitarian assistance for Ukraine and its displaced people, and to the appeal for funds launched by the United Nations. He welcomed the extraordinary response by 25 EU Member States and Norway, which had already offered significant material and financial aid through the Union Civil Protection Mechanism.

Mr DOMBROVSKIS stressed how much Ukraine needed European macro-financial assistance. Aid from international donors currently stood at around EUR 5.5 billion, 1.2 billion of which came from EU macro-financial assistance. The memorandum of understanding between the EU and Ukraine in respect of this assistance was to be signed as soon as possible and an initial payment should be made in mid-March. He welcomed moreover the good cooperation that the Commission had with the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), which had confirmed their support for future assistance measures.

Mr GENTILONI commented that the sanctions against Russia targeting the financial sector were already having tangible effects, especially those targeting certain activities of the Russian central bank.

Ms VESTAGER, Mr SCHINAS and Mr BRETON referred to the work carried out in the field of cybersecurity, both in terms of support for Ukraine and in terms of preparing the EU and its Member States.

The PRESIDENT concluded by thanking the Members of the Commission for the considerable efforts they and their staff were making to manage this crisis.

The Commission took note of this information.

**9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – TOWARDS A GREEN, DIGITAL AND RESILIENT ECONOMY – OUR EUROPEAN GROWTH MODEL
(COM(2022) 83 TO /3; RCC(2022) 80)**

**10. COMMUNICATION FROM THE COMMISSION TO THE COUNCIL – FISCAL POLICY GUIDANCE FOR 2023
(COM(2022) 85 TO /3; RCC(2022) 82)**

The PRESIDENT introduced the two Communications on the European economy being presented that day. One contained fiscal policy guidance for 2023 addressed to the Member States and the other was the Commission's contribution to the discussions on the future of the European economic model to be held at the informal European summit in Versailles on 10 and 11 March.

It was clear from this second Communication that the three major priorities identified by the Commission at the beginning of its term of office – the European Green Deal, the digital transition and strengthening the EU's resilience – were still valid. She felt that it was important for the Commission to remain coherent in the action it took by ensuring that its policies continued to be aligned with these priorities.

She asked Mr DOMBROVSKIS and Mr GENTILONI to present this set of two Communications.

Mr DOMBROVSKIS noted that, despite the geopolitical context, the EU had to continue to act for the future of its economy. On this subject, he stressed the importance of recent achievements: the EU's economic resilience had significantly improved over the past decade, its policies were working well and it had made exceptional steps forward with its management of the COVID-19 pandemic and the ensuing economic crisis. Moreover, thanks to monetary and fiscal policy support and the investment boost from the European budget and NextGenerationEU, the EU had mitigated the adverse effects of the pandemic and successfully remained on course to build a future-oriented economic model.

He pointed out, however, that the Union was exposed to a number of significant risks, both new and long-standing, which it had to tackle by strengthening its economy. The Communication on the European growth model therefore sought to diagnose the strengths and weaknesses of the European economy, take stock of the EU's common priorities and set out once again the means to achieve them.

This Communication did not propose any new initiatives, but brought together all the elements of the European economic model, namely the key objectives, the instruments and policy measures needed, as well as the role of the various players at European and national level and the private sector.

In terms of objectives, Mr DOMBROVSKIS referred in turn to the green transition, the digital transition, and measures to strengthen the EU's resilience and improve its crisis preparedness. These common goals would be achieved through investment and reforms.

On this last point, he noted that the EU would have to sustain higher levels of investment over time. The bulk of this would have to come from the private sector, but public investment would also have a role to play. The quality of the investment pipeline was as important as the level of investment, which meant that public investment should remain targeted and act as a catalyst for private investment. He

pointed out that the question of promoting public investment was also being discussed as part of the review of economic governance.

Mr DOMBROVSKIS also stressed the need for full alignment between investments and reforms, both at European and national level. The EU and the Member States needed to build a policy framework that was conducive to investment by ensuring their financial and fiscal stability and removing administrative, regulatory or other barriers.

He also felt that the EU should try to get more out of its single market as a key source of resilience. The single market offered European companies certainty, economies of scale and a global springboard. The EU therefore had to continue to remove existing barriers within the single market and prepare itself better for future crises.

In general, he concluded that the aim of the Communication on the European growth model was to help EU leaders to discuss the Union's common policy priorities for the future and to focus all policies and instruments on those priorities, both at European and national level.

Mr DOMBROVSKIS then turned to the Communication on the fiscal policy guidance addressed to the Member States for 2023, stressing that strong coordination in this area was more important than ever.

In 2022 the Member States should continue to support their economies through targeted measures, and the general escape clause of the Stability and Growth Pact would remain active. The EU had to remain agile so that it could adapt to rapid cyclical changes. According to current economic forecasts, the general escape clause is due to be deactivated as of 2023, but, in view of the current uncertainty, the situation would be reassessed in the spring.

The aim of the guidance being presented that day was therefore to facilitate the coordination of fiscal policies in 2023, based on certain principles. This would serve

as a basis for preparing the Member States' stability and convergence programmes. Among these principles, the Commission noted that budget support should stay, on average, at the same level as in 2022; it therefore recommended a broadly neutral fiscal stance. To tackle fiscal sustainability risks, high-debt Member States should start rebuilding their fiscal buffers in a gradual and growth-friendly way, hence the importance of improving the quality and composition of public finances. As of 2023, they should give priority to gradually improving their fiscal position by limiting their current expenditure and protecting investment. At the same time, less-indebted Member States should prioritise investments in the green and digital transitions, as it was less urgent for them to make fiscal adjustments in 2023.

Mr DOMBROVSKIS added that, given the current climate of uncertainty, the Commission was not proposing to open any new excessive deficit procedures in spring 2022, but might review this position in the autumn, as part of the European Semester of economic and budgetary policy coordination. He explained that, for Member States with a debt ratio above 60% of their gross domestic product (GDP), the Commission would consider that compliance with the debt reduction benchmark was not warranted in the current exceptional circumstances. Lastly, he stressed that this guidance was not set in stone and the EU had to be prepared to adapt its policies in the light of changing circumstances.

For his part, Mr GENTILONI also referred to the difficulties of the current context. He recalled the long internal reflection process that had been carried out in the Commission on the need for policy coordination in these circumstances, as a result of which it had been deemed appropriate to present the two Communications that day.

He explained that the Communication on the European growth model was intended to provide guidance to Member States on their medium- and long-term investment needs. There were four key messages.

The first message concerned the importance of the Communication in the current context. The tragic events of the past week had made it more imperative than ever to strengthen the EU's resilience and crisis preparedness, including by addressing its strategic dependencies. For the sake of all European citizens, the EU had to tackle today's challenges in a coordinated way rather than in a fragmented manner.

The second message involved recalling both the common objectives for a fair green and digital transition and the investment needs estimated for achieving this. Accordingly, to deliver on the Green Deal objectives, it would be necessary to increase annual investments by more than 50% to around EUR 520 billion in additional investment each year until 2030, of which EUR 390 billion would be allocated to decarbonising the economy. At the same time, the EU would need around EUR 125 billion of additional investment each year to deliver on the digital transition.

The third message concerned the important role of public investment in a fair and successful transition. Even if the bulk of the investment came from the private sector, public funding would be needed not only to correct market failures, but also to guide and crowd in private investment by reducing the risks related to certain innovative projects.

The fourth and final message concerned the on-going review of economic governance, which aimed to ensure that the EU's fiscal rules protected the Member States' investment capacity, so that they would be able to achieve the above-mentioned objectives.

With regard to the Communication on fiscal policy guidance for 2023, Mr GENTILONI pointed out that, only three weeks earlier, the Commission's winter economic forecast had considered the deterioration of the geopolitical situation to be a downside risk. Unfortunately, that risk had now become a reality. While it was still far too early to gauge the impact of these events on the European economy, meaning fiscal policy had to remain agile, he still considered it better to

offer guidance to Member States, even if it was contingent on how the current situation developed, in order to help them prepare their stability or convergence programmes in the coming weeks.

He then went on to discuss the main aspects of the guidance. First, the fiscal recommendations for 2023 would be qualitative, not quantitative. Second, no new excessive deficit procedures would be opened for the time being. Third, the general escape clause of the Stability and Growth Pact would have to be deactivated from 2023, but the Commission would reassess this in the spring, taking account of the uncertain economic outlook.

Lastly, Mr GENTILONI explained that the nature of the Commission's guidance was also linked to the ongoing discussion of the economic governance review. He highlighted some of the key issues that had arisen from the discussions so far, which deserved closer attention: (i) the proper balance to be found between debt sustainability and promoting sustainable growth, (ii) the increased attention to be paid to fiscal surveillance in the medium term, (iii) the examination of the possible positive effects of the Recovery and Resilience Facility on economic governance; and (iv) simplification of the framework.

He concluded his presentation by stressing the importance of the two Communications presented that day. He underlined in particular the useful contribution that the Communication on fiscal policy guidance for 2023 would make to the forthcoming debates in the European Council, which would be heavily influenced by events in Ukraine.

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

- the political desirability of giving these two Communications a high profile at a time when market operators were facing significant uncertainty and were in need of economic policy guidelines, even if these guidelines were still flexible enough to be adapted to changing circumstances;

- the need for the EU to have a more resilient growth model with a long-term perspective where the key word was investment, both in digital technologies and in climate action, but also in training and education;
- the caution with which the Commission responded to the needs of the moment in its Communication on fiscal policy guidance, while ensuring that the EU and its Member States remained united in their approach;
- the link between this Communication and the sensitive discussions on the economic governance framework, which should incorporate not only aspects strictly relating to economic policy, but also questions of social convergence and social investment;
- the need to reflect upon the considerable amount of private and public investment needed by the EU, the additional expenditure that this public investment would entail for governments, how to mobilise the financial markets to respond to these needs, and the debt facing the EU;
- the value of providing an appropriate economic response to the question of rising inflation, which at present was caused not by overheating on the demand side, but by the situation on the supply side, with highly volatile raw material and energy costs and supply chain bottlenecks;
- the role that the Commission had to play in managing the high levels of uncertainty at present and in possibly allocating additional funds to support viable European companies if necessary;

The PRESIDENT wound up the debate by thanking Mr DOMBROVSKIS and Mr GENTILONI for the quality of the Communications presented.

Following these presentations, the Commission:

- approved the Communication in COM(2022) 83/3 for transmission to the European Parliament, the European Council, the Council, the European

Economic and Social Committee and the Committee of the Regions and, for information, to the European Central Bank, the European Investment Bank and the national parliaments;

- approved the Communication in COM(2022) 85/3 for transmission to the Council and, for information, to the European Parliament and the national parliaments.

**11. COMMUNICATION FROM THE COMMISSION – GUIDELINES ON THE APPLICATION OF REGULATION (EU, EURATOM) 2020/2092 ON A GENERAL REGIME OF CONDITIONALITY FOR THE PROTECTION OF THE UNION BUDGET
(C(2022) 1382; RCC(2022) 81)**

The PRESIDENT introduced the Commission's Guidelines on the application of Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

She began by stressing that the budget constituted the ultimate proof of the principle of solidarity upon which the EU was founded, since all Member States contributed to and benefited from it. This solidarity was based on the mutual trust between Member States that these common resources would be used responsibly. All the Member States had undertaken to comply with the obligations incumbent upon them under EU law and to respect the fundamental values of the EU, including the rule of law, laid down in Article 2 TEU. The budget must therefore be protected against all types of fraud, corruption and conflicts of interest.

She observed that the Court of Justice of the EU had confirmed the legality of the Regulation on a general regime of conditionality for the protection of the Union budget in its judgments of 16 February 2022.

Mr HAHN pointed out that this general regime of conditionality had been agreed during the negotiation of the 2021-2027 multiannual financial framework and that these guidelines, drafted in 2021, aimed to set out the practical arrangements for its application by the Commission. However, in its conclusions of 10 and 11 December 2020 the European Council had stated that, ‘Should an action for annulment be introduced with regard to the Regulation, the guidelines will be finalised after the judgment of the Court of Justice so as to incorporate any relevant elements stemming from such judgment.’ The guidelines presented that day had therefore been finalised in the light of the judgments issued by the Court of Justice of the EU.

In addition to the legality of the Regulation, the Court of Justice of the EU had clearly confirmed its scope of application, namely, the protection of the Union budget against breaches of the principles of the rule of law that affect or seriously risk affecting its sound financial management or the protection of the financial interests of the Union in a sufficiently direct way.

Mr HAHN reiterated that these guidelines set out the conditions for the application of the Regulation in question, the ten articles of which they closely followed, and did not add any new rules. Nonetheless, they also included a political dimension, which was why the Member States and the European Parliament had been consulted extensively during their preparation.

The rules for the application of the Regulation were divided into five essential points within the document, namely, (i) the conditions for the adoption of measures under the Regulation, particularly the rules to be followed in order to assess whether breaches of the rule of law affected or threatened to affect the EU's financial interests in a sufficiently direct way, (ii) the complementarity between the Regulation and other instruments to protect the EU's financial interests, particularly financial and sectoral EU legislation, (iii) the proportionality of the measures proposed to resolve the problems addressed, (iv) the steps and methodology to be

followed before proposing measures under the Regulation; and (v) the protection of the rights of final beneficiaries of EU funding.

Mr HAHN concluded his presentation by saying that the Commission now had an appropriate instrument with which to continue work, as the European Parliament had called for in a recent resolution. He explained that the Commission had sent two letters to Hungary and Poland last autumn and had received their replies, which now needed to be analysed with a view to deciding on the follow-up to the procedure.

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

- the fact that the Regulation on a general regime of conditionality responded to the concern on the part of European taxpayers that the EU budget be spent properly; the reference to the link between breaches of the rule of law and protection of the budget;
- the fact that this instrument was additional to those related to the breaches and procedure under Article 7 of the Treaty on the Functioning of the European Union;
- broad support for the approval of the guidelines presented that day, which had been finalised in the light of the judgments of the Court of Justice of the EU clarifying the Court's interpretation of the Regulation in question;
- the significant legal work and extensive consultations that had taken place prior to the preparation of these guidelines;
- the recognition that these guidelines set out the conditions necessary for the initiation of a procedure, namely, (i) reasonable grounds to believe that a breach of the principles of the rule of law by a Member State affected or seriously risked affecting the proper financial management of the Union's budget, in a

sufficiently direct way, and (ii) the establishment of a clear link between breaches of the rule of law and the effect on the Union's budget;

- the argument that these guidelines further clarified the conditions necessary to ensure the proportionality of measures that could be adopted under the Regulation;
- while acknowledging the differences in the organisation of the independent judicial systems of the Member States, the need for each of them to respect the same principles and comply with the same rules, which stemmed from the Treaties, from legislation and from the case law of the Court of Justice of the EU;
- the importance of drawing attention to the fact that the Regulation was not an instrument for sanctioning Member States, but rather was based on the Member States' commitment to apply these rules;
- the desirability of pointing out that courts which were not considered to be independent would represent a risk of non-compliance with the principles of the rule of law in the implementation of the EU budget;
- the welcome possibility offered by the Regulation to recover funds should the European Anti-Fraud Office (OLAF) discover fraud involving European funds in a Member State where that Member State decided not to prosecute;
- the observation that the call to equip the EU with the Regulation on a general regime of conditionality would have been less pressing had all the Member States been participants in the European Public Prosecutor's Office;
- the value of having specified in the guidelines the conditions for protecting the final beneficiaries of EU funding in the event of proceedings being brought against a Member State.

(2 March 2022)

The PRESIDENT closed the discussion by pointing out that all the Member States had acceded to the Treaty on European Union and had therefore undertaken to comply with its provisions, including on the primacy of EU law over national law, as well as with EU legislation and the case law of the Court of Justice of the European Union.

Following this presentation, the Commission approved the Communication in C(2022) 1382 and decided to publish it, for information, in the Official Journal of the European Union and to notify it, for information, to the Member States.

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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 12.12.