EUROPEAN PARLIAMENT

2013-2014 SESSION

Sittings of 1 to 4 July 2013

The Minutes of this session have been published in OJ C 319 E, 5.11.2013.

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### Key to symbols used

* Consultation procedure  
*** Consent procedure  
***I Ordinary legislative procedure: first reading  
***II Ordinary legislative procedure: second reading  
***III Ordinary legislative procedure: third reading

(The type of procedure depends on the legal basis proposed by the draft act.)

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New text is highlighted in **bold italics**. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in **bold italics** and by deleting or striking out the text that has been replaced.
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TEXTS ADOPTED
I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

P7_TA(2013)0290

External aviation policy

European Parliament resolution of 2 July 2013 on the EU’s External Aviation Policy — Addressing future challenges (2012/2299(INI))

(2016/C 075/01)

The European Parliament,

— having regard to the Commission Communication entitled ‘The EU’s External Aviation Policy — Addressing Future Challenges’ (COM(2012)0556),

— having regard to its resolution of 7 June 2011 on international air agreements under the Treaty of Lisbon (1),

— having regard to its decision of 20 October 2010 on the revision of the framework agreement on relations between the European Parliament and the European Commission (the Framework Agreement) (2),

— having regard to its resolution of 17 June 2010 on the EU-US air agreement (3),

— having regard to its resolution of 25 April 2007 on establishing a European common aviation area (4),

— having regard to its resolution of 17 January 2006 on developing the agenda for the Community’s external aviation policy (5),

— having regard to the Treaty on the Functioning of the European Union and in particular Articles 90, 100(2) and 218,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on International Trade and the Committee on Employment and Social Affairs (A7-0172/2013),

A. whereas aviation is a rapidly growing area of the economy, both within the Union and outside, especially in Asia and the Middle East,

(2) OJ C 70 E, 8.3.2012, p. 98.
(3) OJ C 236 E, 12.8.2011, p. 121.
(5) OJ C 287 E, 24.11.2006, p. 84.
B. whereas aviation has an important role to play in connecting people and business, both inside the Union and globally, especially with developing markets,

C. whereas the number of job cuts implemented and scheduled by European airlines since 2012 amounts to more than 20,000,

D. whereas the European social partners in aviation, agreed that coordinated and comprehensive action is necessary at international level in the context of a dialogue on the impact of the global crisis in civil aviation held on 29 January 2013,

E. whereas the Commission's 2005 Communication played an important role in developing the Union's External Aviation Policy,

F. whereas developments over the past seven years make a further review appropriate,

General

1. Emphasises the progress made in creating a single and open Union regional market and, at the same time, in building a common Union approach to its External Aviation Policy;

2. Welcomes the Commission Communication, which provides a timely analysis of the current situation and the progress achieved in external aviation policy since 2005, as well as of the challenges facing the Union's aviation sector in an extremely competitive global aviation market;

3. Underlines the vital role of the aviation sector to the Union's economy, especially in terms of growth and jobs, since this industry supports over 5 million European jobs and accounts for 2.4% of the Union's GDP, contributing as well to the Union's connectivity with the rest of the world; stresses the need to maintain a strong and competitive Union aviation sector;

4. Considers that there has been important progress in defining and implementing Union mechanisms and systems, such as the Single European Sky (SES), the SES Air Traffic Management Research (SESAR), the clean sky initiative, the European Aviation Safety Agency (EASA) and the Global Navigation Satellite System (GNSS), to enhance safety and meet passenger requirements; considers that further progress must be made in these areas;

5. Is concerned, nevertheless, about delays in implementing the SES and SESAR, given the unnecessary costs these delays impose on airlines and their customers; supports the Commission in taking punitive action against those Member States who have not complied with the December 2012 deadline and who have failed to make any progress regarding the Functional Airspace Blocks;

6. Calls on the Commission and the Member States to press ahead with the implementation of the SES and SESAR; notes that the development of the SES, when fully implemented, will create significant direct and indirect employment opportunities;

7. Stresses that these Union programmes are important not only for the internal market but also for external policy; believes that the completion and implementation of these instruments will help to consolidate the position of the Union's industry in the competitive global market;

8. Emphasises the importance of the current revision of the Air Passenger Rights Regulation and supports strong and profoundly consumer-friendly European legislation;

9. Is aware that the impact of the financial crisis varies between regions of the world; considers that this has led to Union airlines facing competitive challenges and that bilateral air service agreements are not always the most appropriate solution to combat market restrictions or unfair subsidies;

10. Considers that, as a comprehensive External Aviation Policy has not been achieved despite effort over the past seven years, a more coordinated Union approach, involving greater ambition, should be applied as soon as possible to establish fair and open competition;
11. Takes the view that European regulatory convergence is a key element for a strong European position on the global market and for interactions with third countries;

**2005 Communication and Parliament’s resolution**

12. Welcomes the progress made concerning the three pillars of the 2005 policy: the principle of the Union designation is now recognised in more than 100 third countries; almost 1 000 bilateral air services agreements have been brought into conformity with Union law, thereby ensuring legal certainty; regrets that important partners, including China, India and South Africa, have yet to accept these principles;

13. Points out that the implementation of the Union’s External Aviation Policy has helped to maximise the potential of the single market insofar as it facilitates the consolidation of the Union’s aviation industry at a time when globalisation calls for stronger economic actors to resist foreign competition;

14. Underlines that a growing Common Aviation Area has been developed with neighbouring countries; considers that these agreements have created important economic benefits; welcomes the substantial efforts that have been undertaken to align different regulatory frameworks with Union legislation in areas such as safety, security, air traffic management, the environment, passenger rights, economic regulation and social aspects;

15. Welcomes the comprehensive EU-US Air Transport Agreement, and the positive impact it has had on both economies, as well as the estimated 80 000 new jobs which were created in the first five years;

16. Believes that a strong Union External Aviation Policy focusing on the most significant growth markets in the long-haul sector would open up new economic opportunities for Union airlines, particularly in the Asia-Pacific region;

17. Stresses that negotiations with some key partners, including Brazil, are still to be concluded, and that wide-ranging air service agreements with such countries could produce substantial economic benefits;

18. Emphasises that some of the requests in Parliament’s 2006 resolution are still to be met: stresses, in particular, the need to promote appropriate international safety and security standards, to ensure the equal treatment of Union and non-Union air carriers and to mitigate negative effects on the environment;

19. Emphasises the importance of tools such as the Joint Committee system for creating common approaches to aviation-specific issues;

20. Welcome the achievement of other points raised in the 2006 resolution, such as the extension of EASA's responsibilities;

**Market**

21. Notes an important increase in traffic to, from and within the Asia-Pacific region, reflecting its trend economic growth; is worried about the possibility that, if nothing is done, Union airlines and businesses may both miss out on great opportunities from this part of the world and lose the capacity to generate profits;

22. Notes also that the global position of non-Union carriers has been reinforced through subsidies and through major public investments in aircraft and infrastructure undertaken in various parts of the Middle East, the Far East and South America;

23. Stresses the significant changes in the Union’s internal market as a result of the increased share of low-cost carriers; believes that, competition notwithstanding, the two business models could find ways to complement each other when facing external market challenges;

24. Notes that extremely low ticket prices offered by some European low-cost carriers are compensated by the companies via unfair practices regarding working conditions, such as poor social and labour law standards for staff; notes also that minimal investments in safety standards and unjustified regional subsidies seem to play a role in this ticket pricing.
25. Points out that there is a great deal of competition between carriers as a result of low-cost airlines, which make up 40% of the Union aviation market; stresses that, where a Member State has ratified ILO Conventions 87 and 98, airline companies must comply with their fundamental rights provisions regarding freedom of assembly, as well as the recognition of employee representatives and wage agreements, in which connection compliance must be monitored and infringements penalised;

26. Emphasises the importance of airport hubs, including the development of secondary hubs, specialised hubs and multi-hubbing, as well as the urgent need for both public and private long-term investments in airport infrastructure to increase capacity, for example by building new runways, as well as for more efficient use of existing infrastructure — including regional airports, for example in the Mediterranean and at the Union’s eastern borders — through better allocation of airport slots;

27. Underlines that the competitiveness of Union carriers is hampered at global level by factors such as the lack of a level playing field owing to, for example, different national taxes, congested airports, high ATM and airport charges, State aid received by competitors, the cost of carbon emissions, the application of lower social standards and different rules on State aid outside the Union;

28. Considers that these factors represent potential obstacles to growth and employment.

29. Calls on the Commission to conduct a study on the Members States’ disparate air travel fees, duties, levies and taxes and the impact of these on ticket prices and airlines’ profits, as well as a study on possible State aid received by competitors at global level and its impact on the Union’s airlines;

30. Welcomes the new Union rules regarding social security for mobile workers;

Future actions

31. Takes the view that the External Aviation Policy should fully respect the principle of reciprocity, including market access, openness and fair competition, with a level playing field, and should have two main objectives: to benefit consumers and businesses, and to support Union airlines and airports in their efforts to preserve their position as world leaders;

32. Stresses, therefore, that air transport agreements with neighbouring countries and like-minded partners must contain a regulatory framework for fair competition;

33. Calls for the continued use of procedures to negotiate comprehensive aviation agreements at the Union level, based on European unity and authorised by the Council;

34. Calls on the Commission to promote and defend Union interests within the agreements and to put forward and share Union standards, values and best practices;

35. Calls for increased cooperation and coordination between the Commission and the Member States, when negotiating air services agreements with key partners, in order to increase the Union’s leverage and its chances of accessing new markets;

36. Calls on the Commission to include the regulatory conditions for safety, security, passenger rights, staff training and certification in comprehensive agreements;

37. Calls on the Commission to complete ongoing negotiations with neighbourhood countries such as Ukraine, Lebanon, Tunisia, Azerbaijan and Algeria; points out that the proximity of these countries and their markets, and the economic growth that has occurred in some of them in recent times, may be seen as a growth opportunity for regional and secondary airports in the Union; takes the view that, given the large amount of capacity at regional airports, such airports can play a part in reducing congestion at the main European hubs, thus making them more competitive at global level;

38. Calls on the Council to grant the Commission, on a case-by-case basis, mandates for negotiation with other neighbourhood countries such as Turkey, Armenia and Libya;
39. Considers that the Union should take a case-by-case approach to its relations with key partners, and calls on the Commission to complete, as soon as possible, the negotiations of comprehensive air agreements, including with Australia and Brazil, and on the Council to grant the Commission a mandate to negotiate such agreements with fast-growing economies such as China, India and ASEAN and Gulf countries;

40. Takes the view that a possible future Trade and Investment Agreement between the Union and the US would also affect the aviation sector; considers, therefore, that the Commission should provide sufficient information so that the upcoming negotiations can be closely monitored by Parliament;

41. Underlines the need fully to achieve the objectives set out in air transport agreements with key partners, in particular the US and Canada, including the removal of restrictions on foreign ownership and control of airlines; calls for action to overcome the ongoing imbalance between Union airlines’ ability to undertake cabotage in the US market and US airlines’ ability to do so in Europe; points out that international cross-investment helps boost the economic vitality of the aviation sector, and urges the Commission to foster an international legal environment that is conducive to expansion in, and support for, such investment, and that serves to promote an active policy aimed at establishing standards and best practices for international investment;

42. Takes the view that bilateral agreements can make an important contribution to the development of an External Aviation Policy, but emphasises, at the same time, the importance of a common Union approach;

43. Stresses the importance of fair and open competition in all activities connected with air services; calls for the inclusion of standard ‘fair competition’ clauses in bilateral air services agreements;

44. Calls on the Commission to define, and on the Member States to apply, a minimum set of standard Union legal requirements, notably with regard to regulatory cooperation, labour and environmental standards and passenger rights, to be included in bilateral agreements, with a clear aim of creating opportunities and removing barriers for Union airlines;

45. Calls on the Commission to propose an urgent revision or replacement of Regulation (EC) No 868/2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers (1);

46. Supports the Commission’s proposals for safeguarding free and fair competition in relations and agreements with third countries and for developing more effective new trade defence instruments that are better suited to dealing with unfair practices such as discrimination, inconsistent application of the regulatory framework, and lack of transparency in financial reporting by companies, which can lead to market distortions;

47. Calls on the Commission to engage in a dialogue with Gulf countries with a view to enhancing transparency and safeguarding fair competition;

48. Notes that the Russian Federation refuses to respect the agreement on the phasing-out of Siberian overflight royalties reached in the framework of the Russian Federation’s WTO accession in 2011; considers that, as the Union carriers are placed under long-term discriminatory conditions by these illegal transit charges, the Union should be able to take reciprocal measures — by denying or limiting transit over its territory or, more generally, by taking any measure related to the use of Union airspace for air carriers of the Russian Federation — in order to motivate the Russian Federation to remove the above-mentioned charges, which are illegal as they contravene international agreements (the Chicago Convention); calls, therefore, on the Commission and the Council to examine possible measures to ensure reciprocity in relation to the use of air space between the Russian Federation and the Union;

49. Stresses that an ambitious Union policy on protecting air passengers’ rights can give Union airlines a quality advantage in global competition; calls on the Commission to take further steps to promote the high Union standards in the field of air passengers’ rights and to monitor their transposition and application;

50. Calls on the Commission to elaborate, as soon as possible, a new regulatory framework regarding implementation of SES, based on a top-down approach, including a better cooperation mechanism between European air navigation service providers, and to provide the necessary conditions to start SESAR deployment;

51. Calls on the Council finally to adopt a position on Parliament’s position of 5 May 2010 on the proposal for a directive on aviation security charges (1), which though adopted in Parliament by an overwhelming majority of 96% is still blocked by the Council;

52. Considers that the International Civil Aviation Organisation (ICAO) has an important role to play in developing regulatory frameworks for the global aviation sector, for example in the liberalisation of ownership and control of airlines and in ensuring global interoperability in air traffic management; encourages the ICAO to continue to develop global, market-based measures to reduce noise at airports and to limit all relevant greenhouse gas emissions; considers it to be essential that an agreement on a global approach is reached within the ICAO as soon as possible;

53. Calls for negotiating mandates to be given to the Commission to clarify and strengthen the Union’s representation within the ICAO;

54. Instructs its President to forward this resolution to the Council and the Commission.

**P7_TA(2013)0291**

**Member States’ export credit agencies**

**European Parliament resolution of 2 July 2013 on the first annual report from the Commission to the European Parliament on the activities of Member States’ Export Credit Agencies (2012/2320(INI))**

(2016/C 075/02)

The European Parliament,


— having regard to its resolution of 11 December 2012 on financing EU SMEs’ trade and investment: facilitated access to credit in support of internationalisation (2),

— having regard to its resolution of 27 September 2011 on a new trade policy for Europe under the Europe 2020 Strategy (3),

(1) OJ C 81 E, 15.3.2011, p. 164.
(4) OJ C 56 E, 26.2.2013, p. 87.
A. whereas export credit programmes of the Member States constitute an important instrument to enhance trade and business opportunities for European companies;

B. whereas Regulation (EU) No 1233/2011 of the European Parliament and the Council on the ‘Application of certain guidelines in the field of officially supported export credits’ specifies annual reporting requirements for the Member States vis-à-vis the Commission and, at the same time, provides for delegating powers to the Commission, achieving the swiftest possible transposition of changes in respective OECD Arrangements into EU law;

C. whereas, under Article 207 of the Treaty on the functioning of the European Union (TFEU), ‘the common commercial policy shall be conducted in the context of the principles and objectives of the Union’s external action’;

D. whereas the principles guiding how the Union is to organise its relations with the wider world, and the guiding principles of the Union’s action on the international scene, are contained in Articles 3 and 21 of the Treaty on the European Union (TEU), which is a binding agreement between the Member States;

E. whereas the communication of December 2011 of the Commission and the High Representative for Foreign and Security Policy affirms that ‘European businesses should be encouraged to undertake adequate due diligence to ensure that their operations respect human rights, wherever they are performed’;

(1) OJ C 296 E, 2.10.2012, p. 34.
(2) OJ C 99 E, 3.4.2012, p. 94.
F. whereas the ‘EU Strategic Framework and Action Plan on Human Rights and Democracy’ of the European Council affirms that ‘the EU will promote human rights in all areas of its external action without exception’;

G. whereas the EU Charter of Fundamental Rights is legally binding on the EU institutions and Member States, with the exception of those Member States that have an opt-out when implementing EU law, and whereas the Commission’s strategy for the effective implementation of the Charter explicitly acknowledges that the Charter applies to the EU’s external action;

H. whereas the Union and its Member States welcomed the UN Guiding Principles on Business and Human Rights, Principle 4 of which, on state-business relations, explicitly refers to export credit agencies;

I. whereas export credit support is often granted to large projects experiencing difficulties in accessing commercial credit resulting from high commercial, political, economic or environmental risks, which export credit agencies (ECAs) need to assess and price accordingly;

J. whereas on 14 March 2013 the Commission proposed a Delegated Regulation amending Annex II to Regulation (EU) No 1233/2011:

1. Welcomes the Commission’s efforts to establish a framework for annual reporting by Member States on their export credit activities in accordance with Regulation (EU) No 1233/2011, in order to step up transparency at EU level; stresses that the key objective of this reporting is to monitor the compliance of Member State’s ECAs with the international disciplines applicable to export credits and with EU Treaty obligations;

2. Acknowledges informal receipt on 14 December 2012 of the Commission’s first annual report on the export credit activities of Member States, evaluating the responses of 20 out of 27 Member States maintaining active export credit programmes, as well as receipt of these Member States’ reports in the form of annexes; the Commission has since approved these documents for public release in order to fulfil the goal of the basic regulation to increase transparency;

3. Commends the fact that the Commission report clearly indicates the scale and importance of the Member States’ export credit activities during 2011, which amount to a total exposure of more than EUR 250 billion — including 260 transactions with reported high environmental implications — and which translate into significant trade and business opportunities for European companies;

4. Recognises that the Member States, in their Annual Activity Reports, have made available to the Commission the financial and operational information on export credits requested in the first paragraph of Annexe I of Regulation (EU) No 1233/2011;

5. Underlines the importance — in the context of the scale of Member States’ export credit activities — of Recital 4 of Regulation (EU) No 1233/2011, calling for compliance with the Union’s general provisions on external action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change; recalls, in this sense, the importance of the specific reporting requirements formulated in Annex I of the regulation to ensure that the Commission and Parliament are able to make an assessment of this compliance;

6. Stresses that the annual reports of the Member States, and the Commission’s evaluation of these reports, do not yet satisfy Parliament’s intention to be able to make an assessment as to whether the Member States’ export credit activities are in compliance with the Union’s foreign policy goals, as enshrined in Articles 3 and 21 TEU, and the treatment of environmental risks in the calculation of ECA premiums;

7. Welcomes the ‘clear general willingness’ on the part of the Member States — cited by the Commission in the current annual report — to ‘apply policies to their export credit programmes whose objectives are in line with the general language of Articles 3 and 21’; commends the efforts of some Member States, including Germany, Italy, Belgium and the Netherlands, to provide more meaningful reporting on compliance with some of the Union’s external action goals;

8. Acknowledges that the Commission needs to be able to assess whether the export credit activities of the Member States are in compliance with the external action goals of the Union, and recommends, therefore, that the test of compliance should be on whether or not officially supported ECAs have policies in place that are effective in ensuring that their activities are in accordance with the foreign policy objectives of the Union;
Benchmarks ECA compliance with the Union’s external action goals

9. Shares the Commission’s observation in the annual report that ‘it is difficult to define a precise benchmark for measuring compliance in EU law’; reiterates that Article 21 provisions remain the key benchmark against which the policies applied to export credit transactions are to be evaluated;

10. Stresses that the Union will only be a trustworthy and strong global actor if the Member States and the European institutions pursue a consistent external policy;

11. Recommends that the Council Working Group on Export Credits and the Commission consult with the European External Action Service (EEAS) on developing a methodology for meaningful reporting on Article 21 compliance, and on the application in the EU of certain OECD guidelines in the field of officially supported export credits, before the next annual report is due; insists that public consultation be part of this process;

12. Considers it of prime importance to call on the Member States to monitor and report on the existence, outcome and effectiveness of due diligence procedures in the screening of projects officially supported by export credits with regard to their potential impact on human rights;

13. Is aware of the fact that ECAs rely on the information provided by their project partners; is convinced that if a structured approach to due diligence procedures is required of ECAs in order for them to be eligible to receive project finance, project partners would appreciate carrying them out themselves, thereby mitigating additional administrative costs for the ECAs;

14. Considers progress in reporting on human rights compliance by ECAs to be a front-runner for better reporting on other European external action goals enshrined in Article 21, such as the eradication of poverty, and on the treatment of environmental risks;

Reporting on treatment of environmental risks in the calculation of ECA premiums

15. Suggests to Member State ECAs to continue to report on their evaluation of environmental risks, and considers such reporting by all OECD and non-OECD ECAs to be essential for ensuring a level playing field;

Reporting on contingent liabilities

16. Notes that Member State ECAs currently report on exposure to contingent liabilities in different modes; asks the Commission to provide for a common definition which reflects the wish of Parliament to be informed about off-balance sheet exposures;

Guidance and evaluation by the Commission

17. Calls on the Commission to provide guidance to the Member States for the next reporting period, inter alia on how to report on the existence and effectiveness of due diligence procedures with regard to their human rights policies, and on how to report on the treatment of environmental risks;

18. Expects the next Annual Report of the Commission to contain a statement on whether it has been able to evaluate Member State compliance with Union objectives and obligations and, if the answer is negative, recommendations on how to improve reporting to this end;

Commission report on outreach to non-OECD countries

19. Applauds the efforts undertaken in 2012 by the Commission, together with the USA, to engage China, Brazil, Russia and other major emerging economies in the setting up of the International Working Group of Major Providers of Export Finance (IWG);

20. Suggests that the relevance of a sectoral approach in developing the IWG be explored in order to build the base for horizontal provisions in a second phase that will ensure the common adoption of effective and high standards, and of new international rules on ECAs, by all OECD and non-OECD countries, with a view to ensuring a level playing field;

21. Instructs its President to forward this resolution to the President of the European Council, the Council, the Commission, the governments and parliaments of the Member States, and the OECD Secretariat.
P7_TA(2013)0293

**Statute for a European Foundation**


(2016/C 075/03)

_The European Parliament_,

— having regard to the proposal for a Council regulation (COM(2012)0035),

— having regard to the Commission’s impact assessment accompanying its proposal for a Council regulation on the Statute for a European Foundation (FE),

— having regard to the Declaration of the European Parliament of 10 March 2011 on establishing European statutes for mutual societies, associations and foundations (1),

— having regard to the feasibility study on the introduction of a Statute for a European Foundation carried out in 2008 by the Max Planck Institute for Comparative and International Private Law and the University of Heidelberg,

— having regard to the judgments of the European Court of Justice in Cases C-386/04, Centro di Musicologia Walter Stauffer v Finanzamt München für Körperschaften (2), C-318/07, Hein Parsche v Finanzamt Lüdenscheid (3) and C-25/10, Missionswerk Werner Hinkelbach eV v Belgisch State (4),

— having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (European Citizenship) (5),

— having regard to the opinion of the Economic and Social Committee of 18 September 2012 (6),

— having regard to the opinion of the Committee of the Regions of 29 November 2012 (7),

— having regard to Rule 81(3) of its Rules of Procedure,

— having regard to the interim report of the Committee on Legal Affairs and the opinion of the Committee on Culture and Education (A7-0223/2013),

A. whereas there are more than 110 000 foundations with a public benefit purpose in the Union, with estimated combined assets of approximately EUR 350 billion, spending a total of approximately EUR 83 billion and employing between 750 000 and 1 000 000 European citizens;

B. whereas, however, a proportion of the staff of foundations are volunteers who are not paid for their time;

C. whereas the existence and activities of foundations operating in the Union for the public good are crucial in the fields of education, training, research, social and health provision, historical memory and reconciliation between peoples, protection of the environment, youth and sport, as well as arts and culture, and whereas many of their projects have an impact far beyond national borders;

D. whereas, in civil law and tax law throughout the Union, there are more than 50 different pieces of legislation applicable to foundations, as well as a host of complicated administrative procedures, which give rise annually to advisory costs estimated to amount to as much as EUR 100 million — money that thus becomes unavailable for public benefit purposes;

(4) ECR 2011, p. I-497.
E. whereas legal, tax-related and administrative barriers, which give rise to expensive and lengthy procedures, as well as a lack of appropriate legal instruments, mean that foundations refuse, or find it difficult, to embark on or develop activities in another Member State;

F. whereas, in a time of tight national budgets, particularly for cultural and artistic activities, education and sport, the financial and social commitment of foundations is essential, although they can only complement, and cannot replace, the state in the pursuit of public benefit purposes;

G. whereas, with regard to taxation, it is not tax-law harmonisation that is being proposed, but rather application of the rule of non-discrimination, under which, automatically and as a matter of principle, European foundations and their donors are subject to tax provisions and advantages that are identical to those that apply to national entities with a public benefit purpose;

H. whereas the introduction of a common Statute for a European Foundation could make it much easier for foundations to package and transfer resources, expertise and donations and to pursue their activities throughout the EU;

I. whereas the European Parliament welcomes the Commission’s proposal as a major step towards making it easier for foundations to support public benefit purposes across the EU;

J. whereas the proposed statute is an optional European legal form which will be available for foundations and funders with activities in more than one Member State, but will neither replace nor harmonise existing foundation laws;

K. whereas in times of economic difficulty it is increasingly important that foundations have the right tools to enable them to pursue public benefit purposes at European level and to pool resources, while also reducing costs and legal uncertainties;

L. whereas it is crucial that European Foundations (FEs) operate on a sustainable and long-term basis and are truly active in at least two Member States, as otherwise their specific status would not be justified;

M. whereas some of the terminology and definitions in the Commission proposal require clarification;

N. whereas some additions and adaptations to the Commission proposal appear necessary in order to enhance the trustworthiness and credibility of an FE, for instance as regards compliance with legal and ethical rules, the exclusiveness of the public benefit purpose, the cross-border component, the minimum assets and the need to maintain these in principle throughout the lifetime of the FE, a rule on timely disbursement, the minimum duration, and the payment of remuneration to Members of the governing board or bodies of the FE;

O. whereas creditor protection and employee protection are crucial and need to be maintained throughout the lifetime of an FE;

P. whereas, as regards representation of employees, the reference to Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) (1) should be strengthened in order to make clear that the procedural rules under that Directive apply; whereas, furthermore, there should be greater sanctions on infringements, for instance by making the registration of an FE conditional on fulfilment of the requirements under Directive 2009/38/EC, in line with Article 11(2) of Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) (2); whereas, beyond this, provisions are necessary regarding the involvement of employees in the bodies of an FE, in line with Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees (3), so that the form of an FE cannot be misused for the purpose of depriving employees of rights to employee involvement or withholding such rights;

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Q. whereas a provision regarding the representation of volunteers in the FE is to be welcomed, given that 2.5 million volunteers are active in the sector;

R. whereas the increasing representation and valuable contribution of volunteers in the work of foundations contribute to the objectives of general interest pursued by them; since, especially, more and more young people have to volunteer in order to collect their first work experience, it may be worthwhile for foundations to consider forms and instruments that will allow them to access the information needed to work in a more effective way, for example through the European Workers Council;

S. whereas it is necessary to clarify that the registered seat and the central administration of an FE shall be in the same Member State, in order to prevent the dissociation of the registered seat and central administration or principal place of activities, and also in order to facilitate supervision, given that an FE will be supervised by the supervisory authority of the Member State in which it has its registered office;

T. whereas it should not be the purpose of the FE to finance European political parties;

U. whereas, concerning taxation, the application of the non-discrimination principle as developed by the European Court of Justice needs to be the starting point; whereas it has been acknowledged by the sector that the proposed approach of granting automatic application of equal tax treatment would increase the attractiveness of the FE statute by considerably reducing the fiscal and administrative burden, making it more than a mere civil law instrument; whereas, however, the approach appears to be very contentious in Council, with Member States being reluctant to allow interference with their domestic tax laws; whereas it therefore appears appropriate not to discard possible alternative scenarios;

V. whereas it is important that negotiations on this important piece of legislation move forward quickly in order to provide the foundation sector with this new instrument that it is obviously urgently awaited:

1. Encourages the Member States to use the existing momentum to work for the swift introduction of the Statute on a comprehensive basis, with all guarantees of transparency, so that barriers to foundations’ cross-border work can be dismantled, and new foundations can be set up to meet the needs of the people living in the EU or to work in the public good or further the interests of society; stresses that establishing the Statute would contribute to the implementation of genuine EU citizenship and pave the way for a statute for a European organisation;

2. Emphasises that the FE should contribute to the development of a truly European culture and identity;

3. Points out that, while the legal form of the FE would be new, the proposal is that it should be applied through structures that already exist in the Member States;

4. Welcomes the fact that the Statute lays down minimum standards in terms of transparency, accountability, supervision and use of funds, which can, in turn, serve both citizens and donors as a form of quality label and thereby secure confidence in FEs and prompt the development of their EU activities for the benefit of all citizens;

5. Highlights the potential offered by foundations in providing jobs for young people, among whom unemployment is reaching alarming levels;

6. Calls for the regulation to stipulate that the Member State with financial authority over the foundation shall be responsible for ensuring that it is, in practice, managed strictly in accordance with its statute;

7. Notes that the possibility of merging existing FEs has not yet been established;

8. Notes that, in order to underpin confidence in FEs, the sustainability, seriousness and viability of foundations, as well as the effectiveness of their supervision, must be core criteria and, with this in mind, requests the Council to take into account the following recommendations and modifications:

   (i) the minimal level of assets of EUR 25 000 should be maintained throughout the lifetime of the foundation;

   (ii) the existence of an FE in any Member State should be open-ended or, where expressly laid down in its statutes, set for a specified period of time of not less than four years; placing a shorter time limit of not less than two years on it should be permissible only where there is sufficient justification for doing so, and where the foundation’s purpose would thereby be fully safeguarded;
(iii) amendments to a foundation's statutes, where the existing statutes have become inappropriate for the functioning of the FE, should be allowed if they are made by its governing board; where the FE has other bodies in accordance with Article 31, these bodies should be involved in the decision on the amendments to the statutes.

(iv) to avoid conflicts of interest within foundations vis-à-vis bodies independent of the founder, i.e. that do not have a business, family or other relationship with the founder, provision should be made along the lines proposed by the Commission, but it should be recognised that foundations may be set up in a family context, in which a high degree of trust between founder and committee members is a prerequisite, so that the founder knows that the purpose of the foundation will be secure after his or her death;

(v) the threshold for foundations that are required to have their accounts audited should take into account the total assets, the annual income and the number of employees of that foundation; for foundations under this threshold, an independent examination of the accounts is sufficient;

(vi) the Statute should provide for information of volunteers; the Statute should also encourage volunteering as a guiding principle;

(vii) a provision should be added whereby any remuneration paid to members of the governing board or other bodies of the FE is to be reasonable and proportionate; specific criteria should be established to determine the reasonableness and proportionality of the remuneration;

(viii) as regards the representation of employees, the negotiation procedure which, under Articles 38 and 39 of the proposal, refers only to the information and consultation of employees within the EU, should be extended to cover participation by employees in the bodies of the FE: in parallel with the reference currently made in Articles 38 and 39 of the proposal to the procedures for the establishment of a European Works Council, reference should be made, for the purpose of involvement of employees in the bodies of the FE, to the procedures under Council Directive 2001/86/EC;

(ix) the provision on representation of employees in Article 38 of the proposal should be maintained; the notion of volunteers and volunteering activities should be further clarified;

(x) in the interests of effective supervision, the registered office and the administrative headquarters of an FE should be in the Member State in which it is established;

(xi) the proposal should be limited — as proposed by the sector — to a civil law instrument, while reinforcing — in line with Parliament's proposal — a number of the core elements of the public benefit concept as found in the Member States, so as to facilitate the recognition of equivalence within Member States;

(xii) The proposal for a Council regulation should be modified as follows:

**Modification 1**

**Proposal for a regulation**

Recital 15 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>The members of the governing board should ensure compliance with the obligations set out in this regulation and the statutes, and with all legal and ethical rules of conduct relevant to the FE. To that end they should devise organisational structures and internal measures to prevent and detect breaches of the rules.</td>
<td>(15a)</td>
</tr>
</tbody>
</table>
Modification 2
Proposal for a regulation
Recital 18

(18) In order to enable the FE to reap the full benefits of the single market, it should be able to transfer its registered office from one Member State to another.

(This modification applies throughout the text.)

Modification 3
Proposal for a regulation
Article 2 — point 1

(1) ‘assets’ means any tangible or intangible resource capable of being owned or controlled to produce value;

Modification 4
Proposal for a regulation
Article 2 — point 2

(2) ‘unrelated economic activity’ means an economic activity of the FE, not serving directly the public benefit purpose of the public benefit purpose entity;

Modification 5
Proposal for a regulation
Article 2 — point 5

(5) ‘public benefit purpose entity’ means a foundation with a public benefit purpose and/or similar public benefit purpose corporate body without membership formed in accordance with the law of one of the Member States;
Modification 6
Proposal for a regulation
Article 4 — paragraph 2 — point b a (new)

Text proposed by the Commission

Modification

(ba) the names of the managing directors appointed in accordance with Article 30;

Modification 9
Proposal for a regulation
Article 5 — paragraph 2 — subparagraph 2 — introductory wording

Text proposed by the Commission

Modification

It may be created only for the following purposes, to which its assets shall be irrevocably dedicated:

It may be created only for one or more of the following purposes, to which its assets shall be irrevocably dedicated:

Modification 7
Proposal for a regulation
Article 5 — paragraph 2 — subparagraph 2 — point s a (new)

Text proposed by the Commission

Modification

(sa) support for victims of terrorism and violence;

Modification 8
Proposal for a regulation
Article 5 — paragraph 2 — subparagraph 2 — point s b (new)

Text proposed by the Commission

Modification

(sb) promotion of interreligious dialogue.
Modification 10
Proposal for a regulation
Article 5 — paragraph 2 a (new)

Text proposed by the Commission

Modification

2a. The FE shall not benefit any person through disproportionate compensation or through expenses that are not in pursuance of the public benefit purpose. The FE does not fulfil its public benefit purpose if it only serves the benefit of a limited number of individuals.

Modification 11
Proposal for a regulation
Article 6

Text proposed by the Commission

Modification

At the time of registration, the FE shall have activities or a statutory objective of carrying out activities in at least two Member States.

The FE shall have activities or at least a statutory objective of carrying out activities in at least two Member States. If, at the time of registration, the FE merely has a statutory objective of carrying out activities in at least two Member States, it must convincingly demonstrate at that time that within two years it will carry out activities in at least two Member States. This time limit shall not apply where it appears justified and proportionate, with a view to pursuing its purpose, for the FE to take up its activity later. At any rate the FE shall be required to begin and maintain activities in at least two Member States during its lifetime.

Modification 12
Proposal for a regulation
Article 7 — paragraph 2

Text proposed by the Commission

Modification

2. The FE shall have assets equivalent to at least EUR 25 000, it shall maintain these minimum assets throughout its lifetime unless it has been established for a specified period of time under Article 12(2).
Modification 13  
Proposal for a regulation  
Article 7 — paragraph 2 — subparagraph 1 a (new)

Text proposed by the Commission

Modification

The FE shall spend 70% of the income received in a financial year within the following four years, unless a specific project is identified in the statutes which will be executed in the following six years.

Modification 14  
Proposal for a regulation  
Article 12 — paragraph 2

Text proposed by the Commission

Modification

2. The FE shall be set up for an indefinite period of time or, where expressly laid down in its statutes, for a specified period of time of not less than two years.

Modification 15  
Proposal for a regulation  
Article 15 — paragraph 2 — point d a (new)

Text proposed by the Commission

Modification

(da) information on the procedures whereby arrangements for employee involvement are determined pursuant to Directive 2009/38/EC.

Modification 16  
Proposal for a regulation  
Article 15 — paragraph 3

Text proposed by the Commission

Modification

3. Each competent authority shall treat the request for a merger in accordance with the same procedures and principles as if it had been a request for a merger resulting in a national public benefit purpose entity. The responsible authority shall refuse the request for a cross-border merger mandatorily and exclusively on the grounds that the documents referred to in paragraph 2 are not in conformity with this Regulation or that the rights of creditors and employees are not sufficiently protected.
Modification 17
Proposal for a regulation
Article 17 — paragraph 1

Text proposed by the Commission

1. The FE may be formed by conversion of a public benefit purpose entity legally established in a Member State, provided that it is permitted under the statutes of the converting entity.

Modification

1. The FE may be formed by conversion of a public benefit purpose entity legally established in a Member State, provided that this is not specifically prohibited under the statutes and does not contradict the wishes of the founder.

Modification 18
Proposal for a regulation
Article 18 — paragraph 3

Text proposed by the Commission

3. The competent authority shall treat the request for conversion in accordance with the same procedures and principles as if it had been a request to amend the statutes of the public benefit purpose entity.

Modification

3. The competent authority shall treat the request for conversion in accordance with the same procedures and principles as if it had been a request to amend the statutes of the public benefit purpose entity. The responsible authority shall refuse the request for conversion mandatorily and exclusively on the grounds that the documents referred to in paragraph 2 are not in conformity with this regulation or that the rights of creditors and employees are not sufficiently protected.

Modification 19
Proposal for a regulation
Article 20 — paragraph 1

Text proposed by the Commission

1. Where the existing statutes have become inappropriate for the functioning of the FE the governing board may decide on amendment to the statutes.

Modification

1. Where the existing statutes have become inappropriate for the functioning of the FE the governing board may decide on amendment to the statutes. Where the FE has other bodies in accordance with Article 31, these bodies must be involved in the decision on the amendments to the statutes.

Modification 20
Proposal for a regulation
Article 23 — paragraph 1 — subparagraph 1 — point g

Text proposed by the Commission

(g) the names, purposes and addresses of founding organisations where these are legal entities, or similar relevant information as regards public bodies;

Modification

(g) the full names and addresses of the founders where these are natural persons; the names, purposes and company seat of founding organisations where these are legal entities, or similar relevant information as regards public bodies;
Modification 21
Proposal for a regulation
Article 23 — paragraph 2 a (new)

Text proposed by the Commission

Modification

2a. An FE cannot be registered until it has been shown that it complies with the obligations under Chapter V of this regulation on employee involvement in the FE.

Modification 22
Proposal for a regulation
Article 32 — paragraph 1

Text proposed by the Commission

Modification

1. The founder and any other board members who may have a business, family or other relationship with the founder or with each other, that could create an actual or potential conflict of interest such as to impair his/her judgment, shall not constitute the majority of the governing board.

Modification 23
Proposal for a regulation
Article 32 — paragraph 3

Text proposed by the Commission

Modification

3. No benefit, direct or indirect, may be distributed to any founder, governing or supervisory board member, managing director or auditor, nor extended to any person having a business or close family relationship with them, unless it is for the performance of their duties within the FE.

Modification 24
Proposal for a regulation
Article 34 — paragraph 2

Text proposed by the Commission

Modification

2. The FE shall draw up and forward to the competent national registry and to the supervisory authority annual accounts and an annual activity report within six months from the end of the financial year.

Does not affect the English text.
Modification 25
Proposal for a regulation
Article 34 — paragraph 4

Text proposed by the Commission

4. The annual accounts of the FE shall be audited by one or more persons approved to carry out statutory audits in accordance with the national rules adopted pursuant to Directive 2006/43/EC of the European Parliament and of the Council.

Modification

4. The annual accounts of the FE shall be audited by one or more persons approved to carry out statutory audits in accordance with the national rules adopted pursuant to Directive 2006/43/EC of the European Parliament and of the Council if the FE exceeds one of the following criteria:

(a) an annual income of EUR 2 million; or

(b) assets of EUR 200,000; or

(c) an average of 50 employees during the financial year.

For FEs that do not exceed any of these criteria, an independent examiner may be used instead of an auditor.

Modification 26
Proposal for a regulation
Article 34 — paragraph 5

Text proposed by the Commission

5. The annual accounts, duly approved by the governing board, together with the activity report shall be disclosed.

Modification

5. The annual accounts, duly approved by the governing board, together with the activity report, shall be disclosed. The opinion submitted by the person responsible for auditing the accounts shall be disclosed in accordance with the rules of the Member State in which the FE has its registered offices.

Modification 27
Proposal for a regulation
Article 35

Text proposed by the Commission

The FE shall have its registered office and its central administration or principal place of activities in the European Union.

Modification

The registered office of an FE shall be located within the European Union, in the same Member State as its central administration or principal place of activities. While the FE shall have activities in at least two Member States, including relevant activities in the Member State with the registered office and central administration, the FE may also pursue activities outside the EU.
Modification 28
Proposal for a regulation
Article 37 — paragraph 2 — point e a (new)

Text proposed by the Commission

Modification

(ea) any consequences of the transfer for employee participation.

Modification 29
Proposal for a regulation
Article 37 — paragraph 5 — subparagraph 2

Text proposed by the Commission

Modification

The competent authority of the host Member State can refuse the transfer only on the grounds that the conditions referred to in the previous subparagraph are not met; it shall further refuse the transfer if the rights of creditors and employees are not sufficiently protected.

Modification 30
Proposal for a regulation
Article 38 — paragraph 2 — subparagraphs 1 and 2

Text proposed by the Commission

Modification

The FE with up to 200 employees shall establish a European Works Council on the request of at least 20 of its employees in at least two Member States or representatives of those employees.

The FE with more than 200 employees shall establish a European Works Council on the request of at least 10% of its employees in at least two Member States or representatives of those employees.

Modification 31
Proposal for a regulation
Article 38 — paragraph 2 — subparagraph 3

Text proposed by the Commission

Modification

Modification 32
Proposal for a regulation
Article 38 — paragraph 3

Text proposed by the Commission

3. Representatives of volunteers engaged in formal volunteering activities in the FE for a sustained period shall be given an observer status in the European Works Council. The number of such representatives shall be of at least one per Member State in which at least 10 such volunteers are present.

Modification

deleted

Modification 33
Proposal for a regulation
Article 44 — paragraph 2

Text proposed by the Commission

2. Once the creditors of the FE have been paid in full, any remaining assets of the FE shall be transferred to another public benefit purpose entity with a similar public benefit purpose or otherwise used for public benefit purposes as close as possible to those for which the FE was created.

Modification

2. Once the creditors of the FE have been paid in full, any remaining assets of the FE shall be transferred to another public benefit purpose entity based in the same Member State in which it is registered, with a similar public benefit purpose, or otherwise used for public benefit purposes as close as possible to those for which the FE was created.

Modification 34
Proposal for a regulation
Article 45

Text proposed by the Commission

Each Member State shall designate a supervisory authority for the purpose of supervising FEs registered in that Member State and notify the Commission thereof.

Modification

Each Member State shall designate one or more authorities of its choice that are responsible for the effective supervision of FEs registered in that Member State and notify the Commission thereof.

9. Instructs its President to forward this resolution to the Council and the Commission.
Blue growth — enhancing sustainable growth in the marine, maritime transport and tourism sectors

European Parliament resolution of 2 July 2013 on Blue Growth: Enhancing sustainable growth in the EU’s marine, maritime transport and tourism sectors (2012/2297(INI))

(2016/C 075/04)

The European Parliament,

— having regard to the Commission communication of 13 September 2012 on ‘Blue Growth — opportunities for marine and maritime sustainable growth’ (COM(2012)0494),

— having regard to the Commission report of 11 September 2012 on ‘Progress of the EU’s Integrated Maritime Policy’ (COM(2012)0491) and the accompanying Commission staff working document (SWD(2012)0255),

— having regard to the Limassol Declaration of 8 October 2012 on a Marine and Maritime Agenda for growth and jobs,

— having regard to the United Nations Convention on the Law of the Seas (UNCLOS), which entered into force on 16 November 1994,


— having regard to the Commission staff working document of 31 October 2012 entitled ‘Overview of EU policies, legislation and initiatives related to marine litter’ (SWD(2012)0365),

— having regard to the Commission Green Paper of 29 August 2012 entitled ‘Marine Knowledge 2020 — from seabed mapping to ocean forecasting’ (COM(2012)0473),

— having regard to the Commission White Paper of 28 March 2011 entitled ‘Roadmap to a Single European Transport Area — Towards a competitive and resource-efficient transport system’ (COM(2011)0144),

— having regard to the Commission communication of 30 June 2010 entitled ‘Europe, the world’s No 1 tourist destination — a new political framework for tourism in Europe’ (COM(2010)0352),

— having regard to the Commission communication of 21 January 2009 entitled ‘Communication and action plan with a view to establishing a European maritime transport space without barriers’ (COM(2009)0010),


— having regard to its resolution of 27 September 2011 on ‘Europe, the world’s No 1 tourist destination — a new political framework for tourism in Europe’ (1),

— having regard to its resolution of 21 October 2010 on ‘Integrated Maritime Policy (IMP) — Evaluation of progress made and new challenges’ (2),

(1) OJ C 56 E, 26.2.2013, p. 41.
(2) OJ C 70 E, 8.3.2012, p. 70.
— having regard to its resolution of 5 May 2010 on strategic goals and recommendations for the EU’s maritime transport policy until 2018 (1),

— having regard to its resolution of 16 December 2008 on the regional development aspects of the impact of tourism on coastal regions (2),

— having regard to its resolution of 20 May 2008 on an integrated maritime policy for the European Union (3),

— having regard to its resolution of 12 July 2007 on ‘A future maritime policy for the European Union: a European vision for the oceans and seas’ (4),

— having regard to the opinion of the European Economic and Social Committee of 20 March 2013 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — ‘Blue Growth — opportunities for marine and maritime sustainable growth’,

— having regard to the opinion of the Committee of the Regions of 31 January 2013 on ‘Blue Growth — opportunities for marine and maritime sustainable growth’,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Regional Development and the Committee on Fisheries (A7-0209/2013),

A. whereas over 70 % of the earth’s surface is covered by oceans and seas which can play a crucial role in addressing the long-term challenges facing the EU, such as climate change and global competitiveness;

B. whereas there are six major coastal zones in the EU (the Atlantic, the North Sea, the Baltic Sea, the Black Sea, the Mediterranean and the outermost regions), which differ in their territorial resources and the type of activities pursued there;

C. whereas approximately half of Europe’s population lives along the 89 000 kilometres of Europe’s coastline, and it is therefore important that regional and local authorities take this demographic pressure into account when implementing public policies;

D. whereas technological progress and the search for new sources of sustainable growth are expected to increase the size of the maritime economy to EUR 590 billion by 2020, providing a total of 7 million jobs;

E. whereas the expected increase in human activity will be taking place in a fragile marine environment in which only 10 % of marine habitats and 2 % of marine species are healthy, which demonstrates that maritime economic activities should not undermine marine sustainability;

F. whereas investment in natural and human capital is essential in order to meet the current challenges, most notably that of making human activity economically and socially sustainable, ensuring environmentally sound conditions, and adapting to climate change so as to combat coastal erosion and marine acidification and preserve biodiversity, taking into account that healthy, productive ecosystems are vital for the development of a sustainable, competitive blue economy;

(1) OJ C 81 E, 15.3.2011, p. 10.
(2) OJ C 45 E, 23.2.2010, p. 1.
(4) OJ C 175 E, 10.7.2008, p. 531.
G. whereas the size and scope of the environmental impacts of the Blue Growth focus areas are highly uncertain and potentially harmful, given our limited knowledge about the intricate complexity of the marine ecosystems, and related decision-making must therefore be guided by the precautionary principle enshrined in Article 191(2) of the Treaty on the Functioning of the European Union (TFEU);

H. whereas the coastal and maritime policy should be included in the general framework of the 2014-2020 programming period, also with a view to achieving the objectives set out in the Europe 2020 strategy;

I. whereas the objective of smart, sustainable and inclusive growth for coastal and island areas must be backed up by a rigorous analysis of the systemic and structural handicaps that characterise these areas;

J. whereas the EU’s island system, as far as maritime transport is concerned, has to bear significantly higher costs than the other coastal areas of the EU;

K. whereas the seasonal nature of tourism strongly compromises the development of coastal and island areas and an ad hoc strategy should be developed to counter this problem;

L. whereas there is a need for coordination between the macro-regional strategies and the respective action plans for the Union’s sea basins;

M. whereas this report is Parliament’s roadmap for the further advancement of blue growth;

**General Framework**

1. Welcomes the Commission’s communication on Blue Growth, which forms the maritime dimension of the Europe 2020 strategy and gives a clear indication of the potential of the maritime economy to create smart, sustainable and inclusive growth and generate employment opportunities;

2. Welcomes the Commission’s report on the progress of the EU’s Integrated Maritime Policy (IMP); reiterates its support for the IMP and stresses that the promotion of this policy remains the primary means for enhancing blue growth;

3. Acknowledges that the seas and oceans will increasingly play a key role in global economic growth in the future; considers that the Blue Growth Strategy, as part of the Integrated Maritime Policy, will encourage the development of synergies and coordinated policies, thus generating European added value and contributing to job creation in maritime sectors;

4. Considers that, in order to boost the competitiveness of the Union’s maritime economic sectors in the global market, local, regional, national and European authorities must create the necessary conditions for sustainable growth, namely by establishing maritime spatial planning systems, upgrading infrastructure, creating access to professional skills and securing funding; stresses the importance of sharing information and best practices between the different levels of public authorities through the creation of a specific EU platform;

5. Notes that securing adequate funding will be a challenge for small and medium-sized enterprises (SMEs) operating in blue growth sectors, and therefore welcomes initiatives such as new EU rules for venture capital funds, which will facilitate the access of SMEs to funding;

6. Considers that at a time when Member States are cutting public investment, it is urgently necessary that development policies and above all high-cost projects, such as transport, energy and telecommunications infrastructure projects, receive adequate funding during the 2014-2020 programming period and beyond; calls on the Member States to channel available financial instruments and European funding towards blue economy projects;

7. Stresses the importance of taking into account, in particular in the next multiannual financial framework 2014-2020, the specific needs of the bailed-out Member States that are facing increased difficulty in undertaking high-cost projects, as well as those of the outermost and island regions, which present structural constraints due to their remoteness and natural characteristics;
8. Notes the conditions of economic crisis and the social problems that are affecting many areas, particularly islands, above all in the Mediterranean and especially those which are very distant from the mainland; underscores that the remoteness of the islands in relation to the single market exposes them to industrial and economic stagnation and depopulation, which must be the target of specific measures on the part of the EU institutions; urges the Commission, therefore, to consider establishing free zones as a tool which, by reducing the tax burden and attracting foreign direct investment, could halt the downward spiral that is affecting island areas by driving growth and development;

9. Highlights the role of sea-basin strategies in fostering regional development and economic, territorial and social cohesion, revitalising the European economy, encouraging inclusive blue growth, creating jobs and protecting marine and coastal biodiversity; calls for such strategies, linked to current and future macro-regional strategies, to be effectively rolled out for all European maritime basins and for appropriate EU and other financial and administrative resources to be dedicated to their implementation; considers that the role played by the regions in drawing up sea-basin strategies needs to be strengthened; acknowledges, in this regard, the contribution of territorial and crossborder cooperation to addressing the problems faced by coastal and maritime regions;

10. Welcomes the progress made regarding implementation of the EU strategies for the Baltic Sea and the Atlantic regions, and reiterates its request to the Commission for the formulation of an EU strategy for the Black Sea region;

11. Calls on the Union and the Member States to give strong support to the creation of regional and crossborder maritime clusters; underscores the strategic importance of such clusters as centres of excellence for economic activity related to blue growth; believes that developing them will promote the sharing of knowledge and good practice, generate synergies between the various sectors of the blue economy, and help to attract investment;

12. Stresses the inherent linkages between economic growth and climate change, and emphasises that all maritime activities must be aligned with the EU Strategy on Adaptation to Climate Change with the view to contributing to a more climate-resilient Europe;

13. Stresses, in particular, that the increased economic activity associated with blue growth must not come at the expense of marine and coastal ecosystems, which are extremely sensitive and are among the first to suffer from the impacts of climate change; emphasises that blue growth must be compatible with the environmental objectives and the ecosystem approach of the Marine Strategy Framework Directive (MSFD), as well as the Strategic Environmental Assessment Directive, recalling that in cases of uncertainty the precautionary principle must be observed; stresses that all economic activities associated with blue growth should ensure maritime safety and security;

14. Notes with concern the environmental impact of marine litter in all European sea basins, and calls on the Commission and the Member States to focus on the full implementation and enforcement of the relevant EU directives, such as those on waste management, port reception facilities for ship-generated waste, water quality and marine strategy;

15. Stresses that all maritime activities, including those that take place within the framework of the IMP, should be conducted in accordance with the UN Convention on the Law of the Sea (UNCLOS); underscores the need for a common EU approach to the exploration, exploitation, conservation and management of the sea’s natural resources, which ensures the efficient and secure delimitation of exclusive economic zones (EEZs) between EU Member States and third countries in accordance with international law;

16. Stresses, in that regard, the need for legal certainty for all stakeholders investing in maritime areas, and supports fresh incentives to boost the exploitation of Member States' exclusive economic zones;

Maritime Spatial Planning and Integrated Coastal Management

17. Welcomes the Commission’s legislative proposal for Maritime Spatial Planning (MSP) and Integrated Coastal Management (ICM) as measures necessary for managing the increasing number of maritime and coastal activities and protecting the marine environment, ensuring that various activities can coexist harmoniously and avoiding conflict over the use of coastal and sea areas; considers it necessary in this regard to opt for an ecosystems-based approach to the management of human activity on the coast and at sea;
18. Notes that MSP is expected to bring business costs down and improve the investment climate, while ICM will facilitate the coordination of activities in the coastal zone and will bring about an overall improvement in the governance of this zone;

19. Calls on the Commission and the Member States to ensure that best practices are disseminated and that lessons are learned from preparatory actions in this area, since there are significant differences between Member States in the development of management systems for maritime and coastal areas; considers, nonetheless, that a tailored approach is needed, so as to leave the Member States scope, when implementing EU maritime and coastal planning guidelines, for taking account of local specificities and needs in liaison with local authorities;

20. Believes that the land-sea interface needs to be strengthened in the context of spatial planning in order to safeguard continuity of human activities and of the supply chain and ensure that coastal areas are properly connected with their hinterland; believes that this could help avoid the phenomenon of coasts being treated as borders;

21. Stresses that the gaps in scientific knowledge on maritime activities and their environment constitute obstacles for spatial planning, and highlights the importance of the initiative ‘Marine Knowledge 2020’ and its specific objectives, such as the mapping of the seabed of European waters by 2020; considers that the seabed should be uniformly mapped so that the information can be accessed by interested European bodies, specifically research centres, universities, and public institutions;

22. Urges the Commission to help Member States launch plans to map and survey wrecked ships and submerged archaeological sites, which form an important part of the Union’s historical and cultural heritage; stresses the need to facilitate the understanding and study of such sites and help prevent the despoliation to which they are being subjected, thus enabling them to be properly preserved;

**Maritime skills and employment**

23. Considers that overall employment in the blue economy may exceed the estimated number of 7 million jobs by 2020, if it is supported by training policies aimed at ensuring the presence of a mobile workforce with sufficient skills and experience;

24. Reiterates its call for a significant improvement in working, health and safety conditions in the maritime professions; encourages the Commission and the Member States to step up their efforts in this field in order to improve career security and make jobs in the blue economy and related sectors more attractive;

25. Stresses the need to improve the working conditions of seafarers by appropriate means, to incorporate the ILO Maritime Labour Convention into Union law, and to propose a programme for the qualification and training of seafarers, in particular the recruitment of young people, including those from third countries;

26. Calls on the Commission to monitor closely and to support efforts at regional level to assess the skills and professions which will be in demand in blue economic sectors, and to ensure that initiatives such as the ‘EU Skills Panorama’ reflect the needs of the blue economy;

27. Considers that the Commission should, together with the Member States, draw up an action plan to promote professions that are directly or indirectly linked to the blue economy, in order to attract people into them;

28. Calls on the Commission to promote initiatives to encourage the mobility of workers between economic sectors and Member States, such as a multiannual action for exchanges of students, teachers and young professionals, on the Erasmus model; supports cooperation between enterprises and training providers with the aim of preparing graduates for jobs in new areas;
29. Calls on the Commission to cooperate with the representatives of the maritime economic sector and training providers with a view to establishing and funding European Sector Councils on Employment and Skills, in order to register jobs, changes in skills required and related training needs.

30. Calls on the Commission to develop an initiative to encourage the mobility of research staff, especially in coastal areas, with specific reference to the areas of tourism, energy and biotechnology, along the lines of Erasmus, to be implemented as a priority during low tourist seasons in order to balance, in a sustainable manner, the flows of people in increasingly sensitive ecosystems, whilst at the same time optimising the use of the infrastructure of coastal areas and islands.

**Research and innovation**

31. Notes the EU’s world-class research capacity in maritime fields and its importance for substantiated policy-making and innovation-driven business, but also the difficulty experienced by business in commercialising research output;

32. Underlines that the Horizon 2020 programme, with simpler procedures and better support for innovation, could provide significant aid for marine and maritime research with a view to enhancing market uptake, building on the experience of the ‘Ocean of Tomorrow’ projects;

33. Calls on the Commission to update its European Strategy for Marine and Maritime Research by 2014, proposing concrete measures to improve synergies and knowledge dissemination among researchers in the EU;

34. Notes that only healthy marine ecosystems can be a basis for a sound and sustainable blue economy; calls on the Commission to continue researching the cumulative impacts of human uses of the marine environment and of maritime activities in all sectors;

35. Calls on the Commission to provide adequate long-term environmental monitoring and conduct research on early warning systems;

36. Emphasises the importance of projects like the European Marine Observation and Data Network (EMODNET) for facilitating the exchange and availability of research data;

**Shipping and shipbuilding**

37. Notes with concern that shipping within the EU continues to be hampered by administrative and customs red tape that compromises the vision of a European maritime transport area and prevents growth in the industry, especially in maritime cabotage and motorways of the sea; believes that a uniform set of rules for intra-Union shipping needs to be developed as it is crucial to ensuring the free movement of goods and persons in EU waters;

38. Is satisfied at the success of the ‘Blue Belt’ pilot programme, and calls on the Commission to make the necessary legislative proposals for the creation of the Blue Belt, including the necessary revision of the EU Customs Code, before the end of 2013;

39. Points out that the promotion of maritime transport will contribute not only to economic growth and employment, but also to attaining the target set in the White Paper ‘Roadmap to a Single European Transport Area’ of shifting 50 % of road freight to the railways and waterborne transport by 2050;

40. Stresses the need to broaden the role of the motorways of the sea as main European corridors, and underscores that, in order to ensure the long-term competitiveness of European maritime transport, it is essential to create seamless transport chains for passengers and cargo across transport modes; calls on the Commission to issue a communication on the progress, development and future of the motorways of the sea; takes the view that major islands should be fully integrated into the motorways of the sea in order to improve their accessibility and increase their economic competitiveness;
41. Stresses that maritime safety is crucial for the sustainable promotion of maritime transport, sustainable economic growth, maritime employment and sustainable environmental standards in this sector; stresses that the principle of prevention should be applied to anticipate new risks and prevent all types of maritime transport disasters; notes that action in that matter must be taken within the EU, but also at international level, and notably within the International Maritime Organisation;

42. Stresses that implementation of the Third Maritime Safety Package is improving the quality of European flags, the activity of classification societies, port control, vessel traffic monitoring, accident investigation and victim protection; calls on the Member States to speed up the efficient implementation of this legislative package;

43. Stresses that maritime transport policy should take into account all relevant economic, environmental and public health concerns; calls on the Commission to closely monitor the impact of the EU shipping sector's compliance with environmental and public health requirements and, where appropriate, propose specific measures to counteract negative effects on its competitiveness; notes that legislation requirements relating to the scrapping of ships and the sulphur content of marine fuels should ensure a high level of environmental protection, while safeguarding effectively the objective of shifting transport from road to sea, in line with the Union's climate change targets;

44. Calls on the Commission and the Member States to significantly step up their efforts to reach an international agreement on reducing greenhouse gas emissions from maritime transport, taking into account the growing impact of greenhouse gas emissions from ships;

45. Points out that eco-friendly fuels such as LNG can play an important role in achieving the target of reducing the EU's CO\textsubscript{2} emissions from maritime bunker fuels by at least 40\% by 2050;

46. Emphasises the need to support the development of effective and sustainable port services and infrastructure that can cope with the challenges of the expected increase in shipping traffic, and of reducing environmental and noise pollution, shifting traffic from land to sea and ensuring the smooth switching of passengers and goods from one mode of transport to another; advocates the parallel development in European ports of ship repair and scrapping;

47. Draws attention to the possibility of setting up logistics platforms to facilitate the transport of goods between Europe and the other global economies; highlights the strategic importance of maritime transport and links between the outermost regions and other areas on the mainland;

48. Stresses that the EU shipbuilding industry has the potential to increase its contribution to growth and employment by exploiting the opportunities arising from demand for 'clean ships' (increased energy efficiency and reduced SOx and NOx emissions) as well as vessels and structures suitable for the construction, installation and operation of offshore wind farms; calls on the EU shipbuilding industry to take up this opportunity, especially given the expected increase in short sea shipping along the EU coastline;

49. Urges the Council to reach an agreement with Parliament to adopt a regulation providing for vessels to be dismantled in a way that respects the environment and the workers' working conditions, thereby enabling the EU's shipbuilding industry to recycle materials more competitively;

50. Calls on the Commission to facilitate the implementation of the LeaderSHIP 2020 strategy, by supporting the actions identified to address the challenges faced by the European shipbuilding industry, such as access to finance, skills and international competitiveness;

**Maritime and coastal tourism**

51. Calls on the Member States, with the direct involvement of local and regional authorities, as well as civil society organisations, to support initiatives to develop and upgrade sustainable tourism infrastructure, with particular emphasis on the needs of disabled persons and persons with reduced mobility, and to make every effort to eliminate bureaucracy and lack of transparency in the sector while respecting environmental legislation;
52. Calls for tourism to be promoted and sustained as a driver for growth and jobs in coastal areas; takes the view that a healthy environment is fundamental to any form of tourism in coastal regions and that every effort must therefore be made to protect it; highlights the need to provide sustainable infrastructure for the development of new forms of tourism, in particular tourism sectors with high growth potential, such as eco-agro-fishing tourism and sustainable water sports; welcomes initiatives to promote crossborder tourism strategies on a sea-basin basis.

53. Emphasises that the erosion of the European coastline, the safeguarding of Europe's environmental and animal heritage, and the improvement of water quality remain important issues to be tackled; stresses, therefore, the need to properly invest in these areas in order to develop sustainable and good-quality beach and underwater tourism.

54. Stresses that measures for exploiting and developing the coastal, maritime and marine heritage must be planned in parallel with measures for its conservation and restoration.

55. Notes the importance of creating or upgrading specialised high-level schools (for the administration and economy of tourism enterprises, for tourism professions, maritime colleges, cookery schools, etc) and of improving training provision with a view to boosting the quality of tourist services and products, the use of new technologies and the process of adapting to climate change.

56. Stresses the need to simplify visa procedures, to reduce the costs involved and to issue multiple-entry visas to visitors from third countries, in particular from the BRIC countries; calls on the Commission to investigate and immediately implement new, 'smart' ways of issuing tourist visas in order to maximise incoming tourist flows.

57. Stresses that the cruise industry is an important economic resource for European ports and neighbouring local communities, which is also vital in the development and use of more energy-efficient ships with lower emissions; encourages the planning of attractive tourist programmes designed to enhance the visitor's experience by highlighting the maritime, cultural and historical importance of port destinations.

58. Calls on the Commission to step up its efforts to boost the competitiveness of European ports by supporting and coordinating port infrastructure capacities and upgrading the services provided (e.g. by bringing them into line with the Schengen requirements) in order to make European ports more attractive for cruise ships and more beneficial for local and fishing communities, thereby enabling them to diversify their activities; calls on the Commission to take into account the particular features of ports in island and outermost regions.

59. Requests that it be made obligatory in port modernisation and expansion projects to equip passenger terminals and new passenger ships with facilities for people with reduced mobility.

60. Reiterates the importance of coastal and seagoing passenger transport, especially via ferries and cruise ships, and notes the entry into force of Regulation (EU) No 1177/2010 on the rights of passengers travelling by sea, which should help enhance quality maritime tourism; calls on the Commission, in this connection, to set a campaign in motion to improve the quality of passenger and cruise ships with regard to passengers' rights, on the basis of operators' best practices.

61. Underscores the importance of yachting and sailing for maritime tourism; calls on the Commission to examine, in the context of its forthcoming communication on maritime tourism, the social and economic impact of this sector, the scope for harmonisation and simplification at EU level of the rules governing the issuing of operating licences, navigating and operating conditions, safety requirements, yacht maintenance and repair work, and the mutual recognition of professional qualifications in this sector.

62. Reasserts the importance of beach tourism as a feature of some European coastal regions; calls on the Commission to carry out an impact assessment to verify whether Directive 2006/123/EC could have a negative impact on SMEs in this sector, and, if deemed necessary, to propose measures to alleviate this impact and to ensure that the specific characteristics of this professional activity are taken into account in the application of the Directive.
63. Calls on the Commission to encourage the Member States, regions, autonomous communities and other stakeholders in coastal and island areas to develop and implement, in a systemic manner, the ‘ancient trade routes’ initiative approved by Parliament in the 2013 budget, both in the Mediterranean and in other European basins, especially in order to diversify tourism products and reduce the seasonal nature of tourism;

64. Calls on the Commission to include sustainable maritime, island and coastal tourism in related actions and programmes, such as the ‘EDEN — European Destinations of Excellence’ and the Calypso programmes, and to support initiatives that encourage the diversification of coastal, maritime and marine tourism, help make tourist activities and employment less seasonal and stimulate adaptation to climate change; considers, in this regard, that the diversification of tourism can help to increase the attractiveness of maritime regions and enable them to move beyond the traditional ‘sun, sea and sand’ model;

65. Calls for the promotion of maritime resorts, as these can reduce seasonal variations and create a multiplier effect for local and regional economies, by integrating fishing communities and striking a balance between economic growth and sustainability;

66. Calls on the Commission to take account of the contribution and role of local culture and artisanal gastronomy in the development of European coastal tourism; considers it necessary to use and coordinate existing policies and tools and to draw up new programmes and actions in order to encourage synergies among, in particular, small and medium-sized enterprises (SMEs) in the primary and tertiary sectors in coastal areas of the EU;

67. Urges the Commission to include in the Virtual Tourism Observatory a section dedicated to maritime and coastal tourism, ensuring links between research institutes, enterprises and public authorities with the aim of driving forward market research, providing enterprises and public authorities with forward-looking information on the development of supply and demand and creating more favourable business conditions, whilst also providing information on the links between biodiversity, climate protection and sustainable tourism initiatives;

Blue energy

68. Notes that climate change is one of the main threats to marine biodiversity worldwide, and that the energy aspects of a blue growth strategy must be based on renewable energies and energy efficiency;

69. Acknowledges, in that regard, the importance of Europe’s seas and oceans for the EU’s energy security and the diversification of its energy sources and supply routes;

70. Notes the potential of offshore wind, tidal, wave and ocean thermal energy, as well as of the conventional offshore energy sector, to generate sustainable jobs in coastal regions, reduce emissions and contribute to the EU’s medium and long-term energy targets; highlights the fact that significant investment in redeveloping grid connections and in transmission capacity will be required to exploit this potential;

71. Emphasises that blue energy is an asset for the European maritime economy; urges the Commission and the Member States to contribute to realising the potential of blue energy by making use of sea-basin strategies, paying special attention to the possibilities offered by the outermost regions owing to their location and natural characteristics;

72. Calls on the Commission actively to support the EU’s global leadership in this area by developing a European industrial strategy for blue energy, as it has done in the past for other sectors;

73. Calls on the Commission to adopt, in its forthcoming communication in this area, an integrated approach to the development of marine energy resources, by exploiting synergies between offshore wind energy and other forms of renewable marine energy; emphasises that such an approach must allow energy to be supplied from a full and sustainable range of sources, in line with the precautionary principle and ensuring maritime security and safety, and that it must also include plans for adequate infrastructure to transport sea-generated energy to land and ensure interconnection with the conventional electricity grid;
74. Calls on the Member States to work together to facilitate the sustainable construction of the North Sea Offshore Grid for renewable energy; calls on the Commission to make a proposal for a corresponding regulatory framework.

Fisheries and aquaculture

75. Emphasises that aquaculture and fisheries should contribute to food production on a sustainable basis throughout the Union and to long-term food security and consumer protection; considers that the development and innovation of a sustainable aquaculture and fish processing industry should be encouraged, by cutting down bureaucracy and promoting employment opportunities in these sectors and improving the quality of life in both coastal and rural areas;

76. Emphasises the importance of developing sustainable aquaculture in order to reduce overfishing of European fish stocks and dependence on imports of fish from third countries, which account for over 60% of the fish consumed within the EU;

77. Points out that aquaculture in the EU already provides 80,000 jobs and has the potential significantly to improve the economies of coastal communities, bearing in mind UN estimates that production of farmed fish will exceed that of conventional fisheries by 2019;

78. Calls on the Commission, in its forthcoming strategic guidelines for aquaculture in the EU, to promote offshore aquaculture, which can be combined with blue energy facilities so as to reduce pressure from over-intensive aquaculture on coastal ecosystems and on other activities; highlights the need for the Member States’ respective integrated management plans to simplify the administrative burden and ensure the allocation of suitable space for the development of these activities;

79. Stresses the importance of the future European Maritime and Fisheries Fund (EMFF), which for the first time combines Integrated Maritime Policy and fisheries funding, as well as that of the European Investment Bank (EIB), in supporting the sustainable and environment-friendly development of fisheries, aquaculture and fish processing, as well as revenue diversification in fishing communities dependent on those sectors, in particular in respect of small-scale coastal fisheries, vocational training for women and young people, and attracting new entrepreneurs to the sector;

Marine mineral extraction

80. Acknowledges that protecting Europe’s maritime borders is a challenge for Member States; considers that a successful blue economy requires secure EU maritime borders, with a view to ensuring the protection of the marine environment, fisheries controls, the fight against illegal fishing and law enforcement; points, therefore, to the importance of setting up a European coastguard to coordinate operations and surveillance at sea; stresses, furthermore, the importance of stepping up regional cooperation initiatives relating to the fisheries sector;

81. Recognises the existence of favourable conditions for marine mineral extraction; stresses, however, that the seabed environment is linked to the rest of the planet through interchanges of matter, energy and biodiversity, which, if disrupted, may cause unpredictable changes in fish stocks and a loss of biodiversity;

82. Calls on the Commission to pay particular attention to the environmental consequences of mining the seabed, especially in highly sensitive marine environments, to support relevant research projects, to apply the precautionary principle, and to cooperate with the authorities of third countries involved in the sector in the attempt to fill existing gaps in scientific knowledge more rapidly;

83. Recognises that a more efficient use of resources, combined with enhanced recycling policies, offer a more cost-effective and sustainable approach to meeting our mineral needs than the intensive exploitation of underwater resources; deplores the fact that shortcomings in the recycling of raw and rare earth materials are contributing to an increase in waste, and calls, therefore, for measures to boost recycling industries so as to offer an alternative to sea mining; notes the long-term employment opportunities offered by this alternative approach;
Blue biotechnology

84. Recognises that blue biotechnology has the potential to create high-skilled employment and has much to offer in critical areas such as health, nutrition and innovation; welcomes the Commission’s intention to support the research and innovation needed to promote this activity in the field of entrepreneurship;

85. Emphasises the potential of marine biodiversity, in particular in the still widely undiscovered deep sea, for the blue biotechnology sector, but stresses the need for a cautious exploration of this highly sensitive ecosystem;

86. Calls on the Commission to clearly define the issues and challenges related to blue biotechnology (for example bio-nanotechnology, biomaterials and the introduction of genetically modified fish, shellfish and micro-organisms), and to employ a scientifically sound approach based on the precautionary principle in order to identify, assess and manage the associated environmental and health risks;

87. Calls on the Commission to promote partnerships between the private sector and research institutes, as well as crossborder partnerships such as the European Marine Biological Resource Centre, since marine biotechnology and access to marine biodiversity require scientific knowhow and sophisticated and expensive equipment;

88. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States.

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Contribution of cooperatives to overcoming the crisis

European Parliament resolution of 2 July 2013 on the contribution of cooperatives to overcoming the crisis (2012/2321(INI))

(2016/C 075/05)

The European Parliament,
— having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Article 54 thereof,
— having regard to the Treaty on European Union (TEU), and in particular Article 3(3) thereof,
— having regard to its resolution of 19 February 2009 on Social Economy (1),
— having regard to its resolution of 13 March 2012 on the Statute for a European Cooperative Society with regard to the involvement of employees (2),
— having regard to its resolution of 15 January 2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring (3),

(1) OJ C 76 E, 25.3.2010, p. 16.
— having regard to Commission Recommendation 94/1069/EC of 7 December 1994 on the transfer of small and medium-sized enterprises (1),

— having regard to the Commission communication on the transfer of small and medium-sized enterprises (2),

— having regard to the Commission communication on the promotion of co-operative societies in Europe (COM(2004) 0018),

— having regard to the Commission communication on the Social Business Initiative (COM(2011)0682),

— having regard to the opinion of the European Economic and Social Committee on Cooperatives and Restructuring (3),

— having regard to ILO Recommendation 193 on the Promotion of Cooperatives, which was approved by the governments of all 27 current Member States, to the UN General Assembly Resolution of 2001 ‘Cooperatives in Human Development’ and to the fact that the United Nations proclaimed 2012 the International Year of Cooperatives,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy (A7-0222/2013).

**Introduction**

1. Points out that cooperatives, along with other social economy enterprises, play an essential role in the European economy, especially in time of crisis, by combining profitability with solidarity, creating high-quality jobs, strengthening social, economic and regional cohesion and generating social capital; recognises, furthermore, that social economy enterprises should benefit from a clearer and more coherent legislative framework, taking due account of the wealth of diversity among social economy institutions and the specific features thereof;

2. Notes that, in the EU, cooperatives are becoming increasingly important and that there are about 160 000 cooperative enterprises owned by 123 million members and providing jobs for 5.4 million people — including around 50 000 cooperative enterprises in industry and services providing jobs for 1.4 million persons — and that cooperatives contribute, on average, around 5 % to the GDP of each Member State; notes that, over the past few years, several hundred industrial and service cooperative enterprises have been established as the result of the restructuring of businesses in crisis or without successors, thereby saving and re-developing local economic activities and jobs; notes that industrial and service cooperative groups have had a key impact on regional development in some of the most industrialised regions of the EU; notes that ‘social’ cooperatives specialised in labour integration provide jobs to over 30 000 disabled and disadvantaged persons in the industrial and service sectors; points out that cooperatives have become a model for the self-employed and the liberal professions, and that this model has grown significantly in new sectors, such as social and health care services, digital and business support services and services of general interest previously provided by the public sector (e.g. environmental services and management of natural spaces, education and culture, and production of energy from renewable sources); notes that cooperatives therefore play a very important role in the EU in economic, social, sustainable development, and employment terms, in addition to being a springboard for social innovation, which is a very important topic in both the EU 2020 strategy and Horizon 2020, and help to serve the objective of the sustainable economic and social development of regional and local communities;

3. Reiterates that the cooperative business model contributes to real economic pluralism, is a vital part of the ‘social market economy’ and is fully in keeping with the values of the EU Treaty and the objectives of the Europe 2020 strategy;

4. Points out that many cooperatives have proved themselves to be even more resilient in times of crisis than many conventional enterprises, both in terms of employment rates and business closures; notes that despite the crisis, cooperatives have been created in new and innovative sectors and that there is considerable evidence of this resilience, particularly in relation to cooperative banks and industrial and service cooperatives (worker cooperatives, social cooperatives and cooperatives formed by SMEs); points out that, as a model, the development of cooperatives has proven to be able to respond to new needs and to stimulate job creation better than other models owing to the great ability of cooperatives to adapt to change, and to keep their businesses going, when at risk, by continuing to pursue their mission; highlights, furthermore, the strategic role of cooperatives formed by SMEs, which can provide collective solutions to shared problems and allow economies of scale to be developed; notes, moreover, the growing importance of ‘community cooperatives’, which enable — especially in remote and disadvantaged areas — the direct participation of citizens in order to meet various needs, such as health and social services, school services, commercial services, communications, etc.;

5. Takes the view that cooperatives can effectively promote entrepreneurship on a micro-economic scale, at times of recession, as they allow small business owners — often groups of citizens — to take on business responsibilities; supports, in this regard, the development of cooperatives in the social and welfare sectors to ensure greater social participation for vulnerable groups;

6. Argues that, thanks to its decentralised nature, the cooperative model contributes significantly to the implementation of the priorities for 2020 set out in the Renewable Energy Sources Directive (2009/28/EC) and to the transition from fossil towards renewable energy; points, in this connection, to the fact that more than 1000 renewable energy cooperatives have been created by citizens; believes that cooperatives active in the field of renewable energy allow citizens to become cooperative members of local projects, and encourage investment in renewable energy projects, which in turn enhances the social acceptance of new renewable energy installations; considers that citizens' participation in energy production can increase both their awareness of the need for sustainable and efficient energy consumption and their control over energy prices; asks the Commission to pay special attention to the role energy cooperatives can play in increasing the use of renewable energy sources and improving energy efficiency;

7. Expresses the view that this greater resilience is in large part due to the cooperative model of governance, which is based on joint ownership, democratic economic participation and control, organisation and management by member-stakeholders, and commitment to the community; stresses that the resilience of cooperatives is also due to their characteristic method of capital accumulation, which is less dependent on the development of financial markets and is linked both to the allocation of surpluses to reserve funds, if possible partly indivisible (in particular in the form of assets that reinforce the cooperative movement in general, after payment of any outstanding debts in liquidation cases), and to the implementation of the enterprise's objectives, demonstrating balanced social and economic objectives and the goal of improving their operation and activity; considers that this model helps to ensure that cooperatives take a long-term approach across generations and anchors them in the local economy, contributing to local sustainable development and ensuring that they do not delocalise, even when they internationalise;

8. Notes that cooperative enterprises are able to meet existing and new needs effectively and efficiently, in areas such as the management of cultural resources and creativity, and environmental sustainability relating to new lifestyles and modes of consumption; stresses that cooperatives have also cultivated values such as the protection of legality — one example of this is Italy, where cooperatives are entrusted with the management of assets confiscated from the mafia;

9. Takes the view that cooperatives should be fully included in the objectives pursued by the EU's industrial policy and in the measures taken by the EU, also in view of their fundamental contribution to industrial restructuring, a key chapter of the new EU industrial policy;

10. Notes also that, by cooperating, cooperatives can take advantage of economies of scale and share experience and best practice, as well as pool or transfer human and financial resources, where necessary; contends that this inherent flexibility allows cooperatives to sustain themselves even in the most trying times;
11. Notes that numerous good practices can be found in the various Member States, demonstrating the excellent results achieved by cooperative enterprises in terms of growth, employment, survival rates and business start-ups, such as the single payment system (‘pago único’) in Spain and the Marcora Law in Italy — which help finance the establishment of new cooperatives through unemployment benefits — and the ‘employment and business cooperatives’ created in France, Sweden and Belgium; points, moreover, to groups of individual cooperatives that can voluntarily form large business groups covering sectors such as industry, agriculture, distribution, finance, R & D and high-level education; observes that the cooperative society, modelled, for example, on the British trust company, can also be an efficient model for good governance of professional or semi-professional sports organisations, which at the same time facilitates close involvement of the principal stakeholders — the supporters — in the management of a club (whether professional or not); calls on the Commission to look at these good practices in depth and consider including them in the framing of business-friendly EU policies;

12. Considers the contribution of cooperatives to the EU economy and to employment stability to be significant, especially in times of crisis;

13. Emphasises the need to develop, inter alia, the business and employment cooperative (BEC) model, allowing enterprises to build up gradually to meet the needs of their entrepreneurs and evolve as their business activities develop;

14. Notes, however, that cooperatives are not immune to failure;

15. Notes that in the various Member States a diversity of situations can be found, reflecting legal and conceptual differences; calls on the Commission, therefore, to conduct a review of existing legislation in order to find common ground and to harmonise, in compliance with the subsidiarity principle, the key elements with a view to lifting the barriers to the development of cooperatives;

16. Stresses that employees incur a substantial financial risk when setting up a cooperative or when ownership of a business is transferred to its employees; observes that good governance, particularly in a workers’ cooperative, is heavily dependent on support for and supervision of the employees’ business management;

Regulatory framework

17. Takes the view that this in-built capacity for resilience should be strengthened by paying proper attention to cooperatives in all relevant EU policies designed to contribute to smart, sustainable and inclusive growth, also through a different model of economic development which respects the European social model, and by streamlining existing EU legislation concerning cooperatives; considers, in particular, that a reference to the important role of cooperatives should be made in the Entrepreneurship 2020 Action Plan; believes that the necessary steps should be taken to ensure a level playing field between cooperatives and other forms of enterprises, whilst preserving cooperatives’ aims and working methods as well as their social character;

18. Recalls the need for the European Union to recognise and treat equally, through legislation, the various forms of entrepreneurship in order to ensure that the principle of entrepreneurial freedom is respected, whatever the status of the enterprise: regrets the fact that the Commission, in its Entrepreneurship 2020 Action Plan, fails to focus on the role of social-economy enterprises and merely recalls their contribution to job creation and social innovation, and the greater funding difficulties they face as compared to SMEs;

19. Calls, therefore, on the Commission to bolster its services, creating a unit responsible for cooperatives and other social-economy organisations (such as mutuals, foundations and associations engaged in economic and financial activities), aiming at paying greater attention to measures geared to ensure an adequate level of resources and to monitoring and addressing policy development on social-economy organisations; urges the Commission to focus proper attention to the restructuring of industrial and service enterprises that are in crisis, or without a successor, into cooperatives through the creation of services dedicated to this task;

20. Calls on the Commission to provide more flexibility on the public procurement rules for employee-led enterprises, for example by including a time-limited reservation;
21. Calls also on the Commission to ensure that measures under the Social Business Initiative are coordinated and that administrative barriers between the two initiatives are reduced;

22. Urges the Member States, in keeping with ILO Recommendation 193/2002, to review their legislation applying to cooperatives in general and, in particular, to specific cooperative typologies such as worker cooperatives, social cooperatives, artisans' cooperatives and cooperative banks, with a view to adopting a comprehensive policy to support the cooperative business model and creating a regulatory environment favourable to the recognition of the role of cooperatives and their management organisations and to the development of cooperatives, especially in fields and sectors where this model has proven to have a social, economic and environmental added-value; calls on the Member States, acting in cooperation with the social partners and other stakeholders at regional and local level, to identify strategic sectors suitable for cooperative projects; stresses that this should include the introduction of appropriate financial instruments and the recognition of cooperatives' role in the national social dialogue, in addition to the role of cooperative credit banks, which have always attached particular importance to sustainable and socially responsible financing and are well-established locally; calls for this recommendation to be borne in mind in the context of the review of the Regulation on the Statute for a European Cooperative Society (SCE);

23. Emphasises the importance of drawing up regulatory measures, within a robust legal framework and in line with international standards, in order to avoid disparate national interpretations and any risk of competitive advantages or disadvantages emerging at regional, national or macro-regional level;

24. Stresses the importance of including the cooperatives at all stages of the process in future initiatives and undertakings by the Union relating to cooperatives;

**Business transfers and restructuring**

25. Considers that the transfer of a business to the employees through the creation of a cooperative and other forms of employee ownership could be the best way of ensuring the continuity of an enterprise; stresses that this kind of transfer of businesses to employees, in particular with regard to worker cooperatives and worker buy-outs, should be supported by a specific EU budget line that also includes financial instruments; calls urgently for the creation, with the participation of the European Investment Bank (EIB) and the social partners, and with stakeholders from the cooperative movement, of a European mechanism designed to promote the development of cooperatives and, in particular, business transfers under the cooperative form, also through, for example, the instrument of mutualisation funds;

26. Points out that the use of worker buy-outs is becoming an increasingly common practice in the Member States in response to the economic crisis; calls on the Commission, therefore, to identify financial instruments or to extend existing ones to encourage this practice;

27. Emphasises the active role of social cooperatives in the restructuring of SMEs, in particular through 'social spin-offs', which promote the integration of workers who can be defined as disadvantaged and who are in a critical employment situation, by strengthening — through solidarity — a growing capacity to meet social demand;

28. Notes that, very often, the problem encountered in business transfers to employees is not only a question of the length of the relevant procedures but also, and even more importantly, of lack of knowledge about this business scenario amongst relevant professionals (e.g. lawyers and accountants) and within the legal and education system; stresses that the training and awareness-raising of all players involved in the creation or transfer of ownership of enterprises would greatly contribute to promoting this practice; recommends, therefore, that the cooperative form of enterprise be assigned a permanent place in the relevant curricula of universities and management schools; believes, furthermore, that better knowledge about cooperatives should also be promoted and business transfers to employees under the cooperative form should be supported financially, also through a targeted, intelligent use of the Structural Funds, amongst trade unions and bodies tasked with providing information on the creation or transfer of businesses; underlines the expertise acquired in creating and transferring enterprises in the form of cooperatives by cooperative federations in some Member States and calls on the Commission to put in place mechanisms to facilitate cooperation and exchanges of best practices and methods in this field between enterprises and to report to the Council and Parliament on the outcome;
29. Urges the Member States to develop a framework to facilitate business transfers to employees, including financial mechanisms designed to help employees invest in enterprises in crisis or without a successor, as well as preferential rights for employees, in order to create the best conditions for a takeover bid for an enterprise facing closure;

30. Believes also that the Member States should adopt policies to facilitate action by employees to take part in the capital and results of their enterprises, through concrete fiscal mechanisms in other forms of industrial and service enterprises as well, and with the necessary legal protection, and corresponding ratio of participation, in the governance, oversight, decision-making and responsibility of the enterprise; recalls that such activities might increase the competitiveness of the respective sector as a whole;

31. Emphasises the positive aspects of mechanisms that are typical of the cooperative model, such as the indivisibility of reserves, i.e. reserves that cannot be distributed among members even in the event of liquidation, but which must be used for the development of the cooperative movement, and legal provisions to allow third parties to provide cooperatives with venture capital, with or without voting rights, such as mutualisation funds and Cooperazione Finanza Impresa (CFI) in Italy, the Institut de Développement de l'Economie Sociale (ESFIN-IDES) in France and the investment structure of the Mondragon Corporation in Spain;

32. Calls on the Commission to promote policies and measures in favour of maintaining existing jobs and not only the creation of new jobs in start-ups; asks the Commission to create new start-up services to support the cooperative form of enterprise through raising awareness and training initiatives;

33. Stresses that the conversion of enterprises in crisis into economically sustainable cooperatives requires a precise and early diagnosis; calls on the authorities at all levels to cooperate with the social partners and the cooperative movement in making such early diagnoses, and in assessing the feasibility and worthwhileness of transforming the enterprises into cooperatives; believes that trade unions and cooperative federations should also be associated in this process;

34. Calls on the Commission to draw up a comprehensive survey comparing the best practices implemented in the Member States and the national laws which promote the conversion of businesses into cooperatives, in particular provisions concerning takeovers, bankruptcies, financing arrangements, business support bodies and the setting up of clusters of cooperatives; stresses the importance of involving cooperatives in such a survey in order to set the priorities; calls, to that end, on the Commission to consider developing a database that systematically collects cases and information on restructuring into cooperatives, with a view to circulating good practices and collecting consistent data;

35. Calls on the Commission and the Member States to facilitate and promote the emergence of clusters of cooperatives and social enterprises in order to help them find the resources they need to occupy a more prominent role in the production and distribution chain and support the economies of scale necessary to fund research, development and innovation;

Access to funding and business support

36. Emphasises that cooperative enterprises in industry and services, and particularly SMEs, cannot — for a variety of reasons, including the nature of their entrepreneurship — gain access to venture capital and credit on the capital markets; notes also that workers’ cooperatives in capital-intensive sectors normally find it difficult to obtain large quantities of capital from their members, and that appropriate financial instruments should therefore be created to ensure that their forms of entrepreneurship are respected;

37. Points out that the issue of access to credit for cooperatives is of particular importance given the specific nature of their structure; calls, therefore, on the Commission, the Basel Committee and the EIB to develop and use quality parameters, also in terms of providing credit and financing, in order to differentiate the role of cooperatives, including social cooperatives, from other types of business;
38. Considers it necessary to strengthen the capitalisation of cooperatives by making better use of the resources that can be provided by their social structure; calls on the Commission to promote measures in support of capitalisation, including tax benefits — even if they are limited in time — once buy-outs have been established or implemented, without them being regarded as state aid.

39. Points out that in some Member States, outside parties may provide venture capital to cooperatives while gaining only limited or no voting rights — in order that member-ownership and control structures are respected — and that this has enabled cooperatives to improve their dialogue with other financial institutions; expresses its approval of such policies and encourages all Member States to facilitate cooperatives' access to credit.

40. Considers that the Commission, together with the EIB and the European Investment Fund (EIF), should ensure that cooperatives have access to EU-level financial mechanisms — including, where appropriate, the SME financing action plan suggested in the Single Market Act — and that they should make a special effort, together with the cooperative banking sector, to ensure that this happens; stresses that such actions could improve the functioning of the Single Market.

41. Considers that the specific characteristics of cooperative banks must be taken into account in the regulation of financial markets and in the implementing laws that follow.

42.Emphasises that the programmes and funds being established under the Multi-annual Financial Framework (2014-2020) should be important instruments for supporting cooperatives; contends that, when operational programmes are established, there should be a focus on facilitating the establishment of new cooperatives, providing support for sustainable business development and responsible restructuring, including measures concerning, in particular, business transfers to employees and social cooperatives, in local development and social, technological and process innovation, using global grants and other financial instruments, including the Globalisation Adjustment Fund.

43. Takes the view that, in EU and national financial programming, particular attention should be paid to (or a certain percentage set aside for) cooperatives that aim to facilitate access to employment for disadvantaged people, as also defined in Regulation (EC) No 2204/2002, in order to consolidate and develop more and better levels of social protection.

44. Calls on the Commission to support, in the next financial year, a pilot project to assist in the transfer of enterprises in crisis to workers, so they can continue working, thereby creating new cooperatives that can revive enterprises that are in crisis or bankrupt.

45. Calls on the Commission to develop measures to support youth employment in the cooperative sector; calls as well on the Commission to encourage the dissemination in the Member States of the cooperative model as a key instrument for creating fresh employment.

46. Believes that the Member States should also take steps to make it easier for cooperatives to gain access to the whole range of business support services, as this will help them contribute further to a sustainable development of their activities; urges, in this regard, the Member States to introduce measures to facilitate the access of cooperatives to credit, particularly with regards to worker cooperatives, social cooperatives, artisans’ cooperatives and cooperatives formed of micro-enterprises.

47. Considers that the Member States should adopt appropriate measures for the removal of any legal, administrative or bureaucratic obstacles preventing or restricting the growth of cooperatives.

48. Believes that small cooperative credit associations’ access to markets should be facilitated throughout Europe.

49. Considers, furthermore, that inter-SME collaborative networks, such as those that already exist in the EU under the cooperative form (artisans’ cooperatives, SME cooperatives, activity and employment cooperatives, etc.), should be encouraged, since such networks reinforce considerably the establishment and sustainability of micro and small enterprises, through shared marketing, purchases or other services, and help them become sources of innovation.
50. Believes that in order to support the creation of new cooperatives, services for start-up cooperatives should be developed; believes, moreover, that initiatives promoting the cooperative model among new potential entrepreneurs (i.e. in university curricula) should be encouraged, both at national and European level:

51. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

A bioeconomy for Europe

European Parliament resolution of 2 July 2013 on innovating for sustainable growth: a bioeconomy for Europe (2012/2295(INI))

(2016/C 075/06)

The European Parliament,

— having regard to the Commission communication entitled ‘Innovating for Sustainable Growth: a Bioeconomy for Europe’ (COM(2012)0060),


— having regard to its resolution of 24 May 2012 on a resource-efficient Europe (1),

— having regard to the Commission communication entitled ‘Tackling the challenges in commodity markets and on raw materials’ (COM(2011)0025) and its resolution of 13 September 2011 concerning this communication (2),

— having regard to the Council Conclusions from the United Kingdom Presidency in 2005 (‘The Knowledge-Based Bio-Economy in Europe’), from the German Presidency in 2007 (‘En route to the Knowledge Based Bio-Economy’) and from the Belgian Presidency in 2010 (‘The Knowledge Based Economy in Europe: achievements and challenges’),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Development, the Committee on Employment and Social Affairs, the Committee on Industry, Research and Energy and the Committee on Regional Development (A7-0201/2013),

A. whereas the world population is projected to increase from 7 billion to more than 9 billion in 2050, resulting in an estimated 70% increase in the demand for food and putting strong pressure on water reserves;

B. whereas the scarcity of natural reserves worldwide, the increasing pressure on renewable raw materials and the global effects of climate change require us to use resources efficiently;

(2) OJ C 51 E, 22.2.2013, p. 21.
C. whereas a long-term, innovative and efficient approach will ensure not only greater sustainability but also support for rural and regional development, a potential reduction in greenhouse gas emissions, greater sustainability of the production cycle in addition to the spread of industrial innovation along the entire value chain;

D. whereas the transition to a sustainable economy will strengthen the competitiveness of European industry and the agricultural sector, increase economic growth and thus promote a significant increase in European employment levels;

E. whereas a successful bioeconomy for Europe depends on the availability of sustainably managed and sourced food stocks (from agriculture, forestry and biodegradable waste);

F. whereas the EU bioeconomy has already a turnover of nearly EUR 2 trillion, and significant growth is expected from sustainable primary production, food processing, industrial biotechnology and biorefineries;

**General comments**

1. Welcomes the Commission communication entitled ‘Innovating for Sustainable Growth: a Bioeconomy for Europe’ and the action plan for implementing the bioeconomy strategy set out therein;

2. Considers that the bioeconomy makes it possible to produce industrial and consumer commodities at lower costs, using less energy and creating less environmental pollution;

3. Shares the view that the transition to a smart, sustainable and inclusive bioeconomy should be based not only on the production of renewable natural resources with a low environmental impact, but also on a sustainable use of those resources from an environmental, economic and social point of view, maintaining the use of biotic resources within the boundaries of ecosystem renewal;

4. Underlines the urgency of taking action now to support innovation and investment in new techniques and business models and to create the incentives that will bring long-term benefits for the economy; emphasises the key role of the private sector in delivering sustainable economic growth;

5. Is of the view that the bioeconomy is a prerequisite for achieving the objectives of the Europe 2020 strategy and, more specifically, of the initiatives ‘The Innovation Union’ and ‘A resource-efficient Europe’;

6. Welcomes the Commission’s support for a radical change in the EU’s approach to the production, consumption, processing, storage, recycling and disposal of biological resources;

7. Points out that while 22 million people are already employed in the bioeconomy, accounting for 9% of total employment in the EU, it has a strong potential to employ millions more;

8. Supports the Commission’s proposal to create a task force and roadmap on bioindustries, in which to highlight the contribution made by renewable resources and biotechnology to sustainable development and to encourage regions and operators to develop new innovations for the bioeconomy sector;

9. Calls on the Member States to develop national and regional bioeconomy action plans, and requests the Commission to present a bi-annual report to Parliament with regard to the implementation of a bioeconomy;

10. Emphasises that the EU is a global leader in various fields of bioscience and biotechnologies; takes the view that the transition to a bioeconomy will enable Europe to take some major steps forward in terms of the low-carbon economy, innovation and competitiveness and will enhance its role on the international scene;

11. Underlines the importance and huge potential of resource and energy efficiency; stresses the need to ‘produce more with less’ so that the bioeconomy remains sustainable;
12. Takes the view that a bioeconomy for Europe should not merely substitute the current fossil-based economy or repeat current wasteful behaviour and consumption patterns but should evolve into a more efficient and sustainable model taking into account social and environmental stewardship throughout all bioeconomy-based value chains;

13. Welcomes the on-going revision of the Union's biofuel legislation in order to mitigate the negative effects of indirect land-use change (ILUC), and to promote the market for, and development of, more advanced biofuels that should allow greater use to be made of non-food raw materials such as waste, residues and ligno-cellulosic and cellulosic materials;

14. Recalls that ILUC factors for biofuels and bioliquids, as well as binding sustainability criteria for the use of solid and gaseous biomass, should be included in the Renewable Energy Directive and the Fuel Quality Directive; calls on the Commission to propose a Biomass Framework Directive covering all applications of biomass (energy, fuels, materials and chemicals) and introducing a biomass hierarchy;

**Investment in research, innovation and skills**

15. Encourages the Commission to continue its research and development coordination efforts across the borders of the Member States and across the various sectors, and highlights in particular the need for research into the assessment of sustainability boundaries of biotic resources, taking into account ecosystem functions and natural food chains as well as human food demand;

16. Calls for more detailed research to establish the social and environmental opportunities, as well as the potential costs of the bioeconomy, given the diverse potential impacts and possible wrong methods of exploiting the bioeconomy, in terms of the use of scarce natural resources, the risk of damage to the environment and of biodiversity loss and the opportunity for conservation;

17. Supports the establishment of a Bioeconomy Panel of experts to help enhance synergies and coherence between policies and initiatives, and a Bioeconomy Observatory, in order to promote mutual learning, by securing a continuous exchange of knowledge and information between research institutes, companies, institutions, universities, regional operators, farmers and citizens in rural areas, and hasten the development of a legal framework to increase and facilitate research, its applications and the commercialisation of innovations;

18. Recalls the importance of the application of the precautionary principle in the use of biotechnologies, especially in the areas of genetically manipulated organisms and synthetic biology;

19. Believes that multidisciplinary and cross-sectoral information and training programmes need to be established so that the findings of research are made accessible to stakeholders, including consumers, creating opportunities to increase awareness and involvement;

20. Calls for the elimination of existing obstacles to innovation along the value chain, notably by rapid and science-based EU approval procedures for biotechnological products and much faster market access;

21. Calls on the Commission to propose practical measures of regionally comprehensive scope to promote the production and consumption of bioeconomy products at regional level;

22. Stresses that the bioeconomy requires that new skills, new knowledge and new disciplines be developed and/or integrated further in order to tackle bioeconomy-related societal changes, promote competitiveness, growth and job creation, meet the needs of industry and ensure that skills and jobs are better matched;

23. Stresses that the bioeconomy needs first-rate know-how and a skilled workforce; maintains that it is necessary to provide for vocational training and higher education needs in the regions of the European Union, taking into account the regions’ specific characteristics; points out that wide-ranging education and training systems in the regions also foster business expansion;
24. Welcomes the EUR 4.5 billion budget proposed by the Commission in its Framework Programme for Research (Horizon 2020) and hopes that this budget will be made available to all sectors and instruments of the bioeconomy and for the purpose of further refining innovations, including research on the ecosystem boundaries, reuse and recycling of biomaterials;

25. Is of the view that biorefineries based on local sustainable biomaterial that does not displace food or other more valuable uses are a key tool for implementing virtuous processes of conversion of disused plants and for revitalising crisis-stricken areas through innovative processes and investment towards a circular economy, and hopes that this role will continue to be encouraged;

26. Emphasises that sufficient quantities of sustainable raw materials are needed for the successful operation of biorefineries in Europe; points out that this will also require improving infrastructures for storage and transport and developing the necessary logistics;

27. Points out that there are only a limited number of demonstration facilities in Europe and that increased investments are needed in order to maintain the leading role of European industries in the sector of biorefineries; calls on the Commission and the Member States to support pilot and demonstration activities for the up-scaling of products and processes;

28. Emphasises that bioeconomy policies must be better designed to ensure a cascading use of biomass; calls, in this respect, for the development of a legal instrument that will pave the way for a more efficient and sustainable use of this precious resource; stresses that such an instrument should establish a cascading use principle in the ‘pyramid of biomass’, taking into account its different segments and strengthening it at its highest levels; points out that such an approach would lead to a hierarchical, smart and efficient use of biomass, to value-adding applications and to supporting measures such as coordination of research along the whole value chain;

Reinforced policy interaction and stakeholder engagement

29. Considers it necessary to ensure an integrated, coherent, cross-sectoral and interdisciplinary approach to bioeconomy, and calls for the harmonisation of the different EU policies involved and the related guiding principles — such as the precautionary principle — in the various sectors (the Resource Efficiency roadmap; the Innovation Union; the Raw Materials Initiative; Horizon 2020; the Environment Action Programme 2020; the Cohesion, Common Agricultural and Common Fisheries policies; the Renewable Energies, Water Framework, Waste Framework and Packaging directives; and specific measures on biowaste); considers it necessary, as well, to establish a uniform, long-term, stable, regulatory environment, both at EU-level and nationally, aiming at promoting and increasing investments for the bioeconomy in Europe;

30. Calls on the Commission to make provisions for financial instruments to support pre-commercial investments, turn research findings into commercial successes and enable innovative companies, especially SMEs, to find financial and other support instruments encouraging the development of the bioeconomy, for example through the use of Regional and Structural Funds and European Investment Bank risk sharing facilities, through increased coherence between different EU research and innovation funds, and through the establishment of a one-stop shop for information about all bio-based economy related initiatives, with a view to achieving the greatest possible impact; acknowledges the difficulty, and the financial risks, associated with commercialising bioeconomy innovations and placing them on the market;

31. Calls for the development of industrial infrastructure and optimised supply chains for bio-based products in rural and coastal areas with a view to creating new jobs in agriculture, forestry and aquaculture; calls for EU rural development funding to be made available for this purpose, and for this to be done in such a way as to reduce, rather than increase, damage to the environment and biodiversity loss;

32. Calls for targeted and specific action to reduce the complexity and duration of the bureaucratic authorisation procedures that complicate biorefinery development processes and are likely to encourage the transfer of innovative, cutting-edge technologies outside the EU;

33. Approves the use of the public-private partnership (PPP) formula, drawing adequate lessons from the problems that emerged in previous applications of the same formula to other sectors; calls on the Commission to allocate adequate resources for development and growth of such partnerships, in the belief that this is a key method for enabling new value chains to be created, enhancing existing chains and facilitating investment in technologies and prototypes that can transfer research findings to the market;
34. Agrees with the need for a multi-level approach, and calls for increasing attention to be paid to the regional and local dimension of the bioeconomy and to bottom-up initiatives; welcomes the establishment, at regional, national and EU levels, of bioeconomy platforms that are able to measure the progress made in a given sector and enable an exchange of know-how and best practices to take place, with a view to ensuring that the bioeconomy develops evenly throughout the EU; calls on the Commission also to involve experts in the sector and in all the subject areas concerned, in addition to representatives of consumers and citizens; points out that regional economies have a central role to play in achieving smart, sustainable and inclusive growth;

35. Believes that bottom-up initiatives are important in creating a bio-based society and that a business- and demand-driven approach, combined with a government-driven approach, is crucial; considers that adequate possibilities should be provided for regional initiatives; calls on the Commission to support such networks and clusters with a view to promoting the exchange of experiences.

Enhancement of markets and competitiveness

36. Calls on the Commission to focus financial support on innovation in line with the Innovation Union, including the Horizon 2020 priorities, stimulating research findings to prepare for marketing, bridging the so-called ‘valley of death’ of research in Europe;

37. Takes the view that there are a number of excellent tools (public procurement, standardisation, tax incentives, certification systems and specific labelling) that could secure a sufficient supply of sustainable and high-quality bio-based products as well as provide resource-efficient production systems; believes that reform of the current legislation is required; calls on the Commission to develop sustainability criteria for the use of biomass on which also market-creating tools should be based;

38. Stresses that a bio-based economy that relies on exploitation of biological resources instead of fossil energy must be guided by a sound political framework that takes into account not only economic viability but also social and ecological sustainability factors;

39. Is of the opinion that it is vital to involve and inform consumers on the choice of bio-based products and services; hopes, in this regard that such products will become standardised based on sufficient sustainability criteria in the EU, considering that this would be a tool for promoting a profitable European market in these products;

40. Believes that the lifespan of the bio-based product may not be artificially shortened; the product should be constructed for the longest possible life-time;

41. Underlines that the bioeconomy will make a significant contribution to the development of rural and coastal areas; takes the view that synergy and close cooperation along the value chain, including local producers of agricultural and forestry raw materials and biorefineries, would help strengthen the competitiveness and increase the profitability of rural regions; stresses the need to develop a long-term bioeconomy strategy, taking due account of the need to ensure food security;

42. Requires that the biological and biotechnological processes that are developed can be used in bio-based renewable resources from waste and non-food crops and also as components in existing agricultural and forest-based businesses;

43. Maintains that one of the bioeconomy’s guiding principles is to enhance resource efficiency and reduce dependence on imported raw materials, energy and non-renewable natural resources; points to the importance of the forest sector and other bio-based industries, and maintains that carbon-neutral renewable natural resources and raw materials, such as wood and wood fibre, can replace non-renewable fossil raw materials; points out that the bioeconomy industry produces many high added-value products, such as chemicals, medicines, plastics and other innovative new materials and that it creates jobs; highlights the potential of biotechnologies based on marine resources;

44. Calls on the Commission to promote measures to increase feedstock potentials in a sustainable manner, better mobilise such feedstocks, collect biodegradable waste — avoiding extensive transportation — and ensure that biomass use remains within ecological boundaries and does not reduce the carbon sink function; considers it urgent, in this context, to establish sustainability criteria for biomass energy use in order to ensure the availability of biomass for more resource-efficient purposes, preventing incentives for the transformation of biomass into energy from creating market distortions and reducing its availability for producers;
45. Considers it important to invest in bioeconomy supply chains so as to guarantee the availability of raw materials; maintains that bioeconomy strategies should encourage not only more efficient use of household and municipal waste, but also the recovery of agricultural and forestry by-product streams and residues; calls for better and enabling legislation providing legal certainty and strong support for sustainable use of bioeconomy resources and exploitation of raw materials, and for policy to be based, in every respect, on a flexible, long-term approach that promotes investments;

46. Considers that, in keeping with the guidelines of the new European industrial policy strategy, the bioeconomy can make an important contribution to combating the process of de-industrialisation that is currently afflicting Europe, and can help reverse it by means of new strategies to stimulate the market and restore the competitiveness of the regional system;

47. Strongly urges the Commission to define environmentally harmful subsidies as ‘a result of a government action that confers an advantage on consumers or producers, in order to supplement their income or lower their costs, but in doing so, discriminates against sound environmental practices’ (1); calls on the Commission and Member States to adopt, without delay and by 2014, concrete plans, based on this definition, for progressively phasing out all environmentally harmful subsidies by 2020, including subsidies which incentivise inefficient use of renewable resources and subsidies on fossil fuels, and to report on progress through the National Reform Programmes; in this context, is concerned that subsidies for the use of biomaterials for energy are already undermining resource efficiency objectives;

48. Notes with concern that rising demand for biomass, particularly wood, may spark widespread deforestation in developing countries, where greenhouse gas emissions are not accounted for under the Kyoto Protocol; points out that while this can impact on soil quality, water cycles and biodiversity, it increases strain on global agreements such as the Convention of Biological Diversity (CBD) and the UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD); fears equally that, considering that land governance systems are weak in many developing countries, rising demand for wood products may trigger off illegal logging and in return weaken voluntary partnership agreements under the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan;

49. Underlines that the transition to a bioeconomy will contribute to further integration of the Rio+20 outcomes into EU policies; believes that the EU should further intensify its contribution to initiatives that facilitate the transition towards an inclusive green economy at international level;

50. Calls for the EU to become an international research and innovation powerhouse in the area of bio-economy research; states that new products, processes and services based on renewable resources will enhance the competitiveness of European industry and make it an international front runner;

51. Deems it crucial to develop international legally binding sustainability standards for all sectors of biomass usage, as well as binding sustainable forest management criteria; urges the EU to pursue the adoption of multilateral agreements and provide, especially for LDCs, related institutional and technical support for ensuring the sustainable use of biomass.

52. Takes the view that the bioeconomy model that is developed within this strategy will solve the contingent critical issues and, in the longer term, may initiate patterns of production, consumption, development and lifestyles that are more sustainable and effective, by reactivating the process of European growth as a result of a new synthesis between the economy, the environment and social quality;

53. Instructs its President to forward this resolution to the Council and the Commission.

Political agreement on the MFF


(2016/C 075/07)

The European Parliament,

— having regard to Articles 310, 311, 312 and 323 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to its resolution of 23 October 2012 in the interests of achieving a positive outcome of the Multiannual Financial Framework 2014-2020 approval procedure (1),

— having regard to its resolution of 13 March 2013 on the European Council conclusions of 7—8 February 2013 concerning the Multiannual Financial Framework (2),

— having regard to the conclusions of the European Council adopted on 8 February 2013,

— having regard to the conclusions of the European Council adopted on 28 June 2013,

— having regard to Rule 110(2) and (4) of its Rules of Procedure,

1. Welcomes the political agreement reached on 27 June 2013 at the highest political level between Parliament, the Council Presidency and the Commission on the Multiannual Financial Framework (MFF) 2014-2020, following long and strenuous negotiations; acknowledges the significant efforts of the Irish Presidency in reaching this agreement;

2. Stresses that — thanks to Parliament’s persistence in the negotiations — a number of provisions have been adopted for the first time which will be instrumental in making the new financial framework operational, consistent, transparent and more responsive to the needs of EU citizens; highlights, in particular, the new arrangements relating to revision of the MFF, flexibility, own resources and the unity and transparency of the budget, which were key priorities for Parliament in the negotiations;

3. Is ready to put the MFF Regulation and the new Interinstitutional Agreement to the vote in the early autumn, as soon as the necessary technical and legal conditions for the finalisation of the relevant texts are fulfilled, so that the latter reflect the overall agreement reached between the Council and Parliament;

4. Reiterates, however, its position, as set out in its aforementioned resolution on the MFF of 13 March 2013, that the consent vote on the MFF Regulation cannot be granted unless there is an absolute guarantee that the outstanding payment claims for 2013 will be covered in full; expects the Council, therefore, to take a formal decision on Draft Amending Budget 2/2013 for an amount of EUR 7.3 billion, no later than the Ecofin Council to be held on 9 July 2013; insists that the Council stick to its political commitment to adopt without delay a further amending budget to avoid any shortfall in payment appropriations that could lead to a structural deficit in the EU budget at the end of 2013; states that Parliament will not give its consent to the MFF Regulation or will not adopt the Budget 2014 until this new amending budget, covering the remaining deficit as identified by the Commission, has been adopted by the Council;

5. Stresses, moreover, that the MFF Regulation cannot be legally adopted unless there is a political agreement on the relevant legal bases, especially on points that are also reflected in the MFF Regulation; expresses its willingness to conclude the negotiations on the legal bases for all multiannual programmes as soon as possible and reconfirms its adherence to the principle that ‘nothing is agreed until everything is agreed’; insists on full respect for Parliament’s legislative powers, as granted by the Treaty of Lisbon, and calls on the Council to negotiate properly all the so-called ‘MFF-related’ parts of the legal bases; welcomes the political agreements reached so far on several new EU multiannual programmes;

6. Acknowledges the fiscal consolidation that Member States are facing; considers, however, that the overall level of the next MFF, as decided by the European Council, falls short of EU political goals and the need to ensure the successful implementation of the Europe 2020 strategy; is concerned that this level of resources might not be sufficient to endow the EU with the necessary means to recover from the current crisis in a coordinated way and to come out stronger; regrets the fact that Member States continue to underestimate the role of the EU budget in, and its contribution to, strengthening economic governance and fiscal coordination across the EU; fears, moreover, that such low MFF ceilings will significantly reduce any room for manoeuvre for Parliament in the annual budgetary procedures;

7. Stresses the importance of a compulsory review and subsequent revision of the next MFF by the end of 2016, in order to allow the next Commission and Parliament to reassess the EU's political priorities, to adapt the MFF to new challenges and needs and to take full account of the latest macroeconomic projections; insists that the compulsory review to be conducted by the Commission of both the expenditure and the revenue sides of the EU budget be accompanied by a legislative proposal for a revision of the MFF Regulation, as stated in the Commission declaration annexed to that regulation; intends to make this compulsory MFF revision a key demand in the investiture of the new Commission President;

8. Reiterates the crucial importance of the enhanced flexibility in the MFF 2014-2020 with a view to making full use of the respective MFF ceilings for commitments (EUR 960 billion) and payments (EUR 908,4 billion), as imposed by the European Council; welcomes, therefore, the Council's approval of two key proposals put forward by Parliament, namely the creation of a Global Margin in Payments and a Global Margin in Commitments, which will allow the automatic carry-over of unused appropriations from one financial year to the next; views as regrettable, however, the limitations imposed by the Council (in terms of time or amount) which may prevent the full use of these instruments; considers that improving these mechanisms should be an integral part of the post-electoral revision of the MFF to be proposed by the Commission;

9. Emphasises that the new flexibility rules on commitments should lead, in the course of the MFF 2014-2020, to additional appropriations for programmes linked to growth and employment, and in particular the Youth Employment Initiative, in order to ensure continuous funding and maximise the efficient use of the agreed ceilings;

10. Welcomes the 2014 and 2015 frontloading of appropriations for the Youth Employment Initiative and insists that extra appropriations will be needed as of 2016 to ensure the sustainability and effectiveness of this programme;

11. Stresses that, as a result of Parliament's insistence, funding for Horizon 2020, Erasmus and COSME will also be frontloaded in 2014 and 2015 in order to decrease the funding gap between the relevant appropriations in the 2013 and 2014 Budgets; insists, in addition, that it is essential that further funding also be made available for the Digital Agenda;

12. Welcomes the fact that provision has been made for an additional increase of up to EUR 1 billion for the food distribution scheme for those Member States wishing to use this increase to assist the most deprived persons in the Union; expects the Council and Parliament to agree as soon as possible on the concrete modalities for the implementation of this commitment in the context of the current negotiations on the legal basis for the scheme in question;

13. Deplores the fact that the Council has not been able to make any progress on the reform of the own-resources system on the basis of the legislative proposals put forward by the Commission; emphasises that the EU budget should be financed by genuine own resources, as provided for in the Treaty, and states its commitment to a reform that reduces the share of GNI-based contributions to the EU budget to a maximum of 40%; expects, therefore, the Joint Declaration on Own Resources agreed between the three EU institutions to allow tangible progress to be achieved, especially in view of the mid-term review/revision of the MFF; calls, therefore, for the high-level group on own resources to be convened at the time of the formal adoption of the MFF Regulation with a mandate to examine all aspects of the reform of the own-resources system;

14. Welcomes the outcome of the negotiations on the unity and transparency of the EU budget; considers that any possible ‘eurozone budget’ that may be envisaged in the future should be either integrated into, or annexed to, the EU budget;
15. Views as deeply regrettable the procedure that led to this agreement on the MFF 2014-2020, which in reality has had the effect of depriving Parliament of its true budgetary powers as provided for in the TFEU; considers that the numerous meetings held over the past few years between its delegation and the successive Council presidencies on the margins of the relevant General Affairs Council meetings, as well as its participation in informal Council meetings dealing with the MFF, served no clear purpose, as they had no impact on the spirit, calendar or content of the negotiations or on the Council's position, including the need to distinguish the legislative from the budgetary aspects of the MFF agreement;

16. Calls, therefore, on its Committee on Budgets, in cooperation with its Committee on Constitutional Affairs, to draw the necessary conclusions and to come forward with new proposals on the modalities of such negotiations, in order to ensure the democratic and transparent nature of the whole budgetary procedure;

17. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the governments and parliaments of the Member States, and the other institutions and bodies concerned.

P7_TA(2013)0314

Road safety

European Parliament resolution of 3 July 2013 on Road safety 2011-2020 — First milestones towards an injury strategy (2013/2670(RSP))

(2016/C 075/08)

The European Parliament,

— having regard to its resolution on European road safety 2011-2020 of 27 September 2011 (1),

— having regard to its resolution of 15 December 2011 on the Roadmap to a single European Transport Area — Towards a competitive and resource efficient transport system (2),

— having regard to the Commission Communication 'Towards a European road safety area: policy orientations on road safety 2011-2020' (COM(2010)0389),


— having regard to the opinion of the Committee of the Regions entitled 'Policy orientations on road safety 2011-2020' (3),

— having regard to the 'World report on road traffic injury prevention', published jointly in 2004 by the World Bank and the WHO,

— having regard to its report of 3 July 2012 on eCall: a new 112 service for citizens (4),

(1) OJ C 56 E, 26.2.2013, p. 54.
A. whereas in 2011 more than 30,000 people were killed and almost 1.5 million were reported injured (more than 250,000 of them seriously injured) in road accidents in the European Union;

B. whereas for every fatal accident, a further four accidents lead to permanent disabilities, 40 cause slight injuries and 10 cause serious injuries;

C. whereas more than half of all serious injuries occur inside urban areas, especially affecting pedestrians, motorcyclists, cyclists (including pedelec users) and other vulnerable road users;

D. whereas the major causes of road casualties and serious injuries are equipment failure, road design, poor road maintenance and driver behaviour including speed skills; whereas speed is directly related to the seriousness of injury, and whereas some Member States are considering raising their motorway speed limits;

E. whereas involvement in road accidents is one of the leading causes of hospital admission for EU citizens aged under 45, and many serious injuries result in lifelong suffering or permanent disabilities;

F. whereas emergency services' response time (the 'golden hour' principle), including providing life-saving first aid, as well as quality of care, play an important role in surviving accidents;

G. whereas the socio-economic cost of road traffic injuries is estimated at 2% of GDP, or approximately EUR 250 billion for 2012 (1);

H. whereas European actions in this regard are showing positive results;

1. Supports the Commission's initiative to give high priority to serious injury in road safety work;

2. Welcomes the adoption by the Commission of a common EU definition of serious injuries, based on the globally accepted trauma classification known as the Maximum Abbreviated Injury Scale;

3. Calls on the Member States to rapidly implement the common EU definition of serious road traffic injury and, on that basis, to collect and report statistics per transport mode, including vulnerable road users, as well as per type of road infrastructure for 2014;

4. Urges the Commission, on the basis of the data collected, to set an ambitious target of reducing road injuries by 40% over the period 2014-2020, and to keep the global idea of 'Vision Zero' as a long-term goal;

5. Believes that the development of a common mechanism for data gathering and reporting should not prevent urgent actions being taken at EU level to reduce the number of people seriously injured on the roads;

6. Welcomes the priorities set by the Commission for developing its global strategy, i.e. to address collision impact, accident management strategy, first aid and emergency services and long-term rehabilitation processes, and calls for the swift implementation of these priorities;

(1) Commission staff working document 'On the implementation of objective 6 of the European Commission's policy orientations on road safety 2011-2020 — First milestone towards an injury strategy.'
Reducing serious injuries on European roads without delay

7. Stresses that a whole range of existing legislation and measures must be better implemented without delay in order to reduce collision impacts, increase safety for road users and reduce serious injuries;

8. Calls on the Commission to review its legislation on passive and active vehicle safety so as to adapt it to the most recent technical progress, and to support the implementation of in-car enforcement technologies;

9. Asks the Commission to support the development of safe and intelligent road infrastructure;

10. Calls on the Commission to provide detailed information on how Member States are transposing Directive 2011/82/EU on facilitating the cross-border exchange of information on road safety related traffic offences;

11. Urges the Member States to continue their efforts in fighting drink- and drug-driving and exchanging best practice for the assessment and rehabilitation of traffic offenders;

Protecting vulnerable road users

12. Notes that pedestrians and cyclists together account for 50% of all urban road fatalities and a large share of serious injuries;

13. Supports the monitoring and further development of technical standards and policies for the protection of the most vulnerable road users — the elderly, young children, disabled persons and cyclists, as part of a concerted effort to promote the ‘rights of vulnerable road users’ in EU legislation and transport policy;

14. Calls on the Commission to provide an overview of urban areas with a 30 km/h speed limit and the effects of that limit on reducing fatalities and serious injuries;

15. Calls on the Member States to stress the importance of information and training campaigns related to safer cycling and walking and of policies aimed at promoting cycling and walking, as the safety of cyclists and pedestrians in urban areas is strongly correlated with the prevalence of cycling and walking as transport modes, where appropriate in combination with public and collective mobility;

16. Calls on the Commission to develop urban road safety guidelines that could be included in Sustainable Urban Mobility Plans (SUMPs), and to consider linking EU cofinancing of urban transport projects to SUMPs that include EU reduction targets for road fatalities and serious injuries;

Improving first aid and emergency services

17. Urges the Member States to support the European Emergency Number 112 and to comply with the requirements of making the Public Safety Answering Points fully operational by 2015 and implementing, as quickly as possible, an awareness campaign for their introduction;

18. Welcomes the Commission’s proposal to ensure the mandatory deployment by 2015, in all Member States, of a public 112-based eCall system in all new type-approved cars, whilst observing data protection rules;

19. Calls on the Commission, via the consideration of best practice in the Member States, to consider the introduction of ‘accompanied driving’ for older minors;

20. Calls on the Member States systematically to promote first aid training as a way of increasing the reactivity of bystanders to an accident helping victims prior to the arrival of the emergency services;
21. Calls on the Member States to encourage collaboration between emergency services and vehicle designers and manufacturers in order to ensure effective intervention and safety for the rescuer and the injured;

22. Calls on the Member States to encourage the implementation of the e-Health systems, and especially the use of Intelligent Transport Communication systems by emergency teams, including in emergency vehicles;

Post-accident care and long-term rehabilitation

23. Encourages the Member States to emphasise the importance of post-accident care in their health sector policies and to further improve longer-term hospital care, post-hospital care and rehabilitation, including trauma and psychological care for the survivors and witnesses of a road accident by, for example, providing assistance points to help them improve their quality of life;

24. Calls on the Member States to improve awareness of the impact of serious injuries by developing closer links with other measures having a social impact, such as levels of impairment, disability and functional incapacity, and to develop educational programmes on road safety;

25. Instructs its President to forward this resolution to the Commission and the governments and parliaments of the Member States.

P7_TA(2013)0315

Situation of fundamental rights: standards and practices in Hungary


(2016/C 075/09)

The European Parliament,
— having regard to Article 2 of the Treaty on European Union (TEU), setting out the values upon which the Union is founded,
— having regard to Articles 3, 4, 6 and 7 of the Treaty on European Union (TEU), Articles 49, 56, 114, 167 and 258 of the Treaty on the Functioning of the European Union (TFEU), the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights (ECHR),
— having regard to its resolution of 16 February 2012 on the recent political developments in Hungary (1) instructing the Committee on Civil Liberties, Justice and Home Affairs, in cooperation with the European Commission, the Council of Europe and the Venice Commission, to follow up the issue of whether and how the recommendations set out in that resolution have been implemented, and to present its findings in a report,
— having regard to its resolutions of 10 March 2011 on the media law in Hungary (2) and of 5 July 2011 on the Revised Hungarian Constitution (3),

(3) OJ C 33 E, 5.2.2013, p. 17.
— having regard to its resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) — effective implementation after the entry into force of the Treaty of Lisbon (1),

— having regard to its resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010-2011) (2),

— having regard to the Commission Communication on Article 7 of the Treaty on European Union — Respect for and promotion of the values on which the Union is based (COM(2003)0606),

— having regard to the Council and Commission statements presented at the plenary debate held in the European Parliament on 18 January 2012 on the recent political developments in Hungary,

— having regard to the statements of the Hungarian Prime Minister, Viktor Orbán, who addressed the European Parliament on 18 January 2012 in the plenary debate on the recent political developments in Hungary,

— having regard to the hearing held on 9 February 2012 by the Committee on Civil Liberties, Justice and Home Affairs,

— having regard to the report of a delegation of Members of the European Parliament on their visit to Budapest from 24 to 26 September 2012,

— having regard to the working documents on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16 February 2012) comprising working documents No 1 — Independence of the Judiciary, No 2 — Fundamental principles and Fundamental Rights, No 3 — Media legislation, No 4 — Principles of democracy and the rule of law, and No 5 — Concluding Remarks by the Rapporteur, which were discussed in the Committee on Civil Liberties, Justice and Home Affairs on 10 July 2012, 20 September 2012, 22 January 2013, 7 March 2013 and 8 April 2013 respectively, as well as the comments of the Hungarian Government thereon,

— having regard to the Fundamental Law of Hungary, adopted on 18 April 2011 by the National Assembly of the Hungarian Republic, which entered into force on 1 January 2012 (hereinafter referred to as ‘the Fundamental Law’), and the Transitional Provisions of the Fundamental Law of Hungary, adopted on 30 December 2011 by the National Assembly, which also entered into force on 1 January 2012 (hereinafter referred to as ‘the Transitional Provisions’),

— having regard to the First Amendment to the Fundamental Law, tabled by the Minister for National Economy on 17 April 2012 and adopted by the Hungarian Parliament on 4 June 2012, establishing that the Transitional Provisions are part of the Fundamental Law,

— having regard to the Second Amendment to the Fundamental Law, tabled on 18 September 2012 in the form of an individual member’s bill and adopted by the Hungarian Parliament on 29 October 2012, introducing the requirement of voter registration into the Transitional Provisions,

— having regard to the Third Amendment to the Fundamental Law, tabled on 7 December 2012, adopted by the Hungarian Parliament on 21 December 2012 and establishing that the limits and conditions for acquisition of ownership and for use of arable land and forests and the rules concerning the organisation of integrated agricultural production are to be laid down by cardinal law,

— having regard to the Fourth Amendment of the Fundamental Law, tabled on 8 February 2013 in the form of an individual member’s bill and adopted by the Hungarian Parliament on 11 March 2013, which, among other provisions, integrates into the text of the Fundamental Law the Transitional Provisions (with some exceptions including the provision requiring voter registration) annulled by the Constitutional Court of Hungary on 28 December 2012 on procedural grounds (Decision No 45/2012), and remaining provisions of a genuinely transitional nature in this document,

having regard to Act CXI of 2012 on the Amendment of Act CLXI of 2011 on the organisation and administration of courts and Act CLXII of 2011 on the legal status and remuneration of judges in Hungary,

having regard to Act XX of 2013 on the legislative amendments relating to the upper age limit applicable in certain judicial legal relations,

having regard to Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities of Hungary (the Act on Churches), which was adopted on 30 December 2011 and entered into force on 1 January 2012,


having regard to Joint Opinion No CDL-AD(2012)012 of the Venice Commission and the OSCE/ODIHR on the Act on the elections of Members of Parliament of Hungary,

having regard to the Hungarian Government’s comments Nos CDL(2012)072, CDL(2012)046 and CDL(2012)045 on the draft opinion of the Venice Commission on the cardinal acts on the judiciary that were amended following the adoption of opinion CDL-AD(2012)001, on the draft joint opinion on the Act on the elections of Members of Parliament of Hungary and on the draft opinion on Act CLI of 2011 on the Constitutional Court of Hungary,

having regard to the initiatives undertaken by the Secretary General of the Council of Europe, Thorbjørn Jagland, including the recommendations on the judiciary laid down in his letter of 24 April 2012 addressed to the Hungarian Deputy Prime Minister, Tibor Navracsics,

having regard to the letters of reply of 10 May 2012 and of 7 June 2012 from Mr Navracsics declaring the intention of the Hungarian authorities to address the recommendations by Mr Jagland,

having regard to the letter of 6 March 2013 sent by the Secretary General of the Council of Europe, Mr Jagland, to Mr Navracsics expressing his concerns about the proposal for the Fourth Amendment to the Fundamental Law and calling for the postponement of the final vote, and the letter of reply of 7 March 2013 from Mr Navracsics,

having regard to the letter of 6 March 2013 sent by the Ministers of Foreign Affairs of Germany, the Netherlands, Denmark and Finland to the Commission President, José Manuel Barroso, calling for a mechanism to foster compliance with fundamental values in the Member States,

having regard to the letter of 8 March 2013 sent by the Hungarian Minister of Foreign Affairs, Mr János Martonyi, to all his counterparts in the Member States of the EU explaining the purpose of the Fourth Amendment,

having regard to the letter of 8 March 2013 sent by Mr Barroso to Mr Orbán on the concerns of the European Commission regarding the Fourth Amendment to the Fundamental Law and the letter of reply from Mr Orbán to the Commission President, copies of which were sent to both the President of the European Council, Herman Van Rompuy, and the President of the European Parliament, Martin Schulz,

having regard to the joint statement of 11 March 2013 by President Barroso and Secretary General Jagland recalling their concerns regarding the Fourth Amendment to the Fundamental Law with respect to the principle of the rule of law and having regard to the confirmation made by Prime Minister Orbán, in his letter addressed to President Barroso on 8 March 2013, of the full commitment of the Hungarian Government and Parliament to the European norms and values,
— having regard to the request for an opinion of the Venice Commission on the Fourth Amendment to the Fundamental Law of Hungary, sent on 13 March 2013 by Mr Martonyi to Mr Jagland,

— having regard to the Council and Commission statements on the constitutional situation in Hungary presented at the plenary debate held in the European Parliament on 17 April 2013,

— having regard to the letter of 16 December 2011 from the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, to Mr Martonyi, raising concerns on the subject of the new Hungarian law on the Right to Freedom of Conscience and Religion and on the Legal Status of Churches, religious denominations and religious communities, and having regard to Mr Martonyi's reply of 12 January 2012,

— having regard to Opinion No CommDH(2011)10 of 25 February 2011 of the Commissioner for Human Rights on Hungary's media legislation in light of the Council of Europe's standards on freedom of the media, as well as to the annotations to that opinion of 30 May 2011 from the Hungarian Minister of State for Government Communication,

— having regard to the statements by the Office of the UN High Commissioner for Human Rights (OHCHR) of 15 February 2012 and 11 December 2012 calling respectively on Hungary to reconsider legislation allowing local authorities to punish homelessness and to uphold the Constitutional Court's decision decriminalising homelessness,

— having regard to the statements by the OHCHR of 15 March 2013 voicing concerns over the adoption of the Fourth Amendment to the Fundamental Law,

— having regard to the ongoing infringement proceedings in Case C-288/12 brought by the European Commission against Hungary over the legality of the termination of the mandate of the former Commissioner for Data Protection still pending before the European Court of Justice,

— having regard to the Decision of the Court of Justice of the European Union of 6 November 2012 on the radical lowering of the retirement age for Hungarian judges, and having regard to the subsequent adoption of Act No XX of 2013 amending Act CLXII of 2011 — adopted by the Hungarian Parliament on 11 March 2013 — following the decision of the European Court of Justice,


— having regard to the report by the Monitoring Committee of the Parliamentary Assembly of the Council of Europe,

— having regard to Law LXXII of 2013 on the creation of new rules and regulations relating to the oversight of national security; having regard to the letter of 27 May 2013 from Dr András Zs. Varga addressed to Dr András Cser-Palkovics, Chair of the Hungarian Parliament's Committee on Constitutional, Legal and Procedural Affairs, raising concerns over the legislation adopted on the creation of new rules and regulations relating to the oversight of national security,

— having regard to the upcoming assessment of the Fourth Amendment to the Fundamental Law by the European Commission,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0229/2013).

II — Background and main issues at stake

European common values

A. whereas the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, as set out in Article 2 TEU, on unequivocal respect for fundamental rights and freedoms as enshrined in the Charter of Fundamental Rights and in the ECHR, and on the recognition of the legal value of such rights, freedoms and principles, as is further demonstrated by the EU's forthcoming accession to the ECHR pursuant to Article 6(2) TEU;
B. whereas the common values enshrined in Article 2 TEU constitute the core of the rights enjoyed by persons living within the EU and especially by EU citizens, irrespective of their nationality and no matter where they might consider themselves to belong in cultural or religious terms, and whereas such persons can fully enjoy those rights only if the EU's fundamental values and principles are upheld;

C. whereas the values set out in Article 2 TEU have to be addressed politically and legally, this being an indispensable foundation of our democratic society, and whereas, therefore, Member States, as well as all the EU institutions, must commit themselves to them, clearly and unambiguously;

D. whereas respecting and promoting such common values is not only an essential element of the European Union's identity but also an explicit obligation deriving from Article 3(1) and (5) TEU, and therefore a sine qua non for becoming an EU Member State as well as for fully preserving membership prerogatives;

E. whereas the obligations incumbent on candidate countries under the Copenhagen criteria continue to apply to the Member States after joining the EU by virtue of Article 2 TEU and the principle of sincere cooperation, and whereas all Member States should therefore be assessed on a regular basis in order to verify their continued compliance with the EU's common values;

F. whereas Article 6(3) TEU underscores the fact that fundamental rights, as guaranteed by the ECHR and as arising from the constitutional traditions common to the Member States, constitute general principles of Union law, and whereas such rights are a common heritage and strength of democratic European states;

G. whereas, with the entry into force of the Treaty of Lisbon and pursuant to Article 6 TEU, the Charter has the same legal value as the Treaties, hence transforming values and principles into tangible and enforceable rights;

H. whereas Article 7(1) TEU, by a defined procedure, grants the EU institutions the power to assess whether there is a clear risk of a serious breach of the common values referred to in Article 2 by a Member State, and to engage politically with the country concerned in order to prevent and redress violations; whereas before making such a determination, the Council shall hear the Member State in question, acting in accordance with the same procedure;

I. whereas the scope of Article 2 TEU is not restricted by the limitation of Article 51(1) of the Charter, whereas the scope of Article 7 TEU is not limited to the policy areas covered by EU law, and whereas as a consequence the EU can also act in the event of a breach of, or a clear risk of a breach of, the common values in areas falling under Member States' competences;

J. whereas, pursuant to the principle of sincere cooperation laid down in Article 4(3) TEU, Member States are to facilitate the achievement of the Union's tasks and refrain from any measures which could jeopardise the attainment of the Union's objectives, including the objective of respecting and promoting the Union's common values;

K. whereas respect for the Union's common values goes hand in hand with the EU's commitment to diversity, translated into the obligation for the Union to respect 'the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional', as stated in Article 4(2) TEU; whereas the European core values set out in Article 2 TEU result from the constitutional traditions common to the Member States and cannot therefore be played off against the obligation under Article 4 TEU, but make up the basic framework within which Member States can preserve and develop their national identity;

L. whereas, in the framework of the Treaties, respect for 'national identities' (Article 4(2) TEU) and for 'different legal systems and traditions of the Member States' (Article 67 TFEU) are intrinsically associated with the principles of sincere cooperation (Article 4(3) TEU), mutual recognition (Articles 81 and 82 TFEU) and thus mutual trust, as well as with respect for cultural and linguistic diversity (Article 3(3) TEU);
M. whereas a violation of the Union’s common principles and values by a Member State cannot be justified by national
traditions nor by the expression of a national identity when such a violation results in the deterioration of the principles
which are at the heart of European integration, such as democratic values, the rule of law or the principle of mutual
recognition, with the consequence that a referral to Article 4(2) TEU is applicable only in so far as a Member State
respects the values enshrined in Article 2 TEU;

N. whereas the Union’s objective of upholding and promoting its values in its relations with the wider world, as set out in
Article 3(4) TEU, is further reinforced by the specific obligation for the Union’s action on the international scene to be
guided by the principles which inspired its creation, development and enlargement: democracy, the rule of law and the
universality and indivisibility of human rights and fundamental freedoms (21(1) TEU);

O. whereas, therefore, not only the credibility of the Member States and of the EU on the international scene, but also the
Union’s objectives in its external action, would be undermined if Member States were not able or willing to live up to
the standards to which they have agreed and bound themselves by signing the Treaties;

P. whereas respect by the Member States for the same set of fundamental values is an indispensable condition for ensuring
mutual trust and, consequently, the proper functioning of mutual recognition, which is at the heart of the creation and
development of the internal market as well as of the European area of freedom, security and justice, and whereas,
therefore, any attempt to disrespect or weaken those common values adversely affects the whole construction of the
European process of economic, social and political integration;

Q. whereas the common values set out in Article 2 TEU and proclaimed in the Preambles to the Treaties and the Charter of
Fundamental Rights and referred to in the Preamble to the ECHR and in Article 3 of the Statute of the Council of Europe
require a separation of powers between independent institutions based on a properly functioning system of checks and
balances, and whereas core features of these principles include: respect for legality, including a transparent, accountable
and democratic process of enacting laws; legal certainty; a strong system of representative democracy based on free
elections and respecting the rights of opposition; effective control of the conformity of legislation with the constitution;
an effective, transparent, participatory and accountable government and administration; an independent and impartial
judiciary; independent media; and respect for fundamental rights;

R. whereas the Commission, under Article 17 TEU, ‘ensure[s] the application of the Treaties … [and] oversee[s] the
application of Union law under the control of the Court of Justice of the European Union’;

**Reforms in Hungary**

S. whereas Hungary was the first former Communist country to accede to the ECHR, and as an EU Member State was the
first to ratify the Treaty of Lisbon on 17 December 2007, and whereas Hungary played an active part in the work of
the Convention and the Intergovernmental Conference in 2003 and 2004 in, among other issues, the drafting of
Article 2 TEU, and took the initiative which resulted in the inclusion of the rights of persons belonging to minorities;

T. whereas over the course of Hungary’s centuries-long history, the peaceful coexistence of nationalities and ethnic
groups has enhanced the nation’s cultural richness and its prosperity; and whereas Hungary should be called upon to
continue that tradition and to take resolute steps to curb any attempts to discriminate against individual groups;

U. whereas Hungary is also a party to the International Covenant on Civil and Political Rights and other international
legal instruments obliging it to respect and implement international democratic principles;

V. whereas following the 2010 general elections in Hungary, the governing majority gained more than two thirds of the
seats in parliament, enabling it to rapidly initiate intense legislative activity to reshape the whole constitutional order of
the country (the former Constitution has been amended twelve times and the Fundamental Law four times so far) and
thus substantially to modify the institutional and legal framework, as well as a number of fundamental aspects of not
only public but also private life;
W. whereas any Member State of the European Union is absolutely free to review its constitution and whereas the very meaning of democratic alternation is that it enables a new government to enact legislation reflecting the will of the people, its values and its political commitments, provided that, in so doing, it does not breach the values and principles of democracy and the rule of law prevailing in the European Union; whereas in all Member States special constitutional procedures render constitutional amendment more difficult compared with procedures governing ordinary legislation, namely through the use of a qualified majority, additional decisional processes, time delays and referenda;

X. whereas the history of democratic traditions in Europe shows that reforming a constitution requires the utmost care and due consideration of procedures and guarantees aimed at preserving, among other things, the rule of law, the separation of powers and the hierarchy of legal norms — the constitution being the supreme law of the land;

Y. whereas the scale of the comprehensive and systematic constitutional and institutional reforms which the new Hungarian Government and Parliament have carried out in an exceptionally short time frame is unprecedented, and explains why so many European institutions and organisations (the European Union, the Council of Europe, the OSCE) have deemed it necessary to assess the impact of some reforms; whereas there should be no double standards in the treatment of Member States, meaning that the situation in other Member States should also be monitored, while enforcing the principle of equality of the Member States before the Treaties;

Z. whereas a dialogue based on openness, inclusiveness, solidarity and mutual respect between the European institutions and the Hungarian authorities is necessary in the framework of the abovementioned community of democratic values;

AA. whereas the Commission, in the exercise of its responsibility for overseeing the application of Union law, has to show the utmost skill, respect the independence of others and act diligently, swiftly and without delay, especially when it is called upon to deal with a case in which a Member State may have committed a serious breach of Union values;


AB. whereas the adoption of the Fundamental Law of Hungary — which was passed on 18 April 2011, exclusively with the votes of the members of the governing coalition and on the basis of a draft text prepared by the representatives of the governing coalition — was conducted in the short time frame of 35 calendar days calculated from the presentation of proposal (T/2627) to the parliament, thus restricting the possibilities for a thorough and substantial debate with the opposition parties and civil society on the draft text;

AC. whereas the draft constitutional text submitted to the Hungarian Parliament on 14 March 2011 was the one produced by the elected representatives of the Fidesz-KDNP coalition and not the working document based on the discussions within the ad hoc parliamentary committee, even though that committee had been set up expressly for the purpose of drafting the new Fundamental Law; whereas this situation exacerbated the failure to consult the opposition;

AD. whereas the ‘national consultation’ on constitution making consisted of a list of twelve questions on very specific issues drafted by the governing party in a way that could have led to self-evident replies, and whereas the consultation did not include the text of the draft Fundamental Law;

AE. Whereas on 28 December 2012, following a constitutional petition by the Hungarian Commissioner for Fundamental Rights, the Constitutional Court of Hungary annulled (Decision No 45/2012) more than two thirds of the Transitional Provisions on the grounds that they were not of a transitional nature;

AF. whereas the Fourth Amendment to the Fundamental Law, adopted on 11 March 2013, integrates into the text of the Fundamental Law most of the Transitional Provisions annulled by the Constitutional Court, as well as other provisions previously found unconstitutional;
**Extensive use of cardinal laws**

AG. whereas the Fundamental Law of Hungary refers to 26 subject matters to be defined by cardinal laws (that is laws the adoption of which requires a two-thirds majority), which cover a wide range of issues relating to Hungary's institutional system, the exercise of fundamental rights and important arrangements in society;

AH. whereas since the adoption of the Fundamental Law the parliament has enacted 49 cardinal laws (1) (in one and a half years);

AI. whereas a number of issues, such as specific aspects of family law and the tax and pension systems, which usually fall under the ordinary decision-making powers of a legislature, are regulated by cardinal laws;

**Accelerated legislative procedures, practice of individual members' bills, parliamentary debate**

AJ. whereas important legislation, including the Fundamental Law, the second and fourth amendments thereto, the Transitional Provisions of the Fundamental Law and a number of cardinal laws, were enacted on the basis of individual members' bills, to which the rules set out in Act CXXXI of 2010 on the participation of civil society in the preparation of legislation and in Decree 24/2011 of the Minister of Public Administration and Justice on preliminary and ex-post impact assessment do not apply, with the consequence that legislation adopted through this streamlined procedure is subject to a restricted public debate;

AK. whereas the adoption of a large number of cardinal laws in a very short time frame, including the acts on the legal status and remuneration of judges of Hungary and on the organisation and administration of courts of Hungary, as well as the acts on the freedom of religion or belief and on the National Bank of Hungary, inevitably restricted the possibilities for an adequate consultation of the opposition parties and civil society, including, when relevant, employers' organisations, trade unions and interest groups;

AL. whereas Act XXXVI of 2012 on the National Assembly has vested the Speaker of the Parliament with extensive discretionary power to limit MPs' free expression in the parliament;

**Weakening of checks and balances: Constitutional Court, Parliament, Data Protection Authority**

AM. whereas, under the Fundamental Law, the possibility for two new kinds of constitutional complaint to the Constitutional Court has been introduced, while the actio popularis for ex post review has been abolished;

AN. whereas Law LXXII of 2013 on the creation of new rules and regulations relating to the oversight of national security was published on 3 June 2013; whereas this law has raised concerns, expressed notably by Hungary's Deputy Attorney-General, with regard to respect for the principle of the separation of powers, the independence of the judiciary, respect for private and family life and the right to an effective remedy;

AO. whereas under the Fundamental Law the Constitutional Court's powers of ex post review of the constitutionality of budget-related laws from a substantive point of view have been substantially limited to violations of an exhaustive list of rights, thus obstructing the review of constitutionality in cases of breaches of other fundamental rights such as the right to property, the right to a fair trial and the right not to be discriminated against;

AP. whereas the Fourth Amendment to the Fundamental Law left untouched the already existing right of the Constitutional Court to review amendments to the Fundamental Law on procedural grounds, and whereas it excludes the Court being able in the future to review constitutional amendments on substantive grounds;

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(1) These laws include cardinal laws all provisions of which require a two-thirds majority, cardinal laws specific provisions of which have to be adopted by simple majority and acts the specific provisions of which require a two-thirds majority of the Members of Parliament present.
AQ. whereas the Constitutional Court, in its abovementioned Decision 45/2012, held that ‘Constitutional legality has not only procedural, formal and public law validity requirements, but also substantial ones. The constitutional criteria of a democratic State under the rule of law are at the same time constitutional values, principles and fundamental democratic freedoms enshrined in international treaties and accepted and acknowledged by communities of democratic States under the rule of law, as well as the ius cogens, which is partly the same as the foregoing. As appropriate, the Constitutional Court may even examine the free enforcement and the constitutionalisation of the substantial requirements, guarantees and values of democratic States under the rule of law.’ (Point IV.7 of the Decision);

AR. whereas the Fourth Amendment to the Fundamental Law further stipulates that the rulings of the Constitutional Court adopted before the entry into force of the Fundamental Law shall be repealed, and by doing so explicitly contradicts the Constitutional Court’s Decision No 22/2012 in which the Court established that its statements made on fundamental values, human rights and freedoms and on the constitutional institutions that have not been changed fundamentally by the Fundamental Law remain valid; whereas the Fourth Amendment reintroduced into the Fundamental Law a number of provisions previously declared unconstitutional by the Constitutional Court;

AS. whereas a non-parliamentary body, the Budget Council, with limited democratic legitimacy, has been granted the power to veto the adoption of the general budget, thus restricting the scope for action of the democratically elected legislature and allowing the President of the Republic to dissolve the parliament;

AT. whereas the new Freedom of Information Act, adopted in July 2011, abolished the institution of the Commissioner on Data Protection and Freedom of Information, thus prematurely terminating the six-year-long mandate of the Commissioner and transferring its powers to the newly established National Authority for Data Protection; whereas such changes are currently under review by the Court of Justice of the European Union;

AU. whereas the Commission initiated an infringement procedure against Hungary on 8 June 2012, declaring that Hungary had failed to fulfil its obligations under Directive 95/46/EC by removing the data protection supervisor from office before the end of the mandate, thus putting at risk the independence of the office;

Independence of the judiciary

AV. whereas, according to the Fundamental Law and its Transitional Provisions, the six-year-long mandate of the former President of the Supreme Court (renamed the ‘Kúria’) was prematurely ended after two years;


AX. whereas key safeguards for judicial independence, such as irremovability, guaranteed term of office and the structure and composition of the governing bodies, are not regulated by the Fundamental Law but are — together with detailed rules on the organisation and administration of the judiciary — still set out in the amended cardinal laws;

AY. whereas the independence of the Constitutional Court is not set forth in the Fundamental Law of Hungary and neither is the independence of the administration of the judiciary;

AZ. whereas the amendment of the cardinal laws on the judiciary as regards the power of the President of the National Judicial Office to transfer cases from the presiding court to another court to ensure the adjudication of cases within a reasonable period of time fails to lay down objective normative criteria for the selection of the cases to be transferred;

BA. whereas, following the entry into force of the Fundamental Law, its Transitional Provisions and cardinal Act No CLXII of 2011 on the legal status and remuneration of judges, the mandatory retirement age for judges was reduced from 70 to 62 years of age;
BB. whereas the Decision of the Court of Justice of the European Union, adopted on 6 November 2012, states that the radical lowering of the retirement age for Hungarian judges, as well as prosecutors and notaries, from 70 to 62 constitutes unjustified discrimination on grounds of age, and whereas two complaints were submitted by two groups of Hungarian judges to the ECtHR on 20 June 2012 seeking a ruling to establish that Hungary’s legislation on lowering the retirement age for judges violates the ECHR;

BC. whereas on 11 March 2013 the Hungarian Parliament adopted Act No XX of 2013 amending the upper age limits with a view to partly complying with the rulings of the Hungarian Constitutional Court of 16 July 2012 and of the Court of Justice of the European Union of 6 November 2012:

The electoral reform

BD. whereas the governing majority in parliament reformed the election system in a unilateral manner without striving for consensus with the opposition,

BE. whereas as part of the recent electoral reform the Hungarian Parliament passed, on 26 November 2012, on the basis of an individual member’s bill, the Act on the election procedure, which aimed to replace the previous automatic voter registration of all citizens resident in Hungary by a system of voluntary registration as a condition for exercising the individual’s right to vote,

BF. whereas the Second Amendment to the Fundamental Law enshrining the requirement of voter registration was tabled as an individual member’s bill on the same day as the draft law on the election procedure, namely on 18 September 2012, and was adopted on 29 October 2012,

BG. whereas the Venice Commission and the OSCE/ODIHR prepared a joint opinion on the Act on the Election of Members of Parliament of Hungary on 15 and 16 June 2012,

BH. whereas, following the petition of the President of the Republic of 6 December 2012, the Constitutional Court established that the registration requirement represents an undue restriction on the voting rights of Hungarian residents, and is therefore unconstitutional,

BI. whereas, while considering voter registration for citizens residing abroad as justified, the Constitutional Court in its decision of 4 January 2013 further held that exclusion of the possibility of personal registration of voters without an address living in Hungary is discriminatory and that the provisions allowing the publication of political advertisements only in the public media service during the electoral campaign, and the rules banning the publication of public opinion polls within six days of the elections, disproportionately limit freedom of expression and freedom of the press,

Media legislation

BJ. whereas the European Union is founded on the values of democracy and the rule of law, and consequently guarantees and promotes freedom of expression and information as enshrined in Article 11 of the Charter and Article 10 of the ECHR, and whereas these rights include the freedom to express opinions and the freedom to receive and communicate information without control, interference or pressure from public authorities;

BK. whereas the ECHR has ruled that there is a positive obligation on Member States to ensure media pluralism, arising from Article 10 ECHR, and whereas the Convention’s provisions are similar to those contained in Article 11 of the Charter as part of the acquis communautaire;

BL. whereas an autonomous and strong public sphere, based on independent and pluralistic media, constitutes the necessary environment in which the collective freedoms of civil society — such as the right of assembly and association — as well as individual freedoms — such as the right to freedom of expression and the right of access to information — can thrive, and whereas journalists should be free from the pressure of owners, managers and governments, as well as from financial threats;

BM. whereas the Council of Europe and the OSCE, through declarations, resolutions, recommendations, opinions and reports on the subjects of media freedom, pluralism and concentration, have created a significant body of common pan-European minimum standards in this field;
BN. whereas Member States have a duty constantly to promote and protect freedom of opinion, expression, information and the media, and whereas, should these freedoms be placed at serious risk or violated in a Member State, the Union is obliged to intervene in a timely and effective fashion, on the basis of its competences as enshrined in the Treaties and in the Charter, to protect the European democratic and pluralistic order and fundamental rights;

BO. whereas Parliament has repeatedly expressed its concerns about media freedom, pluralism and concentration in the EU and its Member States;

BP. whereas criticism of a number of provisions of Hungarian media legislation has been voiced by Parliament and the Commission, the OSCE Representative on Freedom of the Media and the Council of Europe Commissioner for Human Rights, as well as by the Secretary General of the Council of Europe, the UN Special Rapporteur on the promotion of right to freedom of opinion and expression, and by a large number of international and national journalists’ organisations, editors and publishers, NGOs active in the area of human rights and civil liberties, and Member States;

BQ. whereas criticism has been levelled which relates mainly to the adoption of legislation under the parliamentary procedure of individual members’ bills, the highly hierarchical structure of media supervision, the managerial authority of the Chairperson of the Regulatory Authority, the lack of provisions ensuring the independence of the Authority, the extensive supervisory and sanctioning power of the Authority, the considerable impact of certain provisions on the content of programming, the lack of media-specific regulation, the lack of transparency in the bidding process for licences, and the vagueness of norms potentially conducive to arbitrary application and enforcement;

BR. whereas in its resolution of 10 March 2011 on media law in Hungary Parliament stressed that the Hungarian media law should be suspended as a matter of urgency and reviewed on the basis of the comments and proposals of the Commission, the OSCE and the Council of Europe, and whereas Parliament urged the Commission to continue the close monitoring and assessment of the conformity of the Hungarian media law, as amended, with European legislation, and particularly with the Charter;

BS. whereas the Commissioner for Human Rights of the Council of Europe has stressed the need to amend the legislation in order to tackle encroachments on the freedom of the media such as prescriptions as to what information and coverage must emanate from all media providers, the imposition of penalties on the media, pre-emptive restraints on press freedom in the form of registration requirements and exceptions to the protection of journalists’ sources, and whereas, regarding the independence and pluralism of the media, he has expressed the need to address issues such as weakened constitutional guarantees of pluralism, lack of independence in media regulatory bodies, lack of safeguards for the independence of public service broadcasting and the absence of an effective domestic remedy for media actors subject to decisions of the Media Council;

BT. whereas the Commission has raised concerns regarding the conformity of the Hungarian media law with the Audiovisual Media Services Directive and the acquis communautaire in general, notably in relation to the obligation to offer balanced coverage applicable to all audiovisual media service providers, and has also questioned whether that law complies with the principle of proportionality and respects the fundamental right to freedom of expression and information enshrined in Article 11 of the Charter, the country of origin principle and registration requirements, and whereas, in March 2011, following negotiations with the Commission, the Hungarian Parliament amended the law to address the points raised by the Commission;

BU. whereas the OSCE has expressed serious reservations regarding the material and territorial scope of Hungarian legislation, the politically homogeneous composition of the Media Authority and Media Council, the disproportionate penalties imposed, the lack of an automatic procedure for suspending penalties in the event of an appeal to the courts against a Media Authority ruling, the violation of the principle of the confidentiality of journalistic sources and the protection of family values;

BV. whereas the OSCE recommendations (1) included deleting the legal requirements on balanced coverage and other content prescriptions from the laws, safeguarding editorial independence, ensuring that different rules regulate different forms of media — print, broadcast and online —, deleting registration requirements deemed excessive, ensuring that the regulatory body is independent and competent, ensuring objectivity and plurality in the process of

(1) Legal analysis sent to the Hungarian Government on 28 February 2011 http://www.osce.org/fom/75990
See also the analysis and assessment of September 2010: http://www.osce.org/fom/71218
appointment of organs governing the media sector, refraining from placing print media under the jurisdiction of the regulatory body and effectively encouraging self-regulation;

BW. whereas, despite the fact that the laws were amended in 2011 following negotiations with the European Commission and in May 2012 further to the decision of the Constitutional Court of December 2011 overturning several provisions as unconstitutional regarding the content regulation of the printed press, the protection of the sources of journalists, the requirement of data provision, and the institution of the Media and Telecommunications Commissioner, the OSCE Representative on freedom of the Media has deplored the fact that several amendments were introduced and adopted at short notice without consulting stakeholders and that fundamental elements in the legislation have not been improved, notably the appointment of the president and members of the Media Authority and Media Council, their power over content in the broadcast media, the imposition of high fines and the lack of safeguards on the financial and editorial independence of public broadcasters;

BX. Whereas, while welcoming the amendments to the media legislation adopted in March 2011, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has highlighted the need to address remaining concerns pertaining to regulation of media content, insufficient guarantees to ensure the independence and impartiality of the Media Authority, excessive fines and other administrative sanctions, applicability of the media legislation to all types of media, including the press and the internet, registration requirements, and lack of sufficient protection of journalistic sources;

BY. whereas an analysis by Council of Europe experts (1) (which assessed compliance of the Media Acts as proposed for amendment in 2012 with Council of Europe standard-setting texts in the field of media and freedom of expression) recommended that specific provisions on registration and transparency, content regulation, obligations on news coverage, protection of sources, public service media and regulatory bodies be thoroughly revised, clarified or in some cases eliminated;

BZ. whereas, further to the dialogue conducted with the EU and the Secretary General of the Council of Europe through an exchange of letters and expert meetings, further legal amendments were tabled in February 2013 in order to strengthen and guarantee the independence of the media regulatory bodies, notably in respect of the rules relating to the conditions of the appointment and election of the President of the National Media and Infocommunications Authority and the Media Council and concerning, respectively, the nomination procedure, the person making the appointment and repeated appointment;

CA. whereas the Hungarian Authorities have stated their intention of reviewing the rules on the restrictions in political advertising during electoral campaigns; whereas the Hungarian Government is in consultation with the European Commission on the issue of political advertising; whereas, however, the Fourth Amendment imposes a broad and potentially vague prohibition on speech aimed at violating the dignity of groups, including the Hungarian nation, that may be used to arbitrarily interfere with freedom of expression and may have a chilling effect on journalists, and also on artists and others;

CB. whereas the National Media and Infocommunications Authority and the Media Council have not conducted assessments of the effects of the legislation on the quality of journalism, the degrees of editorial freedom and the quality of working conditions for journalists;

Respect of the rights of persons belonging to minorities

CC. whereas respect for the rights of persons belonging to minorities is explicitly recognised among the values referred to in Article 2 TEU and whereas the Union is committed to promoting these values and combating social exclusion, racism, anti-Semitism and discrimination;

CD. whereas the right not to suffer discrimination is a fundamental right enshrined in Article 21 of the Charter of Fundamental Rights;

(1) Expertise by Council of Europe experts on Hungarian media legislation: ACT CIV of 2010 on the freedom of the press and the fundamental rules on media content and ACT CLXXXV of 2010 on media services and mass media, 11 May 2012.
CE. whereas the responsibility of Member States to ensure that the fundamental rights of all are respected, irrespective of their ethnicity or belief, covers all levels of public administration as well as the law-enforcement authorities, and also implies actively promoting tolerance and firmly condemning phenomena such as racial violence and anti-Semitic and anti-Roma hate speech, particularly when it is expressed in official or public forums, including the Hungarian Parliament;

CF. whereas the lack of reaction by the law-enforcement authorities in cases of racially motivated crime (1) has resulted in mistrust of the police forces;

CG. whereas it is noteworthy that the Hungarian Parliament has enacted legislation in criminal and civil areas to combat racial incitement and hate speech;

CH. whereas, although intolerance against the members of Roma and Jewish communities is not a problem solely associated with Hungary, and whereas other Member States are faced with the same issue, recent events have raised concerns as to the increase in anti-Roma and anti-Semitic hate speech in Hungary;

CL. whereas the imposition of retroactive tax and pensions legislation has increased social vulnerability and poverty on a massive scale, a fact which is not only causing great uncertainty among the people, but also constitutes a violation of private ownership rights and undermines fundamental civil liberties;

**Freedom of religion or belief and recognition of churches**

CJ. whereas freedom of thought, conscience and religion as enshrined in Article 9 of the ECHR and Article 10 of the Charter is one of the foundations of a democratic society, and whereas the role of the State in this area should be that of a neutral and impartial guarantor of the right to exercise different religions, faiths and beliefs;

CK. whereas the Act on Churches established a new legal regime for the regulation of religious associations and churches in Hungary, which imposed a set of requirements for the recognition of churches and made such recognition conditional on prior approval by the parliament by a two-thirds majority;

CL. whereas the obligation set out in the Act on Churches to obtain recognition by the parliament as a condition for the establishment of a church was deemed by the Venice Commission (2) to be a restriction of the freedom of religion;

CM. whereas as a result of the entry into force of retroactive provisions of the Act on Churches more than 300 registered churches lost their legal status of church;

CN. whereas, at the request of several religious communities and the Hungarian Commissioner for Fundamental Rights, the Constitutional Court examined the constitutionality of the provisions of the Act on Churches and in its Decision 6/2013 of 26 February 2013 declared some of them unconstitutional and annulled them with retroactive effect;

CO. whereas in that Decision the Constitutional Court, while not questioning the right of the parliament to specify the substantive conditions for recognition as a church, considered that the recognition of church status by a vote in parliament might result in politically biased decisions, and whereas the Constitutional Court declared that the Act did not contain any obligation to provide detailed reasons for a decision which refuses recognition of church status, that no deadlines were specified for the parliament’s actions and that the Act did not provide the possibility of effective legal remedy in cases of refusal or lack of a decision;

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(1) Report of the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/20/33/Add. 1)
whereas the Fourth Amendment to the Fundamental Law, adopted two weeks after the decision of the Constitutional Court, amended Article VII of the Fundamental Law and elevated to the level of the constitution the power of the parliament to pass cardinal laws in order to recognise certain organisations engaged in religious activities as churches, thus overruling the Constitutional Court’s decision;

II — Assessment

The Fundamental Law of Hungary and its implementation

1. Recalls that respect for legality, including a transparent, accountable and democratic process of enacting laws, including when adopting a Fundamental Law, and for a strong system of representative democracy based on free elections and respecting the rights of the opposition are key elements of the concepts of democracy and the rule of law as enshrined in Article 2 TEU, which provides that ‘the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’, and as proclaimed in the Preambles to both the Treaty on the European Union and the Charter; regrets that, from the point of view of protecting European core values, the EU institutions have not always managed in the past to live up to their own standards; maintains, therefore, that it falls to them in particular to take a stand in order to safeguard European fundamental rights as referred to in Article 2 TEU, both at Union level and in the Member States;

2. Firmly reiterates that, while the drafting and adoption of a new constitution fall within the scope of Member States’ competences, the Member States and the EU have a responsibility to ensure that the constitutional processes and the content of constitutions comply with the commitments entered into by every Member State under the EU Accession Treaties, that is to say, with the common values of the Union, the Charter and the ECHR;

3. Regrets the fact that the process of drafting and adopting the Fundamental Law of Hungary lacked the transparency, openness, inclusiveness and, ultimately, the consensual basis that could be expected in a modern democratic constituent process, thus weakening the legitimacy of the Fundamental Law itself;

4. Takes note of the abovementioned Decision of 28 December 2012 of the Constitutional Court declaring that the Hungarian Parliament exceeded its legislative authority when it enacted a number of permanent and general rules in the Transitional Provisions of the Fundamental Law, inter alia, that ‘it is the task and the responsibility of the constituent power to clear up the situation after the partial annulment. The Parliament shall make an evident and clear legal situation’, while adding the requirement that this shall not mean the automatic insertion of the annulled provisions into the Fundamental Law without any distinction, because the parliament ‘must review the regulatory subjects of the annulled non-transitional provisions, and it has to decide about which ones need repeated regulation, on what level of the sources of law. It is also the duty of the Parliament to select the provisions — to be regulated repeatedly — that need to be placed in the Fundamental Law, and the ones that require regulation in an Act of Parliament’;

5. Strongly criticises the provisions of the Fourth Amendment to the Fundamental Law, which undermine the supremacy of the Fundamental Law by reintroducing into its text a number of rules previously declared unconstitutional — i.e. incompatible on procedural or substantive grounds with the Fundamental Law — by the Constitutional Court;

6. Recalls that in its abovementioned Decision of 28 December 2012, the Constitutional Court gave a clear ruling on standards of constitutionality by declaring that ‘in democratic States under the rule of law, constitutions have constant substantial and procedural standards and requirements. The substantial and procedural constitutional requirements shall not be set lower in the era of the Fundamental Law than they were at the time of the Constitution (Act). The requirements of a constitutional State under the rule of law continue to be constantly enforced requirements in the present and they are programmes for the future. The constitutional State under the rule of law is a system of constant values, principles and guarantees’; considers this clear-cut, dignified statement to be applicable to the European Union and all its Member States;

7. Recalls that the common Union values of democracy and the rule of law require a strong system of representative democracy based on free elections and respecting the rights of the opposition, and that, according to Article 3 of Protocol 1 to the ECHR, elections should guarantee the ‘expression of the opinion of the people in the choice of the legislator’;
8. Considers that while the use of two-third majority laws is common in other Member States and has been a feature of the Hungarian constitutional and legal order since 1989, the extensive use of cardinal laws to set forth very specific and detailed rules undermines the principles of democracy and the rule of law, as it has enabled the current government, which enjoys the support of a qualified majority, to set in stone political choices with the consequence of making it more difficult for any new future government having only a simple majority in the parliament to respond to social changes, and thus of potentially diminishing the importance of new elections; considers that such use should be re-evaluated, in order to ensure that future governments and parliamentary majorities are allowed to legislate in a meaningful and comprehensive manner;

9. Considers that use of the individual members' bills procedure to implement the constitution (through cardinal laws) does not constitute a transparent, accountable and democratic legislative process, as it lacks the guarantees of ensuring meaningful social debate and consultation, and that it could run counter to Fundamental Law itself, which makes it an obligation for the government (and not individual members) to submit to the parliament the bills necessary for the implementation of the Fundamental Law;

10. Takes note of the opinion of the Venice Commission (No CDL-AD(2011)016) which ‘welcomes the fact that this new Constitution establishes a constitutional order based on democracy, the rule of law and the protection of fundamental rights as underlying principles’; further takes note of the opinion of the Venice Commission (No CDL-AD(2012)001) according to which the adoption of a large amount of legislation in a very short time frame could explain why some of the new provisions do not comply with European standards; further takes note of the opinion of the Venice Commission on the Fourth Amendment to the Hungarian Fundamental Law (No CDL-AD(2013)012) stating that ‘the Fourth Amendment itself brings about or perpetuates shortcomings in the constitutional system of Hungary’;

11. Welcomes the fact that the Fundamental Law of Hungary reiterates and reaffirms the articles of the Charter of the Fundamental Rights of the European Union, and that Hungary, as the fourth country in the EU, in Article H recognises Hungarian sign language (HSL) as a fully fledged language and defends HSL as part of Hungarian culture;

12. Welcomes the fact that, in its Article XV, the Fundamental Law of Hungary specifically prohibits discrimination on the grounds of race, colour, gender, disability, language, religion, political or other views, national or social origin, or financial, birth or other circumstances, and stipulates that Hungary will adopt special measures to protect children, women, the elderly and persons living with disabilities, in accordance with Articles 20 to 26 of the Charter of Fundamental Rights of the European Union;

Democratic system of checks and balances

13. Recalls that democracy and the rule of law require a separation of powers among independent institutions based on a properly functioning system of checks and balances and effective control of the conformity of legislation with the constitution;

14. Recalls that the constitutional majority raised the number of constitutional judges from 11 to 15 and abolished the requirement to reach agreement with the opposition regarding the election of constitutional judges; is concerned that as a result of these measures eight out of the current 15 constitutional judges were elected exclusively by the two-thirds majority (with one exception), including two new members who were appointed directly from their position as members of parliament.

15. Welcomes the introduction of a possibility for two new types of constitutional complaint to the Constitutional Court and understands that a democratic system that is founded on the rule of law does not necessarily need a constitutional court in order to function properly; recalls, however, Opinion No CDL-AD (2011)016 of the Venice Commission, which notes that in states that have opted for a constitutional court, this court should be entitled to assess the compliance of all laws with the human rights guaranteed in the constitution; considers, therefore, that the limitation of constitutional jurisdiction relating to the laws on the central budget and taxes weakens the institutional and procedural guarantees for the protection of a number of constitutional rights and for the control of the parliament's and the government's powers in the budgetary field;

16. Recalls that, as declared by the Constitutional Court in its Decision No 45/2012, ‘Constitutional legality has not only procedural, formal and public law validity requirements, but also substantial ones […]’. As appropriate, the Constitutional Court may even examine the free enforcement and the constitutionalisation of the substantial requirements, guarantees and values of democratic States under the rule of law;
17. Considers that, in light of the systematic amending of the Fundamental Law at political will, the Constitutional Court can no longer fulfil its role as the supreme body of constitutional protection, especially since the Fourth Amendment explicitly prohibits the Court from reviewing constitutional amendments that contradict other constitutional requirements and principles;

18. Taking account of the right of a democratically elected parliament to adopt law in line with fundamental rights, with respect for political minorities, and with a democratically adequate and transparent procedure, and of the duty courts, both ordinary and constitutional, to safeguard the compatibility of the laws with the constitution, underlines the importance of the principle of separation of powers and a properly functioning system of checks and balances; is concerned in this connection about the shift of powers in constitutional matters to the advantage of the parliament and to the detriment of the Constitutional Court, which undermines severely the principle of separation of powers and a properly functioning system of checks and balances, which are key corollaries of the rule of law; welcomes in this regard the Eger joint statement of 16 May 2013 by the Presidents of the Hungarian and Romanian Constitutional Courts, Péter Páczolay and Augustin Zegrean, stressing that constitutional courts bear a special responsibility in countries ruled by a two-thirds majority;

19. Is also extremely concerned about those provisions of the Fourth Amendment which repeal 20 years of constitutional jurisprudence, containing an entire system of founding principles and constitutional requirements, including any potential case law affecting the application of EU law and of European human rights law; notes that the Court already used its previous decisions as a source of interpretation; is concerned, however, at the fact that other courts may not be able to base their decisions upon the previous case law of the Constitutional Court;

20. Is also concerned about the conformity with EU law of the provision of the Fourth Amendment which enables the Hungarian Government to impose a special tax in order to implement EU Court of Justice judgments entailing payment obligations when the state budget does not have sufficient funding available and when the public debt exceeds half of the gross domestic product; takes note of the ongoing dialogue between the Hungarian Government and the European Commission on the issue;

21. Criticises the accelerated process for enacting important laws, as it undermines the rights of the opposition parties to be effectively involved in the legislative process, thus limiting their scrutiny of the majority's and the government's action and, ultimately, negatively affecting the system of checks and balances;

22. Is concerned about several provisions of Law LXXII of 2013 on the creation of new rules and regulations relating to the oversight of national security, as they could potentially have a negative effect on the separation of powers, the independence of the judiciary, respect for private and family life and the right to an effective remedy;

23. Recalls that the independence of data protection authorities is guaranteed by Article 16 TFEU and Article 8 of the EU Charter of Fundamental Rights;

24. Stresses that protection against removal from office during the term of office is an essential element of the requirement for independence of national data protection authorities under EU law;

25. Points out that the Commission has launched an infringement procedure against Hungary over the legality of the termination of the mandate of the former Commissioner for Data Protection, as regards the adequate independence of such body, which case is currently pending before the European Court of Justice;

26. Deplores the fact that the abovementioned institutional changes resulted in a clear weakening of the systems of checks and balances required by the rule of law and the democratic principle of the separation of powers;

**Independence of the judiciary**

27. Recalls that independence of the judiciary is required by Article 47 of the Charter of Fundamental Rights and Article 6 of the European Convention on Human Rights and is an essential requirement of the democratic principle of the separation of powers derived from Article 2 TEU;
28. Recalls that the Constitutional Court, in its abovementioned Decision 33/2012, described the independence of the judiciary and judges as an achievement of the historical constitution of Hungary, when it declared that 'the principle of judicial independence, with all of its elements, is an achievement beyond doubt. Therefore the Constitutional Court establishes that judicial independence, and the resulting principle of irremovability, is not only a normative rule of the Fundamental Law, but also an achievement of the historical constitution. Thus it is an interpreting principle obligatory to everybody, based on the provisions of the Fundamental Law, and which is to be applied also in the course of exploring other potential contents of the Fundamental Law' (1);

29. Stresses that the effective safeguarding of the independence of the judiciary forms the basis of democracy in Europe and is a prerequisite for consolidating mutual trust between the judicial authorities of the various Member States and, in consequence, smooth cross-border cooperation in the common area of justice, based on the principle of mutual recognition as enshrined in Articles 81 TFEU (civil matters) and 82 TFEU (criminal matters);

30. Regrets the fact that the numerous measures adopted — as well as some ongoing reforms — do not provide sufficient assurances of constitutional safeguards as to the independence of the judiciary and the independence of the Constitutional Court of Hungary;

31. Considers that the premature termination of the term of office of the Supreme Court’s President violates the guarantee of security of tenure, which is a key element of the independence of the judiciary;

32. Welcomes the abovementioned Decision 33/2012 of the Constitutional Court declaring the compulsory termination of the service of judges at the age of 62 unconstitutional, as well as the abovementioned decision of the Court of Justice of the EU of 6 November 2012, which held that the radical lowering of the retirement age of judges in Hungary constitutes unjustified discrimination on grounds of age and is therefore in breach of Council Directive 2000/78/EC;

33. Welcomes the amendments to Act CLXI of 2011 on the organisation and administration of courts of Hungary and Act CLXII of 2011 on the legal status and remuneration of judges of Hungary, adopted by the Hungarian Parliament on 2 July 2012, which address many of the concerns expressed in the European Parliament’s resolution of 16 February 2012 and by the Venice Commission in its opinion;

34. Regrets, however, that not all the recommendations of the Venice Commission have been implemented, in particular as regards the need to limit discretionary powers of the President of the National Judicial Office in the context of the transfer of cases, which potentially affect the right to a fair trial and the right of a lawful judge; takes note of the expression of intent by the Hungarian Government to review the system of transfer of cases; believes that the recommendations of the Venice Commission in this regard should be implemented;

35. Welcomes the adoption of Act XX of 2013 on the legislative amendments relating to the upper age limit applicable in certain judicial legal relations, which sets the retirement age of judges at 65 at the end of a transitional period of 10 years, and arranges for the reinstatement of those judges unlawfully dismissed;

36. Regrets, however, that in the case of presiding judges, Act XX of 2013 provides for their reinstatement in their original executive posts only if these judicial positions are still vacant, with the consequence that only a few unlawfully dismissed judges are guaranteed to be reinstated in exactly the same position with the same duties and responsibilities they held before their dismissal;

37. Welcomes the Commission’s proposal for a permanent scoreboard on justice in all 27 EU Member States as put forward by Vice-President Reding, which shows that safeguarding the independence of the judiciary is a general concern of the EU; underlines the fact that in some Member States serious concerns might be raised on these issues; calls for an enlargement of the justice scoreboard also to cover criminal justice, fundamental rights, the rule of law and democracy, as already requested;

(1) Point (80) of the decision.
38. Acknowledges the professionalism and dedication of the Hungarian judicial community and its commitment to the rule of law, and recalls that since the start of the democratic process in Hungary the Constitutional Court has been recognised as an outstanding constitutional body throughout Europe and the world;

The electoral reform

39. Recalls that the redrawing of electoral districts, the adoption of the Act on the election of members of parliament of Hungary and the electoral procedural law considerably change the legal and institutional framework for the next elections due in 2014, and therefore regrets that these laws were adopted unilaterally by the ruling parties, with no broad consultation of the opposition.

40. Is concerned that in the present political environment the current provisions for the procedure to appoint the members of the National Election Committee do not adequately guarantee balanced representation and the committee’s independence;

41. Welcomes the fact that the Hungarian authorities requested the opinion of the Venice Commission on the Act on the Election of Members of Parliament of Hungary on 20 January 2012; considers however that a comprehensive analysis is needed in order to evaluate the fundamentally changed electoral landscape.

42. Welcomes the fact that Act XXXVI of 2013 on the election procedure in Hungary, specifically Article 42, prescribes that, upon request, people with disabilities must be provided with instructions in braille, relevant information in easy-to-read form, voting samples in braille at polls, full accessibility of polls, including particular attention to the needs of the wheelchair users; in addition, on the basis of Article 50 of the abovementioned Act, disabled voters can ask to be registered at another, more accessible, polling station in order to cast their votes in the given constituency, in accordance with the obligation to provide at least one fully accessible polling station in every constituency laid down in Article 81;

Media pluralism

43. Acknowledges the efforts of the Hungarian authorities that led to legislative changes aimed at addressing a number of the shortcomings identified in order to improve media legislation and bring it into line with EU and Council of Europe standards;

44. Welcomes the continuing constructive dialogue with international actors, and stresses that the cooperation between the Council of Europe and the Hungarian Government has borne tangible results, as reflected in Act XXXIII of 2013, which addresses some of the concerns previously highlighted in the legal assessments of media legislation, notably in relation to the appointment and election procedures of the presidents of the Media Authority and the Media Council; recalls, however, that there are still concerns regarding the independence of the media authority;

45. Expresses concern at the effects of the provision of the Fourth Amendment banning political advertising in the commercial media since, although the stated aim of this provision is to reduce political campaign costs and create equal opportunities for the parties, it jeopardises the provision of balanced information; takes note that the Hungarian Government is in consultation with the European Commission on the issue of the rules on political advertising; takes note that restrictions also exist in other European countries; takes note of the opinion of the Venice Commission on the Fourth amendment to the Hungarian Fundamental Law (No CDL-AD(2013) 012), which states that ‘limits on political advertising have to be seen against the legal background of the particular Member State’ and that ‘the prohibition of any political advertising in commercial media services, which are more widely used in Hungary than the public service media, will deprive the opposition of an important chance to air their views effectively and thus to counterweigh the dominant position of the government in the media coverage’;

46. Reiterates its call on the Hungarian authorities to take action in order to make or commission regular proactive assessments of the impact of legislation on the media environment (reduction in the quality of journalism, instances of self-censorship, restriction of editorial freedom and erosion of the quality of working conditions and job security for journalists);
47. Deplores the fact that the creation of the state-owned Hungarian News Agency (MTI) as the single news provider for public service broadcasters, while all major private broadcasters are expected to have their own news service, has meant it has a virtual monopoly on the market, as most of its news items are freely available; recalls the recommendation of the Council of Europe to eliminate the obligation on public broadcasters to use the national news agency, as it constitutes an unreasonable and unfair restriction on the plurality of news provision;

48. Notes that the national competition authority needs to make regular assessments of the media environments and markets, highlighting potential threats to pluralism;

49. Stresses that measures to regulate the access of media outlets to the market through broadcast licensing and authorising procedures, rules on the protection of state, national or military security and public order and rules on public morality should not be abused for purposes of imposing political or partisan control or censorship on the media, and underlines the fact that a proper balance needs to be ensured in this respect;

50. Is concerned that public service broadcasting is controlled by an extremely centralised institutional system, which takes the real operational decisions without public scrutiny; stresses that biased and opaque tendering practices and the biased information put out by the public-service broadcasting that reaches a wide audience distort the media market; underlines the fact that, in line with Protocol No 29 to the Lisbon Treaty (on the System of the Public Broadcasting in the Member States), the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism;

51. Recalls that content regulations should be clear, allowing citizens and media companies to foresee in which cases they will be infringing the law and to determine the legal consequences of possible violations; notes with concern that, in spite of such detailed content regulations, recent public anti-Roma stances have so far gone unpunished by Hungary's Media Authority, and calls for balanced application of the law;

Rights of persons belonging to minorities

52. Notes that the Hungarian Parliament has enacted legislation in criminal and civil areas to combat racial incitement and hate speech; considers that legislative measures are an important starting point to achieve the goal of creating a society free from intolerance and discrimination throughout Europe, as concrete measures can only be built upon firm legislation; points out, however, that legislation needs to be actively implemented;

53. Underlines the fact that the authorities in all Member States have a positive obligation to act to avoid violation of the rights of persons belonging to minorities, cannot remain neutral, and should take the necessary legal, educational and political measures when faced with such violations; notes the 2011 amendment to the Penal Code to prevent campaigns by extremist groups to intimidate Roma communities, threatening with up to three years' imprisonment the 'provocative unsocial behaviour' which induces fear in a member of a national, ethnic, racial or religious community; acknowledges the role of the Hungarian Government in launching the European Framework of National Roma Inclusion Strategy during its EU presidency in 2011;

54. Notes with concern repeated changes to the legal order restricting the rights of lesbian, gay, bisexual and transgender (LGBT) people, for instance by seeking to exclude same-sex couples and their children, as well as other varied family structures, from the definition of 'family' in the Fundamental Law; stresses that this runs counter to recent European Court of Human Rights jurisprudence and fuels a climate of intolerance vis-à-vis LGBT people;

55. Welcomes the insertion of provisions in the Hungarian Constitution by the Fourth Amendment stating that 'Hungary shall strive to provide every person with decent housing and access to public services' and that the 'State and local governments shall also contribute to creating the conditions of decent housing by striving to provide accommodation to all homeless people'; expresses concern, however, at the fact that 'in order to protect public order, public security, public health and cultural values, an Act of Parliament or a local ordinance may declare illegal staying in a public area as a permanent abode with respect to a specific part of such public area', which could lead to homelessness being addressed through the criminal law; recalls that the Hungarian Constitutional Court had judged that similar measures contained in the Petty Offences Act were unconstitutional as contrary to human dignity;
Freedom of religion or belief and recognition of churches

56. Notes with concern that the changes made to the Fundamental Law by the Fourth Amendment give the parliament the power to recognise, by way of cardinal laws and without a constitutional duty to justify a refusal of recognition, certain organisations engaged in religious activities as churches, which might negatively affect the duty of the state to remain neutral and impartial in its relations with the various religions and beliefs;

Conclusion

57. Reaffirms that it attaches the utmost importance to respect of the principle of equality between all Member States and refuses the application of double standards in the treatment of Member States; stresses that similar situations or legal frameworks and provisions should be assessed in the same way; takes the view that the pure fact of changing and adopting laws cannot be considered incompatible with the values of the Treaties; calls on the Commission to identify instances of incompatibility with EU law and for the European Court of Justice to adjudicate any such case;

58. Concludes — for the reasons explained above — that the systemic and general trend of repeatedly modifying the constitutional and legal framework in very short time frames, and the content of such modifications, are incompatible with the values referred to in Article 2 TEU, Article 3, paragraph 1, and Article 6 TEU, and deviate from the principles referred to in Article 4, paragraph 3, TEU; considers that — unless corrected in a timely and adequate manner — this trend will result in a clear risk of a serious breach of the values referred to in Article 2 TEU;

III — Recommendations

Preamble

59. Reaffirms that its present resolution is not only about Hungary, but inseparably about the European Union as a whole, and its democratic reconstruction and development after the fall of the 20th century totalitarianisms. It is about the European family, its common values and standards, its inclusiveness and its capacity to engage in dialogue. It is about the need to implement Treaties which all Member States have voluntarily acceded to. It is about the mutual help and mutual trust that the Union, its citizens and its Member States need to have if these Treaties are to be not just words on paper, but the legal basis for a true, just and open Europe respecting fundamental rights;

60. Shares the idea of a Union which is not only a ‘union of democracies’ but also a ‘Union of Democracy’, based upon pluralistic societies where respect for human rights and the rule of law prevail;

61. Reaffirms that while in times of economic and social crisis one may yield to the temptation to disregard constitutional principles, the credibility and robustness of constitutional institutions plays a pivotal role in underpinning economic, fiscal and social policies and social cohesion;

Appeal to all Member States

62. Calls on the Member States to comply without delay with their Treaty obligations to respect, guarantee, protect and promote the Union’s common values, which is an indispensable condition for respecting democracy, and thus the substance of Union citizenship, and for building a culture of mutual trust enabling effective cross-border cooperation and a genuine area of freedom, security and justice;

63. Considers that it is the moral and legal duty of all Members States, as well as of the Union institutions, to defend the European values enshrined in the Treaties and the Charter of Fundamental Rights, and in the European Convention on Human Rights to which every Member State is a signatory and to which the EU will soon accede;

64. Calls on the national parliaments to enhance their role in monitoring compliance with fundamental values and to denounce any risks of deterioration of these values that may occur within the EU borders, with a view to maintaining the credibility of the Union vis-à-vis third countries, which is based on the seriousness with which the Union and its Member States take the values they have chosen as foundations;
65. Expects all Member States to take the necessary steps, particularly within the Council of the European Union, to contribute loyally to the promotion of the Union’s values and to cooperate with Parliament and the Commission in monitoring their observance, especially in the framework of the ‘Article 2 Trilogue’ referred to in paragraph 85:

Appeal to the European Council

66. Reminds the European Council of its responsibilities within the framework of the area of freedom, liberty, security and justice;

67. Notes with disappointment that the European Council is the only EU political institution that has remained silent, while the Commission, Parliament, the Council of Europe, the OSCE and even the US Administration have voiced concerns over the situation in Hungary;

68. Considers that the European Council cannot remain inactive in cases where one of the Member States breaches fundamental rights or implements changes that may negatively affect the rule of law in that country, and therefore the rule of law in the European Union at large, in particular when mutual trust in the legal system and judicial cooperation may be put at risk, as this has a negative impact on the Union itself;

69. Invites the President of the European Council to inform Parliament of his assessment of the situation;

Recommendations to the Commission

70. Calls on the Commission as the guardian of the Treaties and as the body responsible for ensuring that Union law is correctly applied, under the supervision of the Court of Justice of the European Union:

— to inform Parliament of its assessment of the Fourth Amendment to the Fundamental Law and its impact on cooperation within the EU;

— to be determined in ensuring full compliance with the common fundamental values and rights set out in Article 2 TEU, as violations thereof undermine the very foundations of the Union and mutual trust among Member States;

— to launch objective investigation and start infringement proceedings whenever it considers that a Member State has failed to fulfil an obligation under the Treaties and, in particular, is violating the rights enshrined in the Charter of Fundamental Rights of the EU;

— to avoid any double standards in the treatment of Member States, making sure that, in similar situations, all Member States are treated in a similar manner, thus fully respecting the principle of equality of the Member States before the Treaties;

— to focus not only on specific infringements of EU law, to be remedied notably through Article 258 TFEU, but to respond appropriately to a systemic change in the constitutional and legal system and practice of a Member State where multiple and recurrent infringements unfortunately result in a state of legal uncertainty, which no longer meets the requirements of Article 2 TEU;

— to adopt a more comprehensive approach to addressing any potential risks of serious breaching of fundamental values in a given Member State at an early stage and immediately to engage in a structured political dialogue with the relevant Member State and the other EU institutions; this structured political dialogue should be coordinated at the highest political level of the Commission and have a clear impact on the full spectrum of negotiations between the Commission and the Member State concerned in the various EU fields;

— to create — as soon as risks of violations of Article 2 TEU are identified — an ‘Article 2 TEU/Alarm Agenda’, i.e. a Union values monitoring mechanism, to be dealt with by the Commission with exclusive priority and urgency, coordinated at the highest political level and taken fully into account in the various EU sectoral policies, until full compliance with Article 2 TEU is restored and any risks of violation thereof are defused, as also envisaged in the letter of the Foreign Affairs Ministers of four Member States raising with the President of the Commission the need to develop a new and more effective method of safeguarding fundamental values in order to place greater emphasis on promoting a culture of respect for the rule of law, taken into account by the Council conclusions on fundamental rights and rule of law and on the Commission 2012 Report on the Application of the Charter of Fundamental Rights of the European Union of 6 and 7 June 2013;
— to hold meetings at technical level with the services of the Member State concerned but not to conclude any negotiations in policy fields other than Article-2-TEU-related ones until full compliance with Article 2 TEU has been ensured;

— to apply a horizontal approach involving all the Commission services concerned in order to ensure respect for the rule of law in all fields, including the economic and social sector;

— to implement and if necessary update its 2003 communication on Article 7 of the Treaty on European Union (COM (2003)0606) and to draw up a detailed proposal for a swift and independent monitoring mechanism and an early-warning system;

— to regularly monitor the correct functioning of the European area of justice and to take action when the independence of the judiciary is put at risk in any Member State, with a view to avoiding the weakening of mutual trust among national judicial authorities, which would inevitably create obstacles to the correct application of the EU instruments on mutual recognition and cross-border cooperation;

— to ensure that Member States guarantee correct implementation of the Charter of Fundamental Rights with respect to media pluralism and equal access to information;

— to monitor the effective implementation of rules ensuring transparent and fair procedures for media funding and state advertising and sponsoring allocation, so as to guarantee that these do not cause interference with freedom of information and expression, pluralism or editorial lines taken by the media;

— to take appropriate, timely, proportionate and progressive measures where concerns arise in relation to freedom of expression, information, media freedom and pluralism in the EU and the Member States on the basis of a detailed and careful analysis of the situation and of the problems to be solved and the best ways to address them;

— to address these issues in the framework of the implementation of the Audiovisual Media Services Directive in order to improve cooperation between regulatory bodies of the Member States and the Commission, bringing forward as soon as possible a revision and amendment of the directive, and notably of its Articles 29 and 30;

— to continue the dialogue with the Hungarian Government on the conformity with EU law of the new provision of the Fourth Amendment enabling the Hungarian Government to impose a special tax in order to implement EU Court of Justice judgments entailing payment obligations when the state budget does not have sufficient funding available and when the public debt exceeds half of the gross domestic product, and to suggest adequate measures to prevent what may result in a breach of sincere cooperation as enshrined in Article 4(3) TEU;

71. Reminds the Commission that the Charter of Fundamental Rights of the European Union, and the European Union’s forthcoming accession to the European Convention on Human Rights, reaffirm a new architecture for European Union law, a structure with human rights more than ever at its heart, thus conferring on the Commission, as guardian of the Treaties, greater responsibilities in this area;

Recommendations to the Hungarian Authorities

72. Urges the Hungarian authorities to implement as swiftly as possible all the measures the European Commission as the guardian of the treaties deems necessary in order to fully comply with EU law; fully comply with the decisions of the Hungarian Constitutional Court and implement as swiftly as possible the following recommendations, in line with the recommendations of the Venice Commission, the Council of Europe and other international bodies for the protection of the rule of law and fundamental rights, with a view to fully complying with the rule of law and its key requirements on the constitutional setting, the system of checks and balances and the independence of the judiciary, as well as on strong safeguards for fundamental rights, including freedom of expression, the media and religion or belief, protection of minorities, action to combat discrimination, and the right to property:
On the Fundamental Law:

— to fully restore the supremacy of the Fundamental Law by removing from it those provisions previously declared unconstitutional by the Constitutional Court;

— to reduce the recurrent use of cardinal laws in order to leave policy areas such as family, social, fiscal and budget matters to ordinary legislation and majorities;

— to implement the recommendations of the Venice Commission and, in particular, to revise the list of policy areas requiring a qualified majority with a view to ensuring meaningful future elections;

— to secure a lively parliamentary system which also respects opposition forces by allowing a reasonable time for a genuine debate between the majority and the opposition and for participation by the wider public in the legislative procedure;

— to ensure the widest possible participation by all parliamentary parties in the constitutional process, even though the relevant special majority is held by the governing coalition alone;

On checks and balances:

— to fully restore the prerogatives of the Constitutional Court as the supreme body of constitutional protection, and thus the primacy of the Fundamental Law, by removing from its text the limitations on the Constitutional Court’s power to review the constitutionality of any changes to the Fundamental Law, as well as the abolition of two decades of constitutional case law; to restore the right of the Constitutional Court to review all legislation without exception, with a view to counterbalancing parliamentary and executive actions and ensuring full judicial review; such a judicial and constitutional review may be exerted in different ways in different Member States, depending on the specificities of each national constitutional history, but once established, a Constitutional Court — like the Hungarian one, which after the fall of the communist regime has rapidly built a reputation among Supreme Courts in Europe — should not be subject to measures aimed at reducing its competences and thus undermining the rule of law;

— to restore the possibility for the judicial system to refer to the case law issued before the entry into force of the Fundamental Law, in particular in the field of fundamental rights (1);

— to strive for consensus when electing the members of the Constitutional Court, with meaningful involvement of the opposition, and to ensure that the members of the court are free from political influence;

— to restore the prerogatives of the parliament in the budgetary field and thus secure the full democratic legitimacy of budgetary decisions by removing the restriction of parliamentary powers by the non-parliamentary Budget Council;

— to cooperate with the European institutions in order to ensure that the provisions of the new National Security Law comply with the fundamental principles of the separation of powers, the independence of the judiciary, respect for private and family life and the right to an effective remedy;

— to provide clarifications on how the Hungarian authorities intend to remedy the premature termination of the term of office of senior officials with a view to securing the institutional independence of the data protection authority;

On the independence of the judiciary:

— to fully guarantee the independence of the judiciary by ensuring that the principles of irremovability and guaranteed term of office of judges, the rules governing the structure and composition of the governing bodies of the judiciary and the safeguards on the independence of the Constitutional Court are enshrined in the Fundamental Law;

(1) See Working Document No 5.
— to promptly and correctly implement the abovementioned decisions of the Court of Justice of the European Union of 6 November 2012 and of the Hungarian Constitutional Court, by enabling the dismissed judges who so wish to be reinstated in their previous positions, including those presiding judges whose original executive posts are no longer vacant;

— to establish objective selection criteria, or to mandate the National Judicial Council to establish such criteria, with a view to ensuring that the rules on the transfer of cases respect the right to a fair trial and the principle of a lawful judge;

— to implement the remaining recommendations laid down in the Venice Commission’s Opinion No CDL-AD(2012)020 on the cardinal acts on the judiciary that were amended following the adoption of Opinion CDL-AD(2012)/001;

On the electoral reform:

— to invite the Venice Commission and the OSCE/ODIHR to carry out a joint analysis of the comprehensively changed legal and institutional framework of the elections and to invite the ODIHR for a Needs Assessment Mission and a long and short term election observation.

— to ensure balanced representation within the National Election Committee;

On the media and pluralism:

— to fulfil the commitment to further discuss cooperation activities at expert level on the more long-term perspective of the freedom of the media, building on the most important remaining recommendations of the 2012 legal expertise of the Council of Europe;

— to ensure timely and close involvement of all relevant stakeholders, including media professionals, opposition parties and civil society, in any further review of this legislation, which regulates such a fundamental aspect of the functioning of a democratic society, and in the process of implementation;

— to observe the positive obligation arising from European Court of Human Rights jurisprudence under Article 10 ECHR to protect freedom of expression as one of the preconditions for a functioning democracy;

— to respect, guarantee, protect and promote the fundamental right to freedom of expression and information, as well as media freedom and pluralism, and to refrain from developing or supporting mechanisms that threaten media freedom and journalistic and editorial independence;

— to make sure that objective, legally binding procedures and mechanisms are in place for the selection and appointment of heads of public media, management boards, media councils and regulatory bodies, in line with the principles of independence, integrity, experience and professionalism, representation of the entire political and social spectrum, legal certainty and continuity;

— to provide legal guarantees regarding full protection of the confidentiality-of-sources principle and to strictly apply related European Court of Human Rights case law;

— to ensure that rules relating to political information throughout the audiovisual media sector guarantee fair access to different political competitors, opinions and viewpoints, in particular on the occasion of elections and referendums, allowing citizens to form their own opinions without undue influence from one dominant opinion-forming power;

On respect for fundamental rights, including the rights of persons belonging to minorities:

— to take, and continue with, positive actions and effective measures to ensure that the fundamental rights of all persons, including persons belonging to minorities and homeless persons, are respected and to ensure their implementation by all competent public authorities; when reviewing the definition of ‘family’, to take into account the legislative trend in Europe to broaden the scope of the definition of family and the negative impact of a restricted definition of family on the fundamental rights of those who will be excluded by the new and more restrictive definition;
— to take a new approach, finally assuming its responsibilities towards homeless — and therefore vulnerable — people, as set out in the international treaties on human rights to which Hungary is a signatory, such as the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union, and thus to promote fundamental rights rather than violating them by including in its Fundamental Law provisions that criminalise homeless people;

— calls on the Hungarian Government to do all in its power to strengthen the mechanism for social dialogue and comprehensive consultation and to guarantee the rights associated with this;

— calls on the Hungarian Government to increase its efforts to integrate the Roma and to lay down targeted measures to ensure their protection. Racist threats directed at the Roma must be unequivocally and resolutely repelled;

On freedom of religion or belief and recognition of churches:

— to establish clear, neutral and impartial requirements and institutional procedures for the recognition of religious organisations as churches, which respect the duty of the State to remain neutral and impartial in its relations with the various religions and beliefs and to provide effective means of redress in cases of non-recognition or lack of a decision, in line with the constitutional requirements set out in the abovementioned Decision 6/2013 of the Constitutional Court;

Recommendations to the EU institutions on setting up a new mechanism to enforce Article 2 TEU effectively

73. Reiterates the urgent need to tackle the so-called ‘Copenhagen dilemma’, whereby the EU remains very strict with regard to compliance with the common values and standards on the part of candidate countries but lacks effective monitoring and sanctioning tools once they have joined the EU;

74. Firmly requests that Member States be regularly assessed on their continued compliance with the fundamental values of the Union and the requirements of democracy and the rule of law, avoiding any double standards and bearing in mind that such an assessment must be founded on a commonly accepted European understanding of constitutional and legal standards; firmly requests, furthermore, that similar situations in Member States should be monitored in accordance with the same pattern, since otherwise the principle of equality of the Member States before the Treaties is not respected;

75. Calls for closer cooperation between Union institutions and other international bodies, particularly the Council of Europe and the Venice Commission, and for use to be made of their expertise in upholding the principles of democracy, human rights and the rule of law;

76. Acknowledges and welcomes the initiatives undertaken, the analysis conducted and the recommendations issued by the Council of Europe, in particular its Secretary General, Parliamentary Assembly, Commissioner for Human Rights and the Venice Commission;

77. Calls on all the EU institutions to launch a joint reflection and debate — as also requested by the Ministers of Foreign Affairs of Germany, the Netherlands, Denmark and Finland in their abovementioned letter to the Commission President — on how to equip the Union with the necessary tools to fulfil its Treaty obligations on democracy, the rule of law and fundamental rights, while avoiding any risks of applying double standards among its Member States;

78. Considers that a future revision of the Treaties should lead to a better distinction between an initial phase, aimed at assessing any risks of a serious breach of the values referred in Article 2 TEU, and a more efficient procedure in a subsequent phase, where action would need to be taken to address actual serious and persistent violation of those values;

79. Given the current institutional mechanism laid down in Article 7 TEU, reiterates the calls it made, in its resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010-2011), for the establishment of a new mechanism to ensure compliance by all Member States with the common values enshrined in Article 2 TEU, and the continuity of the ‘Copenhagen criteria; this mechanism could assume the form of a ‘Copenhagen Commission’ or high-level group, a ‘group of wise men’ or an Article 70 TFEU evaluation, and build up on the reforming and strengthening of the mandate of the European Union Agency for Fundamental Rights, and on the framework of a strengthened Commission-Council-European Parliament-Member States dialogue on measures to be taken;
80. Reiterates that the setting up of such a mechanism could involve a rethinking of the mandate of the European Union Agency for Fundamental Rights, which should be enhanced to include regular monitoring of Member States’ compliance with Article 2 TEU; recommends that such a ‘Copenhagen high-level group’ or any such mechanism should build on and cooperate with existing mechanisms and structures; recalls the role of the European Union Agency for Fundamental Rights, which could bring together the highly valuable work of the various existing Council of Europe monitoring bodies and the Agency’s own data and analysis in order to carry out independent, comparative and regular assessments of the EU Member States’ compliance with Article 2 TEU.

81. Recommends that this mechanism should:

— be independent from political influence, as all European Union mechanisms which relate to monitoring Member States should be, as well as swift and effective;

— operate in full cooperation with other international bodies as regards the protection of fundamental rights and the rule of law;

— regularly monitor respect for fundamental rights, the state of democracy and the rule of law in all Member States, while fully respecting national constitutional traditions;

— conduct such monitoring uniformly in all Member States to avoid any risks of double standards among its Member States;

— warn the EU at an early stage about any risks of deterioration of the values enshrined in Article 2 TEU;

— issue recommendations to the EU institutions and Member States on how to respond and remedy any deterioration of the values enshrined in Article 2 TEU;

82. Instructs its committee responsible for the protection within the territory of the Union of citizens’ rights, human rights and fundamental rights, and for determining clear risks of a serious breach by a Member State of the common principles, to submit a detailed proposal in the form of a report to the Conference of Presidents and to the Plenary;

83. Instructs its committee responsible for the protection within the territory of the Union of citizens’ rights, human rights and fundamental rights, and for determining clear risks of a serious breach by a Member State of the common principles, as well as its committee responsible for the determination of the existence of a serious and persistent breach by a Member State of the principles common to the Member States, to follow the development of the situation in Hungary;

84. Intends to convene a Conference on this issue before the end of 2013 that will bring together representatives from the Member States, the European institutions, the Council of Europe, national Constitutional and Supreme Courts, the Court of Justice of the European Union and the European Court of Human Rights;

IV — Follow-up

85. Calls on the Hungarian authorities to inform Parliament, the Commission, the Presidencies of the Council and of the European Council, and the Council of Europe regarding implementation of the measures requested in paragraph 72;

86. Invites the Commission and the Council to each designate a representative who, together with Parliament’s rapporteur and shadow rapporteurs (Article 2 Trilogue), will carry out an assessment of the information sent by the Hungarian authorities on implementation of the recommendations contained in paragraph 72, as well as follow-up on future possible modifications to ensure compliance with Article 2 TEU;

87. Asks the Conference of Presidents to assess the opportuneness of resorting to mechanisms foreseen by the Treaty, including Article 7(1) TEU, in case the replies from the Hungarian authorities appear not to comply with the requirements of Article 2 TEU;
88. Instructs its President to forward this resolution to the Parliament, President and Government of Hungary, to the Presidents of the Constitutional Court and the Kúria, to the Council, the Commission, the governments and parliaments of the Member States and the candidate countries, the Fundamental Rights Agency, the Council of Europe and the OSCE.

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Recent floods in Europe

European Parliament resolution of 3 July 2013 on the floods in Europe (2013/2683(RSP))
(2016/C 075/10)

The European Parliament,

— having regard to Article 3 of the Treaty on European Union and Articles 191 and 196(1) of the Treaty on the Functioning of the European Union,


— having regard to its resolutions of 5 September 2002 on floods in Europe (2), of 8 September 2005 on natural disasters (fires and floods) in Europe (3), of 18 May 2006 on natural disasters (forest fires, droughts and floods) — agricultural aspects (4), regional development aspects (5) and environmental aspects (6), of 7 September 2006 on forest fires and floods (7), of 17 June 2010 on the floods in central European countries, in particular Poland, the Czech Republic, Slovakia and Hungary (8), and of 11 March 2010 on the major natural disasters in the autonomous region of Madeira and the effects of the storm ’Yynthia’ in Europe (9),


— having regard to Rule 110(2) and (4) of its Rules of Procedure,

A. whereas a major natural disaster has recently occurred in the form of floods in many European countries including Austria, the Czech Republic, Germany, Hungary, Poland, Slovakia, France and Spain;

(2) OJ C 272 E, 13.11.2003, p. 471.
B. whereas the frequency, severity, complexity and impact of natural and man-made disasters across Europe has increased rapidly in recent years;

C. whereas the floods caused serious damage to cities, towns and municipalities, to infrastructure and businesses, and to agriculture and rural areas, and whereas they destroyed elements of natural and cultural heritage, as well as causing death and injury and forcing thousands of people to leave their homes;

D. whereas the European Union Solidarity Fund (EUSF) was established in order to deal with major national disasters and to provide financial assistance to disaster-stricken states;

E. whereas sustainable reconstruction of the areas destroyed or damaged by the disasters must be undertaken in order to remedy their economic, social and environmental losses;

F. whereas the European Union’s prevention capacity to tackle all types of natural disaster needs to be enhanced, and whereas the operability of and coordination between the various Union instruments needs to be improved in order to achieve sustainable disaster prevention;

G. whereas some mountainous areas, and areas along rivers and valleys, have lost part of their water-absorption capacity as a result of unsustainable deforestation, intensive agriculture, large infrastructure construction projects, urbanisation and soil sealing along these rivers and valleys;

1. Expresses its empathy and solidarity with the inhabitants of the Member States, regions and municipalities affected by the disaster; takes into consideration their serious economic effects and pays its respects and condolences to the families of the victims;

2. Appreciates the relentless efforts made by the safety and civil protection units, rescue teams and volunteers to save lives and minimise damage in the areas affected;

3. Applauds the actions of the Member States that provided assistance to the areas affected, as European solidarity is exemplified by mutual assistance in adverse situations;

4. Stresses that soil degradation, driven or exacerbated by human activity, such as inappropriate agricultural and forestry practices, damages the capacity of soil to continue to perform in full its crucial function of preventing natural disasters;

5. Calls on the Commission and the Member States to pay particular attention to planning and reviewing sustainable land use policies, ecosystem absorption capacities and best practices and to increasing the capacity of flood-control and drainage systems;

6. Stresses that effective flood prevention must be targeted at interregional and cross-border risk management strategies, where there is great potential for coordination and for implementing an enhanced joint emergency response;

7. Acknowledges that the European Union Civil Protection Mechanism helped Member States to cooperate and minimise the effects of the emergency; calls on the Commission and the Member States to simplify the rules and procedures for activation of the Mechanism;

8. Highlights the opportunity under the European Territorial Cooperation objective for Member States and the regions concerned to target risk management as an investment priority for the forthcoming programming period currently under negotiation, and calls on them to do so;

9. Stresses that flood prevention programmes need to be implemented by the Member States through comprehensive and preventive strategies; emphasises that emergency policy, including emergency prevention and emergency response, requires the closer involvement of regions, cities and local communities, which should be encouraged to include emergency policy in their strategies;
10. Calls on the Council and the Commission — as soon as they receive all the necessary applications from the Member States — to take all the necessary steps to ensure that rapid, adequate financial assistance is provided from the EUSF; stresses how urgent it is for financial assistance to be released through the EUSF to the countries affected by this natural disaster;

11. Calls on the Commission to draft a new, simplified EUSF regulation which would, inter alia, enable the Commission to make down-payments as soon as the affected Member State has applied for assistance;

12. Highlights the fact that investment in flood prevention under the relevant programmes requires adequate financial resources, as it is an important tool in enabling the governments of the Member States to develop and implement flood prevention policies; stresses that investment in support of disaster prevention should follow an eco-system-based approach;

13. Expresses its view that the consequences of disasters have a negative impact on the drawing-down of EU funds; calls for the necessary flexibility to be brought to bear as regards re-programming in the Member States in support of the reconstruction of deprived areas and the selection of the most suitable projects;

14. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, and regional and local authorities in the affected areas.

P7_TA(2013)0317

Reforming the structure of the EU banking sector

European Parliament resolution of 3 July 2013 on reforming the structure of the EU banking sector (2013/2021 (INI))

(2016/C 075/11)

The European Parliament,

— having regard to Rule 120 of its Rules of Procedure,


— having regard to the report of 2 October 2012 of the High-level Expert Group on Reforming the Structure of the EU Banking Sector (HLEG) (1),

— having regard to the conclusions of the G20 meetings held in London in 2009, in Cannes in 2011 and in Moscow in 2013,


— having regard to the European Council conclusions of 13 and 14 December 2012,

— having regard to the Financial Stability Board recommendations of October 2011 on ‘Key Attributes of Effective Resolution Regimes for Financial Institutions’ and of November 2010 on ‘Intensity and Effectiveness of SIFI Supervision’;

— having regard to the consultative document of the Basel Committee on Banking Supervision of November 2011 entitled ‘Global systemically important Banks: assessment methodology and the additional loss absorbency requirement’;

— having regard to Member State and international initiatives for structural reform of the banking sector, including the French Loi de séparation et de régulation des activités bancaires, the German Trennbankengesetz, the report of the Independent Commission on Banking and the Vickers reforms in the UK, and the Volcker rules in the United States,

— having regard to the 2012 report of the Organisation for Economic Cooperation and Development (OECD) entitled ‘Implicit Guarantees for Bank Debt: Where Do We Stand?’ (1) and to the 2009 report of the OECD entitled ‘The Elephant in the Room: The Need to Deal with What Banks Do’ (2);

— having regard to its resolution of 20 November 2012 on Shadow Banking (3),

— having regard to the Eurogroup Statement of 25 March 2013 regarding the crisis in Cyprus (4),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0231/2013),

A. whereas, since the beginning of the crisis, state aid of more than EUR 1.6 trillion (12.8% of EU GDP) was granted to the financial sector between 2008 and the end of 2011 (including the recapitalisation of Northern Rock in 2007), some EUR 1 080 billion of which went on guarantees, EUR 320 billion on recapitalisation measures, EUR 120 billion on impaired assets and EUR 90 billion on liquidity measures (5); whereas the Commission required substantial restructuring of banks receiving aid, including cutting of certain activities, to ensure their future viability without further public support and to offset distortions of competition caused by the subsidies received;

B. whereas these state financed bailouts has led to a massive increase of public indebtedness in the Member States;

C. whereas in the five years since the 2008 global economic and financial crisis, the EU economy has remained in a state of recession, with Member States providing subsidies and implicit guarantees to banks, in part owing to inadequate implementation of the economic and fiscal framework;

D. whereas the OECD in its 2012 report estimates the value of implicit state guarantees in 2012, in terms of cost savings to EU banks, at around USD 100 billion, with wide variations between banks and Member States and the greatest benefit accruing to the banks of greatest size, particularly if they are perceived to be weak, and to banks based in Member States with the highest sovereign credit rating; whereas the report finds that such guarantees extend beyond those banks classified as SIFIs ('systemically important financial institution') under the Financial Stability Board's methodology;

E. whereas a weak European regulatory framework with excessive risk-taking, excessive leverage, inadequate capital and liquidity requirements, excessive complexity in the overall banking system, excessively-large banking sectors in small economies, a lack of checks and supervision, excessive expansion of trading in derivatives, incorrect rating assessments, excessive bonus systems and inadequate risk management were at the root of the financial crisis, which had largely been fuelled by excessive real-estate exposures, rather than capital market activities, and by insufficient supervision;

F. whereas the loss of prudence in accounting standards as a consequence of the adoption of international financial reporting standards played, and continues to play, a central role in allowing banks to give a view of their accounts that was not, and is not, always true and fair, with particular reference to IAS 39 on loan loss provisioning;

G. whereas in Europe, risks were also accumulated by commercial banks, which issued loans in the real-estate sector on the basis of short-sighted, defective risk management;

H. whereas, as highlighted in the HLEG's analysis, no particular business model did particularly well or particularly poorly during the financial crisis;

I. whereas profits in the financial sector were often privatised while risks and losses were nationalised; whereas in a social market economy, risk and liability must go hand in hand;

J. whereas the current post-crisis weakness of the European banking system demonstrates the need for reinforcing the architecture of European financial supervision and crisis management, including structural reforms for certain banks in order to serve the wider needs of the economy;

K. whereas banks should not be sovereign over public interest;

L. whereas the 1933 US Glass-Steagall Act on banking separation helped to provide a way out of the worst global financial crisis to have occurred before the present crisis, and whereas there has been a considerable increase in speculative bank investment and financial failures since the Act was repealed in 1999;

M. whereas a number of important EU initiatives have been taken to prevent a new banking crisis, increase protection of taxpayers and retail clients and create robust and sustainable payment systems.

N. whereas the eighth edition of the Commission's Consumer Markets Scoreboard (from December 2012) clearly indicates that consumer trust in the EU in banking services is at an all-time low;

O. whereas the recent bailout package in Cyprus originally included a tax on all bank deposits, thereby undermining confidence in the deposit guarantee scheme of that country;

P. whereas a study by the Bank of International Settlements (BIS) suggests that once the volume of private sector loans exceeds a country’s GDP as a measure of the size of the financial sector, and relative employment in that sector rises rapidly, an excessively large financial sector can have a negative effect on the increase in productivity, as human and financial resources are drained from other areas of economic activity (1);

Q. whereas, in relation to the crisis in Cyprus, the Eurogroup has confirmed the principle that the size of the banking sector relative to a Member State's GDP should be limited in order to address banking sector imbalances and promote financial stability, from which it follows that, in the absence of substantial EU-level funds for resolution, limits on the size, complexity and interconnectedness of banks will be beneficial to systemic stability;

R. whereas the pure separation of financial institutions into investment- and retail branches does not address the problem concerning SIFIs and the relation between the volume of the recovery and resolution fund, on the one hand, and the balance of institutions systemically relevant for credit, payment and deposit, on the other;

S. whereas the transformation process towards a more sustainable, less systemic and viable banking sector seems to differ between Members States.

T. whereas the HLEG concludes that the financial crisis has demonstrated that no particular business model fared particularly well, or particularly poorly in the European banking sector; whereas the HLEG analysis revealed excessive risk-taking, often in trading highly complex instruments or in real-estate related lending not matched with adequate capital protection, and excessive reliance on short-term funding and strong linkages between financial institutions, causing a high level of systemic risk in the run-up to the financial crisis;

U. whereas the HLEG underlines that simple labels, such as ‘retail bank’ or ‘investment bank’, do not adequately describe the business model of a bank and its performance and propensity to take risk; whereas business models are diverse along different key dimensions, such as size, activities, income model, capital and funding structure, ownership, corporate structure, and geographic scope, and have evolved substantially over time;

V. whereas it has become clear that risks can originate in the retail as well as in the investment part of the bank;

W. whereas the Commission proposal should provide for a principles-based approach to structural reforms of the European banking sector that is consistent with, and complementary to, already existing and forthcoming Union legislation for financial services; whereas the European Banking Authority (EBA) should play a key role by developing relevant technical standards to ensure consistent application and enforcement by the competent authorities, including the European Central Bank (ECB), across the Union;

X. whereas decentralised local and regional institutions within the banking sector in the Member States have shown themselves to be stable and beneficial in terms of financing the real economy;

Y. whereas it is necessary that banks hold higher levels and better quality of capital, and have greater liquidity buffers and longer-term funding.

Z. whereas, since it is neither feasible nor desirable to effect a bank separation post-failure, an effective recovery and resolution regime is needed in order to provide authorities with a credible set of tools, including a bridge bank, so that they can intervene sufficiently early and quickly in an unsound or failing bank to enable its essential financial and economic functions to continue, while minimising the impact on financial stability and ensuring that appropriate losses are imposed on the shareholders and creditors who bore the risk of investing in the institution in question, and not by taxpayers or depositors; whereas such recovery and resolution plans are not necessary for other types of private company, suggesting that there is a specific problem with the market in financial services; whereas if the market were functioning properly, financial institutions would be able to fail without any need for a recovery and resolution plan, signifying that the problem lies within the structures of, and the interconnections between, financial institutions;

AA. whereas supervisory and resolution authorities must be given the requisite authority to be able effectively to remove impediments to the resolvability of credit institutions, and whereas the banks must be forced to prove their resolvability; whereas the introduction of compulsory recovery and resolutions regimes provides an opportunity to influence the banking structure, reduce the complexity of institutions and restrict or terminate business sectors and products;
AB. whereas, with regard to ending the implicit guarantee that many banks enjoy, one of the most important tools in the recovery and resolution regime proposed by the Commission is the power for authorities to intervene early, well before the point of non-viability, to require banks to change their business strategy, size or risk profile so that they can be resolved without recourse to extraordinary public financial support;

AC. whereas banks should never again be allowed to become so large that their failure causes systemic risks for the entire economy, obliging the government and the taxpayers to rescue them, and whereas the too-big-to-fail problem should thereby be brought to an end;

AD. whereas banks must no longer reach such a size — even in a single Member State — that they constitute a systemic risk in a nation state, with taxpayers having to bear the cost of losses;

AE. whereas the EU banking sector remains highly concentrated: 14 European banking groups are SIFIs, and 15 European banks own 43% of the market (in terms of asset size) and represent 150% of EU-27 GDP, with individual Member States citing even higher ratios; whereas the ratio of bank size to GDP has tripled since 2000; whereas the ratio of bank size to GDP has quadrupled in Luxembourg, Ireland, Cyprus, Malta and Great Britain; whereas there is a huge degree of diversity in the European banking sector, both in terms of size and business model;

AF. whereas there is no evidence from the past that a separation model could contribute in a positive way to avoiding a future financial crisis or to diminishing the risk of it;

AG. whereas currently the state guarantees and implicitly subsidises the whole financial system via liquidity support, deposit guarantee schemes and nationalisation programmes; whereas it is only appropriate for the state to guarantee essential services that ensure the smooth running of the real economy, such as payment systems and overdraft facilities; whereas structural reform is simply about ensuring that the state only guarantees essential services and that non-essential services are priced by the market;

AH. whereas capital markets need to be able to meet European financial needs at a time of very constrained bank lending; whereas there is a need in Europe to increase the availability of alternative financing sources, in particular through the development of capital market alternatives, in order to decrease the dependency on bank funding, as identified in the Commission’s green paper on Long-Term Financing of the European Economy;

AI. whereas the funding of the real economy by banks is significantly higher in most of the Member States than it is in the UK or the USA;

AJ. whereas enhanced competition in the European banking industry is highly desirable; whereas the aggregated amount of legislative and regulatory requirements on banks, although indeed warranted for many reasons, risks creating barriers to entry and, in so doing, facilitates the cementation of the current banking groups’ dominant positions;

AK. whereas the EU banking sector faces far-reaching structural changes resulting from changes in the market situation and comprehensive regulatory reforms such as implementation of the Basel III rules;

AL. whereas the report of the Independent Commission on Banking and the Vickers reforms in the UK state several times that its recommendations are a policy approach for UK banks;

1. Welcomes the HLEG’s analysis and recommendations on banking reform and considers them a useful contribution to initiate reforms;

2. Welcomes the Commission’s Consultation on Structural reform of the EU Banking Sector of 16 May 2013;

3. Takes the view that national initiatives for structural reform require an EU framework to preserve and prevent the fragmentation of the EU’s single market, while respecting the diversity of national banking models;
4. Takes the view that existing reforms of the EU banking sector (including the Capital Requirements Directives and Regulation, the Recovery and Resolution Directive, the Single Supervisory Mechanism, the Deposit Guarantee Schemes, the Markets in Financial Instruments Directive and Regulation, and shadow banking initiatives) are vital; welcomes the Commission’s intention to bring forward a directive for structural reform of the EU banking sector in order to tackle problems arising from banks being ‘too big to fail’, and underlines that it must be complementary to the aforementioned reforms;

5. Insists that the Commission’s impact assessment include assessments of the HLEG, Volker, Vickers, French and German proposals for structural reform, that it list the costs, both to public finances and to financial stability, incurred by the failure of an EU-based bank during the current crisis, as well as the potential costs to the EU banking sector and the possible positive and negative consequences for the real economy, and that it provides information on the nature of the EU’s current universal banking model, including the size and balance sheets of the retail and investment activities of relevant universal banks operating in the EU and on possible implicit guarantees provided by Member States to banks; insists that the Commission should supplement its assessment with quantitative analysis where possible, taking into account the diversity of national banking systems.

6. Reminds the Commission of the warning issued by the EBA and the ECB that financial innovation can undermine the objectives of structural reforms, and insists that structural reforms be subject to periodic review (1);

7. Urges the Commission to bring forward a legislative proposal on the regulation of the shadow banking sector that takes into account the principles of the ongoing banking structure reform;

8. Considers that the objective of all banking structure reform must be to deliver a safe, stable, effective and efficient banking system that operates in a competitive market economy and serves the needs of the real economy, and of customers and consumers through the economic cycle; takes the view that structural reform must stimulate economic growth by supporting the provision of credit to the economy, in particular to SMEs and start-ups, provide greater resilience against potential financial crises, restore trust and confidence in banks, remove risks to public finances and deliver a change in banking culture;

A. Principles for structural reform

9. Considers that structural reform must be based on the following principles:

— excessive risks must be reduced, competition ensured, complexity reduced and interconnectedness limited by providing for the separate operation of essential activities, including credit, payment, deposit and other customer-related activities and non-essential risky activities;

— corporate governance must be improved and incentives created for banks to establish transparent organisational structures, increase accountability and reinforce a responsible and sustainable remuneration system;

— effective bank resolution and recovery must be enabled by ensuring that when banks become untenable they can be allowed to fail and/or resolved in an orderly manner without the need for taxpayer bailouts;

— delivery of essential credit, deposit and payment services must be ensured in a manner unaffected by operational problems, financial losses, funding shortages or reputational damage resulting from the resolution or insolvency;

— the rules of a competitive market economy must be respected such that risky trading and investment activities do not benefit from implicit guarantees or subsidies, the use of insured deposits or tax payer bailouts, and that the trading and investment activities, not the credit and deposit activities, bear the risks and costs associated with those activities;

adequate capital, leverage and liquidity must be available for all banking activities;

— the separated entities must have different sources of funding, with no undue or unnecessary shifting of capital and liquidity between these activities; the provision of adequate capital, leverage and liquidity rules must be calibrated to the business models of the activities, including separate balance sheets, and provide limits on the exposure of essential credit and deposit activities to non-essential trading and investment activities, in or outside a banking group;

10. Urges the Commission to take into account the ECB’s proposal to establish clear and enforceable criteria for separation; stresses that separation should preserve the EU’s single market and prevent its fragmentation, while respecting the diversity of national banking models (1).

11. Underlines the necessity of assessing the systemic risk presented both by the separated entities and by the group as a whole, taking off-balance sheet exposures fully into account;

12. Urges the Commission and the Member States to make sure that the Recovery and Resolution Directive is fully implemented; urges the Commission, the EBA and the Member States to ascertain that banks have in place clear and credible crisis management frameworks that include sufficient capital for credit, payment and deposit activities, bail-in-able liabilities and liquid assets to enable them, in the event of failure, to maintain depositors’ access to funds, protect essential services — in particular credit, payment and deposit activities — from the risk of disorderly failure, pay out depositors in a timely fashion and avoid adverse effects on financial stability;

13. Urges the Commission, the EBA and the competent authorities, on the basis of the Capital Requirements and Recovery and Resolution legislative framework to ensure that adequate differentiation exists — in terms of capital, leverage, bail-in-able liabilities, appropriate capital buffers and liquidity requirements — between the separated entities, with an emphasis on higher capital requirements for non-essential risky activities;

B. Corporate governance

14. Calls on the Commission to consider, in its thorough impact assessment of the potential separation of banks and alternatives, the proposals set out in the HLEG’s report in the area of corporate governance, including a) governance and control mechanisms, b) risk management, c) incentive schemes, d) risk disclosure and e) sanctions;

15. Calls on the Commission to implement the proposals and recommendations set out in Parliament’s resolution of 11 May 2011 on corporate governance in financial institutions (2);

16. Is of the opinion that the recently adopted directive on prudential supervision of credit institutions and investment firms contains an appropriate framework of requirements on the governance of banks, including their executive and non-executive board members;

17. Urges the Commission to assist in reaching an agreement on the proposed Deposit Guarantee Scheme Directive and to increase consumer protection by introducing depositor preference;

18. Calls on the Commission to include provisions establishing an obligation for all executive board members in an entity of a bank to have responsibility as executive board members only for this entity of the bank;

19. Urges the Commission to include provisions to strengthen personal accountability and liability for board members; suggests that in this context the Commission should explore how to encourage a return to the partnership model of company management, in particular for investment banking;

(1) http://www.ecb.int/pub/pdf/other/120128_eurosystem_contributionen.pdf
20. Urges the Commission and the EBA to ensure full and comprehensive implementation of the Capital Requirements legislative framework, with particular regard to the provisions on compensation and remuneration; calls on the EBA and the Commission to present an annual report to Parliament and the Council on the implementation and enforcement of the relevant provisions by the Member States; urges the Commission to continue the reform of banks’ compensation and remuneration culture by prioritising long-term incentives for variable remuneration with larger deferral periods up to retirement, and to promote transparency of remuneration policies including, but not limited to, explanations and assessments on internal remuneration spreads, relevant changes and comparative sectoral deviations;

21. Urges the Commission, the EBA and the competent authorities to ensure that remuneration systems prioritise the use of instruments such as bonds subject to bail-in, and shares, rather than cash, commissions or value-based items in line with the provisions of the Capital Requirements Directive;

22. Urges the Commission, the EBA and the competent authorities to ensure that compensation and remuneration systems at all levels of a bank reflect its overall performance and are focused on quality customer service and long-term financial stability rather than short-term profits, in line with the provisions of the Capital Requirements legislative framework;

23. Urges the Commission to make provision for effective, dissuasive and proportionate sanctioning regimes for legal and natural persons, and for the publication of sanction levels and of information on those in breach of the rules;

24. Urges the Commission to make provision for competent authorities, and as applicable the single supervisory mechanism (SSM), to comply with the principles of structural reform.

25. Asks the Commission to propose that adequate resources and powers be allocated to competent supervisory authorities, including SSMs;

26. Urges the Commission to conduct a study to ensure that accounting standards used by financial institutions give a genuinely true and fair view of banks' financial health; points out that accounts are the main source of information for an investor to understand whether or not a company is a going concern or not; notes that auditors can only sign off accounts if they are true and fair, independent of the financial standards used by preparers of financial statements; believes that if auditors are unsure that a company is a going concern they should not sign off the company's accounts, even if they have been drawn up in line with accounting standards; point out that this should, however, be a driver of better management of the company in question; suggests that international financial reporting standards do not necessarily give a true and fair view of accounts, as shown by numerous examples of banks collapsing despite their accounts having been signed off by auditors;

C. Enhancing fair and sustainable competition

27. Stresses that effective, fair and sustainable competition is necessary for maintaining a well-functioning and efficient banking sector that facilitates funding to the real economy by ensuring universal access to, and reducing the cost of, banking services; stresses, in this context, that supervisory rules, among other provisions, should take into account the risk profile, the regional scope and the business model of the respective institutions;

28. Urges the Commission and the Member States to work together to promote greater diversification of the EU's banking sector by encouraging and facilitating more consumer-oriented banking, for example through cooperatives and building societies, and through peer-to-peer lending, crowd funding and saving-bank models, taking note that the different levels of risk that consumers are exposed to are disclosed in a transparent manner;

29. Notes that, in order to boost the competitiveness and stability of the European banking system, it is vital to address in an effective way the issue of SIFIs (i.e. banks that are too big to fail), the problems of which resulted in an escalation of the adverse effects of the financial crisis, by rationalising the scale of the activities of banking groups and by reducing interdependencies within groups;
30. Urges the Commission to find ways to encourage and promote ‘relationship lending’ or ‘knowledge-based lending’ in legislative initiatives. These should aim to avoid a ‘tick box’ approach and focus instead on promoting vocational and ethical training for those who mediate and lend capital to businesses;

31. Urges the Member States, the Commission and the competent authorities to make it their clear objective to promote and ensure effective competition, and to encourage greater diversity and customer-orientation, in the EU banking sector;

32. Asks the Commission to bring forward measures to introduce account portability and to promote accessible websites that allow consumers to compare the prices and financial strengths of banks, which would encourage discipline as informed consumer switch between banks, and to assist in improving consumer choice in the banking sector by reducing barriers to entry and exit and by applying proportionate rules to new entrants to the market;

33. Calls on the Commission to bring forward the necessary structural reforms outlined in this report, which, while maintaining the integrity of the internal market, respect the diversity of national banking systems and maintain a strong role for the EBA in ensuring correct application across the Union;

34. Instructs its President to forward this resolution to the Council and the Commission.

P7_TA(2013)0318

Protection of the EU’s financial interests — fight against fraud


(2016/C 075/12)

The European Parliament,

— having regard to its resolutions on previous annual reports of the Commission and the European Anti-Fraud Office (OLAF),


— having regard to OLAF’s Report — Annual Report 2011 (2),

— having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2011, together with the institutions’ replies (3),

A. whereas the EU and the Member States share responsibility for the protection of the Union's financial interests and the fight against fraud, and whereas close cooperation between the Commission and the Member States is essential;

B. whereas the Member States have the primary responsibility for implementing some 80 % of the Union budget, as well as for the collection of own resources, inter alia in the form of VAT and customs duties;

C. whereas the Commission has recently undertaken a number of important initiatives on anti-fraud policy measures;

General comments

1. Stresses that countering fraud and any other illegal activities affecting the financial interests of the Union is the obligation of the Commission and the Member States, enshrined in the Treaty on the Functioning of the European Union;
2. Recalls that it is equally important to ensure the protection of those financial interests both at the level of collection of the EU’s resources and at the level of expenditure;

3. Welcomes the report from the Commission to the European Parliament and the Council on the Protection of the European Union’s financial interests — Fight against fraud — Annual Report 2011 (‘the Commission’s annual report’); regrets, however, that the report is limited to the data reported by the Member States; points out that Member States use different definitions for similar types of offence and do not all collect similar and detailed statistical data following common criteria, which makes it difficult to collect reliable and comparable statistics at EU level; regrets, therefore, that it is not possible to evaluate the actual overall scale of irregularities and fraud in individual Member States or to identify and discipline those Member States with the highest level of irregularities and fraud as has been repeatedly requested by Parliament; urges, therefore, that standard evaluation criteria for irregularities and fraud be laid down in all Member States and combined with appropriate penalties for those guilty of infringement;

4. Stresses that fraud is an example of purposeful wrongdoing and is a criminal offence, and that an irregularity is a failure to comply with a rule, and regrets that the Commission’s report fails to consider fraud in detail and deals with irregularities very broadly; points out that Article 325 of the Treaty on the Functioning of the European Union (TFEU) relates to fraud, not irregularities, and calls for a distinction to be made between fraud and errors or irregularities;

5. Notes that, according to the Commission’s annual report, in 2011 1 230 irregularities were reported as fraudulent and that their financial impact decreased by 37% in comparison with 2010 and amounted to EUR 404 million; acknowledges that cohesion policy and agriculture remain the two main areas suffering from the highest level of fraud with a respective estimated financial impact of EUR 204 million and EUR 77 million; questions, however, whether this decrease reflects the actual state of affairs in terms of fraudulent activities or is, rather, a sign that the supervisory and control systems in the Member States are deficient;

6. Calls on the Commission to closely monitor the effectiveness of supervisory and control systems in the Member States and to ensure that the information provided on the level of irregularities in the Member States reflects the true situation;

7. Stresses that the situation of Member States not transmitting data in a timely manner or providing inaccurate data has been recurring for many years; emphasises that it is impossible to make comparisons and an objective assessment of the scale of fraud in the Member States of the European Union; points out that the European Parliament, the Commission and OLAF are unable to perform their functions properly regarding assessment of the situation and the submission of proposals and repeats that such a situation cannot be tolerated; calls on the Commission to assume full responsibility for recovering unduly paid funds for the EU budget; encourages the Commission to establish uniform reporting principles in all Member States and to ensure the collection of comparable, reliable and adequate data;

8. Stresses that the European Union needs to step up efforts to strengthen the principles of eGovernment which would set the conditions for greater transparency in public finances; draws attention to the fact that electronic transactions, unlike cash transactions, are referenced and it therefore becomes more difficult to commit fraud and easier to identify suspected cases of fraud; encourages Member States to lower their thresholds for mandatory payments other than cash;

9. Calls on the Commission to consider the link between Member State reporting on fraud and the lack of a harmonised criminal law setting out a common definition of fraudulent behaviour and offences in the field of protecting the Union’s financial interests; points out that the criminal law systems of the Member States have been harmonised to only a limited extent;

10. Emphasises that 233 investigative reports have been published on cases of fraud related to the misuse of EU funds over a period of 5 years within the 27 Member States, with the UK, Slovakia, Germany, Bulgaria, Spain Romania and Estonia being the Member States with the most active reporting (1); is of the opinion that investigative journalism has played a major role in exposing fraud that affects the Union’s financial interests and represents a valuable source of information to be considered by OLAF and law enforcement or other relevant authorities in Member States;

11. Recalls that in its resolution of 6 April 2011 on the protection of the Communities’ financial interests — Fight against fraud — Annual report 2009 (1), Parliament called for the introduction of mandatory national management declarations duly audited by the national audit office and consolidated by the Court of Auditors; regrets that no further steps have been taken in that direction;

12. Deems it of utmost importance that fraudulent behaviour is followed up properly on a European level; is astounded by the fact that the Director-General of OLAF has introduced sector-specific thresholds regarding the likely financial impact in the Investigation Policy Priorities for 2012 and 2013 so that cases in which the likely financial impact lies below the threshold are treated as subordinate and are unlikely to be opened at all; notes that the threshold in the customs sector is EUR 1 000 000, for SAPARD funds it is EUR 100 000, for agricultural funds it is EUR 250 000, for the structural funds it is EUR 500 000, for the ERDF it is EUR 1 000 000, for centralised expenditure and external aid it is EUR 50 000, and in the EU staff sector it is EUR 10 000; is of the opinion that this is unacceptable; urges the Director-General to change the current practice and abandon the threshold approach for prioritising the workload immediately;

13. Calls for corruption with an impact on the financial interests of the European Union to be considered as fraud as regards the application of Article 325(5) TFEU and to be included in the Commission’s annual report on the protection of the European Union’s financial interests — Fight against fraud;

14. Points out that the conviction rate in cases involving offences against the Union’s budget varies considerably across the European Union from one Member State to another, ranging from 14 % to 80 %; underlines that harmonisation of the Member States’ criminal law systems remains limited, while judicial cooperation needs reinforcement; calls for ambitious European legislation and improved cooperation and coordination between all Member States in order to ensure that severe sanctions are imposed on fraudsters and to deter fraudulent behaviour;

15. Acknowledges that the amount to be recovered following irregularities detected in 2011 reached EUR 321 million, of which EUR 166 million has already been recovered by the Member States; notes in this respect that in 2011 the recovery rate for Traditional Own Resources (TOR) improved to 52 % in comparison with 46 % in 2010;

16. Takes into consideration the OLAF report 2011 and its overview of progress on judicial actions in actions created between 2006-2011, according to which more than half of actions are pending a judicial decision (2); is of the opinion that special attention should be paid to cases related to fraud in customs, which is among the areas with the highest rates of systemic corruption in Europe;

17. Notes with concern that, owing to the ongoing economic crisis, the Commission does not envisage an increase in EU funding for law enforcement authorities in Member States, with a view to better protection of EU financial interests, as part of its new comprehensive EU strategy; considers that this strategy should be a coherent and comprehensive response aimed at decreasing smuggling, increasing the revenue collected and thus ensuring that such investment pays off in the future;

**Revenue — own resources**

18. Recalls that the proper collection of VAT and customs duties directly influences both the economies of the Member States and the EU budget, and that improving the systems for collecting revenue and ensuring that all transactions are formally recorded and brought out of the shadow economy should be given the highest priority by all Member States;

19. Emphasises in this context that tax evasion and avoidance represent a major risk for the EU public finances; stresses that an estimated EUR 1 trillion in public money is lost due to tax fraud and tax avoidance every year in the EU, which represents a rough yearly cost of EUR 2 000 for every European citizen; points out that the average amount of tax lost in Europe today exceeds the total amount that Member States spend on healthcare, and it amounts to more than four times the amount spent on education in the EU;

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(2) The OLAF report 2011, table 6, p. 22.
20. Stresses that, owing to the mechanism of balancing the EU budget with GNI-based revenue, every euro lost to customs and VAT fraud has to be paid for by the EU’s citizens; finds it unacceptable that those economic operators who engage in fraudulent activities are, in fact, subsidised by the EU taxpayer; emphasises that fighting tax evasion should be given the highest priority by both the Commission and the Member States; calls on the Member States to make their tax systems simpler and more transparent because tax fraud is too often facilitated by complex and opaque tax systems;

21. Calls on the Commission to strengthen its coordination with the Member States in order to collect reliable data on the customs and VAT gap in the respective countries and to report on a regular basis to Parliament in that regard;

22. Welcomes the fact that that 98 % under TOR is recovered without particular problems, but notes variations in Member States' performance in recovery of the remaining 2 % (1);

Customs

23. Emphasises that, as far as TOR are concerned, proceeds from customs duties are an important source of income for Member State governments, which keep 25 % to cover the cost of collection; reiterates that the efficient prevention of irregularities and fraud in this field protects the Union's financial interests and has important consequences for the internal market, eliminating the unfair advantage enjoyed by economic operators who avoid duties over those who comply with their obligations in this respect; stresses that the heart of the problem lies in the undeclared imports or those that have escaped customs surveillance;

24. Is deeply concerned at the Court of Auditors' conclusion that there are serious deficiencies in national customs supervision (2);

25. Stresses that the Customs Union is an area of exclusive competence of the EU and that it is therefore the Commission's obligation to put in place all measures necessary to ensure that the customs authorities in the Member States act as if they were one, and to monitor their implementation;

26. Proposes to look into the possibility of setting up a team of European customs officials who specialise in combating fraud, which would work alongside national customs authorities;

27. Recalls that 70 % of customs procedures in the EU are simplified; is deeply worried by the findings of the Court of Auditors in its Special Report No 1/2010, which revealed serious deficiencies in that area, pointing to poor or poorly documented audits, little use of automated data-processing techniques, excessive use of simplification practices and ex post audits of poor quality;

28. Emphasises that modern IT solutions and direct access to data are crucial for the effective functioning of the Customs Union; finds the existing solutions unsatisfactory; is seriously concerned, in particular, by the finding in the First Eurofisc (3) Activity Report for 2011, published in May 2012, that in most Member States tax administrations have no direct access to customs data and that automated cross-checking with tax data is therefore not possible;

29. Deplores the fact that the Commission and the Member States have been unable to ensure timely implementation of the Modernised Customs Code (MCC); stresses that the financial benefits estimated to have been forgone owing to the delay in implementing the new customs code amount to some EUR 2.5 billion in annual operational savings in compliance costs at full regime, and to as much as EUR 50 billion in the expanded international trade market (4); calls on the Commission to make an evaluation of the cost of postponing full application of the MCC, quantifying the budgetary consequences of such postponement;

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(1) Study commissioned by Parliament on ‘Administrative performance differences between Member States recovering Traditional Own Resources of the European Union’.
(2) Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2011, together with the institutions’ replies.
(3) Network for the swift exchange of targeted information between Member States established on the basis of Regulation (EU) No 904/2010.
30. Stresses the need further to intensify the fight against customs-related fraud and welcomes the creation of the Anti-Fraud Transit Information System (ATIS), a central repository designed to keep all the relevant authorities informed of movements of goods in transit within the EU;

31. Given the success of the joint customs operations carried out in 2011 between the EU and its Member States and some non-EU countries, encourages the regular conduct of such operations to target the smuggling of sensitive goods and fraud in certain high-risk sectors; points out that joint customs operations conducted in 2011 resulted in the seizure of 1.2 million cigarettes and the detection of tax and customs fraud worth over EUR 1.7 million;

**VAT**

32. Recalls that the correct operation of customs procedures has direct consequences for the calculation of VAT; deplores the deficiencies in this area which have been found by the Court of Auditors; is deeply worried, in particular, by the Court's finding in its Special Report No 13/2011 that the application of customs procedure 42 (1) alone accounted in 2009 for extrapolated losses of approximately EUR 2 200 million (2) with regard to the seven Member States which were audited, representing 29 % of the VAT theoretically applicable on the taxable amount of all imports made under customs procedure 42 in 2009 in those seven Member States;

33. Is deeply concerned that VAT fraud is widespread; points out that, since its introduction, the VAT collection model has remained unchanged; stresses that it is outdated, given the many changes to the technological and economic environment that have taken place; stresses that initiatives in the field of direct taxation require a unanimous decision of the Council; deplores the fact that two important initiatives aimed at combating VAT fraud, i.e. the proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a quick reaction mechanism against VAT fraud (COM(2012)0428) and the proposal for a Council Directive amending Directive 2006/112/EC as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud (COM(2009)0511), are currently blocked in Council (3);

34. Points out the need for real-time connection of business transactions with the tax authorities in order to combat tax evasion;

35. Believes that the elimination of unrecorded transactions can contribute to reducing the amounts of VAT that go uncollected;

**Cigarette smuggling**

36. Recognises that the smuggling of highly taxed goods causes significant losses of revenue to the budgets of the EU and its Member States, and that direct loss in customs revenue as a result of cigarette smuggling alone is estimated to amount to more than EUR 10 billion a year;

37. Emphasises that cigarette smuggling serves as an important source of financing for internationally structured criminal organisations, and highlights, therefore, the importance of strengthening the external dimension of the Commission's action plan to fight against the smuggling of cigarettes and alcohol along the EU Eastern border, which provides support for enforcement capacity in neighbouring countries, offering technical assistance and training, raising awareness, stepping up operational cooperation such as Joint Customs Operations, sharing intelligence and enhancing international cooperation; stresses, in particular, the importance of collaboration between the Member States, Russia and the Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) for the implementation of the targeted actions proposed in the action plan;

38. Recognises that the eastern border represents a particularly vulnerable geographical area in this context; welcomes the publication by the Commission of the action plan to fight against cigarette and alcohol smuggling along the EU's eastern border;

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(1) Regime used by an importer in order to obtain a VAT exemption where the imported goods are to be transported to another Member State and where VAT is due in the Member State of destination.

(2) Of which EUR 1 800 million were incurred in the seven selected Member States and EUR 400 million in the 21 Member States of destination of the imported goods in the sample.

39. Welcomes OLAF’s activities in the implementation of the above action plan; welcomes, in particular, the successful outcome of ‘Operation Barrel’, which involved the cooperation of 24 Member States, Norway, Switzerland, Croatia, and Turkey, as well as the active support of the Taxation and Customs Union DG, Europol, Frontex and the World Customs Organisation, and which resulted in the seizure of 1.2 million cigarettes.

40. Welcomes the adoption on 12 November 2012 of the Protocol on elimination of the illicit trade in tobacco products at the fifth session of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control;

Expenditure

41. Recalls that 94 % of the EU budget is invested in the Member States, and that in these difficult economic times it is vitally important that all money is spent well; considers, therefore, that fighting fraud against the EU budget across all funding programmes in order to facilitate the recovery of lost funds must be a priority, so as to ensure that the EU budget is spent on its main objectives such as creating jobs and growth;

42. Deplores that most irregularities in EU spending are committed at national level;

43. Emphasises that greater transparency allowing for proper scrutiny is key in order to detect fraud; recalls that in previous years Parliament has urged the Commission to take action to ensure one-stop transparency as regards the beneficiaries of EU funds; regrets that this measure has not been implemented; therefore reiterates its call on the Commission to design measures to increase the transparency of legal arrangements and a system which lists all beneficiaries of EU funds on the same website, regardless of who administers the funds, and is based on standard categories of information to be provided by all Member States in at least one working language of the Union; calls on the Member States to cooperate with the Commission and provide it with full and reliable information regarding the beneficiaries of the EU funds managed by Member States; invites the Commission to evaluate the system of ‘shared management’ and provide Parliament with a report as a matter of priority;

Agriculture

44. Welcomes the fact that the Netherlands, Poland and Finland have improved their compliance in terms of consistent reporting, and that the overall compliance rate for the EU-27 is around 93 %, representing an increase in comparison with the 2010 rate of 90 %;

45. Stresses, however, that since at least 20 million cases of petty corruption have been reported in the public sector in the EU, it is obvious that the phenomenon also has a spillover effect in the areas of public administration in the Member States (and with regard to the corresponding politicians) that have responsibility over the management of EU funds and other financial interests (1); points out that the number of irregularities reported as fraudulent in agriculture in 2011 — 139 in total — does not reflect the actual situation; points out that the Commission, addressing the Member States, expressed its concern that the fraud figures reported might not be entirely reliable — something the Commission itself acknowledges by emphasising the low number of fraud cases reported in some Member States; calls for further cooperation and best-practice-sharing in the Member States in order to respond to and report cases of fraud to the Commission;

46. Remains concerned by the suspiciously low fraud rates reported by France, Germany, Spain and the United Kingdom, especially considering their size and the amount of financial support received; regrets that in its annual report the Commission did not offer a definitive answer to the question of whether the low suspected fraud rates reported by France, Germany, Spain and the UK are the result of non-compliance with reporting principles or of the ability of the control systems put in place in these Member States to detect fraud; calls on the aforementioned Member States to provide detailed and thorough explanations of their low rates of reported suspected fraud as soon as possible;

(1) Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) 2012-2013, Thematic Paper on Corruption, Areas of systemic corruption in the public administration of the Member States and measures in order to counter its negative effect for the EU, November 2012, p. 2
47. Notes that the low number of fraud cases reported in some Member States could be explained by the fact that cases recognised as fraud in one Member State may not necessarily be considered unlawful in another, and therefore urges the Commission to identify and provide clarification in such circumstances, standardising the criteria for defining fraud and forwarding them to all the Member States;

48. Calls on the Commission to check the fraud reporting system and to harmonise the practices used in the Member States to respond to and report fraud to the Commission; takes the view that the aim is to make investigations more efficient, while at the same time helping to clarify the procedural rights of the persons concerned;

49. Points out that in order to prevent the fraudulent use of CAP funds in future, not only should there be a statistical approach to the problem, but also an analysis of the mechanisms behind fraud, particularly in serious cases; likewise, considers that the Member States should report any irregularities they have detected to the Commission, and that irregularities reported as fraudulent should be the subject of stringent analysis;

50. Points out that, under an amended Article 43 of the updated horizontal regulation, the Commission should be empowered to reduce or suspend the monthly or interim payments to a Member State if one or more of the key components of the national control system in question do not exist or are not effective owing to the gravity or persistence of the deficiencies found, or if irregular payments are not being recovered with the necessary diligence, and if:

(a) either the deficiencies referred to above are of a continuous nature and have been the reason for at least two implementing acts pursuant to Article 54 of that regulation, excluding from Union financing the relevant expenditure of the Member State concerned; or

(b) the Member State concerned is not in a position to implement the necessary remedial measures in the immediate future, in accordance with an action plan with clear progress indicators to be established in consultation with the Commission;

51. Expresses concern that the outstanding accumulated EAGF amount still to be recovered from beneficiaries by the end of the 2011 financial year stood at EUR 1.2 billion;

52. Calls on the Commission to take all necessary steps to put in place an effective system of recovery taking into account the developments under the current reform and, in next year’s report on the protection of the EU’s financial interests, to inform Parliament of the progress made;

53. Emphasises that the reintroduction of a ‘petty offence’ procedure should go ahead, and that recovery under Article 56(3) of the updated horizontal regulation need not be pursued where the costs already incurred combined with the likely costs of recovery exceed the amount to be recovered; calls on the Commission, in the interests of administrative simplification at local level, to deem this condition to have been met if the amount to be recovered from the beneficiary in the context of a single payment does not exceed EUR 300; points out that reducing the administrative burden by not pursuing the recovery of small and very small amounts enables the national and regional authorities to investigate more serious irregularities more efficiently and to take appropriate action against them;

54. Points out that, in response to audits performed on conformity clearance procedures in the area of agriculture, the Commission carried out financial corrections for a total of EUR 822 million; points out, furthermore, that the total value of corrections decided was EUR 1 068 million; notes with concern that in 2011 the recovery rate for Agriculture and Rural Development decreased to 77 % in comparison with 85 % in 2010;

55. Emphasises that attention must be paid to ways of optimising reimbursement procedures, which are still relatively lengthy;

**Cohesion policy**

56. Welcomes the fact that in 2011 the Commission completed financial corrections for EUR 624 million out of EUR 673 million and that the recovery rate for Cohesion Policy improved to 93 % in comparison with 69 % in 2010; emphasises, nevertheless, that the cumulative rate of implementation of financial corrections stands only at 72 % and that EUR 2,5 billion has still to be recovered;
57. Calls on the Commission and the Member States to simplify the relevant rules on public procurement and the procedural rules for management of the Structural Funds;

58. Notes that certain large Member States such as France have reported no irregularities as being fraudulent in the area of cohesion policy in 2011; calls on the Commission to investigate the reasons for this and to determine whether the supervisory and control systems in Member States reporting no fraud are functioning effectively;

59. Welcomes the fact that France has been able to finalise the implementation of the Irregularity Management System (IMS);

**External relations, aid and enlargement**

60. Notes with concern that, in chapter 7 ('External relations, aid and enlargement') of the Annual Report of the European Court of Auditors on the implementation of the budget for the year 2011, the Court pointed to errors in final payments that had not been detected by Commission controls, and concluded that the controls applied by the Commission are not fully effective; calls on the Commission to follow the recommendations of the Court of Auditors and the discharge opinion with a view to improving its monitoring mechanisms in order to ensure the efficient and appropriate expenditure of funds;

61. Suggests that the findings and recommendations of the Court of Auditors pertaining to EU external actions, and in particular to EU missions, be taken into account when reviewing their progress against the objectives set or considering the extension of their mandate, in order to ensure the effective and appropriate use of the resources provided; notes the observation concerning certain weaknesses relating to procurement procedures and tendering in European External Action Service (EEAS) actions and calls on the EEAS to correct them in due time;

62. Welcomes anti-fraud policies at EU level that include a higher degree of cooperation with third countries, such as the Anti-Fraud Transit Information System (to which European Free Trade Association countries have access), Mutual Administrative Assistance (MAA) and related anti-fraud provisions involving third countries, and the Joint Customs Operations that took place in 2011, including Fireblade (with Croatia, Ukraine and Moldova) and Barrel (with Croatia, Turkey, Norway and Switzerland); welcomes the results of these actions and their financial impact;

63. Bearing in mind that, in a globalised world, fraud is increasingly being committed across international borders, stresses the importance of having a strong legal framework with clear commitments from the partner countries, and welcomes the inclusion of anti-fraud provisions in new or renegotiated bilateral agreements, including the draft agreements with Afghanistan, Kazakhstan, Armenia, Azerbaijan and Georgia and, in a more streamlined version, with Australia, and calls on the Commission and the EEAS to develop a standard clause whereby these provisions are included in all new or renegotiated bilateral and multilateral agreements with third countries;

64. Takes note of the decrease in the number and the financial impact of irregularities detected with regard to the pre-accession funds examined in the 2011 report; welcomes the fact that the rate of recovery of EU resources unduly paid as part of pre-accession assistance has improved significantly, but notes that it still reaches only 60%; acknowledges, at the same time, that significant differences exist among beneficiaries in terms of the irregularities reported, being mainly a measure of the stage of adoption and implementation of the Irregularity Management System (IMS); calls, therefore, on the Commission to continue to monitor closely the implementation of the IMS in all countries benefiting from the instrument; supports the Commission’s call for Croatia, in particular, fully to implement the IMS system, a call that has yet to be acted upon even though training and support have been provided, and its call for the Former Yugoslav Republic of Macedonia to implement the system; Notes that EUR 26 million have been recovered from the cases reported in 2011;

65. Welcomes the Commission's objective of supporting Croatia and the Former Yugoslav Republic of Macedonia in their efforts to implement the IMS;
OLAF

66. Reiterates that it is necessary to continue to strengthen the independence, effectiveness and efficiency of OLAF, including the independence and functioning of the OLAF Supervisory Committee; calls on OLAF and the Supervisory Committee to take steps with a view to improving their working relationship, which has been described in a report by the UK House of Lords' EU Committee as one of open hostility, particularly due to the lack of agreement between those concerned over the precise nature of the Supervisory Committee's role; calls on the Commission to explore ways to deliver a constructive contribution in respect of improving communication and working relations between OLAF and its Supervisory Committee;

67. Welcomes the progress made in the negotiations on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (Euratom) No 1074/1999 (COM(2011)0135); considers that this regulation should be adopted as soon as possible; is, however, convinced that in the light of the latest developments surrounding OLAF and the way its investigations were conducted, the recommendations of the Supervisory Committee set out in Annex 3 to its 2012 Annual Activity Report should be taken into consideration; finds it unacceptable that the Supervisory Committee, being the body that oversees the application of the procedural guarantees, respect for fundamental rights, and compliance by the OLAF staff with the internal rules on investigative procedures, has in a number of cases not been granted direct access to case files in closed investigations including the final investigation reports transmitted to the national judicial authorities;

68. Notes that the future reform mentioned above will, inter alia, enable OLAF to conclude administrative arrangements with the relevant authorities in third countries and with international organisations, thereby strengthening its capacity to tackle fraud in areas pertaining to the EU's external policy dimension; welcomes the anti-fraud strategy (COM(2011)0376), inter alia as regards the inclusion of improved anti-fraud provisions in spending programmes under the new multiannual financial framework for 2014-2020; notes with concern, however, the Commission's conclusion that there are insufficient deterrents against criminal misuse of the EU budget in Member States; welcomes the Commission proposals to address this problem and recommends that beneficiary third countries should also be involved as fully as possible;

69. Takes note of the concerns raised by the OLAF Supervisory Committee in its 2012 Activity Report, especially with regard to the case transmitted in October 2012 to the national judicial authorities and leading to the resignation of a member of the European Commission, as stated in paragraph 29 of the abovementioned report; is of the opinion that these concerns should be the subject of a thorough examination by the responsible judicial authorities; emphasises the principle of respect of confidentiality and the importance of political non-interference with any ongoing legal proceedings;

70. Is deeply concerned about the reporting of the OLAF Supervisory Committee; finds it unacceptable that OLAF has undertaken investigative measures that go beyond those explicitly listed in Articles 3 and 4 of the OLAF Regulation ((EC) No 1073/1999) currently in force, and beyond those contained in the future text of the reform; notes that the aforementioned investigative measures include: preparing the content of a telephone conversation for a third party to have with a person subject to the investigation; being present during such a conversation and having it recorded; and requesting national administrative authorities to provide OLAF with information not directly held by those authorities and which could be considered to relate to the right to respect for private life and communications or to the subsequent use, collection and storage of such information by OLAF;

71. Is shocked by such actions, given that, according to the jurisprudence of the European Court of Human Rights, the use of such methods can be seen as 'interference by a public authority' with the exercise of the right to respect for 'private life', 'correspondence' and/or 'communications', which is required to be 'in accordance with the law' (Article 7 of the Charter of Fundamental Rights of the European Union, which corresponds to Article 8 of the European Convention of Human Rights);

72. Reiterates that no violation of fundamental rights by OLAF or any other Commission services can be accepted; refers in this respect to the OLAF Supervisory Committee's view, as expressed in its 2012 Activity Report, Annex 3, that OLAF may have gone beyond the investigative measures explicitly listed in Articles 3 and 4 of the Regulation currently in force, inter alia, as regards the preparation of the content of a telephone conversation for a third party with a person subject to the investigation and being present during that conversation, which was recorded; expects OLAF to provide a satisfactory explanation of the legal basis for its investigative measures such as the recording of telephone conversations;
73. Welcomes the statement made in the Supervisory Committee's 2012 Activity Report (paragraph 53) that all actions for annulment of OLAF's decisions were rejected as inadmissible by the Court of Justice, while the Ombudsman did not find any instance of maladministration; further points out that the European Data Protection Supervisor (EDPS) found that OLAF generally complied with the data protection rules, with the exception of one case where the EDPS considered that OLAF violated the right to protection of personal data by unnecessarily disclosing the identity of a whistleblower to his institution;

74. Is deeply concerned about the findings of the Supervisory Committee that OLAF has not established a prior legality check for investigative measures other than those specifically listed in OLAF's Instructions to Staff on Investigative Procedures (ISIP); notes that this endangers respect for the fundamental rights of, and procedural guarantees relating to, the people concerned;

75. Asks OLAF to inform Parliament's competent committee of the legal basis that authorises it to assist in and prepare the recording of telephone conversations of private persons without their prior consent and to use the contents for purposes of administrative investigations; reiterates its call on OLAF to provide Parliament — in line with a similar request by the Council — with a legal analysis of the legality of those records in the Member States;

76. Notes that breaches of essential procedural requirements during preparatory investigations could affect the legality of the final decision taken on the basis of investigations by OLAF; assesses this as potentially high-risk, since breaches would thus incur the legal liability of the Commission; calls on OLAF to tackle this shortcoming immediately by assigning appropriately qualified judicial experts to the task of carrying out prior verifications within an appropriate timeframe;

77. Deems the direct participation of OLAF's Director-General in some investigative tasks, inter alia interviews of witnesses, as unacceptable; points out that the Director-General thereby enters a conflict of interest, since, under Article 90 (a) of the Staff Regulations and Article 23(1) of the ISIP he is the authority who receives complaints against OLAF's investigations and decides whether or not appropriate action is taken with regard to any failure to respect procedural guarantees; calls on OLAF's Director-General to abstain from any direct involvement in investigative tasks in future;

78. Is worried that OLAF has not always conducted a thorough assessment of incoming information in relation to the notion of sufficiently serious suspicion; considers such an assessment essential in order to safeguard and consolidate OLAF's independence vis-à-vis institutions, bodies, offices and agencies and governments where one of these is at the origin of the referral;

79. Is of the opinion that the Supervisory Committee should always be informed by OLAF when OLAF receives a complaint relating to fundamental rights and procedural guarantees;

80. Expects further information to be provided on the points mentioned in the annual report of the Supervisory Committee; urges full transparency in relation to all the points mentioned;

81. Regrets the fact that between 2006 and 2011 Member States took judicial action following OLAF investigations in only 46% of cases; is of the opinion that this is insufficient and reiterates its call on the Commission and the Member States to ensure the effective and timely implementation of the recommendations made once cases have been investigated by OLAF;

82. Considers that Member States should be obliged to report on an annual basis on the follow-up to cases referred by OLAF to their judicial authorities, including on the criminal and financial sanctions imposed in such cases;

83. Is concerned about the remarks contained in the Supervisory Committee's annual report stating that there are no data on the implementation of OLAF's recommendations in the Member States; considers this situation to be unsatisfactory and calls on OLAF to ensure that Member States provide relevant and detailed data on the implementation of OLAF's recommendations and that the European Parliament is kept informed;

84. Acknowledges that, following OLAF's investigations, EUR 691.4 million was recovered in 2011, of which EUR 389 million relates to a single case in the Calabria region of Italy involving structural funds programmes for the financing of roadworks;
85. Calls for potential fraud or irregularities which have less financial impact — in areas such as customs (where the threshold below which OLAF does not take action is EUR 1 million) and the structural funds (where the threshold is EUR 500,000) — to be reported to the Member States and for the latter to be provided with information and given the opportunity to follow national anti-fraud procedures;

86. Is deeply concerned about the effectiveness and internal functioning of OLAF, while considering that a strong and well-managed OLAF is essential in the fight against fraud and corruption where European taxpayers’ money is involved; urges the Commission, therefore, in cooperation with Parliament’s competent committee and when answering its questions, to analyse the legality of OLAF’s operations, to take all necessary measures to improve the management of OLAF, and to formulate practical solutions to remedy shortcomings before the end of 2013; calls on the Commission and the Council, in the meantime, to stall all discussions and decisions on the introduction of the European Public Prosecutor’s Office (EPPO);

The Commission’s initiatives in the area of anti-fraud activity

87. Welcomes the fact that, in response to Parliament’s request, the Commission is currently developing a methodology to measure the costs of corruption in public procurement concerning EU funds;

88. Welcomes the initiative in the Commission’s 2012 work programme to better protect the European Union’s financial interests and the communication to that effect on the protection of the European Union’s financial interests by criminal law and administrative investigations; stresses that this initiative aims to toughen sanctions against criminal activities, including corruption, and to strengthen the financial protection of the European Union;

89. Welcomes the Commission’s new Anti-Fraud Strategy (COM(2011)0376) and the Internal Action Plan (SEC(2011)0787) for its implementation, adopted in June 2011, which aim at improving the prevention and detection of fraud at EU level; calls in this respect on the Commission to report on and evaluate the anti-fraud strategies established within each Directorate-General;

90. Welcomes the Commission’s proposal for a directive of the European Parliament and of the Council on the fight against fraud to the Union’s financial interests by means of criminal law (COM(2012)0363) — the proposal for the PIF Directive), which is to replace the Convention on the Protection of the Financial Interests of the European Communities and its accompanying protocols;

91. Welcomes, in particular, the fact that the definition of the Union’s financial interests in the proposal for the PIF Directive encompasses VAT, in accordance with the judgment of the European Court of Justice, which confirmed (1) that there is a direct link between, on the one hand, the collection of Value Added Tax revenue in compliance with the applicable Union law, and on the other, the availability to the Union budget of the corresponding Value Added Tax resources, since any lacuna in collection of the first potentially causes a reduction in the second;

92. Welcomes the proposal for a regulation of the European Parliament and of the Council on the Hercule III programme to promote activities in the field of the protection of the European Union’s financial interests (COM(2011)0914), which will be the successor to the Hercule II programme, the mid-term evaluation of which proved its added value;

93. Notes that although the Commission is taking all these positive initiatives, most policies currently being pursued against corruption are passive; calls on the directorates-general of the Commission to strengthen fraud prevention in their respective areas of responsibility;

94. Looks forward to the submission by the Commission of the legislative proposal on the establishment of the European Public Prosecutor’s Office, which will be responsible for investigating, prosecuting and bringing to justice those who damage assets managed by or on behalf of the EU, as announced by the Commission for June 2013:

95. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice of the European Union, the European Court of Auditors, the OLAF Supervisory Committee and OLAF.

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Integrated internal control framework


(2016/C 075/13)

The European Parliament,

— having regard to the Treaty on the Functioning of the European Union (TFEU),

— having regard to Opinion No 2/2004 of the European Court of Auditors on the ‘single audit’ model (and a proposal for a Community internal control framework) (1),

— having regard to the Commission communication on a roadmap to an integrated internal control framework (COM (2005)0252),

— having regard to the Commission communication on the Commission action plan towards an integrated internal control framework (COM(2006)0009),

— having regard to the first half-yearly report on the scoreboard for the application of the Commission action plan towards an integrated internal control framework published on 19 July 2006 (SEC(2006)1009), pursuant to Parliament’s request in its resolution on discharge in respect of the financial year 2004 (2),

— having regard to the interim progress report of the Commission published in March 2007 (COM(2007)0086), outlining progress and announcing some additional actions,

— having regard to the Commission communication of February 2008 (COM(2008)0110) and the Commission staff working paper annexed thereto (SEC(2008)0259),

— having regard to the Commission communication of February 2009 on the impact report on the Commission action plan towards an integrated internal control framework (COM(2009)0043),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control (A7-0189/2013),

A. whereas under Article 317 TFEU the Commission implements the budget on its own responsibility, on the basis of the principles of sound financial management, in cooperation with the Member States;

B. whereas according to the Treaty, the Commission bears the ultimate responsibility for the implementation of the Union budget, although a huge responsibility lies with the Member States, with 80 % of the Union budget spent under the system of shared management by Member States;

C. whereas the principle of effective internal control is one of the budgetary principles set out in the Financial Regulation following its amendment by Regulation (EC, Euratom) No 1995/2006, as proposed by the Commission in the action plan referred to above;

D. whereas the most effective means for the Commission to demonstrate that it is genuinely committed to ensuring transparency and sound financial management is to do all it can to support measures seeking to enhance the quality of financial management, with a view to obtaining a positive statement of assurance (DAS)\(^{(1)}\) from the European Court of Auditors (ECA);

E. whereas all the institutions and the Member States have to cooperate in order to restore European citizens’ trust in the financial performance of the Union;

F. whereas in order to support the strategic objective of receiving a positive statement of assurance from the ECA, the Commission adopted in January 2006 the action plan towards an integrated internal control framework (the ‘Action Plan’), drawing on the recommendations of the ECA\(^{(2)}\), Parliament’s resolution on discharge in respect of the financial year 2003\(^{(3)}\) and the ECOFIN conclusions of 8 November 2005;

G. whereas the Action Plan addressed ‘gaps’ in the Commission’s control structures at the time and identified 16 areas for action by the end of 2007, taking into account that improvement of financial management in the Union must be supported by close monitoring of controls in the Commission and the Member States;

**Implementation of the Action Plan**

1. Points out that the progress made in achieving the objectives of the Action Plan has to be measured not only by the achieving of each action but also by its impact on reducing errors in the underlying transactions;

2. Notes that the Commission itself stated that the Action Plan was fully completed at the beginning of 2009, although 3 of the 16 original actions could not be implemented or were being taken forward in other ways;

3. Points out in particular that Article 32 of the new Financial Regulation establishes the principle of effective and efficient internal control, and that Article 33 of the same regulation stipulates that when presenting revised or new spending proposals the Commission shall estimate the costs and benefits of the control system as well as the risk of error;

4. States also that, with regard to the concept of ‘tolerable level of risk’, a choice was made to complete this action by defining the concept of ‘residual risk of errors’;

5. Deplores the fact that the simplification of the 2007-2013 legislation has not been as extensive as hoped;

6. Deplores the fact that the commitment made by the Commission to reach a fully positive DAS has not been fulfilled, and points out in particular that, in its 2011 statement of assurance report, the Court concluded that overall payments were materially affected by error and assessed that the supervisory and control systems were in general partially effective;

7. Notes that the overall rate of error in underlying transactions increased from 3.3 % to 3.7 % in 2010, reaching 3.9 % in 2011; deplores the reversal of the positive trend that has occurred in recent years, and fears that the rate of error will grow in the coming years;

8. Notes that the Commission has maintained its objective of obtaining a positive DAS, whilst Parliament deeply deplored, in its resolution on discharge for 2011, the fact that payments remain materially affected by error;

9. Calls on the Commission to take the necessary steps to achieve a trend of a consistent decrease in the error rate;

\(^{(1)}\) Abbreviation of the French term ‘Déclaration d’assurance’.
\(^{(2)}\) Opinion No 2/2004 (the ‘Single Audit’ Opinion).
What is wrong?

10. Shares the views of the Court of Auditors and the Commission (1) as regards the fact that the single audit scheme does not work yet and that the control systems set up by the Member States are currently not functioning to their full potential;

11. Makes reminder, in this regard, that in 2011, in the area of regional policy, for over 60 % of the errors identified by the Court of Auditors, Member State authorities had sufficient information to identify and correct some of the errors before asking for reimbursement from the Commission;

12. Shares in this respect the Court of Auditor’s view that the first-level checks, namely the management and control systems in Member States, are insufficient; resulting in a considerably high burden to lower the error rate;

13. Notes that complex and opaque rules hinder the implementation and auditing of programmes; is concerned that this may result in a large number of errors and provide an opportunity for fraud; is therefore concerned that an increasing complexity of rules at national or regional level (gold plating) results in further problems for the legal implementation of the Union budget and in an unnecessary increase in the error rate;

14. Notes that the Commission cannot fully rely on the findings of the national audit bodies of the Member States;

15. Notes that there is a fundamental discrepancy between the Court of Auditors, which, in the DAS audits, applies an annual approach, and the Commission, which, in the implementation of the budget, applies a multiannual approach;

What is to be done?

16. Calls on the Commission to strictly apply Article 32(5) of the new Financial Regulation if the level of error is persistently high, and consequently to identify the weaknesses in the control systems, analyse the costs and benefits of possible corrective measures and take or propose appropriate action in terms of simplification, improvement of control systems and redesign of programmes or delivery systems;

17. Calls on the Member States to strengthen their supervisory and control systems and, in particular, to ensure the reliability of their indicators and statistics;

18. Notes with concern that in 2010 and 2011, in regional policy, the Court of Auditors found that the Commission cannot fully rely on and draw assurance from the work of national audit authorities, and calls on the Member States to remedy that situation;

19. Calls on the Member States to assume full responsibility for their accounts and to submit reliable data to the Commission using national management declarations signed at the appropriate political level;

20. Calls on the Commission to motivate the Member States to cooperate with a view to ensuring that taxpayers’ funds are used in accordance with the principles of sound financial management, either through appropriate benefits or through strict sanctions or the suspension of the flow of funds; asserts that this would help to renew EU citizens’ trust in the EU and its institutions;

21. Calls on the Commission to harmonise all control procedures within its departments;

22. Notes with concern that the weaknesses in the work of national authorities revealed by the Court of Auditors could also be the result of an inherent flaw and conflict of interest of the shared management system itself (2) as in order to get single audit status from the Commission, national audit authorities are required to be effective whilst at the same time the reported error rate should be below 2 %, which could be an incentive to under-report the irregularities;

(1) Contributions by Kersti Kaljulaid and Manfred Kraff at the hearing on the integrated internal control framework organised by CONT on 22 April 2013.
(2) Contribution by Kersti Kaljulaid at the hearing on the integrated internal control framework organised by CONT on 22 April 2013.
23. Calls on the Commission, consequently, to be more rigorous when certifying the national management and audit authorities and to put in place the right incentives and an effective system of sanctions;

24. Asks therefore, in accordance with Article 287(3) TFEU, that, in relation to the auditing of shared management, cooperation between national audit bodies and the European Court of Auditors be stepped up;

25. Calls on the appropriate EU institutions to assess whether setting the error rate at 2% is appropriate and attainable for all areas of EU policy;

26. In this context, raises serious doubts about the usefulness of the statement of assurance, as, due to the complexity of the budget implementation in the area of shared management, there is also a shared responsibility for the legality and regularity of the budget administration between the Commission and the Member States, and between the Commission and regional administrations, whereas the political responsibility still lies only with the Commission;

27. Is therefore of the opinion that, in the context of the future revision of the EU Treaty, the concept of the statement of assurance should be reconsidered;

Follow up on 2011 discharge to the Commission

28. Reiterates its call to the Member States to issue national management declarations at the appropriate political level and asks the Commission to establish a template for such declarations;

29. Considers that the principle of a compulsory national management declaration should be incorporated into the interinstitutional agreement accompanying the decision on the Multiannual Financial Framework;

30. Points out that ‘the ongoing absence of a credible system of national declarations will keep haunting the confidence and trust that EU citizens can have in the macro and EU money and EU money managers’ (1);

31. Makes reminder that the three first priority actions required from the Commission by Parliament when granting discharge for the year 2011 aim to pave the way to further progress in the DAS question;

32. Makes particular reminder that the Commission should annually adopt, for the first time in September 2013, a communication to the European Parliament, the Council and the Court of Auditors with a view to making public all the amounts in nominal terms recovered in the course of the preceding year through financial corrections and recoveries for all management modes at the level of the Union and the Member States (2);

33. Insists that this communication should be presented in due time in order to be scrutinised by the ECA before publishing its annual report;

34. Reiterates its encouragement to the Commission to make progress in disclosing more precise and reliable data concerning recoveries and financial corrections and to present information reconciling as far as possible the year in which payment is made, the year in which the related error is detected and the year in which recoveries or financial corrections are disclosed in the notes to the accounts (3);

35. Points out that all the actions taken in order to reduce the error rates should be complemented by a new culture of performance; the Commission services should define in their management plan a number of targets and indicators meeting the requirements of the Court of Auditors in terms of relevance, comparability and reliability; in their annual activity reports, the services should measure their performance in summing up the results achieved when contributing to the main policies pursued by the Commission; this ‘departmental’ performance will be complemented by a global evaluation of the performance of the Commission in the evaluation report provided for by Article 318 TFEU (4);

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(1) Contribution by Jules Muis at the same hearing.

(2) Resolution accompanying the decision to grant the 2011 discharge to the Commission, paragraph 1(a) (OJ L 308, 16.11.2013, p. 27).

(3) Resolution accompanying the decision to grant the 2011 discharge to the Commission, paragraph 61.

(4) Resolution accompanying the decision to grant the 2011 discharge to the Commission, points (ab), (ae) and (af) of paragraph 1.
36. Makes reminder that the Commission should modify the structure of the above-mentioned evaluation report, distinguishing internal policies from external ones and focusing, within the section relating to internal policies, on the Europe 2020 Strategy as being the economic and social policy of the Union; the Commission should place the emphasis on the progress made in the achievement of the flagship initiatives;

37. Furthermore underlines that performance indicators should be fully integrated in all proposals for new policies and programmes;

38. Requests that the guidance given by Parliament to the Commission in paragraph 1 of the resolution accompanying its decision on discharge for 2011 as regards how to draft the evaluation report provided for by Article 318 TFEU should be incorporated into the interinstitutional agreement accompanying the decision on the Multiannual Financial Framework;

**Performance-based budget**

39. Shares the view expressed by the European Court of Auditors that it is not meaningful to attempt to measure performance without having budgeted on the basis of performance indicators (1), and calls for the establishment of a performance-based public budgeting model in which each budget line is accompanied by objectives and outputs to be measured by performance indicators;

40. Asks the Commission to set up a working group composed of representatives of the Commission, the Parliament, the Council and the Court of Auditors with a view to considering the necessary measures to be taken in order to introduce such a performance-based budget and to draft a time-scheduled action plan in this regard;

**Simplification**

41. Calls on all the parties involved in the decision-making process concerning the post-2013 legislation and programmes to bear in mind the need to respect the categorical imperative of simplification by reducing the number of programmes and defining proportionate and cost-effective controls and simplified eligibility rules and cost methods;

42. Instructs its President to forward this resolution to the Council, the Commission, the European Court of Auditors and the governments and parliaments of the Member States.

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(1) Contribution of Kersti Kaljulaid at the hearing on the integrated internal control framework organised by CONT committee on 22 April 2013.
The European Parliament,

— having regard to Articles 2, 3, 6 and 7 of the Treaty on European Union (TEU) and to Article 16 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to the Charter of Fundamental Rights of the European Union and to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),

— having regard to Council of Europe Convention 108 of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and the additional protocol thereto of 8 November 2001,

— having regard to EU law on the right to privacy and data protection, in particular Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and to the free movement of such data, Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, Directive 2002/58/EC on privacy and electronic communications, and Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,

— having regard to the Commission proposals for a regulation and for a directive on the reform of the data protection regime in the EU,

— having regard to the EU-US Mutual Legal Assistance Agreement allowing exchange of data for the prevention and investigation of criminal activities, to the Convention on Cybercrime (CETS No 185), to the EU-US Safe Harbour Agreement (2000/520/EC) and to the current revision of the Safe Harbour scheme,

— having regard to the US Patriot Act and to the Foreign Intelligence Surveillance Act (FISA), including Section 702 of the 2008 FIS Amendment Act (FISAAA),

— having regard to the ongoing negotiations on an EU-US framework agreement on the protection of personal data when transferred and processed for police and judicial cooperation purposes,

— having regard to its previous resolutions on the right to privacy and data protection, in particular that of 5 September 2001 on the existence of a global system for the interception of private and commercial communications (Echelon interception system) (1),

— having regard to the statements by the President of the European Council, Herman van Rompuy, the President of the European Parliament, Martin Schulz, the Vice-President of the Commission/Commissioner for Justice, Fundamental Rights and Citizenship, Viviane Reding, and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton,

— having regard to Rule 110(2) and (4) of its Rules of Procedure.

A. whereas the transatlantic partnership between the EU and the US must be based on mutual trust and respect, loyal and mutual cooperation, respect for fundamental rights and the rule of law;

B. whereas the Member States are obliged to respect the fundamental rights and values enshrined in Article 2 TEU and in the Charter of Fundamental Rights;

C. whereas adherence to these principles is currently in doubt after reports in the international press in June 2013 revealed evidence that, through programmes such as PRISM, the US authorities are accessing and processing on a large scale the personal data of EU citizens using US online service providers;

D. whereas this doubt concerns not only the actions of US authorities, but also those of several EU Member States, which according to the international press have cooperated with PRISM and other such programmes or obtained access to the databases created;

E. whereas, furthermore, several Member States have surveillance programmes of a similar nature to PRISM or are discussing the setting-up of such programmes;

F. whereas particular questions have been raised regarding the compatibility with EU law of the practice of the UK intelligence agency Government Communications Headquarters (GCHQ) directly tapping into undersea transatlantic cables carrying electronic communications, under a programme codenamed Tempora; whereas other Member States reportedly access transnational electronic communications without a regular warrant but on the basis of special courts, share data with other countries (Sweden), and may enhance their surveillance capabilities (the Netherlands, Germany); whereas concerns have been expressed in other Member States in relation to the interception powers of secret services (Poland);

G. whereas there are indications that EU institutions and EU and Member State embassies and representations have been subjected to US surveillance and spying activities;

H. whereas Commissioner Reding has written a letter to the US Attorney General, Eric Holder, raising European concerns and asking for clarification and explanations regarding PRISM and other such programmes involving data collection and searching, and the laws under which such programmes may be authorised; whereas a full response from the US authorities is still pending, despite the discussions which took place at the EU-US Justice Ministerial meeting in Dublin on 14 June 2013;

I. whereas, under the Safe Harbour Agreement, the Member States and the Commission are entrusted with the duty of guaranteeing the security and integrity of personal data; whereas the companies involved in the PRISM case, as reported in the international press, are all parties to the Safe Harbour Agreement; whereas, under Article 3 of that agreement, the Commission has a duty, should the provisions of the agreement not be complied with, to reverse or suspend it;

J. whereas the EU-US Mutual Legal Assistance Agreement, as ratified by the Union and the US Congress, stipulates modalities for gathering and exchanging information, and for requesting and providing assistance in obtaining evidence located in one country to assist in criminal investigations or proceedings in another;

K. whereas it would be unfortunate if the efforts to conclude a Transatlantic Trade and Investment Partnership (TTIP), which demonstrates the commitment to further strengthen the partnership between the EU and the US, were to be affected by the recent allegations;

L. whereas on 14 June 2013 Commissioner Malmström announced the setting-up of a transatlantic group of experts;

M. whereas Commissioner Reding has written to the UK authorities to express concern about media reports on the Tempora programme and asking for clarification of its scope and operation; whereas the UK authorities have defended the GCHQ’s surveillance activities and affirmed that they operate under strict and lawful guidelines;
N.

whereas data protection reform is under way at EU level, through the revision of Directive 95/46/EC and its replacement with the proposed general Data Protection Regulation and the Data Protection Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data;

1. Expresses, while confirming its ongoing support for transatlantic efforts in the fight against terrorism and organised crime, serious concern over PRISM and other such programmes, since, should the information available up to now be confirmed, they may entail a serious violation of the fundamental right of EU citizens and residents to privacy and data protection, as well as of the right to private and family life, the confidentiality of communications, the presumption of innocence, freedom of expression, freedom of information, and the freedom to conduct business;

2. Strongly condemns the spying on EU representations as, should the information available up to now be confirmed, it would imply a serious violation of the Vienna Convention on Diplomatic Relations, in addition to its potential impact on transatlantic relations; calls for immediate clarification from the US authorities on the matter;

3. Calls on the US authorities to provide the EU, without undue delay, with full information on PRISM and other such programmes involving data collection, in particular as regards their legal basis, necessity and proportionality and the safeguards implemented to protect the fundamental rights of EU citizens, such as limitation of scope and duration, conditions for access, and independent supervision, as provided for under the Convention on Cybercrime and as requested by Commissioner Reding in her letter of 10 June 2013 to Attorney General Eric Holder; calls on the US authorities to suspend and review any laws and surveillance programmes that violate the fundamental right of EU citizens to privacy and data protection, the sovereignty and jurisdiction of the EU and its Member States, and the Convention on Cybercrime;

4. Calls on the Commission, the Council and the Member States to give consideration to all the instruments at their disposal in discussions and negotiations with the US, at both political and expert level, in order to achieve the above-mentioned objectives, including the possible suspension of the passenger name record (PNR) and terrorist finance tracking programme (TFTP) agreements;

5. Demands that the transatlantic expert group, as announced by Commissioner Malmström and in which Parliament will participate, be granted an appropriate level of security clearance and access to all relevant documents in order to be able to conduct its work properly and within a set deadline; further demands that Parliament be adequately represented in this expert group;

6. Calls on the Commission and the US authorities to resume, without delay, the negotiations on the framework agreement on the protection of personal data when transferred and processed for police and judicial cooperation purposes; calls on the Commission, during these negotiations, to make sure that the agreement meets at least the following criteria:

(a) granting EU citizens the right to information when their data is processed in the US;

(b) ensuring that EU citizens’ access to the US judicial system is equal to that enjoyed by US citizens;

(c) granting the right to redress, in particular;

7. Calls on the Commission to ensure that EU data protection standards, and the negotiations on the current EU data protection package, are not undermined as a result of the Transatlantic Trade and Investment Partnership (TTIP) with the US;

8. Calls on the Commission to conduct a full review of the Safe Harbour Agreement in the light of the recent revelations, under Article 3 of that agreement;

9. Expresses serious concern at the revelations relating to the alleged surveillance programmes run by Member States, either with the help of the US National Security Agency or unilaterally; calls on all the Member States to examine the compatibility of such programmes with EU primary and secondary law, in particular Article 16 TFEU on data protection, and with the EU’s fundamental rights obligations deriving from the ECHR and the constitutional traditions common to the Member States;
10. Stresses that all companies providing services in the EU must comply with EU law without exception and are liable for any breaches;

11. Stresses that companies falling under third-country jurisdiction should provide users located in the EU with a clear and distinguishable warning concerning the possibility of personal data being processed by law enforcement and intelligence agencies following secret orders or injunctions;

12. Regrets the fact that the Commission has dropped the former Article 42 of the leaked version of the Data Protection Regulation; calls on the Commission to clarify why it decided to do so; calls on the Council to follow Parliament’s approach and reinsert such a provision;

13. Stresses that in democratic and open states based on the rule of law, citizens have a right to know about serious violations of their fundamental rights and to denounce them, including those involving their own government; stresses the need for procedures allowing whistleblowers to unveil serious violations of fundamental rights and the need to provide such people with the necessary protection, including at international level; expresses its continued support for investigative journalism and media freedom;


15. Stresses the need to set up a European equivalent of the mixed parliamentary-judicial control and inquiry committees on intelligence services that currently exist in some Member States;

16. Instructs its Committee on Civil Liberties, Justice and Home Affairs to conduct an in-depth inquiry into the matter in collaboration with national parliaments and the EU-US expert group set up by the Commission and to report back by the end of the year, by:

(a) gathering all relevant information and evidence from both US and EU sources (fact-finding);

(b) investigating the alleged surveillance activities of US authorities as well as any carried out by certain Member States (mapping of responsibilities);

(c) assessing the impact of surveillance programmes as regards: the fundamental rights of EU citizens (in particular the right to respect for private life and communications, freedom of expression, the presumption of innocence and the right to an effective remedy); actual data protection both within the EU and for EU citizens outside the EU, focusing in particular on the effectiveness of EU law in respect of extraterritoriality mechanisms; the safety of the EU in the era of cloud computing; the added value and proportionality of such programmes with regard to the fight against terrorism; the external dimension of the area of freedom, security and justice (assessing the validity of adequacy decisions for EU transfers to third countries, such as those carried out under the Safe Harbour Agreement, international agreements and other legal instruments providing for legal assistance and cooperation) (damage and risk analysis);

(d) exploring the most appropriate mechanisms for redress in the event of confirmed violations (administrative and judicial redress and compensation schemes);

(e) putting forward recommendations aimed at preventing further violations, and ensuring credible, high-level protection of EU citizens' personal data via adequate means, in particular the adoption of a fully-fledged data protection package (policy recommendations and law-making);

(f) issuing recommendations aimed at strengthening IT security in the EU’s institutions, bodies and agencies by means of proper internal security rules for communication systems, in order to prevent and remedy unauthorised access and the disclosure or loss of information and personal data (remedying of security breaches);

17. Instructs its President to forward this resolution to the Commission, the Council, the Council of Europe, the parliaments of the Member States, the US President, the US Senate and House of Representatives and the US Secretaries for Homeland Security and Justice.
Practical arrangements for the holding of the European elections in 2014

European Parliament resolution of 4 July 2013 on improving the practical arrangements for the holding of the European elections in 2014 (2013/2102(INI))

(2016/C 075/15)

The European Parliament,

— having regard to Articles 10 and 17(7) of the Treaty on European Union,

— having regard to Article 22(2) of the Treaty on the Functioning of the European Union,

— having regard to Articles 11, 12(2) and 39 of the Charter of Fundamental Rights,

— having regard to the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to the Council decision of 20 September 1976, as amended ({1}),

— having regard to Declaration 11 annexed to the Lisbon Treaty on Article 17(6) and (7) of the Treaty on European Union,

— having regard to Directive 93/109/EC and its amending Directive 2013/1/EU, which lay down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals,

— having regard to the Commission communication of 12 March 2013 entitled ‘Preparing for the 2014 European elections: further enhancing their democratic and efficient conduct’ (COM(2013)0126),

— having regard to the Commission recommendation of 12 March 2013 on enhancing the democratic and efficient conduct of the elections to the European Parliament, addressed to the Member States and the European and national political parties (C(2013)1303),

— having regard to its resolution of 22 November 2012 on the elections to the European Parliament in 2014 ({2}),

— having regard to its resolution of 13 March 2013 on the composition of the Parliament with a view to the elections in 2014 ({3}),

— having regard to Rules 41, 48 and 105 of its Rules of Procedure,

— having regard to the report of the Committee on Constitutional Affairs (A7-0219/2013),

A. whereas it has been agreed that the polling days of the election are to be brought forward to 22—25 May 2014 and, therefore, that the constitutive session of the new Parliament will take place on 1 July 2014;

B. whereas citizens are directly represented at Union level in the European Parliament;

C. whereas every citizen has the right to participate in the democratic life of the Union;

D. whereas political parties at European level are actors in the European political sphere; whereas they contribute to forming European political awareness and to expressing the will of the citizens of the Union;


({3}) Texts adopted, P7_TA(2013)0082.
E. whereas the 2014 elections will be the first to take place after the entry into force of the Lisbon Treaty — which widens significantly the powers of the European Parliament, including its role in the election of the President of the Commission — and, accordingly, will provide a key opportunity to increase the transparency of the elections and strengthen their European dimension;

F. whereas the major European political parties appear ready to nominate their own candidates for the Presidency of the Commission, in the expectation that those candidates will play a leading role in the parliamentary electoral campaign, in particular by personally presenting their political programme in all the EU Member States;

G. whereas internal party democracy and high standards of openness and integrity on the part of political parties are an essential basis for increasing public trust in the political system;

H. whereas the resolution of the current crisis of governance in the EU requires a fuller democratic legitimation of the integration process;

I. whereas Union citizens have the right to stand and vote in the European Parliamentary elections even when residing in a Member State other than their own;

J. whereas electoral campaigns continue to focus primarily on national issues, pushing debate on specifically European issues into the background, which has a negative impact on the level of participation in elections to the European Parliament;

K. whereas turnout at the elections is likely to be enhanced by a lively political campaign in which political parties and their candidates compete for votes and seats on the basis of alternative programmes which address the European dimension of politics;

L. whereas repeated opinion polls suggest that a large majority would be inclined to vote if they were better informed about the European Parliament, the political parties, their programmes and candidates; whereas all media outlets are therefore encouraged to bring maximum attention to the elections;

M. whereas the President of the European Commission is elected by Parliament on the proposal of the European Council, which must take into account the results of the elections and must consult the new Parliament before making its nomination(s);

N. whereas the detailed arrangements for the consultations between Parliament and the European Council on the election of the Commission President may, according to Declaration 11 annexed to the Lisbon Treaty, be determined 'by common accord';

1. Calls on the political parties to ensure that the names of the candidates selected to stand for election to the European Parliament are made public at least six weeks before the start of polling;

2. Expects the candidates to commit themselves, if elected, to taking up their mandates to serve as Members of the European Parliament, unless appointed to a post which renders them ineligible pursuant to Article 7 of the Act on the direct election of the European Parliament (1976);

3. Calls on the Member States and the political parties to press for a higher proportion of women on the lists of candidates and, as far as possible, to encourage the drafting of lists that ensure equal representation;

4. Urges the Member States and political parties to see to it that the names — and, where appropriate, the emblems — of the European political parties appear on the ballot paper;

5. Asks the European political parties to nominate their candidates for the Commission presidency sufficiently well in advance of the election for them to be able to mount a significant, European-wide campaign that concentrates on European issues that are based on the party platform and on the programme of their candidate for the Commission presidency;

6. Insists that political parties at all levels adopt democratic and transparent procedures for the selection of candidates for election to the European Parliament and for the Presidency of the Commission;
7. Calls on the national political parties to inform citizens, before and during the electoral campaign, about their affiliation with a European political party and their support for its candidate for the Commission presidency and for his or her political programme;

8. Encourages the Member States to permit political broadcasts by the European political parties;

9. Urges the European political parties to hold a series of public debates between the candidates nominated for the Commission presidency;

10. Recommends that the Member States take all necessary steps to give effective implementation to the measures agreed on to assist citizens who wish to vote or stand as candidates in states other than their own;

11. Calls on the Member States to organise a public campaign to encourage citizens to turn out to vote, with the aim of halting falling participation rates;

12. Encourages national political parties to include on their lists of candidates EU citizens residing in Member States other than their own;

13. Insists that, pursuant to Article 10(2) of the Act on the direct election of the European Parliament, no official result shall be published in any Member State until after the close of poll in the Member State whose electors are the last to vote on Sunday 25 May 2014;

14. Proposes that detailed arrangements for the consultations between Parliament and the European Council on the election of the new Commission President should be agreed by common accord in good time before the elections;

15. Expects that, in this process, the candidate for Commission President put forward by the European political party that wins the most seats in the Parliament will be the first to be considered, with a view to ascertaining his or her ability to secure the support of the necessary absolute majority in Parliament;

16. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the parliaments of the Member States and the European political parties.

Arms exports: implementation of Council Common Position 2008/944/CFSP


The European Parliament,

— having regard to Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment ( 1 ),

— having regard to the ongoing process, within the Council Working Party on Conventional Arms Exports (COARM), of reviewing the Common Position, which, pursuant to Article 15 thereof, must be reviewed three years after its adoption,

— having regard to Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community ( 2 ),


— having regard to Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union’s contribution to combating the destabilising accumulation and spread of small arms and light weapons and repealing joint Action 1999/34/CFSP (1), and to the EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons and their ammunition, adopted by the European Council on 15—16 December 2005 (2),

— having regard to COARM’s Thirteenth (3) and Fourteenth (4) Annual Reports,

— having regard to the United Nations international Arms Trade Treaty establishing common binding standards for the global trade in conventional arms,

— having regard to its resolution of 13 June 2012 on the negotiations on the UN Arms Trade Treaty (5),

— having regard to Article 42 of the Treaty on European Union and to Article 346 of the Treaty on the Functioning of the European Union,

— having regard to Rule 110(2) and (4) of its Rules of Procedure,

A. whereas arms exports can have an impact not only on security but also on development, making it important to strengthen the European Union’s export control policy for military technology and equipment;

B. whereas Common Position 2008/944/CFSP is a legally binding framework laying down eight criteria, and whereas, if they are not met, an export licence should be denied (criteria 1-4) or consideration should at least be given to doing so (criteria 5-8);

C. whereas, under Article 3 of the Common Position, the eight criteria set minimum standards only and are without prejudice to more restrictive arms control measures by Member States; whereas decisions on whether or not to issue arms export licences in accordance with the criteria are, in every case, a matter for individual Member States;

D. whereas Article 10 of the Common Position clearly states that the Member States, where appropriate, may also take into account the effect of proposed exports on their economic, social, commercial and industrial interests, and whereas these factors must not affect the application of the eight criteria;

E. whereas according to the Stockholm International Peace Research Institute (SIPRI), the EU Member States, taken as a whole, are the world’s second-largest arms exporter, only slightly behind the United States, and whereas a growing proportion of arms are being delivered to countries outside the EU;

F. whereas the main extra-EU destinations of arms transfers by the Member States are the Middle East, North America and Asia; whereas the main country recipients are Saudi Arabia, the United States and the United Arab Emirates;

G. whereas the European industry tries to compensate for the decreasing European defence demand by seeking access to third country markets, and whereas that is being backed by many politicians and political parties as a contribution towards strengthening European defence industries, technological know-how, security of supply, and preparedness; whereas research and development in the defence industries have an important spill-over effect contributing to numerous civilian applications;

H. whereas significant progress has been made on reaching agreement between the Member States with regard to applying and interpreting the Common Position’s eight criteria, principally thanks to the Common Position User’s Guide, drawn up by COARM, which gives detailed definitions of best practices with regard to the application of the criteria:

1. Applauds the fact that the EU has a legally binding framework, unique in the world, through which arms export control is being improved, including in crisis regions and countries with questionable human rights records, and welcomes the fact, in this connection, that European and non-European third countries have joined the arms exports control system on the basis of the Common Position; notes, however, that the eight criteria are applied and interpreted with varying degrees of rigour in the EU Member States; calls, therefore, for more uniform interpretation and implementation of the Common Position with all its obligations and regrets that the EU still does not have a common policy on arms transfers to third countries;

2. Maintains that the EU's Common Foreign and Security Policy and the Common Position should not be at variance; considers that it is up to the Member States and the High Representative for Foreign Affairs and Security Policy to ensure the coherence of the Common Position and foreign policy;

3. Emphasises the right of Member States to proceed in accordance with their national policies, while complying fully with international law and agreements, and commonly agreed rules and criteria, such compliance being controlled in accordance with national regulations;

4. Is of the opinion that the European Parliament, national parliaments or specific parliamentary bodies must ensure effective control of the application and enforcement of the Common Position's agreed standards at national and EU level and of the establishment of a transparent, accountable control system;

5. Is of the opinion that the language of the User's Guide should be more accurate and less subject to interpretation and that it should continue to be updated when needed;

6. Calls for the criteria of the Common Position to be better applied before new ones are suggested;

7. Recognises the coherent and consistent role played by EU Member States in support of the international process to establish binding rules governing the international arms trade; urges the EU and its Member States to focus their efforts on those countries which remain outside of international agreements;

8. Notes that COARM's annual reports have made Member States' arms exports more transparent; considers it regrettable, however, that data sets are incomplete and vary on account of individual Member States' differing data collection and submission procedures; reminds the Member States to make a full, annual submission of information on their arms transfers to COARM as agreed and laid down in the Common Position;

9. Calls for an analysis of how the Common Position is implemented in national systems; is of the opinion that COARM's capacity to analyse arms export control should be strengthened;

10. Takes the view that the Common Position should be complemented by a regularly updated, publicly accessible list providing information on the extent to which exports to particular recipient countries are, or are not, in line with the eight criteria;

11. Is of the opinion that an improved system allowing for regular, up-to-date exchanges of information between Member States on arms transfers to ex-embargo states should be set up;

12. Calls for an annual debate in Parliament, together with an annual report, on the implementation of the Common Position, so as to ensure the appropriate degree of parliamentary oversight and transparency at European level;

13. Welcomes the conclusion, under the auspices of the United Nations, of a legally binding Arms Trade Treaty (ATT) on international trade in conventional arms, creating an effective international arms control system through greater transparency and accountability, and establishing the highest international standards, thus making the irresponsible and illicit use of conventional arms ever more difficult; recognises the coherent and consistent role played by the EU and its Member States in support of the international process to establish binding rules governing the international arms trade;
14. Stresses the importance of effective, credible implementation of the ATT, and encourages the Member States to focus their international effort on moves towards universal sign-up and early entry into force;

15. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States and the Secretary-General of the United Nations.

P7_TA(2013)0325

Opening of negotiations on a plurilateral agreement on services

European Parliament resolution of 4 July 2013 on the opening of negotiations on a plurilateral agreement on services (2013/2583(RSP))

(2016/C 075/17)

The European Parliament,

— having regard to its previous report on services, in particular its resolution of 4 September 2008 on trade in services (1),

— having regard to its previous resolutions on the state of the Doha Development Agenda (DDA) and on the future of the World Trade Organisation (WTO), in particular its resolutions of 16 December 2009 on the prospects for the Doha Development Agenda following the Seventh WTO Ministerial Conference (2) and of 14 September 2011 on the state of play of the negotiations on the Doha Development Agenda (3),

— having regard to its resolution of 13 December 2011 on trade and investment barriers (4),

— having regard to Protocol No 26 to the Treaty on the Functioning of the European Union on services of general interest and to the Charter of Fundamental Rights,

— having regard to the General Agreement on Trade in Services (GATS) that entered into force on 1 January 1995; having regard to its resolution of 12 March 2003 on the General Agreement on Trade in Services (GATS) within the WTO, including cultural diversity (5),

— having regard to the draft negotiating directives for a plurilateral agreement on trade in services, submitted by the Commission on 15 February 2013,

— having regard to the Commission Communication entitled ‘Trade, Growth and World Affairs — Trade Policy as a core component of the EU’s 2020 strategy’ (6),

— having regard to the Commission report to the European Council entitled ‘Trade and Investment Barriers Report 2012’ (7),

— having regard to the report of 21 April 2011 by the Chairman of the WTO’s Council for Trade in Services, Ambassador Fernando de Mateo, to its Trade Negotiations Committee concerning the special session of negotiations on trade in services (8),

(3) OJ C 51 E, 22.2.2013, p. 84.
(8) TN(S)/36.
— having regard to the statement issued by the ‘Really Good Friends of Services’ (RGF) group on 5 July 2012,

— having regard to Rule 110(2) of its Rules of Procedure,

A. whereas services account for almost three quarters of the EU’s GDP and employment and are crucial to maintaining and enhancing its competitiveness;

B. whereas services accounted for 28% of the EU’s exports in 2011 and more than half of its foreign direct investment in third countries as of 2011;

C. whereas the EU plays an important role in trade in services as the biggest exporter of services worldwide, accounting for 25.65% of total world services exports as of 2011;

D. whereas all countries should be in a position to develop, maintain and regulate public services in the general interest;

E. whereas 129 WTO members have made commitments under the GATS, but whereas most of these countries have not made commitments in all sectors;

F. whereas the current economic and financial situation has highlighted more than ever the fundamental role of public services in the European Union; whereas in areas such as healthcare, childcare, care for the elderly, assistance to disabled persons and social housing, these services provide an essential safety net for citizens and help promote social cohesion; whereas public services in the field of education, training and employment services play a key role in the growth and jobs agenda;

G. whereas, at the time of the 6th WTO Ministerial Conference held in Hong Kong in 2005, barely 30 countries had tabled new services offers, and whereas multilateral negotiations on services have barely moved forward since July 2008;

H. whereas, in the wake of the economic crisis of 2008 and 2009, new protectionist measures have been introduced to restrict trade in services;

I. whereas preliminary talks over the format and architecture of a Trade In Services Agreement (TISA) took place in 2012 among the members of the RGF group;

J. whereas the 21 WTO members (1) negotiating with the EU are mostly OECD countries and represent 70% of global cross-border trade in services (excluding intra-EU trade in services) and 58% of EU trade in commercial services; whereas the parties to these negotiations do not so far include any BRICS countries, any Association of South-East Asian Nations (ASEAN) members or any African, Caribbean or Pacific countries;

K. whereas the Commission submitted draft negotiating directives to the Council on 15 February 2013 and received a mandate on 18 March 2013 to take part in the TISA negotiations;

1. Considers that the multilateral trading system, embodied by the WTO, remains the most effective framework for achieving open and fair trade worldwide; agrees, however, that, on account of the stalemate acknowledged during the 8th WTO Ministerial Conference in December 2011, new bilateral and plurilateral initiatives to give impetus to trade negotiations in Geneva were necessary; stresses, however, the necessity of all new initiatives remaining anchored in the framework of the WTO;

2. Regrets the fact that limited attention has been paid to trade in services since the beginning of the Doha Round; stresses that services represent the backbone of economies and trade in the 21st century, since the emergence of global value chains relies on the supply of services; emphasises the importance of services of general interest in providing essential safety nets for citizens and promoting social cohesion at the municipal, regional, state and EU level;

(1) Australia, Canada, Chile, China, Colombia, Costa Rica, Hong Kong, Israel, Japan, Korea, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Taiwan, Turkey and the United States.
3. Deplores the fact that the GATS schedules of the WTO’s membership have become outdated and do not reflect the actual level of barriers to trade in services in these countries, especially those which have undertaken substantial autonomous liberalisation, and the fact that the WTO’s membership still shows very disparate and unclear levels of liberalisation and of disciplines in their commitments regarding trade in services;

4. Welcomes the opening of negotiations on a TISA and the EU’s participation in these talks from the start in order to promote its interests and defend its views on the agreement’s format and architecture; believes that the EU’s participation can foster coherence between the TISA and the multilateral system and contribute to safeguarding appropriate parliamentary scrutiny of the negotiation process;

5. Regrets the fact that the Council granted a mandate without having taken Parliament’s view into consideration;

6. Reminds the Commission of its obligation to keep Parliament immediately and fully informed at all stages of the negotiations (before and after the negotiating rounds);

7. Calls on the Commission to ensure that the TISA negotiations are conducted in accordance with the WTO rules on transparency and communicated to the entire WTO membership in a timely and fully informative manner;

8. Believes that a critical mass has not been reached which would allow the benefits of this future TISA to be extended to the whole of the WTO’s membership, and consequently that the most-favoured nation clause of the GATS (1) should not apply to the TISA;

9. Notes with concern, however, that the negotiating parties do not include emerging markets (except Turkey), notably the BRICS, where the growth in trading and investment in services lies and where the barriers, in particular to foreign investment, are the most substantial; invites, therefore, China and other emerging economies to join in the negotiations;

10. Takes the view that keeping open the possibility for other countries, including emerging economies, to be part of these negotiations should not cause the level of ambition of this agreement to be lowered, since only a high degree of liberalisation and of convergence of disciplines could convince those countries to join in the negotiations;

11. Recommends that, in order to keep open the possibility of ‘multilateralising’ the future TISA, its design should follow the GATS format and architecture, including the concept of positive listing of commitments, and take up the fundamental definitions and principles set out in the GATS, along with its rules on national treatment, market access and disciplines;

12. Urges the Commission to formulate a starting offer close to its last GATS scheduling offer and to aim at the following goals when negotiating market access commitments:

— ensuring a more level playing field by reducing imbalances in GATS commitments across parties, sectors and modes;

— promoting an ambitious agenda for the EU’s offensive interests, in particular as regards business services, ICT services, financial and legal services, e-commerce, maritime and air transport services, environmental services, tourism and construction; defending the EU’s interests in third country markets while including in the TISA the GATS’ prudential carve-out allowing participating countries to undertake domestic regulation of financial markets and products for prudential purposes; calling for the GATS’ prudential carve-out for financial services to be included in the TISA so as to allow the parties to the agreement to take measures for prudential reasons, notwithstanding any other provisions of the TISA;

(1) Article II of the GATS.
— defending European sensitivities regarding public services and services of general interest (as defined in the EU Treaties), in the areas of public education, public health, water supply and waste management and by continuing, as is the case under the GATS and bilateral FTAs, not to make any commitments in relation to audiovisual services or cultural services;

— preventing commitments and rules regarding financial services that would contradict recent measures to regulate financial markets and products;

— taking a cautious approach to the offers exchanged in ‘Mode 4’, bearing in mind that the EU has offensive interests in high-skilled labour and that the EU should, above all, reassert under the TISA that the temporary movement of natural persons to supply a service under Mode 4 must comply with national labour and social rights and collective agreements, and that, as under the GATS, no Party shall be prevented from applying measures to regulate the entry of natural persons within its territory, provided that such measures do not nullify the benefits accruing from the commitments of the Parties;

— retaining neutrality as to the public or private nature of the ownership of the economic operators covered by commitments;

— ensuring that any liberalisation of data flows is wholly consistent with the acquis communautaire in relation to privacy and data protection;

13. Notes that the EU has already concluded, or is in the process of negotiating, bilateral trade agreements with some of the partners in the TISA negotiations (including Japan and soon the US), containing strong services chapters in which country-specific bilateral issues are better addressed; believes that, in terms of market access, the stakes for the EU in these negotiations lie with the other partners (e.g. Australia, New Zealand, Mexico, Taiwan and Turkey);

14. Stresses that the inclusion of the standstill and ratchet principles in the schedules should allow the parties’ commitments to be bound to current levels and to lead to further progressive opening;

15. Believes that the TISA should feature stronger regulatory disciplines for transparency, competition, licensing requirements and sector-specific regulations, notwithstanding the right for countries to adopt regulations which are duly justified on public policy grounds (1);

16. Considers it essential for the EU and its Member States to retain the possibility of preserving and developing their cultural and audiovisual policies, and to do so in the context of their existing laws, standards and agreements; welcomes, therefore, the exclusion by the Council of cultural and audiovisual services from the negotiating mandate;

17. Stresses that this negotiation represents an opportunity to improve the rules on public procurement (2) and subsidies (3) in services, on which the GATS negotiations have stalled;

18. Takes the view that the TISA should include an accession clause, provisions defining the conditions and procedures for ‘multilateralising’ the agreement to the whole of the WTO’s membership, and a specific dispute settlement mechanism, without prejudice to the possibility of recourse to the general WTO dispute settlement mechanism;

19. Notes that the EU’s negotiating mandate was proposed by the Commission and adopted by the Council without any impact assessment; insists that the Commission follow up on its intention to prepare a sustainability impact assessment and that it must do so in consultation with the relevant stakeholders as regards social, environmental and other concerns; demands that the Commission publish the sustainability impact assessment with a view to taking its conclusions into account in the negotiations;

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(1) Articles XIV and XIV bis of the GATS.
(2) Article XIII of the GATS.
(3) Article XV of the GATS.
20. Sees a two-year timeline for concluding such negotiations as very ambitious; emphasises that quality should prevail over time, and insists that the negotiations must be transparent and must provide the necessary room and time for informed public and parliamentary debate;

21. Instructs its President to forward this resolution to the Council and the Commission.

P7_TA(2013)0326

Increase in Norwegian duties on agricultural products

European Parliament resolution of 4 July 2013 on the increase in Norwegian duties on agricultural products (2013/2547(RSP))

(2016/C 075/18)

The European Parliament,

— having regard to Article 19 of the Agreement on the European Economic Area (EEA Agreement),

— having regard to the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area (the Bilateral Agreement) (1),

— having regard to its position of 13 September 2011 on the draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the Agreement on the European Economic Area (2),

— having regard to the letter of 9 March 2011 from the Minister of Trade and Industry of Norway to the Commissioner for Internal Market and Services, concerning the Single Market Act,

— having regard to the conclusions of the 38th meeting of the EEA Council of 26 November 2012,

— having regard to the question to the Commission on the ‘Significant increase in Norwegian duties on agricultural products’ (O-000048/2013 — B7-0210/2013),

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas according to Article 19 of the EEA Agreement, ‘The Contracting Parties undertake to continue their efforts with a view to achieving progressive liberalisation of agricultural trade’;

B. whereas the EEA Agreement provides the basis for Norway to enjoy equal access to the internal market and whereas the parties to the Agreement have found it to be mutually beneficial;

C. whereas, in general, economic and political relations between the EU and Norway are in an excellent state; whereas emerging differences between the partners should be addressed in the form of a dialogue;

D. whereas the Bilateral Agreement in force since January 2012 has renewed the preferential, reciprocal and mutually beneficial legal framework for trade preferences in agricultural products, including meat and dairy products;

(2) OJ C 51 E, 22.2.2013, p. 168.
E. whereas through that agreement the EU and the Kingdom of Norway have extended mutual liberalisation of trade in agricultural products by granting duty-free access, establishing tariff quotas and reducing import duties for a wide range of agricultural products;

F. whereas since 1 January 2013 European exporters of certain cheeses and of lamb and beef meat have faced ad valorem duties of 277%, 429% and 344%, respectively, in the Norwegian market; whereas this measure was preceded by the imposition of a new 72% import duty on hydrangea (hortensia) flowers;

G. whereas these measures, although permitted under the Norwegian World Trade Organisation schedule, go against the letter and the spirit of the Bilateral Agreement, in particular Article 10 thereof, which states that 'The Parties will take steps to ensure that the benefits which they grant each other will not be jeopardised by other restrictive import measures';

H. whereas economic growth, employment and inflation indicators show no sign of any negative impact of the global economic or financial crisis on the Norwegian economy;

1. Deplores the recent measures imposed by the Norwegian Government, which it regards as protectionist and prohibitive to trade, and as clearly breaching the letter and the spirit of the Bilateral Agreement;

2. Stresses that these measures were proposed by the Norwegian Government without any prior consultation with its EU counterparts, as would have been appropriate in the context of the strong bilateral relations existing between the EU and Norway;

3. Questions the economic logic behind these measures, which could have trade-reducing effects, harming all the parties involved and especially Norwegian consumers, and in the long run Norwegian farmers as well; calls on the Commission to assess the potential negative effects of the increased tariffs on EU exporters and farmers;

4. Urges the Norwegian Government and Parliament to withdraw the measures;

5. Calls on the Norwegian Government and on the Commission to take note of Iceland’s recent ambitious steps to liberalise its agricultural trade with the Union; urges the Norwegian Government to follow its example;

6. Calls on the Norwegian Government to accept a review of Protocol 3 to the EEA Agreement, concerning trade in processed agricultural products, in order to assess whether the duties on the aforementioned products are deemed to be fair and justified;

7. Calls on the Commission to continue negotiations with the Norwegian authorities in order to work for a mutually satisfactory solution in relation to imports/export of agricultural products;

8. Asks the Commission to specify the measures it intends to take in the eventuality that Norway refuses to reverse its decision, in particular with a view to protecting jobs and output in the Union's agricultural sector, should the need arise;

9. Calls on the Commission to take into consideration the possibility of proposing further action in the event of a lack of cooperation, with the aim of having the measures withdrawn;

10. Recalls the express commitment made by Norway to the internal market, in particular in the context of recent initiatives such as the Single Market Act I and II; points out that the Norwegian Government has itself recognised that an efficient single market is a foundation for future growth and job creation and that the current crisis should not be used as an excuse for turning to protectionist and trade-distorting measures;

11. Expresses its hope that Norway will remain an integral part of the internal market and not resort to further disintegrative unilateral measures;
Completing the digital single market

European Parliament resolution of 4 July 2013 on completing the digital single market (2013/2655(RSP))

(2016/C 075/19)

The European Parliament,

— having regard to Articles 3(3) and 6 of the Treaty on European Union,

— having regard to Articles 9, 12, 14, 26, 114(3) and 169(1) of the Treaty on the Functioning of the European Union,


— having regard to the Commission's Internal Market Scoreboard 26 of 18 February 2013,


— having regard to the Commission communication of 18 December 2012 ‘On Content in the Digital Single Market’ (COM(2012)0789),


— having regard to its resolution of 11 December 2012 on completing the Digital Single Market (1),

— having regard to its resolutions of 6 April 2011 on a Single Market for Europeans (2), on a Single Market for Enterprises and Growth (3) and on Governance and Partnership in the Single Market (4),

— having regard to the Commission communication of 27 October 2010 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled ‘Towards a Single Market Act: For a highly competitive social market economy — 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),

(2) OJ C 296 E, 2.10.2012, p. 59.
(3) OJ C 296 E, 2.10.2012, p. 70.
— having regard to the Commission communication of 3 October 2012 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'Single Market Act II' (COM(2012)0573),

— having regard to the Commission communication of 13 April 2011 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'Single Market Act: Twelve levers to boost growth and strengthen confidence' (COM(2011)0206),


— having regard to its resolution of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers (1),

— having regard to the Commission communication of 22 May 2012 to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'A European Consumer Agenda: Boosting confidence and growth' (COM(2012)0225),

— having regard to the Commission communication of 2 May 2012 entitled 'European Strategy for a Better Internet for Children' (COM(2012)0196),

— having regard to the Commission communication of 20 April 2012 entitled 'A strategy for e-procurement' (COM(2012)0179),

— having regard to the Commission proposal of 25 January 2012 for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM(2012)0011),

— having regard to the Commission Green Paper of 29 November 2012 entitled 'An integrated parcel delivery market for the growth of e-commerce in the EU' (COM(2012)0698),

— having regard to the Commission communication of 11 January 2012 entitled 'A coherent framework for building trust in the Digital Single Market for e-commerce and online services' (COM(2011)0942),

— having regard to its resolution of 15 November 2011 on a new strategy for consumer policy (2),


— having regard to its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (4),

— having regard to the Commission proposal of 7 February 2013 for a directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union (COM(2013)0048),

(2) OJ C 153 E, 31.5.2013, p. 25.
(3) OJ L 304, 22.11.2011, p. 64.
(4) OJ C 131 E, 8.5.2013, p. 9.

— having regard to the Commission communication of 27 September 2012 entitled ‘Unleashing the Potential of Cloud Computing in Europe’ (COM(2012)0529),


— having regard to its resolution of 15 December 2010 on the impact of advertising on consumer behaviour (1),

— having regard to its resolution of 21 September 2010 on completing the internal market for e-commerce (2),


— having regard to the European Court of Justice judgments on Google (Joined Cases C-236/08 to C-238/08, judgment of 23 March 2010) and BergSpecht (Case C-278/08, judgment of 25 March 2010), which define the notion of the ‘normally informed and reasonably attentive internet user’ as being the standard internet consumer,

— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (4),


— having regard to the Monti report of 9 May 2010 on a new strategy for the single market,

— having regard to the analytical report entitled ‘Attitudes towards cross-border sales and consumer protection’, published by the Commission in March 2010 (Flash Eurobarometer No 282),

— having regard to the ‘Mystery Shopping Evaluation of Cross-Border E-Commerce in the EU’, a study conducted on behalf of the Commission’s DG SANCO by YouGovPsychonomics and published on 20 October 2009,

— having regard to the Commission communication of 2 July 2009 on the enforcement of the consumer acquis (COM(2009)0330),


having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (1),

having regard to Rule 110(2) of its Rules of Procedure,

A. whereas unlocking the full potential of the digital single market is crucial to making the EU a more competitive and dynamic knowledge-based economy, to the benefit of both its citizens and its businesses; whereas the EU must act now to retain its global competitive edge, in particular in relation to high-growth sectors such as the internet platform and software application industry;

B. whereas ubiquitous connectivity, relying on unhindered access to high-speed broadband internet networks, universal and equal access to internet services for all citizens and the availability of spectrum for wireless broadband services, is a vital prerequisite for the development of the digital single market; whereas new technological developments, such as mobile devices and applications and new generations of mobile standards, require reliable and fast infrastructure networks in order to deliver their benefits to citizens and businesses;

C. whereas ‘big data’ applications are of increasing importance to the competitiveness of the Union’s economy, with expected global revenues of EUR 16 billion and the expected creation of an additional 4.4 million jobs globally by 2016;

D. whereas cloud computing has major economic, social and cultural potential in terms of cost saving, content-and information-sharing, enhanced competitiveness, access to information, innovation and job creation; whereas in this context the creation of seamless e-government services, accessible through multiple devices, is of particular importance;

E. whereas the EU economy is undergoing significant structural change, impacting its global competitiveness and its labour markets; whereas the Annual Growth Survey 2013 calls for resolute action to step up job creation; whereas dynamic and inclusive labour markets are essential for the recovery and competitiveness of the EU economy;

F. whereas social media, user-generated content, the remix culture and user collaboration are playing an increasingly important role in the digital economy; whereas consumers are increasingly willing to pay for high-quality professional digital content, provided that it is affordable, accessible through multiple devices and portable across borders;

G. whereas access to content at affordable prices, through secured and reliable payment facilities, should increase consumer confidence when accessing cross-border services;

H. whereas 99 % of all EU businesses are small or medium-sized enterprises (SMEs), which account for 85 % of EU employment; whereas SMEs are therefore the driving force in the EU economy, with prime responsibility for wealth creation, employment and growth, as well as innovation and R&D;

I. whereas EU citizens have a crucial role to play as consumers in achieving the Europe 2020 goals of smart, inclusive and sustainable growth, and whereas the role of consumers should therefore be recognised as part of the EU’s economic policy; whereas it is necessary to strike the right balance, boosting the competitiveness of the Union’s businesses while at the same time protecting consumers’ interests;

J. whereas fragmentation of the digital single market jeopardises consumer choice; whereas it is necessary to boost consumers’ confidence, trust in the market and knowledge of their rights, with a special focus on other consumers in situations of vulnerability; whereas it is essential to offer consumers in the Union better protection vis-à-vis products and services which may endanger their health or safety;

K. whereas the Commission’s EU-wide screening of websites selling digital content such as games, videos or music downloads shows that over 75% of these websites do not appear to comply with consumer protection rules; whereas the Consumer Rights Directive (2011/83/EU) lays down, for the first time, specific rules for digital content; whereas the Commission should be encouraged to continue integrating such rules when revising existing EU consumer legislation or proposing new legislation in this area;

L. whereas 15% of the EU’s working-age population (80 million people) have functional limitations or disabilities; whereas the number of websites providing e-government services and the number of public-sector websites are growing rapidly; whereas the EU market for web-accessibility-related products and services is estimated at EUR 2 billion; whereas this market still remains largely fragmented and undeveloped, to the detriment not only of potential consumers, but also of the overall economy;

M. whereas consumers are not a homogeneous group, as they display considerable differences in terms of digital literacy, awareness of consumer rights, assertiveness and willingness to seek redress; whereas non-discrimination and accessibility also need to be taken into consideration in order to overcome the digital divide;

**Tapping the full potential of the digital single market**

1. Stresses that unleashing the single market through the Services Directive and a digital single market could add EUR 800 billion (1) to the EU economy, which is the equivalent of almost EUR 4 200 per household (2); calls on the Member States and the Commission to commit to the development of the digital single market as an overarching political priority and to come forward with a holistic approach and an ambitious strategy encompassing both legislative and political initiatives in order to take into account new and upcoming developments, making the digital single market a reality on the ground; stresses that this will require political leadership, decisiveness, priority-setting and public funding at EU, national and regional level; emphasises in particular that strong leadership on the part of all Union institutions and clear political ownership on the part of the Member States is required in order fully and effectively to implement and enforce directives and regulations relating to the single market;

2. Calls on the Commission to address existing barriers to the digital single market as a matter of urgency, including by simplifying the legal framework for VAT, ensuring access to secure pan-European e-payment, e-invoicing and delivery services, and reviewing intellectual property rights in order to foster access to legal digital content across the EU; stresses the importance of establishing equal rules for the free movement of goods and services, both physically and digitally;

3. Calls on the Commission and the Member States to strengthen the governance of the digital single market, ensuring net neutrality and the efficient and smart use of ICT with a view to reducing the administrative burden on citizens and businesses; calls on the Commission to strengthen existing governance tools and to come forward with a coherent approach to promoting their use, including the Internal Market Information System (IMI), Solvit, Your Europe and the Points of Single Contact (PSCs) set up under the Services Directive;

4. Emphasises the importance of the European cloud computing strategy, given its potential for EU competitiveness, growth and job creation; stresses that cloud computing, since it involves minimal entry costs and low infrastructure requirements, represents an opportunity for the EU’s IT industry, and especially for SMEs, to take the lead in areas such as outsourcing, new digital services and data centres;

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(2) UK Department for Business Innovation and Skills, Economics Paper No 11: ‘The economic consequences for the UK and the EU of completing the Single Market’, February 2011, and Eurostat data on EU GDP for 2010 and the number of households in the EU.
5. Recognises that ‘big data’ and knowledge are the fuel of the EU’s future economy; welcomes the proposed data protection package as a way to increase trust and transparency; stresses the need to bear in mind the challenges resulting from globalisation and the use of new technologies, and the importance of ensuring that a modernised EU data protection regime strengthens citizens’ rights, making the EU the forerunner and trend-setter in the field of data protection, enhancing the internal market and creating a level playing field for all businesses active in the EU;

6. Stresses the need to encourage new, high-quality e-government services by adopting innovative technological solutions such as e-procurement, thereby facilitating the seamless delivery of information and services; emphasises the importance of the draft regulation proposed by the Commission on electronic identification and electronic trust services, given its contribution to the digital single market through the creation of appropriate conditions for the mutual recognition of, and a high level of security for, key enablers across borders, for example through electronic identification, electronic documents, electronic signatures and electronic delivery services, and for interoperable e-government services across the Union;

7. Considers that additional efforts are needed as regards the reuse of public-sector information and the promotion of e-government;

8. Stresses the importance of fostering innovation and investing in e-skills; highlights the vital role of SMEs in overcoming unemployment, in particular youth unemployment; calls for better access to finance through funding programmes such as Horizon 2020 and COSME and for the development of new investment vehicles and guarantees; notes, in particular, that the EU needs to regain its global leadership role in the fields of mobile technology and smart devices;

9. Stresses the need to encourage large-scale investments in fixed and mobile networks in order to put the EU at the forefront of global technological development, allowing its citizens and businesses to benefit fully from the opportunities offered by the digital revolution;

10. Deeply regrets the fact that many Member States have failed to meet the deadline of 1 January 2013 for allocating the ‘digital dividend’ spectrum in the 800 MHz band to mobile broadband services, as stipulated by the Radio Spectrum Policy Programme; stresses that this delay has hampered the rollout of 4G networks in the EU; calls, therefore, on the Member States to take the necessary steps to ensure that the 800 MHz band becomes available for mobile broadband services, and on the Commission to use its full powers to ensure swift implementation;

11. Welcomes the Commission’s intention to come forward with a new telecoms package in order to address market fragmentation in the telecoms market, including measures to eliminate roaming tariffs in the near future: stresses the need to take a proactive approach to roaming charges in order to create a true digital single market that also encompasses the use of mobile devices;

**Investing in human capital — addressing the skills gap**

12. Notes with concern that the employment rate in the EU is falling; calls for a renewed focus on job creation policies in areas with high growth potential, such as the green economy, health services and the ICT sector; believes that the creation of a digital single market can help overcome any discrepancies between Member States and regions in terms of employment, social inclusion and combating poverty;

13. Stresses that the digital single market should help people to remain active and healthy at work as they age, while improving work-life balance; emphasises that ICT tools can also ensure sustainable, successful healthcare systems;

14. Acknowledges that the European labour market is radically changing and that new skills will be needed for tomorrow’s jobs; calls on the Member States to make the necessary investments in human capital and sustainable job creation, inter alia by making good use of EU funds, such as the European Social Fund; calls on the Commission and the Member States to prioritise digital literacy and e-skills in the ‘New Skills for New Jobs’ flagship initiative;
15. Stresses the need to improve media and digital literacy skills, in particular among children and minors, in order to achieve a true digital single market and to realise the growth potential of this dynamic sector; notes in particular the importance of addressing the expected gap in the supply of ICT professionals; welcomes the ‘Grand Coalition for Digital Jobs’ and highlights the importance of matching ICT training to business requirements.

16. Stresses the need to further activate the use of the European Job Mobility Portal (EURES); supports the use of EURES by the Member States, both as a means of giving advice to workers and job-seekers on their right to free movement and as an employment instrument with a special focus on placement and the needs of employers, in order to contribute effectively to recovery and long-term growth.

**Trust, security and consumer confidence**

17. Welcomes the adoption of the Code of EU Online Rights; calls on the Commission and the Member States to disseminate this code widely so that it achieves the desired effect;

18. Stresses that the increasingly rapid development of e-commerce is of major importance as far as consumers are concerned, offering a wider choice, especially to those living in less accessible, remote areas and to those with reduced mobility, who would otherwise not have access to a wide range of goods and services;

19. Stresses the importance of ensuring full access to the digital single market for consumers, irrespective of their place of residence or nationality; calls on the Commission to take measures to combat the unequal treatment of consumers in the single market arising from current cross-border restrictions applied by companies involved in distance selling;

20. Points out that consumer confidence is essential for both domestic and cross-border e-commerce; emphasises the need to ensure the quality, safety, traceability and authenticity of products, to avert criminal or unfair practices, and to comply with the rules on personal data protection;

21. Stresses the role of the digital single market in creating a safe and well-functioning single market for goods and services; highlights, in this connection, the importance of promoting effective and coordinated risk management systems in the context of the General Product Safety and Market Surveillance proposals;

22. Emphasises the importance of early implementation of the provisions of the Online Dispute Resolution Directive, so that consumers have easy access to effective problem resolution online; calls on the Commission to ensure that adequate financing of the Online Dispute Resolution platform is guaranteed;

23. Highlights the importance of trustmarks for the effective functioning of the digital single market, for both businesses and consumers; calls for the adoption of a European services standard for trustmarks — based on high-level quality standards — to help consolidate the EU market for them;

24. Calls on the Commission to adopt EU guidelines on minimum standards for comparison websites, structured around the core principles of transparency, impartiality, quality information, effective redress, comprehensiveness and user-friendliness; suggests accompanying such guidelines with an EU-wide accreditation scheme as well as effective supervision and enforcement measures;

25. Expects the Commission, in its revision of the Package Travel Directive, fully to examine the impact of e-commerce and digital markets on consumer behaviour within the EU tourism industry, and to step up its efforts to improve the quality, content and reliability of information provided to tourists;

26. Stresses that passengers must be able to differentiate clearly, in the context of computerised reservation systems, between non-optional operational costs included in fares and bookable optional items, with a view to making prices more transparent when passengers are booking tickets on the internet;
27. Calls on the Commission to monitor closely, and use all its powers to guarantee, the correct implementation and application of key provisions of the Unfair Commercial Practices Directive as regards modernised rules for combating unfair commercial practices, including online, in particular the potential abuse of market power in areas such as behavioural advertising, personalised pricing policies and internet search services; welcomes the Commission communication entitled ‘Protecting businesses against misleading marketing practices and ensuring effective enforcement: Review of Directive 2006/114/EC concerning misleading and comparative advertising’ (COM(2012)0702);

28. Urges the Commission to address unfair terms in air transport contracts, to ensure closer monitoring of websites and to notify national enforcement bodies of instances of misapplication of the existing rules;

29. Calls on the Commission to develop standardised electronic forms for the submission of passenger complaints relating to all transport modes and to promote guidelines for the prompt settlement of such complaints through simplified procedures;

30. Stresses the need to work towards trustworthy cloud services; calls for the adoption of clear and transparent model contracts covering issues such as data preservation following termination of contract, data disclosure and integrity, data location and transfer, ownership of data and direct/indirect liability;

31. Points to the multitude of legal issues and challenges raised by the use of cloud computing, such as difficulties in determining the applicable law, compliance and liability issues, data protection safeguards (including the right to privacy), data portability and the enforcement of copyright and other intellectual property rights; considers it essential that the consequences of cloud computing are clear and foreseeable in all relevant areas of the law;

32. Stresses the crucial importance of enforcing consumer rights in online transactions; notes that EU sweeps coordinated by the Commission and executed simultaneously by the relevant national authorities have proved to be a useful tool for monitoring the application of existing single market legislation in the Member States through joint action, and encourages the Commission to offer more extensive use of EU sweeps and to consider coordinating such action in other, offline areas as well; calls on the Commission to strengthen the Consumer Protection Cooperation Network;

33. Points out that accessible, affordable and high-quality delivery services are an essential element in the online purchasing of goods and are best promoted by means of free and fair competition; notes, however, that many consumers are reluctant to buy online, especially cross-border, because of uncertainties relating to final delivery, costs or reliability; welcomes, therefore, the public consultation launched by the Commission with a view to identifying possible shortcomings and taking appropriate action to address them in a way that will allow both businesses and consumers to benefit fully from the digital single market;

34. Calls on the Commission to come forward with a revised proposal for the Payment Services Directive and a legislative proposal on multilateral interchange fees in order to work towards standardisation and interoperability in the provision of card, internet and mobile payments in the EU and to address the problem of non-transparent and excessive payment-related charges;

35. Stresses that a high level of network and information security is essential in order to guarantee the functioning of the single market and consumer confidence in the digital single market; notes the uneven development of cyber skills and capacity to respond to threats and attacks, as well as the lack of a harmonised approach to cyber security within the Union; calls for concerted efforts and closer cooperation, given the global nature of the internet and the high level of interconnection of network and information systems across the Union;

36. Stresses that the accessibility of public sector bodies’ websites is an important part of the Digital Agenda, which both serves non-discrimination and creates business opportunities; calls on the Commission to adopt a more ambitious approach in the ongoing negotiations on the subject and finally to come forward with an outstanding legislative initiative in the form of a European Accessibility Act that would go beyond the public sector;
Creating a favourable business environment

37. Stresses the importance of creating a favourable overall digital business environment; notes the need to simplify the legal framework for VAT and avoid double taxation; calls on the Member States to implement swiftly the mini one-stop shops for telecommunications, television broadcasting and electronic services by 2015; asks the Commission to broaden the scope of the one-stop shops to other goods and services as soon as possible;

38. Calls on the Commission to clarify the application of Article 20(2) of the Services Directive, which deals with discrimination against EU consumers on the grounds of place of residence or nationality, and in particular the types of business practice that would be considered to constitute unjustified discrimination under the directive; stresses the need to address the underlying barriers — including continued legal fragmentation and the resultant legal uncertainty in the context of the applicability of consumer rights legislation — preventing businesses from expanding within the digital single market;

39. Considers the proposed Common European Sales Law to be an innovative initiative of key importance to consumers and businesses in the internal market; believes that a single optional set of EU-wide rules would be of particular benefit to the rapidly growing internet sector; takes the view that the proposal also has interesting potential as regards cloud computing and digital content;

40. Invites the Commission to continue working towards adapting the contract-law framework to the new challenges presented by the digital single market; considers in particular that accompanying work on EU-wide standard contract terms, available off-the-shelf to businesses and consumers, is crucial in this area;

41. Calls on the Commission carefully to monitor the state of competition in the digital single market and to address any abuses of dominant position swiftly; highlights, in particular, the need to monitor the correct application of the guidelines on selective distribution agreements and to ensure that they continue to be fit for purpose in the digital context;

42. Calls on the Commission to promote access to risk capital and to ICT clusters in order to push forward innovative pre-commercial projects and to nurture early-stage innovation in ICT markets; stresses the potential of public-private partnerships and of the forthcoming new public procurement rules on establishing innovation partnerships; encourages the early adoption of online public procurement tools as a means of taking advantage of the forthcoming public procurement reforms;

43. Stresses the importance of net neutrality and of the unhindered market entrance of EU SMEs in the ICT sector; calls on the Commission to take all the necessary steps to improve this situation; calls on the Commission to come forward with a legislative proposal as soon as possible in order further to reduce mobile roaming charges within the EU;

Attractive legal offers of digital content

44. Encourages the Commission to continue its efforts in the area of intellectual property law, with a view to creating a modern copyright framework for the digital single market; calls on the Commission to take the necessary measures to encourage the development of legal content which is accessible across the digital single market; stresses that a revised intellectual property rights (IPR) regime should be based on encouraging innovation, new service models and user-generated and collaborative content in order to foster the development of a competitive EU ICT market, while ensuring that rights-holders are protected and properly compensated;

45. Notes that the Union has already made some progress in reducing the impact of copyright territoriality, in particular through the Commission's proposal for a directive on collective rights management and multi-territorial licensing in the online music sector, which is currently under consideration by the legislator; believes that more transparency, better governance and greater accountability of collective rights management societies is needed; considers that the proposed directive would encourage multi-territorial licensing of rights and facilitate the licensing of rights for online use;
46. Stresses that all relevant segments of society should be included in the Commission’s ongoing ‘Licences for Europe’ dialogue and the review of the IPR legal framework; calls on the Commission to take all the necessary steps to ensure that civil society and consumer rights organisations are adequately represented; calls on the Commission to come forward with an ambitious strategic response in 2014, encompassing both practical market solutions and political and, where required, legislative responses; asks the Commission to keep Parliament informed of the outcome of this process.

47. Calls on the Commission to come forward with measures to boost the cross-border circulation and portability of audiovisual content, including on ‘video on demand’ platforms; calls on the Commission and the Member States to come forward with measures in support of the EU audiovisual industry in order to overcome current obstacles to the digital single market in that sector; believes that such measures should aim to create more consumer demand for non-national European films, facilitate cross-border distribution, including through support for the subtitling and dubbing of audiovisual works, and reduce related transaction costs linked to rights management.

48. Considers it necessary to make cultural and creative content services, in particular audiovisual works and new cross-border content delivery platforms, more accessible across the Union, particularly to the elderly and people with disabilities, in order to foster participation in the social and cultural life of the Union.

49. Highlights the importance of EU and other services or platforms in fostering the digitisation of, and online access to, the Union’s cultural heritage and content.

50. Welcomes the growth of the e-book market in Europe and believes that it can bring important benefits to consumers and businesses alike; stresses that it is important to ensure that consumers do not come up against any barriers when wishing to acquire e-books across territorial borders, platforms and devices; stresses that it is important to ensure interoperability between different e-book devices and systems.

51. Calls on the Commission to come forward with a proposal to align VAT rates applicable to goods and services of a similar nature; calls, in the light of the shift in 2015 to the principle of ‘the country of residence of the consumer’, for an EU-level dynamic definition of ‘e-books’ in order to ensure legal certainty.

52. Calls on the Commission to come forward with a proposal to ensure that VAT rates are applied equitably to creative, cultural, scientific and educational content, regardless of the means of user access; believes that the reduced VAT rates which exist for content distributed in physical form should also apply to the digital equivalent, thus boosting the attractiveness of digital platforms and stimulating innovative content services and new ways for users to access content online.

53. Welcomes the Commission’s intention to come forward with a concrete proposal to clarify, provide a clear interpretation of, and offer guidance on, the functioning of notice and action procedures.

**Towards smart and interoperable mobility services in the EU**

54. Calls for the further deployment of smart mobility systems developed through EU-funded research, such as the air traffic management system of the future (SESAR), the European rail traffic management system (ERTMS) and rail information systems, maritime surveillance systems (SafeSeaNet), River Information Services (RIS), intelligent transport systems (ITS) and interoperable interconnected solutions for the next generation of multimodal traffic management systems.

55. Stresses that information technology tools should be widely deployed within the TEN-T network to simplify administrative procedures, provide for cargo tracking and tracing, and optimise schedules and traffic flows.

**The international dimension of the digital single market**

56. Considers that greater global cooperation is needed in order to uphold and modernise intellectual property rights in the future, this being vital to innovation, employment and open world trade.
Welcomes the Commission’s recent initiatives, but underlines the need to complete the regulatory framework for the enforcement of copyright in the digital environment, which must be tailored to present requirements, so that agreements can be reached with our trading partners on the basis of modern European legislation;

Notes that e-commerce has developed outside of traditional and standard trade regulatory frameworks; stresses the importance of increased international cooperation within the World Trade Organisation (WTO) and the World Intellectual Property Organisation (WIPO) in order to protect and ensure the development of the global digital market; calls for the revision and updating of the current Information Technology Agreement (ITA) within the WTO, and for the EU to explore the possibility of an International Digital Economy Agreement (IDEA);

Considers that the restriction of EU businesses’ access to digital markets and online consumers through, among other things, mass state censorship or restricted market access for European online service providers in third countries constitutes a trade barrier; calls on the Commission and the Council to include a safeguard mechanism in all future trade agreements, especially those which contain provisions affecting online services and online communities of users who share information, in order to ensure that EU ICT companies are not required by third parties to restrict website access, remove user-generated content or provide personal information, such as personal IP addresses, in ways that contravene fundamental rights and freedoms; calls, additionally, on the Council and the Commission to develop a strategy for challenging measures by third countries which restrict EU companies’ access to global online markets;

Instructs its President to forward this resolution to the Council and the Commission.


— having regard to the Commission communication entitled ‘Solidarity in health: reducing health inequalities in the EU’ (COM(2009)0567),


— having regard to the Commission communication entitled ‘European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe’ (COM(2010)0636),

— having regard to the Commission communication entitled ‘The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion’ (COM(2010)0758),

— having regard to the Commission communication entitled ‘An EU Framework for National Roma Integration Strategies up to 2020’ (COM(2011)0173),

— having regard to the Commission communication entitled ‘Taking forward the Strategic Implementation Plan of the European Innovation Partnership on Active and Healthy Ageing’ (COM(2012)0083),

— having regard to the Commission report entitled ‘Employment and Social Developments in Europe 2012’,

— having regard to its resolution of 9 October 2008 on promoting social inclusion and combating poverty, including child poverty, in the EU (3),

— having regard to its resolution of 6 May 2009 on the active inclusion of people excluded from the labour market (4),

— having regard to its resolution of 19 February 2009 on Social Economy (5),

— having regard to its resolution of 16 June 2010 on EU 2020 (6),

— having regard to its resolution of 17 June 2010 on gender aspects of the economic downturn and financial crisis (7),

— having regard to its resolution of 6 July 2010 on promoting youth access to the labour market, strengthening trainee, internship and apprenticeship status (8),

— having regard to its resolution of 20 October 2010 on the financial, economic and social crisis: recommendations concerning measures and initiatives to be taken (mid-term report) (9),

(3) OJ C 9 E, 15.3.2010, p. 11.
(5) OJ C 76 E, 25.3.2013, p. 16.
(7) OJ C 236 E, 12.8.2011, p. 79.
(9) OJ C 70 E, 8.3.2012, p. 19.
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— having regard to its resolution of 7 July 2011 on the Scheme for food distribution to the most deprived persons in the Union (1),

— having regard to its resolution of 9 March 2011 on Roma inclusion (2),

— having regard to its resolution of 8 March 2011 on reducing health inequalities in the EU (3),

— having regard to its resolution of 14 September 2011 on an EU Homelessness Strategy (4),

— having regard to its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (5),

— having regard to its resolution of 7 February 2013 on the European Semester for economic policy coordination: employment and social aspects in the Annual Growth Survey 2013 (6),

— having regard to its declarations of 22 April 2008 on ending street homelessness (7) and of 16 December 2010 on an EU homelessness strategy (8),

— having regard to the reports of 2011 of the European Union Fundamental Rights Agency, ‘Migrants in an irregular situation: access to healthcare in 10 European Union Member States (9)’ and ‘Fundamental rights of migrants in an irregular situation in the European Union’;

— having regard to the third report of the Social Protection Committee of March 2012 entitled ‘The social impact of the economic crisis and ongoing fiscal consolidation’,

— having regard to the report of Doctors of the World entitled ‘Access to health care for vulnerable groups in the European Union in 2012’;

— having regard to the Eurofound report ‘Third European Quality of Life Survey — Quality of life in Europe: Impacts of the crisis’ (10),

— having regard to the Eurofound report ‘Household debt advisory services in the European Union’ (11),

— having regard to the Eurofound report ‘Living conditions of the Roma: Substandard housing and health’ (12),

— having regard to the Eurofound report ‘Active inclusion of young people with disabilities or health problems’ (13),

— having regard to the OECD report entitled ‘Health at a glance — Europe 2012’;

(1) OJ C 33 E, 5.2.2013, p. 188.
(2) OJ C 199 E, 7.7.2012, p. 112.
(5) OJ C 131 E, 8.5.2013, p. 9.
— having regard to the ILO publication ‘Social security for all — Addressing inequities in access to health care for vulnerable groups in countries of Europe and Central Asia’,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Women’s Rights and Gender Equality (A7-0221/2013),

A. whereas all human beings are born free, with equal dignity and rights, and it is the responsibility of the Member States to promote and guarantee these rights through their constitutions and public health systems; whereas gender inequalities in access to health care and in health outcomes exist throughout the EU;

B. whereas the fundamental values of the EU should be respected even in a crisis situation and access to care, healthcare and social assistance should be seen as a basic right for all in the EU; whereas on the contrary, health, care and social services have been cut in the majority of Member States as a consequence of the implementation of austerity policies, thus undermining universal access and the quality of services;

C. whereas healthcare systems across the EU face significant challenges, including persisting eurozone sovereign debt crises resulting in pressure on public finances, an ageing population, the changing nature of health services and rising health costs, all of which clearly indicates the urgent need for reform;

D. whereas the EU has the world’s most advanced social protection system, with the highest contributions for social benefits for citizens; stresses that maintaining and further developing the European social model must be a political priority;

E. whereas the World Health Organisation has stated in the Tallinn Charter that health is a key factor contributing to economic development and wealth;

F. whereas the inequality gap is growing in a number of Member States as the poorest and most deprived in those states become even poorer; whereas in 2011 some 24,2 % of the EU’s population were at risk of poverty or exclusion; whereas, furthermore, self-reported health among low-income earners has worsened, with an increasingly large health gap as compared to the 25 % of the population with the highest income;

G. whereas long-term unemployment rates are rising, leaving many citizens without insurance cover and thereby restricting their access to health services;

H. whereas the most vulnerable groups are being hit disproportionately in the current crisis as they suffer the double impact of income loss and reduced care services;

I. whereas the ‘chronic poor’, often long-term unemployed or employed on low salaries, single people living alone with children who are not in employment or who are working few hours, and older people in central and eastern Europe are consistently identified as among the most vulnerable groups;

J. whereas the most recent studies confirm the emergence of a new group of vulnerable people, who were previously relatively well-off, but are now in need because of levels of personal debt: people in ‘new to need’ group may not be able to make ends meet, and start to default on bills and payments related to debts or are no longer able to pay for necessary care services, and fear having to leave their accommodation;

K. whereas an important role is played by public services — publicly owned and managed, with democratic involvement of their users — in areas essential to welfare, including health, education, justice, water, housing, transport, and care of children and the elderly;

L. whereas the fragmentation of healthcare systems may lead to the situation where many patients do not receive medically necessary care while others receive care that may be unnecessary or even harmful;
M. whereas the crisis has increased the risk of long-term exclusion from the labour market, particularly for young people, who are the most vulnerable to its consequences regarding future labour participation and earnings;

N. whereas more and more people in the EU are working beyond the statutory retirement age, partly because of financial need, with other sources of post-retirement household income having come under pressure;

O. whereas the costs of services to service users are rising in some Member States, which means that many people are no longer able to afford an adequate level of service to meet their defined needs, resulting in a loss of independence, additional stress in their domestic or employment circumstances, or potentially damaging effects on their health leading to their social exclusion;

P. whereas healthcare systems may (unintentionally) create barriers in access to healthcare or provide healthcare of different quality to people who share more than one protected trait, such as sex, age or membership of a minority group;

Q. whereas some social security systems being altered in order to remove or limit access to healthcare for certain groups and to reimbursements for certain treatments and medications (1), creating additional risks for personal and public health, as well as for the long-term sustainability of those systems;

R. whereas it is estimated that most care in the EU is currently being provided by informal, unpaid carers; whereas this enormous resource is under threat, owing to a number of demographic developments and the increasing care burden;

S. whereas the right to a range of in-home, residential and other community support services, including personal assistance, is enshrined in Articles 19 and 26 of the UN Convention on the Rights of Persons with Disabilities;

T. whereas the reasons for placing children in alternative care arrangements are complex and multidimensional, but often appear as directly or indirectly related to poverty and social exclusion;

U. whereas a lack of accurate and accessible information can contribute to vulnerable groups being unable to access the necessary care to which they are entitled;

V. whereas reports point to increasing difficulties being encountered by some EU nationals and others with legal entitlement in accessing their right to care in a crossborder situation;

W. whereas problems of medical demography (low levels of care provision in certain geographical areas) in a number of Member States make it harder for vulnerable groups to access care;

X. whereas reports of growing social division and aggression resulting in verbal and physical attacks against minorities and vulnerable people are increasing; whereas such incidents should be reported in detail;

Y. whereas in some Member States regression in policy with regard to people with disabilities, learning difficulties or psychiatric illness is leading to a move away from an inclusion rights-based approach aiming at full inclusion in the community towards the more institutional and segregating approach of the past;

Z. stresses the high employment potential of the health and social care sector across the EU;

(1) See, for example, Article 5 of Spanish Royal Decree No 16/2012 of 20 April 2012, which entered into force on 28 December 2012. Available at: http://noticias.juridicas.com/base_datos/Admin/rdl16-2012.html#a5.
whereas many jobs in the healthcare and care sector in some Member States are still poorly paid, often not offering formal contracts and other basic labour rights and have low attractiveness because of the high risk of physical and emotional stress, the threat of burnout, and a lack of career development opportunities; whereas the sector offers little training and, moreover, its employees are predominantly ageing people, women and migrant workers; whereas care in the EU is often provided by informal unpaid carers, who themselves can be considered a vulnerable group due to increasing pressures to provide more sophisticated and technical levels of care; whereas a number of Member States lack a quality care service that is available to all regardless of income;

whereas the transition from institutional to community-based forms of care requires increased housing-related support to enable vulnerable people to live independently;

whereas young people leaving care settings for an independent life are particularly exposed to poverty and social exclusion;

whereas growing numbers of elderly people must be classed as vulnerable;

whereas poor EU citizens who are nationals of other Member States and third-country nationals covered by the social security system of another Member State can also experience major difficulties in accessing care;

whereas all people are entitled to a standard of living enabling them and their families to enjoy health and wellbeing;

whereas it is important to stress the significance of civil society and its organisations, which play a vital role in reaching out to excluded groups;

whereas health protection has important effects on the quality, length and dignity of human life;

whereas approximately 10% of births in a given year in the EU are premature (gestational age under 37 weeks), and whereas mothers of pre-term babies often lack access to health services of the requisite standard, a fact which makes itself felt even more strongly in terms of work-life balance;

whereas poverty, inadequate education and a lower level of social integration result in poor health outcomes; whereas the main barriers to healthcare for vulnerable groups are lack of knowledge and understanding of the health system, administrative problems, lack of knowledge regarding disease prevention, and lack of physical access to services;

1. Calls on the Commission to require Member States to provide information on the austerity measures being implemented and to carry out social impact assessments of austerity measures and include recommendations tackling the medium-term and long-term social and economic impact of such measures in their country-specific recommendations; calls on the Commission to produce regular summary reports of such assessments and forward them to Parliament; requests that the European Semester process should not only focus on the financial sustainability of social security systems but also take into account possible impacts on the accessibility and quality dimension of care services;

2. Calls on the Commission and the Member States to encourage and promote social investment in social services such as the health, care and social sectors, sectors which are essential in view of demographic changes and of the social consequences of the crisis, and have great potential for job creation;

3. Is convinced that the necessary reforms should address the quality and efficiency of healthcare, should improve access to the right care at the right time in the right setting, and should keep people healthy and ensure that the common and avoidable complications of illnesses are prevented to the greatest extent possible;
4. Recalls that the Member States have agreed to adopt an approach marking a shift away from ‘curative’ measures addressing the symptoms of exclusion and ill health and towards ‘preventive’ measures, ‘as a strategy to improve quality of life and reduce the burden of chronic diseases, frailty and disability’ (1); stresses, in this respect, the long-term costs of non-action;

5. Considers that leaving vulnerable individuals without access to healthcare or care services is a false economy as this may have a long-term negative impact on both healthcare costs and individual and public health;

6. Considers that many of the short-term cost-reduction measures currently being implemented, such as the introduction of up-front access to healthcare fees, higher out-of-pocket expenditure or exclusion from access to care of vulnerable groups, have not been fully assessed for their wider social and economic consequences or potentially discriminatory effects and long-term implications, including dangers to public health and possible consequences for life expectancy; underlines the fact that such measures have disproportionate negative impacts on vulnerable groups;

7. Considers it regrettable that the social stigma attached to certain medical conditions deters individuals from seeking necessary care, which may also leave communicable diseases, for example, untreated, with a subsequent risk to public health;

8. Regrets the disproportionate impact that countries’ apprehension practices and reporting obligations linked to immigration law enforcement have on undocumented migrants’ ability to receive medical attention (2);

9. Recognises that there are close relationships between a range of vulnerabilities, experience of institutional care, lack of access to quality community-based care and resulting homelessness; recalls that health and care services can play an important role in preventing and tackling poverty and social exclusion, including extreme forms such as homelessness; stresses that groups presenting several vulnerability factors, such as Roma, persons without a valid residence permit or homeless people, are at an even higher risk of being left out of risk prevention campaigns, screening and treatment;

10. Points to the long-term negative effects of cuts to preventive care measures in times of crisis; considers that preventive measures, if they need to be reduced, should at least be raised back to the previous level, so as to preserve continuity and not destroy infrastructure; emphasises that the economic and financial crisis and the so-called austerity policies imposed on some Member States should not be cause for disinvestment in national health services but that, given their importance and essential nature, efforts should, on the contrary, be made to consolidate these services to meet the needs of society, particularly its most vulnerable groups;

11. Considers that austerity measures should not under any circumstances deprive citizens of their access to basic social and health services or innovation and quality in social service provision and should not reverse positive trends in policy development;

12. Calls on the Member States to promote recruitment in social care services and to work on increasing the attractiveness of the sector as a viable career option for young people;

13. Stresses that the number of EU citizens living in another EU country than their own and having no health insurance, for reasons such as unemployment or no longer having a residence permit, is on the rise; underlines the fact that EU citizens covered by health insurance in another EU country often have difficulty in accessing care as they have to pay beforehand;

14. Is concerned that persons with disabilities across the EU are being disproportionately affected by cuts in public spending, as a result of which they are losing the support services which allow them to live independently in the community;

15. Considers that this is leading to an increase in the number of people living in long-term institutional care and the further social exclusion of persons with disabilities in the EU, which is in direct violation of the EU’s commitments under the UN Convention on the Rights of Persons with Disabilities and the European Disability Strategy 2010-2020;

16. Stresses that the care to be received by people with disabilities should be provided in an accessible way, in terms not only of infrastructure but also of communication, which is especially important in the case of persons with intellectual disabilities (learning difficulties); stresses the need to encourage the training of care providers and general practitioners to deliver care in an accessible way;

17. Considers that any cuts to care and support services for young people or other vulnerable groups are liable to undermine existing EU policies on active inclusion; stresses that high youth unemployment rates put additional pressure on all kinds of social services and that targeted action could help;

18. Notes that, because of rising unemployment and long-term unemployment due to the crisis, a large proportion of our fellow citizens — the long-term unemployed and their dependents — are being denied access to the public health system, social security and healthcare; calls on the Member States, and especially those with the highest unemployment rates, effectively and rapidly to address this major issue through the adoption of the necessary measures;

19. Welcomes the Commission recommendation of 20 February 2013 on ‘Investing in Children: breaking the cycle of disadvantage’: recognises the importance and cost-effectiveness of early-years investment in children, in terms of developing their full potential; recognises that investing in high-quality social services is essential for the development of appropriate and effective child protection services and for the establishment of comprehensive prevention strategies; recalls the importance of adopting a life-course perspective and of health promotion, prevention and early diagnosis; stresses that the recent measles pandemic has shown how important free vaccinations for children are for public health;

20. Recognises the huge social and economic contribution made by family members acting as carers and volunteers (informal care), and the increasing responsibilities placed upon them by reductions in service provision or the rising costs thereof; considers that austerity measures should not lead to overburdening informal carers even further; stresses the importance of recognising the expertise of carers and guaranteeing high-quality work; call for appropriate support and assistance for family members acting as carers in terms of combining care and career, and considers that time spent as a carer must be calculated into pension eligibility; stresses that most care provision in the EU is provided on an informal basis, i.e. by family members and volunteers, and calls on the Commission, the Member States and the social partners to enhance the appreciation of and financial rewards for this contribution;

21. Recognises that more and more women are involved in paid work (although earning 18% less than men), while at the same time women are still relatively often carers (78% of all caregivers are women), and that this challenges the goal of a satisfactory work-life balance; believes that, in general, flexible work options are important in helping people to combine work and care; is concerned at the negative impact of reductions in service provision or the rising costs thereof on employment levels amongst women, work-life balance, gender equality and healthy ageing;

22. Recalls that the care sector has been identified by the EU as an area of potential growth in employment, and that Parliament has identified the need for better pay and training in order to make this an attractive career choice and improve the quality of service; points to the noticeable lack of workers in parts of the health and care provision sector, and calls on the Member States to promote care training among young people, as well as training measures which can help caregivers and providers better understand the needs of care recipients;

23. Stresses the increasing importance of mobile service provision in order to bring services to those who require them, in urban as well as in rural areas;

24. Underlines the valuable contribution of the volunteer sector to the care of elderly people in need of care and, where necessary, of isolated individuals living on their own;
25. Appreciates the fact that the European Innovation Partnership on Active and Healthy Ageing (EIP) has been chosen to meet the challenges resulting from demographic ageing; this includes the objective of increasing the healthy lifespan of EU citizens by two years by 2020; it also pursues a triple-win situation for Europe by:

i) enhancing the health and quality of life of older people,

ii) improving the sustainability and efficiency of care systems, and

iii) creating growth and market opportunities for businesses;

26. Recognises the work done by third-sector and voluntary organisations, but considers that this should not be a substitute for the state's responsibility to provide high-quality, effective, reliable and affordable services that are accessible to all as a public good, with financial support from public resources;

27. Highlights the European Quality Framework for Long-Term Care, which provides principles and guidelines for the dignity and wellbeing of elderly people in need of care and was published as part of the Commission's WeDO project (1);

28. Calls on the Member States to improve health literacy and provide suitable information on available services to vulnerable groups who often have difficulty accessing the services they need; of equal importance is the involvement of care recipients and carers in the decision-making processes which affect them;

**Recommendations**

29. Calls on the Commission to obtain comparable and current data in the form of a fundamental analysis relating to access to care;

30. Calls on the Commission and the Member States, in cooperation with all relevant stakeholders, to monitor and address in the national reform plans which national policies run counter to the 2020 poverty reduction target; calls on the Member States to place a special focus on the most vulnerable groups, to remove access barriers, improve and strengthen take-up and preventive measures at an early stage in order to return to a rights-based approach, and prevent to long-term damage and costs stemming from non-action;

31. Calls on the Commission, the social partners and the Member States to act on the findings of an analysis of the strengths and weaknesses of the 2012 European Year for Active Ageing and Solidarity between Generations;

32. Urges the Member States to cooperate in seeking to implement a maximum number of programmes to improve health standards among the most vulnerable groups, in particular children and young people, in the context of mobility, this being recognised as a fundamental right within the EU;

33. Calls on the Commission to examine the tensions that may arise between social security rights under Regulation (EC) No 883/2004 (2) and the operation of Directive 2004/38/EC (3), with a view to recommending any changes that may be required to close gaps in coverage;

34. Urges the Commission and all Member States to set priorities, to close gaps between men and women, and to ensure effective access for women to health services and family planning, as well as paying special attention to other vulnerable and disadvantaged groups needing social health protection;

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(1) WeDO, a project supported by the European Commission (2010-2012), was run by a steering group comprising 18 partner organisations in 12 Member States. The common interest of all the partner organisations was and remains to improve the quality of life of elderly people in need of care.


35. Calls on the Commission to include social safeguards protecting care and social services and social protection systems in agreements with countries in receipt of financial assistance; calls on the Commission and the Member States to develop the use of new technologies such as telemedicine in order to facilitate access to care;

36. Calls on the Commission to promote equal access to early childhood education and care, and provide adequate financial support for these services;

37. Urges the Member States to provide community-based services to children with disabilities;

38. Calls on the Member States to identify and eliminate obstacles and barriers regarding disabled people’s access to public transport, services and information;

39. Calls on the Commission and the Member States to set up priorities to close gaps and provide effective access to health services for vulnerable groups including poor women, migrants and Roma in the area of social health protection, by ensuring the affordability, availability and quality of healthcare, as well as efficient and effective organisation and adequate financing in all geographical areas;

40. Urges the Member States to adopt policies that promote health and the prevention of disease by guaranteeing free, universal and quality healthcare for the most disadvantaged groups, with particular attention to guaranteeing primary healthcare, preventive medicine, and access to diagnosis, treatment and rehabilitation; calls for provision of the means required to combat the main public health problems facing women and guarantee the right to sexual and reproductive health, health services for women who are victims of violence, and healthcare for infants;

41. Calls on the Member States, in cooperation with the Commission, to consider more fully the link between physical and mental health on the one hand and unemployment and job insecurity on the other — which have been revealed by the crisis as major phenomena — in order to have proper planning in place to prevent and address harmful consequences of this kind;

42. Strongly recommends that Member States reinforce their health services regarding prevention and primary care, focusing on improving women’s health and access to care, particularly for women living in areas remote from urban centres, as well as on measures for the most disadvantaged groups — children and young people, the elderly, persons with disabilities, the unemployed and the homeless — that guarantee the right to regular medical monitoring for all;

43. Urges the Commission and the Member States to treat maternity and neonatal care, especially in cases of premature birth, as a public health priority and to incorporate it in European and national public health strategies;

44. Calls on the Commission and the Member States to organise the necessary education and continuing training courses for all health professionals working in pre-conception, maternity and neonatal care units, with the aim of preventing premature births and reducing the incidence of chronic diseases affecting those born pre-term;

45. Urges the Member States to ensure appropriate assistance to women during and after pregnancy and lactation, by offering free caring/consultation services when needed and adequate nutrition, especially to those running the risk of poverty and social exclusion because of the recent economic crisis;

46. Urges Member States to develop suitable structures for offering people medico-social appointments so as to take greater account of the living conditions of the poorest;

47. Calls on Member States to provide accessible and clear information on the rights of migrants in all relevant languages, including Romani;

48. Urges the Member States to take action against hate crime and to promote anti-discrimination policies, if necessary by strengthening their national anti-discrimination bodies and promoting training within public authorities;
49. Urges the Member States to implement Article 19 TFEU and adopt the directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation in order to prohibit discrimination based on religion or belief, disability, age or sexual orientation (1) and to put into effect the principle of equal treatment in the areas of social protection, including social security and healthcare, education, and access to and supply of goods and services which are commercially available to the public, including housing;

50. Calls on the Member States to carry out impact assessments to ensure that measures taken that might impact the most vulnerable are in compliance with the principles laid down in the EU Charter for Fundamental Rights and in conformity with Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2);

51. Urges the Member States to prevent homelessness, to provide the necessary care for homeless people, and not to criminalise homelessness in their national legislation;

52. Urges the Commission and the Member States to ensure that any policy or funding programmes designed to support social innovation and/or care-related services target those services that best meet social needs and improve people's quality of life, and that they are developed in close cooperation and consultation with the organisations that defend and represent vulnerable groups;

53. Points to the scope of Parliament's Social Business Initiative and stresses the importance of the social economy, which can, together with social businesses, effectively reinforce the fast-growing area of health and social care;

54. Urges the Commission and the Council to work with Parliament to reinforce funding to programmes that target vulnerable groups; urges the Commission to take all the measures available to it to ensure full take-up and maximum disbursement under the European Social Fund, the Fund for European Aid to the Most Deprived and other relevant instruments which address the needs of people who are vulnerable or at risk of exclusion, and to support Member States' efforts to meet the Europe 2020 poverty target and to promote innovation and quality in the health and care sectors; stresses the importance of related funding instruments such as the EU Programme for Social Change and Innovation and the European Social Entrepreneurship Fund;

55. Calls on the Commission to develop a package of objective and subjective indicators with a view to measuring and regularly publishing on the material and non-material components of wellbeing, including social indicators, in order to complement European and national GDP and unemployment indicators and thus measure societal progress and not just economic development;

56. Calls on the Commission and the Member States to explicitly recognise the invaluable contribution made by informal carers; urges the Member States to put in place and maintain targeted support measures for carers and the voluntary sector, in the interests of providing more personal, quality and cost-effective measures, e.g. measures enabling reconciliation of work and family life, facilitating better cooperation and coordination between informal and formal care providers, and ensuring appropriate social security policies and training for carers; calls on the Commission and the Member States to develop a coherent framework for all types of care leave; calls on the Commission to propose a directive on carers' leave, in line with the subsidiarity principle as set out in the Treaties;

57. Calls on the Member States to provide accurate and easily understandable information in the relevant languages and formats on entitlement to care, and to make it widely accessible;

58. Calls on the Commission, the Member States and the social partners to draw up clear definitions of professional profiles in the care sector which enable rights and obligations to be precisely delimited;

59. Calls on the Member States to integrate all potential actors at local, regional and national level, including the social partners, into initiatives concerning prevention, health and social services;

60. Urges Member States to promote the training programmes required by the care and support sectors, and to offer grants to those undertaking relevant studies;

61. Urges the Commission to promote a campaign with the aim of recruiting young people and improving the public image of the care sector as employer;

62. Calls for the employment rights of those working in the care sector to be respected, including the right to a decent income and decent conditions and the right to join and form trade unions with collective bargaining rights;

63. Urges the Member States to support national, regional and local authorities in setting up sustainable funding schemes for care services and in developing training and retraining schemes for the workforce with the help of ESF funding;

64. Urges the social partners to develop a formal social dialogue relating to the care sector;

65. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.

P7_TA(2013)0329

Connected TV

European Parliament resolution of 4 July 2013 on connected TV (2012/2300(INI))

(2016/C 075/21)

The European Parliament,

— having regard to Article 167 of the Treaty on the Functioning of the European Union,

— having regard to Article 10(1) of the European Convention on Human Rights,

— having regard to Articles 11 and 8 of the Charter of Fundamental Rights of the European Union,

— having regard to the Protocol on the system of public broadcasting in the Member States annexed to the Amsterdam Treaty amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,


— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (1),


— having regard to the Communication from the Commission on the application of State aid rules to public service broadcasting (10),

— having regard to Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity (11),

— having regard to its resolution of 15 June 2010 on the Internet of Things (12),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Culture and Education (A7-0212/2013),

A. whereas TV sets were originally developed to receive linear broadcast signals; whereas in the digital environment, too, audiovisual content still meets with very great interest on the part of the public, owing to its suggestive power, by comparison with other electronic media services; and whereas consequently its outstanding importance for individual and public opinion-forming persists;

B. whereas audiovisual media services, which are as much cultural services as they are economic services, are of outstanding importance for society and democracy as vectors of identities, values and opinions, and therefore still require specific regulation in an increasingly convergent world;

C. whereas the long-awaited technical media convergence has now become a reality, particularly for broadcasting and the internet, and European media, culture and network policy must adapt the regulatory framework to the new conditions and ensure that a uniform level of regulation can be established and enforced, also with a view to new entrants to the market from the European Union and third countries;

D. whereas the internet has developed rapidly over the past 25 years, and whereas the smart devices which have emerged are changing habits and the way of watching television;

E. whereas, while the take-up of internet-connected devices is increasing, traditional services nevertheless remain mainstream-popular;

F. whereas linear and non-linear audiovisual services and numerous other communications services can already be used on one and the same screen, combined seamlessly and consumed simultaneously;

G. whereas the particular social significance of linear television and media services means that an independent regulatory framework for the media will still be necessary in the future, since this is the only way of taking proper account of this important role and of ensuring diversity of opinion and the media in the Member States;

H. whereas the advent of connected TV has shaken up the traditional value chain and makes it necessary to draw up a new strategy;

I. whereas the advancement of technological developments leads inevitably to what is to some extent only an apparent increase in user autonomy, and there is therefore a growing need to ensure protection of exclusive rights and integrity of content;

J. whereas opportunities are increasing for dissemination of (interactive) on-line services benefiting from the range of television offerings, and 100% broadband coverage is crucial for increasing consumer interest in hybrid receiving systems;

K. whereas in the light of growing media convergence, the concept of ‘connected TV’ is being interpreted in a dynamic, technologically neutral and broad way to cover all devices, including mobile devices, which enable access to linear and non-linear media content, over-the-top services and other applications on one and the same device or screen, thereby bringing together the world of broadcasting and the world of the internet;

L. whereas competition in the convergent media world is increasingly centring less on transmission capacities and more on the attention of users; whereas, as the number of services on offer rises, it becomes more and more difficult to reach users; and whereas access to and the rapid findability, listing and recommendation of services will most likely determine their success;

M. whereas the current provisions of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) are based on the principle of technological neutrality; whereas those provisions do not yet reflect ongoing technological convergence; and whereas in particular graduated regulation, which differentiates between television programmes (including webcasting and live streaming) and audiovisual media services on demand, will become less important in its existing form, although differently regulated information and communications services are available on one and the same device, including services which do not fall within the scope of the Audiovisual Media Services Directive but of the e-Commerce Directive or, in the case of non-European services, are not covered by any EU media regulations, which both may result in unequal competitive conditions and unacceptable discrepancies in the protection of users and raises fresh questions — regardless of media type — of content access, dissemination method and findability;

N. whereas these new service providers will compete head-on with the traditional players in the sector, both by acquiring exclusive content, including on the European market, and by offering new services;
O. whereas the regulatory objectives of the Audiovisual Media Services Directive — particularly those of ensuring and promoting diversity of opinion and of the media, protecting human dignity and protecting children, encouraging media service providers to guarantee accessibility to the visually and hearing impaired, and safeguarding fair competition, as well as quality-and content-based regulation of advertising — retain their importance to society and their regulatory justification as a matter of principle, but whereas at the same time the limits of the effectiveness and enforceability of these protective provisions are becoming increasingly apparent because of the methods of use made possible by hybrid receiving systems;

P. whereas high-quality connected TV services can only be provided if telecommunications operators offer sufficiently high-speed links between the broadcasting servers and subscribers;

Q. whereas the range of possible uses offered by hybrid devices calls into question core principles of the Audiovisual Media Services Directive, such as the mandatory separation of advertising and programmes, and rules on the insertion of advertising;

R. whereas the mere chance fact of the existence of numerous services does not automatically result in the aforementioned regulatory objectives being attained, and it is therefore appropriate to evaluate whether there will remain a need for a specific regulatory framework in order to realise the objectives and whether that framework could preclude possible adverse developments from the outset;

S. whereas as connected TV becomes gradually more established, conventional TV and the internet may come to coalesce, just as mobile telephony and the internet melded together a few years ago;

T. whereas any means of adapting the market to favour creation and innovation in Europe should be encouraged;

U. whereas the development of hybrid systems combining TV and the internet will allow users to browse indiscriminately between TV channels and the internet, including websites illegally offering audiovisual content;

V. whereas net neutrality is proven to be insufficiently safeguarded by transparency and competition;

W. whereas the country-of-broadcast principle in the original Television Without Frontiers Directive represents a milestone for freedom of information and the development of a common market in services, since the Member States committed themselves to quality-based minimum standards and, in return, introduced the country-of-origin principle in the form of the country-of-broadcast principle;

1. Calls on the Commission to evaluate the extent to which it is necessary to revise the Audiovisual Media Services Directive and other current requirements laid down in network and media regulations (e.g. the telecommunications package) with respect to the rules on findability and non-discriminatory access to platforms, for content providers and content developers as well as for users, expanding the concept of platforms, and to adapt the existing instruments to new constellations; whereas it should be ensured in so doing that consumers can benefit from increased choice and access to audiovisual media services and that content providers can benefit from more choices in how to distribute their content while maintaining contact with their audience;

2. Takes the view that, in the case of regulatory measures for platform operators, care must be taken to ensure non-discriminatory access to platforms so that broadcasters and other providers, including small-scale providers in many cases, can participate in the market on an equal basis;

3. Calls on the Commission and Member States to apply the concept of media services defined in Article 1 of the Audiovisual Media Services Directive in such a way that the need for regulation by the Member States is determined more on the basis of the potential socio-political impact of services and specific features of that impact, particularly their relevance to opinion-forming and to diversity of opinion, as well as on the basis of editorial responsibility;

4. Calls on the Commission to consider, bearing in mind the difference in remit between media services for which editorial responsibility is taken and other content, whether stricter regulation of TV platforms is still appropriate and necessary, or whether a general ban on discrimination is sufficient;

5. Calls on the Commission, in the context of a possible revision of Directive 2010/13/EU, or in any future legislation, to continue its efforts to safeguard press freedom;
6. Calls on the Commission to provide a breakdown, on the basis of its consultation process entitled 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values', of which regulatory mechanisms are still necessary and useful against the background of convergence and which should perhaps be established in order to create a level playing field for all content and service providers, taking account of the following minimum requirements and maintaining the existing overarching regulatory objectives, so as to ensure fair competition among content providers and guarantee users the chance to choose, in a fully transparent manner, from among a wide range of high-quality services on a footing of equal opportunity and without discrimination, with a focus on maintaining free and public services;

7. Calls on the Commission, in the event of a review of the Audiovisual Media Services Directive, to ensure fair competition among all content providers;

8. Stresses that the development strategy of these new market players will lead to an increased range of content by combining long-established TV channels with the content offering available on the internet;

9. Emphasises in this connection the risk that the economic power and the international presence of these new market players may distort this new competitive environment to the detriment of long-established European players;

10. Emphasises that consideration should be given to retaining a graduated regulatory framework for media services, in which connection the graduation should be based not on a distinction between non-linear and linear services, but rather, primarily, on the potential impact of a given media service and the editorial responsibility for the service in question, and that, at the same time, the Member States should be granted appropriate leeway to take such decisions themselves;

11. Wonders whether, against the background of increasing technological convergence, the provisions laid down by the Commission in its communication on the application of State aid rules to public service broadcasting, setting out complex procedures for assessing and analysing audiovisual services offered by public providers, which go beyond the scope of normal broadcasting activities and are made available on new platforms, are still appropriate, in particular given that it is increasingly difficult for users to tell whether the service concerned is a conventional linear broadcasting service, an on-demand service or another type of audiovisual service;

12. Calls on the Commission to have an eye to the future challenges of Connected TV, in terms of competitiveness in the industry, by allowing greater flexibility for quantitative rules on advertising, and to outline the relevant advantages and drawbacks;

13. Emphasises that, in the interests of the uniform, Europe-wide protection of consumers, children and young people and minorities, qualitative restrictions on audiovisual media services should be reviewed and tailored at a high level to all modes of dissemination;

14. Calls, in that connection, for the ban on the violation of human dignity, the ban on incitement to hatred, protection against discrimination and the principle of barrier-free access to apply in the same way to all forms of media content;

15. Wonders, in that connection, whether the principle of the division between advertising and programme content can be maintained across all types of media or whether the aim of providing protection could be better achieved by making advertising and programme content clearly recognisable and clearly distinguishable across all types of media;

16. Takes the view that the introduction of new, or the extension of existing, advertising bans or other measures which have an impact on advertising as a source of funding should be prevented so that new business models can also be employed in the digital TV sector;

17. Emphasises that it is vital for the public sector not to be dependent solely on advertising funding in order for it to retain its independence, and calls on the Member States to support efforts to provide funding for that sector;

18. Emphasises that new advertising strategies that use new technologies to increase their effectiveness (screenshots, consumer profiling, multi-screen strategies) raise the issue of protecting consumers, their private lives and their personal data; with this in mind, emphasises that there is a need to come up with a set of consistent rules to apply to these strategies;
19. Encourages Europe’s audiovisual industry to continue to develop consistent, attractive services, especially online, so as to enrich the range of European audiovisual content on offer;

20. Calls on the Commission to examine whether and how those content providers can be granted an appropriately privileged status with regard to findability on first-screen devices, such as TV sets with a connection to the internet, to which the Member States assign a public broadcasting remit or which help to promote objectives in the public interest, such as ensuring media pluralism and cultural diversity, or which undertake to carry out duties which maintain the quality and independence of reporting and promote diversity of opinion;

21. Calls on the Commission and Member States, in addition to such ‘must be found’ rules, to consider to what extent a reform of media regulation so as to move towards incentive and certification schemes and strengthen co- and self-regulatory approaches can enable the aforesaid regulatory objectives of the Audiovisual Media Services Directive, in particular as regards the protection of young people and human dignity, to be attained in a lasting fashion, while at the same time maintaining the necessary flexibility for fair competition among media service providers; emphasises that any co- and self-regulation measures can supplement legal provisions and that compliance with them must be monitored and the assessment of their effectiveness must be carried out by an independent regulator;

22. Recommends, therefore, in order to avoid any distortion of competition, that the same rules should apply to the same services, irrespective of the medium of transmission;

23. Is furthermore concerned, in this context, by the increased level of competition resulting from the presence of international players that are not subject to European rules and obligations;

24. Calls on the Commission to ensure that these platforms are operated on the basis of open interoperable standards in a way which accords with market conditions and the general interest, entailing fair competition, accords with consumer demand and prevents the abuse by one or more providers of their prime position;

25. In this context, emphasises the need for consideration to be given to the development of the regulatory framework, to the ways of regulating connected TV and to the content-referencing systems;

26. Calls for connected TV platform regulation which guarantees access to, and integrity of, broadcasters’ content, transparency for consumers and the application of a basic code of ethics (e.g. protection of minors and of private life);

27. Calls on the Commission and the Member States to advance the media literacy of all EU citizens, in particular, through initiatives and coordinated actions aimed at increasing understanding of linear and non-linear media services;

28. Calls on the Commission and the Member States to ensure that measures are taken, in particular, by device manufacturers and service providers to improve accessibility to linear and non-linear media services for elderly people and people with a disability such as the hard of hearing and the visually impaired;

29. Takes the view that platform services and portal services should be interoperable, in order to give third parties the opportunity, without discrimination, to produce and market their own applications, irrespective of the medium of transmission;

30. Calls on the Commission to ensure in a legally binding manner that all content is as a matter of principle made available to the same quality standard on networks and platforms;

31. Calls on the Commission to take legally binding measures to ensure that network operators systematically treat all data packets in the same way when forwarding them from dispatchers to receivers, i.e. that they do not give certain packets priority on the basis, for example, of origin, content, use or the fee charged to users, as this would run counter to the aim of guaranteeing fair universal access to services, data protection rules, the ban on data manipulation, the principle of the integrity of content and the aim of establishing fair conditions of competition;

32. Draws attention to the effects of the disparities between VAT systems at European level, which will be further accentuated with the arrival of connected TV;

33. Calls on the Commission to propose Union legislation guaranteeing net neutrality;
34. Calls on the Commission to safeguard by law the integrity of linear and non-linear services on hybrid platforms and, in particular, to prohibit the overlay or scaling of these services by platform providers or third parties with content or other services, unless the latter have been explicitly initiated by the user and, in the case of content which is not covered by the definition of individual communication, have been authorised by the content provider; points out that unauthorised interference by third parties with the content or broadcast signals of a provider and their unauthorised decryption, use or dissemination must likewise be prevented;

35. Calls on the Commission to consider measures to take account of the risk of unauthorised sites being referenced on portals and search engines;

36. Calls on the Commission to ensure that the level of protection in respect of audiovisual media services established by means of the special regulatory requirements of the Audiovisual Media Services Directive is not undermined by unauthorised provision of access on other platforms;

37. Calls on the Commission to ensure that applications never start up automatically merely because a portal has been accessed, but that start-up must always be initiated by the user, that the return to the previously used service must always be straightforward and entail only the pressing of a button (e.g. red button function), which must be made clear to users, and that when an application is shut down the previously used service must reappear in full audiovisual quality;

38. Calls on the Commission to ensure that a content provider can take legal action against such applications on hybrid platforms which make possible or encourage the unauthorised dissemination of content made available by the content provider;

39. Calls on the Commission, where appropriate on copyright grounds, to work towards the establishment of straightforward rights clearance systems which make it possible for non-linear services made available by media service providers to be mirrored unchanged and in full on third platforms;

40. Calls on the Commission to ensure that the anonymous use of TV and on-line services by means of hybrid receiving devices that are sold in or imported into the EU is guaranteed in principle and that it is in full compliance with EU rules on privacy and data protection;

41. Calls on the Commission to exclude audiovisual media services from liberalisation measures negotiated as part of international trade agreements, in view of their dual nature and their significance for society, and, at the same time, to ensure that the concept of ‘audiovisual media service’ is developed to reflect the ongoing process of digitalisation and media convergence;

42. Calls on the Commission to ensure that future hybrid TV services also comply with existing legislation on child protection, on the ban on certain kinds of advertising for health reasons, on the ban on incitement to racial hatred, on the separation between news and advertising messages, on ownership transparency, privacy, etc., since these are rules which have become part of the acquis communautaire and which cannot be circumvented on the pretext of technological developments; in particular, calls for service providers and providers of hybrid TV equipment from outside the EU to be informed that the applicable law is that of the country where the service is provided and not the one where the providers have their registered office;

43. Calls on the Member States, in the negotiations on the multiannual financial framework, to reconsider the cut in funding, from the figure of EUR 9,2 billion originally proposed to EUR 1 billion, for the Directorate-General for Communications Networks, Content and Technology (DG Connect, CNECT), in order to cover the further development of telecommunications infrastructure;

44. Calls on the Commission to pay due attention to important audience protection issues such as the protection of minors, and believes that Electronic Programme Guides may be a possible platform on which to address these issues;

45. Regrets the fact that there are still vast areas of Europe with limited internet infrastructure, and reminds the Commission that in order to unlock the potential of Connected TV it is vital for consumers to have access to high-speed internet;
46. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

P7_TA(2013)0331

Proposal for a decision of the European Parliament and of the Council amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regards the multiannual financial framework, to take account of the expenditure requirements resulting from the accession of Croatia to the European Union


(2016/C 075/22)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0157),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (1) (IIA of 17 May 2006), and in particular to point 29 thereof,

— having regard to the general budget of the European Union for the financial year 2013, as adopted on 12 December 2012 (2),

— having regard to Draft amending budget No 1/2013 of the European Union for the financial year 2013, which the Commission adopted on 18 March 2013 (COM(2013)0156),

— having regard to the position on the draft amending budget No 1/2013, which the Council adopted on 26 June 2013 (11607/2013 — C-0199/2013),

— having regard to the report of the Committee on Budgets (A7-0247/2013),

A. whereas the Commission, in conformity with point 29 of the IIA of 17 May 2006, has, in parallel to Amending budget No 1/2013, submitted to the budgetary authority a proposal aimed at adjusting the multiannual financial framework to incorporate into the 2013 budget the commitment and payment appropriations needed to cover expenditure related to the accession of Croatia to the Union as from 1 July 2013,

B. whereas the proposed increase of EUR 666 million in commitments and EUR 374 million in payments reflects the financial package agreed at the Accession Conference of 30 June 2011, excluding heading 5 since the administrative expenditure linked to the accession of Croatia is already included in the 2013 budget,

1. Takes note of the proposal for a decision amending the IIA of 17 May 2006, as submitted by the Commission, and of the Council’s position thereon;

(2) OJ L 66, 8.3.2013.
2. Emphasises the purely technical nature of this revision, which is simply the consequence of the unanimous agreement on the Treaty concerning the Accession of the Republic of Croatia to the European Union (the Accession Treaty) as the 28th Member State of the Union; stresses that for that reason the revision of the IIA of 17 May 2006 accompanying Amending budget No 1/2013 has been kept separate from the ongoing political inter-institutional debate on how to settle the issue of outstanding payments from 2012 and from the negotiations on Amending budget No 2/2013;

3. Recalls that, according to point 29 of the IIA of 17 May 2006, the resources to finance the accession of a new Member State to the Union are to be covered through an adjustment of the financial framework that is a revision of the ceilings for 2013 in commitments and payments;

4. Reiterates its position that the eight-week period laid down in Article 4 of Protocol (No 1) on the Role of National Parliaments in the European Union to inform national parliaments of any draft legislative act does not apply to budgetary issues; regrets therefore that despite the very tight timeframe for the entry into force of this adjustment and of Amending Budget No 1/2013, the Council has nevertheless let this period elapse before adopting its position, thus squeezing the time for adoption by Parliament provided for by the Treaty;

5. Regrets furthermore the difficulty with which, even after the eight-week deadline had elapsed, the Council reached an agreement on this revision, which has led to a delay in the availability of the funding for Croatia due as from 1 July 2013; warns that this must not become a precedent for further enlargements;

6. Welcomes the fact that the Council was eventually able to agree on a revision without any offsetting of the 2013 ceilings for payments by the required EUR 374 million; considers that, given the limited amount concerned and the current shortage of payment appropriations in the 2013 budget, this is the proper way to fulfil the obligation that the Member States took out when signing the Accession Treaty and to respect the provisions of point 29 of the IIA of 17 May 2006;

7. Deplores the fact, however, that as regards the revision in commitments the Council decided to neglect the political importance of adopting the Commission’s proposal as such, opting instead to offset the appropriations required; considers that that position contradicts the spirit of the unanimous decision taken when signing the Treaty of Accession as well as of the IIA of 17 May 2006; highlights that such decision sends a wrong political signal not only to Croatia but to the other candidate countries as well; stresses that that decision is accepted only because it concerns the last 6 months of the current MFF (2007-2013); points out that this should not constitute a precedent for future enlargements that might occur under the next MFF (2014-2020);

8. Regrets that heading 5 has been identified as the main source for the offsetting in commitments, since this could lead to the lack of the necessary resources to cover the challenged salary adjustments in the event that the ruling of the Court of Justice is still delivered in 2013;

9. Nevertheless, considering the political importance and the legal urgency of ensuring the necessary funding to Croatia, decides to approve the decision annexed to this resolution, as amended by the Council;

10. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

11. Instructs its President to forward this resolution, including its annexes, to the Council and the Commission.
ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regards the multiannual financial framework, to take account of the expenditure requirements resulting from the accession of Croatia to the European Union

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/419/EU.)

P7_TA(2013)0332

Preparation of the Commission Work Programme 2014


(2016/C 075/23)

The European Parliament,

— having regard to the Commission Communication on the Commission Work Programme for 2013 (COM(2012)0629),

— having regard to the Europe 2020 Strategy,

— having regard to the Conclusions of the European Council of 27—28 June 2013,

— having regard to the last Framework Agreement on relations between the European Parliament and the Commission (1), in particular Annex IV thereto,

— having regard to Rule 35(3) of its Rules of Procedure,

A. whereas the long crisis will not be overcome without a significant further deepening of European integration, and the financial, economic and debt crises have emphasised the need for reinforced democratic control and accountability;

B. whereas the Commission should bring forward measures to preserve and strengthen the European social market economy models, with a view to repairing the damage done by the long recession and restoring full employment and sustainable growth;

C. whereas the fragility of the banking system, the continuing debt and deficit problems faced by Member States, the loss of European competitiveness in the global economy, high youth unemployment and the social hardship which results from economic decline present the EU with unprecedented challenges;

D. whereas budgetary choices at Union level must meet the EU’s political priorities, not only in terms of amount but also in terms of flexibility and equilibrium;

E. whereas the role of the Commission is to promote the general interest of the EU, to take appropriate initiatives to that end, to ensure the application of the Treaties, to oversee the implementation of EU law, to exercise coordinating, executive and management functions, and to initiate legislation;

F. whereas at the end of the current electoral mandate, all unfinished business lapses unless Parliament, the Council or the
Commission make a reasoned request that specific items which have made significant progress in the ordinary legislative
procedure be resumed by the newly elected Parliament;

PART 1

1. Calls for a deeper democratic process in the field of economic governance, with closer involvement of Parliament, that
will contribute to improving citizens’ confidence in EU management of the crisis; considers, in this connection, that the
Commission should fulfil its Treaty role, which is incompatible with delegating a decision-making role in EU economic
governance to unaccountable bodies; is concerned, in particular, to improve the accountability of the Commission when it
acts in its capacity as a member of the Troika;

2. Considers that, following the conclusion of the political negotiations on the MFF 2014-20, the Commission should
ensure as a matter of priority the smooth functioning of the new financial framework, including the new rules on flexibility
agreed in the framework of these negotiations; expects that the new Commission will, at the moment of its investiture,
make a formal commitment to conduct the MFF revision by the end of 2016, which will also allow the new Parliament to
reassess EU priorities;

3. Is particularly concerned about the payments situation in 2014 and urges the Commission to come forward with
amending budgets in the course of the year, whenever the need arises;

4. Stresses the importance it attaches to the issue of reforming the system of EU own resources; calls on the Commission
to ensure that the High-Level Group on own resources is convened and starts working as soon as possible, in order to
ensure that a first set of findings is available by the end of 2014, as provided for in the Joint Declaration on Own Resources
agreed as part of the MFF agreement;

5. Recalls that the EU budget needs to reflect the EU’s policy priorities; stresses that the EU budget is an investment
budget with a strong leverage effect; urges the Commission to defend the EU budget in order to boost strategic investment
through European added value and put the European economy back on track;

6. Believes that jobs are the top priority and that all available levies at European level must be used to preserve existing
jobs and to create new ones for young people, especially in the fields of services, industry and the digital economy; believes,
therefore, that investments to strengthen the EU’s competitiveness will play a key role in the next year and in the years to
follow;

7. Welcomes the commitment of the European Council of 27—28 June 2013 to complete the building of a genuine
Economic and Monetary Union, involving all the elements of the Banking Union, more effective coordination of economic
policies, the development of financial solidarity mechanisms and the strengthening of the social dimension, but regrets the
failure to make more rapid progress; calls on the Commission to come forward with a communication on the social
dimension of the EMU;

8. Insists on the early completion of all the legislation necessary to put in place a single supervisory mechanism based on
the European Central Bank;

9. Supports the Europe 2020 growth strategy, the objective of which is to put in place the right policy framework for
encouraging enterprise, creating jobs, raising living standards and developing a sustainable economy;

10. Highlights the need to improve the macroeconomic environment for industry, improving access to capital, providing
better infrastructure, protecting property rights and supporting SMEs in particular, in order to increase their
competitiveness and access to new markets;

11. Calls for action to complete the Commission’s current work programme before the end of its mandate, in particular
with respect to the single market in services, the digital agenda, the internal market in energy, and the extension of deep,
free and fair trade agreements;

12. Urges the Commission to intensify and reinforce its efforts to protect the financial interests of the EU, to make a
proposal on the establishment of a European Public Prosecutor’s Office and to complete delayed reform of the European
Anti-Fraud Office;
13. Proposes to engage in intensive negotiation with the Council and Commission before the end of its mandate to complete as many dossiers as possible, fully respecting the legislative procedures as laid down in the Lisbon Treaty; reiterates that it cannot accept any further intergovernmental elements relating to the EMU;

14. Calls on the Commission to take due note of the sector-specific positions of Parliament as set out in Part 2 of this resolution;

PART 2
Implementation

15. Urges the Commission to improve the coherence of its legislative programme, to raise the quality of its legislative drafting, to strengthen its impact assessment of draft laws, to propose wherever appropriate the use of correlation tables with a view to better transposition of EU law, and to back Parliament in its negotiations with the Council on the use of delegated and implementing acts, which risk causing significant blockages in the legislative process;

16. Urges the Commission to propose the introduction of proper national management declarations signed at the appropriate political level covering EU funds under shared management; stresses the need to keep strict and credible scrutiny through close controls on funding and to monitor the cost-effectiveness of EU financing and administration, thus ensuring high value for money of EU action, but also ensuring that revenues are collected in accordance with the applicable rules;

17. Believes that cooperation between the EU institutions must be improved and modernised in order to become more efficient and allow for deeper democratic scrutiny of the executive powers at EU level; notes that the 2010 Interinstitutional Agreement needs to be revised; calls for closer coordination with the Council, in accordance with the Lisbon Treaty; stresses that the Community method, which allows public debates through the democratic involvement of Parliament must always be favoured; believes, moreover, that complex legislation, especially in the field of financial services, warrants sufficiently large public and parliamentary debate;

18. Regrets, despite successive promises made by the Commission, the failure to transpose several announced goals into reality, both in quantitative and qualitative terms; urges the Commission to engage with the two co-legislators in an intensive dialogue on delivery and on adoption of the remaining announced legislative proposals;

19. Urges the Commission to facilitate the rapid completion of the trilogue on the European political party statute in time for the elections to the European Parliament;

Single market

20. Recalls the key role played by the single market as an engine for EU integration, economic growth and employment and as a pillar of the EU real economy; calls, therefore, on the Commission to focus on Single Market Governance in order to streamline the adoption and enforcement of legislative and policy priorities and to develop a regular assessment of single market integration — based on the single market integration report accompanying the annual growth surveys (AGSs) and on country-specific recommendations — within the European Semester framework;

21. Calls on the Commission to continue to focus on improving the governance of the single market, to renew its drive to administrative simplification, to give due weight to the consideration of the proportionality of proposed measures, and to monitor progress with a view to the full implementation of the single market acquis, especially in the services sector;

22. Welcomes the Commission’s Single Market Act II proposals for priority actions to boost growth, employment and confidence in the single market;

23. Urges the full application of the Services Directive; calls on the Commission to assist Member States in promoting access to the single market for services; asks the Commission to review restrictive practices in place, such as the ‘economic needs test’;
24. Calls on the Commission to monitor carefully and rigorously the implementation and enforcement of the Consumer Agenda, consumer protection and confidence in the single market; asks the Commission, given that consumer trust and confidence is the foundation of a well-functioning single market, actively to pursue, with the Member States, the speedy implementation of the Consumer Rights Directive, Alternative Dispute Resolution Directive and Online Dispute Resolution Regulation, and to review the operation of the Unfair Commercial Practices Directive;

25. Welcomes the new Consumer Product Safety Regulation, which guarantees consumer health and safety but also facilitates trade in goods, especially for SMEs;

26. Urges the Commission to implement the Modernised Customs Code by fully developing harmonised e-customs practices;

27. Calls on the Commission to be more systematic in assessing the impact of its proposals on SMEs on which Europe relies for many new jobs; in this regard, urges the Commission actively to discourage ‘gold-plating’ of EU law at national level, something which distorts the level playing field in the single market;

28. Underlines the importance of taking measures to improve access to finance for SMEs; calls on the Commission to strengthen and implement the measures foreseen in the Entrepreneurship Action Plan and to accelerate the adoption of an entrepreneurship initiative; calls for an SME Window financing facility under the future COSME and Horizon 2020 Programmes, involving the EIF and the EIB, to be swiftly launched to facilitate public and private funds investments in innovative and sustainable new businesses, including growth-oriented SMEs;

29. Requests that the Commission enforce the agreement between the three institutions to make good on their better lawmaking commitments, including Member States, which should all be encouraged by the Commission to carry out their own SME and single market tests; in this regard, notes that the Council should set up its own impact assessment unit to produce impact assessments on its own amendments; stresses the importance of fitness checks in the Better Regulation agenda;

30. Calls on the Commission to promote the interests of SMEs and microenterprises by ensuring easier access to Europe's single market; welcomes the steps already taken by the Commission to reduce regulatory burdens on SMEs and microenterprises arising from EU legislation;

31. Calls on the Commission to table a legislative proposal on better governance of the single market, based on the legislative initiative report thereon, in view of the key contribution that the single market can make to growth in the European Union;

32. Welcomes political agreement on the public procurement and concessions package; urges the Commission and the Member States to begin a speedy and comprehensive implementation of its new provisions; calls, in particular, for the development of a communication and training strategy to promote new skills and capabilities in innovative and outcome-based procurement;

33. Notes the agreement now confirmed with the Council on reforms of the Mutual Recognition of Professional Qualifications Directive; calls for the early implementation of the new provisions and new professions to be encouraged to establish European qualifications frameworks;

34. Welcomes the Commission proposal on disclosure of non-financial information and calls on the Commission to work closely with Parliament and the Council to reach a conclusion by early 2014;

35. Reiterates its request for a proposal on a 14th Company Law Directive on the cross-border transfer of company seats;

36. Calls for a revitalisation of Europe’s industry, with the aim of creating jobs, supporting sustainable growth and ensuring good working conditions for all Europeans;
37. Requests that the Commission promote a further single market initiative by putting forward proposals to develop, complete and implement the digital single market, such as a new strategic framework encompassing availability and the EU cross-border portability of digital content, and, in particular, initiatives to generate more consumer trust, including measures to facilitate online payments and improve digital delivery and infrastructures;

38. Urges the Commission to pursue its copyright reform, to ensure that it is fit for the internet environment; reiterates the need to complete industrial property rights reform to boost Europe’s growth and job creation;

39. Considers it essential for the stability the EU economy, and for a return to sustainable economic growth, to successfully establish a Banking Union through the setting-up of the single supervisory mechanism together with a single resolution mechanism for banks and an EU framework for the national deposit guarantee schemes; asks the Commission, in this connection, to present without delay all necessary proposals, along with the regulatory technical standards needed for the proper implementation of the CRD 4 package;

40. Stresses that in the interest of further enhancing the efficiency and robustness of the Union’s financial markets as quickly as possible, the pending Commission proposals on financial services must be adopted swiftly, thus avoiding delays in the entry into force of the relevant legislation;

41. Calls on the Commission to adopt as quickly as possible its proposals on a draft regulation establishing a Single Resolution Mechanism and on the follow-up to the recommendations on bank structural reform; underlines the importance of the co-legislators dealing swiftly with these proposals, to allow their speedy entry into force;

42. Points out that research and innovation are vital to EU competitiveness, through the establishment of research and innovation programmes, the simplification of procedures, the pooling and coordination of financing at all relevant levels (EU/Member State/region) and the establishment of synergies between European programmes, and calls on the Commission to implement these principles;

43. Notes the agreement on Horizon 2020 to enable a seamless transition from FP7 and to ensure the continuity of the EU’s core research and innovation policy, which has suffered in past programmes as a result of last-minute agreements being concluded between the Council and Parliament;

44. Calls on the Commission to come up with an appropriate proposal for a common EU definition of tax havens and to introduce a black list of non-cooperative third countries and jurisdictions; urges Member States to follow up on their commitments to implement the Commission’s recommendations on measures intended to encourage third countries to apply minimum standards of good governance in tax matters and aggressive tax planning, and to take the necessary measures to strengthen the fight against tax fraud and tax evasion;

**Climate, environment, energy and transport**

45. Insists on the need to implement the roadmap to a resource-efficient Europe in order to create incentives for the development of the green economy, the fostering of biodiversity and the fight against climate change, including the integration of resource efficiency measures in the European Semester, as foreseen in Europe 2020;

46. Calls on the Commission to bring forward without delay proposals to address the structural weaknesses of the current Emissions Trading System;

47. Expects the Commission to submit without further delay legislative proposals to revise the air quality legislation, in order to deliver enhanced protection from the negative impacts of air pollution on human health;

48. Stresses that achieving a comprehensive UN climate agreement in 2015 in line with the EU 2 °C objective is of the highest priority, and recognises that decisions on the EU climate and energy policy framework in 2014 will be necessary in order to spur momentum in international negotiations to achieve that goal;

49. Urges the Commission to speed up work on the revision of the hygiene package, given recent events surrounding fraudulent practices related to meat products in the EU;
50. Asks the Commission to come up with an overall review of the EU's waste policy and legislation, including the targets of the waste acquis and the diversion targets of the Landfill Directive;

51. Calls on the Commission to present a detailed action plan of measures designed to achieve a fully integrated and interconnected single market in energy; highlights the need to provide consumers with transparent and comparable energy prices;

52. Stresses once more that energy efficiency and savings are the cheapest way to reduce energy costs and lower fossil fuel imports, and should therefore be at the core of any energy policy measure proposed;

53. Emphasises the need to complete the single market for all modes of transport, including the further liberalisation of the road haulage market, so that free movement of goods and services is guaranteed with clear and easily enforceable rules for free and fair competition and reduced administrative burdens on SMEs; urges the Commission, nevertheless, to draw up a report on the state of the EU road transport market by the end of 2013 and complete all necessary analyses before coming up with legislative proposals;

54. Regards the Single European Sky (SES), designed more than 10 years ago, as a very important project; fears that if the European Union does not act in the coming years the central airspace of Europe will become so saturated that growth will no longer be possible; calls, therefore, for a reform of the airspace, an idea that has already been adopted by Member States through the reform of existing systems of air traffic control and the introduction of functional airspace blocks (FABs); welcomes the fact that SESAR, the SES technology element, is developing well; stresses that the new system will be beneficial for all, in particular for the European airlines; urges the Commission to make all FABs operational; calls for encouragement for greater use of regional airports;

55. Calls on the Commission to honour its commitment to guarantee the full completion of the single European rail area, and to extend the competences of the European Railway Agency in the field of certification and safety, as well as homologation of rolling stocks;

56. Calls for proposals to accomplish the single European telecommunications market, including measures to abolish roaming charges, no later than 2013;

**Cohesive and inclusive societies — Citizens' Europe**

57. Stresses that the European Union's cohesion policy is providing investment for sustainable growth and jobs as well as for improved competitiveness in Europe, in line with the objectives of economic, social and territorial cohesion in the EU; recalls that the cohesion policy is the main investment tool for the achievement of the Europe 2020 objectives; calls, therefore, on the Commission to take appropriate action in a prompt manner, so as to guarantee a timely start, as well as to set clear conditions to allow implementation of the 2014-2020 operational programmes in the Member States; urges the Commission to table immediately a revised draft of Regulation (EC) No 2012/2002 on the European Solidarity Fund;

58. Stresses that the comprehensive legislative package of the regulations on cohesion policy in the next Multiannual Financial Framework 2014-2020 is necessary for the appropriate implementation of the multiannual budget; notes that these regulations must be supplemented by the adoption of implementing and delegated acts;

59. Calls on the Commission to promote measures such as reform of labour markets where structural problems are hindering the entrance of young people, and to support Member States in implementing a Youth Guarantee with a view to helping young people into jobs or education;

60. Notes that there is a large unfulfilled demand for skilled personnel in information technology and system development; suggests that this sector should be one of the priorities for training and development support in the European Youth Employment Initiative;

61. Asks the Commission to present a proposal for a directive on work-related musculoskeletal disorders and a revision of Directive 2004/37/EC on the protection of workers from the risks related to carcinogens and mutagens at work;
62. Calls on the Commission to ensure through the revised employment guidelines in 2014 that employment and social policies must play an active role in the response to the crisis; urges the Commission, in this regard, to help the Member States to develop strategies for building new skills and helping unemployed persons find their way into the labour market as soon as possible; highlights, nevertheless, the fact that a major effort should be made through the Youth Employment Initiative to provide support in the Union’s most seriously affected regions to vulnerable groups, and to young people not in employment, education or training (NEETs), who are unemployed or inactive, by accelerating the delivery of activities supported by ESF funding;

63. Calls on the Commission to produce an annual report on the reform of vocational training systems in the Member States, thereby making a long-term structural contribution to improving young people’s employability;

64. Supports initiatives at EU level to complement national efforts in increasing micro-credit and boosting social entrepreneurship providing services that are not sufficiently provided by the public or private sector;

65. Reiterates its demand for a review of the Directive on ‘The Application of the principle of equal pay for male and female workers for equal work of equal value’; calls for renewed efforts by the Commission to unblock the Maternity Leave Directive and for a follow-up to the preparation of the cost benefit study regarding maternity leave;

66. Insists that the Commission should come forward with a strategy on the eradication of violence against women, as requested by Parliament in several resolutions, and that the EU should become a party to the Council of Europe’s Convention on ‘Preventing and Combating Violence against Women and Domestic Violence’, which would give a strong impetus to the 26 Member States that have still not signed and ratified the Convention;

67. Recalls that anti-discrimination policy plays a key role in promoting social inclusion and calls on the Commission to propose an EU roadmap against homophobia and discrimination; urges the Commission to ensure that national strategies for the integration of Roma in Member states are developed and effectively implemented and that discrimination is condemned and raised in dialogues with third countries, as well as incorporating the fight against discrimination into cooperation programmes;

68. Stresses the importance to be given to the sectors of education, culture, audiovisual, youth, sport and citizenship, and to ensuring that they have adequate and efficient budgets;

69. Calls on the Commission to investigate the underlying problems of incomplete recognition of courses passed and accumulated European Credit Transfer and Accumulation System (ECTS) points at home universities for students who complete study period at other universities under the Erasmus programme;

70. Urges a comprehensive agreement on the data protection package which ensures a uniform and high level of protection for data subjects and a level playing field for business;

71. Considers that, in the interest of safeguarding the security of European citizens, the continued fight against terrorism is of paramount concern to the European Union, and calls strongly for a revision of the European legislation on data retention;

72. Calls on the Commission to continue as a matter of urgency its work on the EU-US agreement on the protection of personal data and reiterates the urgency of its rapid conclusion;

73. Suggests that proposals for mutual recognition of the effects of certain civil status documents, together with minimum standards for civil procedures, would be indicative of an important step forward in the creation of an area of justice, with simpler, clearer and more accessible procedures for citizens, and greater trust in the mutual recognition of civil justice measures;

74. Urges the Commission to make optimum use of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 in tackling the problem of human trafficking;
75. Calls on the Commission to propose the enlargement of the scoreboard on justice to cover also the rule of law, democracy and fundamental rights;

76. Stresses the importance of tackling organised crime, money laundering, and fraud and corruption against the EU's financial interests at cross border level;

77. Calls on the Commission to complete the roadmap on procedural rights and to monitor the transposition of the adopted directives, ensuring that the basic rights of suspects and accused persons are protected sufficiently through common minimum standards of procedural rights in criminal proceedings and rendering effective the principle of mutual recognition;

78. Supports the Commission in its work on victims’ rights and asks the Commission to assist Member States in ensuring full and proper implementation by all Member States of the directive establishing minimum standards on the rights, support and protection of victims of crime by 16 November 2015;

79. Welcomes the Commission proposal on conditions of entry and residence for researchers, students, pupil exchanges, trainees and volunteers; calls for further substantive proposals on legal migration;

80. Calls on the Commission to issue guidelines to ensure that the Schengen rules are correctly implemented by the Member States so that freedom of movement of persons is fully respected and any misuse or abuse of the possibility of reintroducing controls at the internal borders is avoided;

81. Calls on Commission to ensure that the Common European Asylum System is properly implemented throughout the EU, respecting the commitment called for in the Treaty;

82. Expects the Commission to come up with new proposals or further examine the revision of existing legislation in the field of substantive and procedural law, in particular Rome II and Brussels II;

83. Calls on the Commission to assess the implementation of the regulation on the European Citizens' Initiative and to amend it, where appropriate;

Agriculture and fisheries

84. Calls on the Commission to guarantee a swift and correct implementation of the reform of the Common Agricultural Policy (CAP) that will result in a strong, sustainable and fair CAP that serves European farmers and consumers, promotes rural development and protects the environment;

85. Recognises that the implementation will be the main focus of activities in 2014; calls on the Commission therefore to ensure effective implementation of the final agreements of the CAP reform that minimise the burden on farmers and on the administrative bodies of the Member States whilst ensuring that the new rules are effectively, rigorously and transparently implemented;

86. Notes the Commission's intention to bring forward legislation on the use of animal cloning techniques for food production; urges the Commission, in drawing up the proposal, to consider recent concerns over labelling and the consistent application of legislation related to the EU food chain, while applying the latest scientific and technological developments in this field;

87. Welcomes the Commission's proposal for a new animal health strategy, as well as its commitment to ensuring consistency amongst the horizontal principles of the legislation in the fields of animal health, animal welfare and food safety; calls for a close alignment of the animal health strategy with the Europe 2020 strategy in order to ensure the smooth functioning of the internal market in animals and animal products while, at the same time, enhancing the sustainability and competitiveness of European agriculture;

88. Calls on the Commission to take the necessary steps to help Member States implement the newly adopted Common Fisheries Policy in compliance with the future European Maritime and Fisheries Fund; expects the Commission to ensure that Article 43(2) TFEU forms the legal basis of its proposals and to limit the use of Article 43(3) to proposals strictly connected to the setting and allocation of fishing opportunities; to this end, expects the Commission to help establish an interinstitutional taskforce composed of representatives from all three institutions to identify the most appropriate ways forward;
89. Stresses that the new European Maritime and Fisheries Fund must improve the measures aimed at reducing fleet capacity; insists that the new Common Fisheries Policy must be underpinned by reinforced control measures;

90. Calls on the Commission to continue to strengthen its fight illegal, unreported and unregulated (IUU) fishing;

Foreign and development policies

91. Expects the Commission to continue to support the EU’s traditional enlargement policy; believes that the Union would lose political credibility worldwide were it to close its doors to its neighbours;

92. Recalls that the Eastern and Southern Neighbourhood continues to be a priority, and stresses that the new EU strategy and the More for More principle still need to be clearly defined and implemented;

93. Stresses the importance of reaffirming with greater determination the enlargement perspective for the Western Balkan countries and shares the Commission’s recommendation to start EU accession talks with Serbia and the Former Yugoslav Republic of Macedonia (FYROM); calls on the Commission to engage with Turkey as a candidate country and welcomes, especially, the opening of accession chapter 22 on regional policy;

94. Calls on the Commission to increase activities aimed at the development of the Eastern Partnership, especially in the field of mobility and educational cooperation;

95. Calls for the Commission to contribute constructively to the review of the European External Action Service (EEAS) with a view to working together with the Council and Parliament to support well-coordinated initiatives in the field of common foreign and security policy; calls for more flexibility in disbursing financial assistance in crisis situations;

96. Reminds the Commission of the need to improve its evaluation of the implementation of the consensus on humanitarian aid, its complementarity with Member States and donors and the need to review Council Regulation (EC) No 1257/1996;

97. Calls on the EEAS to further the promotion and implementation of the concept of the ‘responsibility to protect’ (R2P), in line with Parliament’s recommendation of 18 April 2013 (1) to the Council of the UN principle with the aim of establishing a ‘European consensus on R2P’;

98. Calls on the Commission to increase the quantity and efficiency of EU humanitarian aid and assistance delivery to people in need of basic goods and services in Syria and among refugees from Syria in neighbouring countries;

99. Calls on the Commission to put forward a proposal setting up a mechanism, financed by the relevant EU external action financial instrument and composed of a team of national and international investigators, prosecutors, lawyers and other experts from EU Member States, as well as other countries concerned (Switzerland, Canada and the United States), aiming to provide legal and technical advice and assistance to the authorities of the Arab Spring countries on the recovery of misappropriated assets stolen by former dictators, their families and regimes;

100. Calls on the Commission to shift its focus away from a prevailing input-orientated development policy to a results-orientated development policy, with precise annual figures on development achievements and to ensure the EU’s development efforts have a lasting impact on eradicating poverty;

101. Calls on the Commission to pragmatically address the issue of property rights in developing countries and to devise a coherent approach in conjunction with the other international development partners in order to kick-start a process of empowering local communities and individuals in developing countries; points out that this is a process that constitutes one of the cornerstones of development and one that could lift entire nations out of poverty and intensify economic activities in developing countries;

102. Points out that in order to increase aid efficiency it is also crucial to guarantee greater policy coherence, whereby all EU policy areas, especially those with a significant impact in developing countries, contribute to wealth creation in developing countries; points out that it is also necessary to increase coordination among the Member States;

103. Points out that addressing child malnutrition and food security, combating gendercide — the persistent selection, practised on an enormous scale, of males over females — and promoting the provision of health insurance and pensions in developing countries remain high priorities;

104. Underlines the fact that disaster risk reduction is also an important strategy that needs to be improved;

105. Calls for the effectiveness of development aid to be improved by enhancing coordination and complementarities, and by regularly assessing the outputs, outcomes and impact of such aid;

Trade

106. Remains committed to a multilateral approach to international trade and calls on the Commission to support current WTO initiatives; urges the facilitation of the accession of China to the Agreement on Government Procurement; recognises the need for continuing progress in reaching bilateral free trade agreements with significant partners, and in particular the USA; asks the Commission, therefore, to concentrate human resources and political efforts on the ongoing trade negotiations with third countries and, in particular, with strategic partners, with a view to making substantial progress towards a balanced final agreement; asks the Commission fully to involve Parliament in this process, in accordance with the relevant provisions of the Treaty on the Functioning of the European Union;

107. Calls on the Commission to launch a process of deep reflection, with the involvement of Parliament, on the future international trade strategy, including a possible reform of the functioning of the WTO; stresses that this assessment must take full account of the outcomes for the EU economy of the recent international trade strategy;

108. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

Situation in Egypt

European Parliament resolution of 4 July 2013 on the crisis in Egypt (2013/2697(RSP))

(2016/C 075/24)
Thursday 4 July 2013

1. Expresses its deep concern at the situation in Egypt following the military intervention; underlines that power should
be transferred to democratically-elected civilian authorities as soon as possible; expresses its fundamental solidarity with all
those Egyptians who cherish democratic aspirations for their country and calls for a rapid return to the democratic process,
including the holding of free and fair presidential and parliamentary elections in a fully inclusive process with the
participation of all democratic actors;

2. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the
Commission/High Representative of the Union for Foreign Affairs and Security Policy, the parliaments and governments of
the Member States, and the Parliament and Government of Egypt.

P7_TA(2013)0334

Situation in Djibouti

European Parliament resolution of 4 July 2013 on the situation in Djibouti (2013/2690(RSP))
(2016/C 075/25)

The European Parliament,
— having regard to its earlier resolutions of 15 January 2009 (1) on the situation in the Horn of Africa and 18 December
1997 on the human rights situation in Djibouti (2),
— having regard to the joint declaration made in Djibouti on 24 February 2013 by the international observation missions
(from the African Union (AU), the Arab League, the Organisation of Islamic Cooperation (OIC) and the
Intergovernmental Authority on Development (IGAD)) which monitored the parliamentary elections held in the
Republic of Djibouti on 22 February 2013,
— having regard to the African Charter of Human and Peoples’ Rights, which Djibouti has ratified,
— having regard to Universal Declaration of Human Rights of 1948,
— having regard to the Cotonou Agreement signed on 23 June 2000 and revised on 22 June 2010,
— having regard to the statement of 12 March 2013 by the spokesperson of Catherine Ashton, High Representative of the
EU, on the situation following the parliamentary elections in Djibouti,
— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,
A. whereas, by virtue of its position at the tip of the Horn of Africa and the entrance to the Red Sea, Djibouti and its
strategic infrastructure (ports and free zones) is important for the whole region;
B. whereas Djibouti has played a key role in combating piracy and terrorism in the region;
C. whereas Djibouti had a single-party system from the time of its independence in 1977 until 2003;
D. whereas the country has been in the grip of a serious political crisis since the parliamentary elections of 22 February
2013;
E. whereas Ismail Omar Guelleh, who came to power in 1999, was re-elected in 2005 with 100 % of the votes and
announced that he would not stand again for election in 2016; whereas President Guelleh was re-elected in April 2011
with close to 80 % of the votes in elections that were boycotted by a large section of the opposition after the Djibouti
Parliament had amended the constitution to allow President Guelleh to seek a new term;

whereas, for the first time since President Guelleh came to power, the opposition parties, in the hope that democratic pluralism would prevail, decided to take part in the parliamentary elections of 22 February 2013, following the introduction of a new, partly proportional voting system enabling minority parties to win seats in parliament;

G. whereas those elections were monitored by AU, Arab League, OIC and IGAD observers, who oversaw operations at 154 polling stations and 12 counting centres and reported that the elections had been transparent and that no instances of fraud or ballot stuffing had been detected;

H. whereas, according to the results announced by the Constitutional Council, the Union for the Presidential Majority (UMP) gained 68% of the votes;

I. whereas the opposition, which for the first time since the country's independence won seats in parliament, said that there had been massive fraud and claimed that it had won the elections; whereas the Constitutional Council rejected the appeal lodged by the opposition against the results of the elections;

J. whereas the opposition is boycotting the parliament formed following the elections; whereas the authorities have condemned the setting up by a section of the opposition of a ‘Legitimate National Assembly’ (ANL) in parallel to the national parliament following the disputed elections of February 2013; whereas the ANL is presided over by the head of the Union for National Salvation (USN) list of candidates for the Djibouti City constituency, Ismail Guedi Hared;

K. whereas the results of the parliamentary elections of 22 February 2013 have still not been published for each polling station, in spite of the calls made by the EU, giving rise to suspicions of fraud;

L. whereas the number of voters registered in the Djibouti City constituency changed every time official figures were announced;

M. whereas the suppression, by the disproportionate use of force, of demonstrations by opposition parties contesting the regularity of the parliamentary elections is reported to have resulted in at least 10 deaths caused by shooting by the forces of law and order;

N. having regard to the mass arrests of opposition demonstrators; whereas NGOs are raising the alarm about suspect deaths, torture and disappearances;

O. whereas, since the elections of 22 February 2013, more than a thousand members of the opposition are said to have been imprisoned for longer or shorter periods;

P. whereas some 60 political prisoners are currently said to be in detention; having regard to the constant repression by the authorities of opposition political militants;

Q. having regard to the prosecutions brought against most opposition leaders and many journalists;

R. whereas the journalist Mydaneh Abdallah Okieh, who is also responsible for communication by the opposition coalition USN, is accused of ‘slander ing the police’ for having posted on the social network Facebook pictures of demonstrators who were victims of repression; whereas on 26 June 2013 the Court of Appeal increased his sentence from 45 days to five months;

S. having regard to the sentencing, in April 2013, to two years' imprisonment and to deprivation of their civic and civil rights of the three leaders of the opposition coalition USN; whereas the hearing of their appeal has been held over until 25 November 2013;

T. having regard in this context to the arrest of the spokesperson of the USN opposition, Daher Ahmed Farah, on 4 March 2013; whereas he was found guilty of having called for a rebellion after the parliamentary elections of February 2013; whereas two other people were charged in the same case, one of whom received a suspended sentence of imprisonment while the other was acquitted; whereas on 26 June 2013 the Court of Appeal again sentenced Daher Ahmed Farah to two months' unconditional imprisonment;

U. having regard to the extremely worrying detention conditions in Djibouti's prisons;
V. whereas the 1992 Constitution recognises fundamental liberties and basic principles of good governance;

W. whereas Article 10 of the Constitution stipulates that "the right of defence, including the right to enlist the assistance of the lawyer of one's choice, shall be guaranteed at all stages of the procedure";

X. whereas Djibouti is a signatory to the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights;

Y. whereas Djiboutian women are confronted with diverse forms of violence — including rape, female genital mutilation, domestic violence, sexual harassment and early marriage — which have far-reaching negative consequences for the physical and psychological well-being of women;

Z. whereas Djibouti is ranked 167th (out of 179 countries), in the worldwide index of press freedoms 2013 compiled by Reporters Without Borders; having regard to the ban on travel to Djibouti by foreign journalists and the difficulties which it is causing in obtaining reliable information about what is happening in the country;

AA. whereas in March 2012, the United Nations Food and Agriculture Organisation (FAO) estimated that 180,000 people in Djibouti were in need of food aid;

AB. whereas, in the past 20 years, the European Union and its Member States have been the main providers of financial support to Djibouti; whereas the payments made by the USA, Japan and France for the occupation of their military bases represent a source of revenue ensuring continuous growth for Djibouti;

AC. whereas respect for human rights, democratic principles and the rule of law are the very foundation of the ACP-EU partnership and constitute essential elements of the Cotonou Agreement;

1. Expresses its strong concern about the situation in Djibouti since the parliamentary elections of 22 February 2013 and the tense political climate in the country; is particularly concerned about reports of mass arrests of members of the opposition, suppression of demonstrations held to protest about irregularities in the elections, and assaults on the freedom of the media;

2. Calls on the Djibouti authorities to put an end to repression of political adversaries and to release everybody who is being detained on political grounds;

3. Calls on the Djiboutian authorities to guarantee respect for the human rights recognised in the national and international agreements which Djibouti has signed and to safeguard civil and political rights and freedoms, including the right to demonstrate peacefully and freedom of the press;

4. Strongly condemns the acts of sexual violence against women, and points out that the Government of Djibouti has a responsibility to put an end to impunity by bringing those responsible for sexual violence against women to justice;

5. Calls for the rights of the defence to be respected, in particular the right of accused persons to have access to a lawyer of their choice at all stages of the proceedings against them; calls on the authorities to allow the families of persons in detention to bring them material aid, in particular medical supplies;

6. Calls on the Government of Djibouti, with the aid of the institutions which validated the results of the election, in particular the African Union, to embark on a process of political dialogue with the opposition, in accordance with the announcement made by the Head of State on 27 June 2013 on the occasion of the anniversary of Djibouti's independence; calls on the European Union to support the work of regional organisations and contribute to the efforts to find a political solution to the current crisis;

7. Calls for a judicial investigation to be opened immediately with the aim of shedding light on the actions of the police and army during demonstrations and punishing the perpetrators of human rights violations;

8. Welcomes the fact that the 22 February 2013 election passed off peacefully, as emphasised by various representatives of the international community, including the Vice-President/High Representative and the heads of the four election observation missions sent to Djibouti; welcomes the commitment to the future of their country shown by the people of Djibouti and all the political parties through their participation in the election;
9. Welcomes the fact that the 22 February 2013 election saw opposition forces, i.e. the Union for National Salvation (USN), take part for the first time since Djibouti became independent in 1977;

10. Reiterates the European Union's call for the results from each polling station used in the 22 February 2013 election to be published;

11. Calls on all political forces in Djibouti to respect the rule of law, including the right to demonstrate peacefully, and not to engage in violence and repressive measures;

12. States its willingness to monitor the situation in Djibouti closely and to propose restrictive measures in the event of a breach of the Cotonou Agreement (2000), and in particular Articles 8 and 9 thereof; calls on the Commission likewise to monitor the situation closely;

13. Urges the EEAS, the Commission and their partners to work with the Djiboutians on long-term political reform, which should be particularly facilitated by the strong relationship that already exists considering that Djibouti has been a key component of the fight against terrorism and the region as well as hosting a military bases;

14. Instructs its President to forward this resolution to the Government of Djibouti, the institutions of the African Union, the Intergovernmental Authority on Development, the Arab League, the Organisation of Islamic Cooperation, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy and the Co-Presidents of the ACP-EU Joint Parliamentary Assembly.

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P7_TA(2013)0335

**Situation in Nigeria**

**European Parliament resolution of 4 July 2013 on the situation in Nigeria (2013/2691(RSP))**

(2016/C 075/26)

The European Parliament,

— having regard to its resolutions of 13 June 2013 on the freedom of the press and media in the world (1), of 11 December 2012 on a digital freedom strategy in EU foreign policy (2), of 5 July 2012 on violence against lesbians and LGBT rights in Africa (3), and of 15 March 2012 on the situation in Nigeria (4),

— having regard to the statements by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security, Catherine Ashton, on 22 January 2012 on the bombings in Kano, on 11 March 2013 on the killings of hostages, on 2 June 2013 on the bill in Nigeria criminalising same-sex marriage and relationships, and on 25 June 2013 on executions in Nigeria,

— having regard to the EU-Nigeria human rights dialogue held in Abuja in March 2013 and to the Nigeria-EU Ministerial Meeting of 16 May 2013 in Brussels, which established the need to balance counterterrorism measures with the loss of civilian lives and destruction of public infrastructure,

— having regard to the resolution of the ACP-EU Joint Parliamentary Assembly, meeting in May 2013 in Horsens (Denmark), on the situation in Nigeria,

— having regard to the Council of the European Union's Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) People,

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Having regard to the Cotonou Agreement of 2000 and its 2005 and 2010 revisions (the latter ratified by Nigeria on 27 September 2010), and in particular Articles 8 and 9 thereof concerning political dialogue and human rights, democracy and the rule of law,

— having regard to the statements made by UN Secretary-General Ban Ki-moon on 16 May 2013 on the continued violence and deteriorating security situation in north-east Nigeria, and on 22 April 2013 on the high number of civilians killed and homes destroyed in Nigeria due to clashes between military forces and the Boko Haram rebel group,

— having regard to the statements made by the UN High Commissioner for Human Rights, Navi Pillay, on 3 May 2013 in response to the violent clashes of April 2013, reminding security agents in Nigeria to respect human rights and to avoid excessive use of force in their operations, and on 17 May 2013 on the possibility that Boko Haram members may face war crimes charges,

— having regard to the statement by the UN Security Council of 27 December 2011 on attacks by the Boko Haram terrorist sect in Nigeria,

— having regard to the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief of 1981,

— having regard to the statement of 12 April 2012 by the G8 Foreign Ministers on the continuing violence in Nigeria,

— having regard to the African Union Convention on the Prevention and Combating of Terrorism, ratified by Nigeria on 16 May 2003, and to the additional Protocol thereto, ratified by Nigeria on 22 December 2008,

— having regard to the statement made by the African Union's Commissioner for Peace and Security, Lamamra Ramtane, on 14 July 2012, condemning the activities and human rights violations of Boko Haram, urging the international community to assist Nigeria in resisting the terrorist sect, and emphasising the threat it poses to regional and international security,

— having regard to the summit of the Gulf of Guinea heads of state and government on maritime security and safety, held in Yaoundé (Cameroon) on 24 June 2013,

— having regard to the Constitution of the Federal Republic of Nigeria adopted on 29 May 1999, and in particular the provisions of Chapter IV on the protection of fundamental rights, including the right to life, the right to a fair hearing, the right to the dignity of human persons, and the protection of freedom of expression, freedom of the press, freedom of thought, freedom of conscience and freedom of religion,

— having regard to Article 3 of the Geneva Conventions, ratified by Nigeria on 20 June 1961, and to Protocol II thereto, ratified by Nigeria on 10 October 1988, both of which establish international law in respect of non-international armed conflicts,

— having regard to the African Charter on Human and People's Rights of 1981, ratified by Nigeria on 22 June 1983,

— having regard to the International Covenant on Civil and Political Rights of 1966, ratified by Nigeria on 29 October 1993,

— having regard to the Universal Declaration of Human Rights of 1948,

— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas the Nigerian President, Goodluck Jonathan, declared a state of emergency in the states of Borno, Yobe and Adamawa on 14 and 15 May 2013 in response to Boko Haram's activities, mobilising additional military forces;

B. whereas in April 2013 the town of Baga was destroyed by fighting between Nigerian military forces and Boko Haram militants, resulting in the destruction of thousands of homes and the deaths of hundreds of civilians, according to community leaders; whereas an independent investigation by Nigeria's Human Rights Commission will conclude on the Baga killings by the end of July;
C. whereas the federal government has categorised Boko Haram under the Terrorism Prevention Act of 2011, in order to permit the prosecution of any individual associated with or supporting the group;

D. whereas Boko Haram has been responsible for 4 000 deaths since 2009; whereas more than 700 Nigerians have been killed so far this year in more than 80 attacks associated with Boko Haram, which a recent United States report ranked as the second most deadly terrorist group in the world; whereas the connection between Boko Haram and AQIM (Al-Qaeda in the Islamic Maghreb) poses a serious threat to peace and security in the greater Sahel region and West Africa in general; whereas Boko Haram continues to target state and security officials, as in its raid of 7 May 2013 on a prison compound in Bama, in which some 55 people were killed and some 105 inmates released;

E. whereas Human Rights Watch, Amnesty International, Freedom House and other human rights organisations have documented the involvement of Boko Haram in attacks on police stations, military facilities, churches, schools, farms and banks; whereas Boko Haram has expanded its targeting of civilians, including attacks on two secondary schools in Borno and Yobe states on 16 and 17 June 2013, in which 16 pupils and 2 teachers were killed; whereas these attacks have forced several thousand schoolchildren out of formal education; whereas threats to civilians have prompted 19 000 farmers to flee their farms and abandon their crops, leading to loss of agricultural productivity and contributing to food shortages;

F. stressing its increasing concern over Boko Haram’s decision to kidnap women and children as part of its violent guerrilla campaign; whereas foreign workers in Nigeria have also been kidnapped, attacked and killed by insurgents;

G. whereas the Office of the UN High Commissioner for Refugees has warned of a refugee crisis; whereas in the past weeks some 6 000 Nigerians arrived in Niger and between 11 and 13 June 2013 some 3 000 Nigerians crossed into Cameroon; whereas refugees are also crossing the border with Chad; whereas such displacements have put strain on the meagre local food and water resources, especially in Niger, which is itself struggling with food insecurity due to years of drought; whereas none of Nigeria’s neighbours have the capacity to absorb the numbers of people who could be displaced in the event of a full-scale humanitarian disaster following mass violence;

H. whereas Boko Haram continues to target Christians, moderate Muslims and other religious groups, whom it is driving out of the country’s majority-Muslim north;

I. whereas in response to Boko Haram’s violence the Nigerian police and military have seized and carried out extrajudicial executions of numerous suspected members of the group, in particular by seizing young men from northern villages; whereas many of those detained have been held incommunicado without charge or trial, in some cases in inhuman conditions, and whereas some have been physically abused, while others have disappeared or died in detention; whereas the Nigerian Government and army officers have provided unreliable estimates of civilian casualties and damage to homes; whereas Human Rights Watch, Freedom House and other human rights organisations have described the response of the Nigerian forces in recent months as increasingly brutal and indiscriminate, leaving civilians to bear the brunt of the violence between the two groups in disproportionate fashion;

J. whereas freedom of expression and freedom of the press are being jeopardised by threats of arrest, intimidation, violence and even death against those reporting on issues in such a way as to criticise the Nigerian authorities; whereas Boko Haram has repeatedly threatened to attack media outlets that have reported negatively on it;

K. whereas owing to the declaration of the state of emergency, large parts of the north-eastern states have become inaccessible to aid agencies, journalists and reporters; whereas the government has shut down mobile phone services in several areas to stop militants communicating.
L. whereas the Nigerian Government has recently broken its seven-year moratorium on the death penalty by executing four prisoners in Edo state who were sentenced when Nigeria was still ruled by a military dictatorship; whereas on 26 June 2013 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, called on the Nigerian authorities to put on hold the imminent execution of a fifth prisoner; whereas according to reports by human rights organisations, in 2012 Nigeria sentenced 56 people to death, and whereas approximately 1 000 people are reportedly on death row in the country;

M. whereas the Nigerian House of Representatives adopted the Same-Gender Marriage (Prohibition) Bill on 30 May 2013, introducing a 14-year prison sentence for anyone who marries, or is married to, a person of the same sex, applying not only to Nigerians but also to tourists, foreign workers and diplomats, as well as a 10-year sentence for the registration or operation of social outlets or NGOs that support the human rights of LGBTI people;

N. whereas the problems in Nigeria stem from a lack of economic development and the tensions are rooted in decades of resentment between indigenous groups, mostly Christians or animist, vying for control of fertile farmlands with migrants and settlers from the Hausa-speaking Muslim north; whereas the conflicts are being exacerbated by climate change and desert encroachment; whereas escalating armed conflict and persisting social and economic challenges are likely to fuel radicalisation, including manipulation and recruitment by fundamentalist Islamic groups such as Boko Haram;

O. whereas the EU is Nigeria’s largest financial donor; whereas on 12 November 2009 the Commission and the Federal Government of Nigeria signed the European Community-Nigeria Country Strategy Paper and National Indicative Programme for 2008-2013, under which the EU funds projects whose aims include peace, security and human rights; whereas EU assistance to Nigeria over this period totals EUR 700 million, some of which has been diverted to dealing with the increasingly problematic security situation in northern Nigeria;

P. whereas, under Articles 8 and 9 of the revised Cotonou Agreement, the EU engages in regular political dialogue with Nigeria on human rights and democratic principles, including ethnic, religious and racial discrimination;

Q. whereas the UN High Commissioner for Human Rights, Navi Pillay, has warned that Boko Haram’s attacks may constitute crimes against humanity; whereas the International Criminal Court prosecutor Fatou Bensouda visited Abuja in July 2012 and whereas her office published a report in November 2012 stating that reasonable grounds exist for believing that Boko Haram has committed acts constituting crimes against humanity;

R. whereas although Nigeria is one of the world’s largest oil producers, nearly 60 % of the population live on less than a dollar a day; whereas the peaceful resolution of conflicts also implies fair access to resources and fair redistribution of revenues through the state budget;

1. Strongly condemns the escalation of violence on the part of Boko Haram and the tragic loss of innocent lives in the stricken regions of Nigeria, and extends its sympathies to the bereaved and the injured; expresses its concern at the ongoing tensions in which communities have been actors and victims;

2. Urges the Government of Nigeria to guarantee the security and protection of its population against the violence of Boko Haram and to abstain from further attacks or reprisal killings, while upholding its obligations under internationally recognised human rights standards and acting in line with the rule of law;

3. Condemns the Nigerian military for using disproportionate force in its clashes with Boko Haram, particularly in its raids on Baga on 16 and 17 April 2013,
4. Urges both government and sub-state actors to exercise restraint and seek peaceful means to resolve differences between religious and ethnic groups in Nigeria; emphasises, in this regard, the importance of a functioning, independent, impartial and accessible judicial system, especially during armed conflicts, in order to end impunity, enhance respect for the rule of law and protect the fundamental rights of the population;

5. Calls on the Nigerian Government to prevent further escalation of the conflict, with special consideration for the safety and wellbeing of civilians, recalling that the destruction and damage caused during the conflict to housing, public infrastructure and farmland are having a detrimental impact on the population;

6. Urges both the Nigerian Government and Boko Haram to recognise and respect freedom of the press and media and to allow journalists and reporters access to the front lines, as the press and media can play an important role in strengthening accountability and documenting human rights abuses;

7. Condemns the execution of Daniel Nsofor by the Nigerian authorities for crimes committed when he was under 18 years of age; recommends that the authorities take the necessary steps to implement the UN Convention on the Rights of the Child and the 2010 concluding observations on Nigeria, in particular by ensuring that the definition of the child in domestic legislation and at state level is in full compliance with that set out in the Convention on the Rights of the Child, to review the files of all prisoners on death row for crimes committed before the age of 18, and to outlaw the death penalty for all persons under the age of 18 in domestic legislation;

8. Strongly condemns the execution of four prisoners in Nigeria in June 2013; calls on the Nigerian authorities to uphold their recent commitments, as expressed in the framework of the EU-Nigeria human rights dialogue, to maintain the de facto moratorium on executions, and urges the country to abolish the death penalty by amending its legislation;

9. Invites the Nigerian authorities, with the support of the European Commission and Unicef, to accelerate their reform efforts in line with the UN Convention on the Rights of the Child, in particular as regards justice for children and birth registration systems; recommends that Nigeria continue and strengthen its efforts to ensure free and compulsory birth registration for all children and raise public awareness of the importance of birth registration and of the existing legislation;

10. Recognises that mobile phones represent an important form of communication for militants, but urges the Nigerian Government not to resort to blocking the entire network, as this also makes it impossible for citizens to communicate;

11. Underlines the importance of regional cooperation in addressing the threat posed by the connection between Boko Haram and AQIM; encourages the countries of the region to deepen their cooperation, including with the Sahel countries, in order to prevent further synergies between Boko Haram, AQIM and the Movement for Oneness and Jihad in West Africa (MOJWA); calls on the EU institutions and Member States, as well as the UN, the African Union and the Economic Community of West African States (Ecowas), to lend their support to such regional efforts and to address the threats posed by terrorism, the proliferation of light weapons and transborder crime;

12. Notes with concern the growing threat of piracy off the Gulf of Guinea and the need for more coordinated action; welcomes, in this regard, the regional efforts agreed on to tackle the challenges of piracy at the summit of the Gulf of Guinea heads of state and government on maritime security and safety held in Yaoundé (Cameroon) on 24 June 2013;

13. Calls for a fuller examination of the root causes of the conflict, including social, economic and ethnic tensions, avoiding over-general and simplistic explanations based on religion alone, which cannot provide the basis for a long-term, lasting solution to the problems of the region; urges the Nigerian Government to work for a peaceful solution by addressing the root causes of the conflict and to ensure fair access to resources, sustainable development at regional level and redistribution of revenues through the state budget;

14. Calls for an independent investigation into the human rights violations, and for those responsible to be brought to justice in accordance with international standards of fair trial;
15. Expresses its concern that an escalation of conflict in Nigeria will further intensify the refugee crisis in neighbouring Niger and Cameroon; encourages Nigerian Government officials to engage with leaders of neighbouring countries in order to coordinate responses to the influx of refugees;

16. Calls upon the Vice-President/High Representative, Catherine Ashton, to urge the Nigerian Government to exercise respect for human rights in its counterterrorism operations; expresses its readiness to follow closely the evolution of the situation in Nigeria, and proposes restrictive measures in the event of non-compliance with the Cotonou Agreement, in particular Articles 8 and 9 thereof; asks the Commission also to monitor the situation;

17. Considers deeply regrettable the adoption of the Same-Gender Marriage (Prohibition) Bill, which makes it a crime to be in a same-sex relationship, support the rights of LGBT people, operate a gay-friendly venue or display affection between two people of the same sex; calls on the President of Nigeria, therefore, not to sign the law passed by the House of Representatives, which would put LGBT people — both Nigerian nationals and foreigners — at serious risk of violence and arrest;

18. Encourages the Nigerian authorities to decriminalise homosexuality and to protect LGBTI people and the defenders of their human rights;

19. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Federal Government of Nigeria, the institutions of the African Union and ECOWAS, the UN Secretary-General, the UN General Assembly, the Co-Presidents of the ACP-EU Joint Parliamentary Assembly, and the PAN-African Parliament (PAP).
II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

P7_TA(2013)0292

Request for the waiver of the parliamentary immunity of Marine Le Pen
European Parliament decision of 2 July 2013 on the request for waiver of the immunity of Marine Le Pen (2012/2325(IMM))

(2016/C 075/27)

The European Parliament,

— having regard to the request for waiver of the immunity of Marine Le Pen, forwarded on 26 November 2012 by the Minister of Justice of the Republic of France in connection with a request dated 7 November 2012 from the Chief Prosecutor at the Lyon Court of Appeal, and announced in plenary on 10 December 2012,

— having heard Bruno Gollnisch MEP on behalf of Marine Le Pen in accordance with Rule 7(3) of its Rules of Procedure,

— having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union and Article 6(2) of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage,


— having regard to Article 26 of the Constitution of the French Republic,

— having regard to Rules 6(2) and 7 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0236/2013),

A. whereas the Chief Prosecutor at the Lyon Court of Appeal has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Marine Le Pen, in connection with a legal action concerning an alleged offence;

Tuesday 2 July 2013

B. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union states that Members shall enjoy, in the territory of their own State, the immunities accorded to members of the Parliament of that State;

C. whereas Article 26 of the Constitution of the French Republic provides that Members of the French Parliament shall not be subject to legal proceedings for opinions expressed or votes cast by them while carrying out their duties;

D. whereas Marine Le Pen is accused of incitement to hatred, discrimination or violence against a group of persons on grounds of their religious affiliation, an offence provided for in French law, namely in Article 24(8), Article 23(1), and Article 42 of the Act of 29 july 1881 and Article 93-3 of Act 82-652 of 29 July 1982, the penalties for which are laid down in Article 24, paragraphs 8, 10, 11 and 12, of the Act of 29 juli 1881 and Article 131-26(2) and (3) of the Criminal Code;

E. whereas the alleged action does not have a direct or obvious connection with Marine Le Pen’s performance of her duties as a Member of the European Parliament or constitute opinions expressed or votes cast in the performance of her duties as a Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

F. whereas the accusation bears no relation to Marine Le Pen’s position as a Member of the European Parliament;

G. whereas there is no reason to suspect the existence of a fumus persecutionis;

1. Decides to waive the immunity of Marine Le Pen;

2. Instructs its President to forward this decision and the report of its competent committee immediately to the Minister of Justice of the French Republic and to Marine Le Pen.
III

(Preparatory acts)

EUROPEAN PARLIAMENT

P7_TA(2013)0287

Staff Regulations of officials and conditions of employment of other servants of the EU ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/28)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0890),

— having regard to Article 294(2) and Article 336 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0507/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the Court of Justice of 22 March 2012 (1),

— having regard to the opinion of the Court of Auditors of 14 June 2012 (2),

— having regard to the undertaking given by the Council representative by letter of 28 June 2013 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Budgets, the Committee on Budgetary Control and the Committee on Women’s Rights and Gender Equality (A7-0156/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(1) Not yet published in the Official Journal.

(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Regulation (EU, Euratom) No 1023/2013.)

Vienna Convention on Civil Liability for Nuclear Damage ***

European Parliament legislative resolution of 2 July 2013 on the draft Council decision authorising certain Member States to ratify, or to accede to, the Protocol amending the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963, in the interest of the European Union, and to make a declaration on the application of the relevant internal rules of Union law (06206/2013 — C7-0063/2013 — 2012/0262(NLE))

(Consent)

The European Parliament,

— having regard to the draft Council decision (06206/2013),
— having regard to the Protocol of 12 September 1997 amending the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 (06658/2013),
— having regard to the request for consent submitted by the Council in accordance with Articles 81(2) and 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0063/2013),
— having regard to Rules 81 and 90(7) of its Rules of Procedure,
— having regard to the recommendation of the Committee on Legal Affairs (A7-0198/2013),

1. Consents to the draft Council decision;
2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.

Application of Article 93 of the EC Treaty *


(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2012)0725),
— having regard to its resolution of 17 January 2013 on state aid modernisation (1),

— having regard to Article 109 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0004/2013),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0180/2013),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1
Proposal for a regulation
Recital 1

(1) In the context of a thorough modernization of State aid rules to contribute both to the implementation of the Europe 2020 strategy for growth and to budgetary consolidation, Article 107 of the Treaty should be applied effectively and uniformly throughout the Union. Council Regulation (EC) No 659/1999 of 22 March 1999 codified and reinforced the Commission’s previous practice to increase legal certainty and to support the development of State aid policy in a transparent environment. However, in the light of the experience gained in its application and of recent developments such as enlargement and the economic and financial crisis, certain aspects of that Regulation should be amended in order to enable the Commission to be more effective.

(1) In the context of a thorough modernization of State aid rules to contribute both to the implementation of the Europe 2020 strategy for growth and to budgetary consolidation, Article 107 of the Treaty should be applied effectively and uniformly throughout the Union. Council Regulation (EC) No 659/1999 of 22 March 1999 codified and reinforced the Commission's previous practice to increase legal certainty and to support the development of State aid policy in a transparent environment. However, in the light of the experience gained in its application and of recent developments such as enlargement and the economic and financial crisis, certain aspects of that Regulation should be amended in order to equip the Commission with streamlined and more effective State aid control and enforcement instruments.
Amendment 2
Proposal for a regulation
Recital 1a (new)

Text proposed by the Commission

(1a) It is important that the Commission focus its attention on State aid cases with the potential to distort competition within the internal market. That aim is consistent with the Commission’s communication of 8 May 2012 on EU State Aid Modernisation (SAM) and was endorsed by the European Parliament in its resolution of 17 January 2013 on state aid modernisation. It follows that the Commission should abstain from involvement in measures which concern smaller undertakings and which produce purely local effects, in particular where the main aim of those measures is to fulfil social objectives which do not distort the internal market. The Commission should therefore be able to decline to examine such cases, and, in particular, complaints brought to its attention, even where persistent complainants respond to every invitation to submit comments. The Commission should however look into cases brought to its attention by multiple complainants and be very careful not to exempt too many activities from State aid scrutiny.

Amendment 3
Proposal for a regulation
Recital 1b (new)

Text proposed by the Commission

(1b) Currently there are differing interpretations across Member States of services where there is no true economic interest and where there is a perceived lack of market driven supply or demand. Such services should not fall under the State aid rules. The unclear situation has created problems, especially for the ‘third sector’ in which non-profit service providers are unnecessarily deprived of aid provided by the State in anticipation of a possible complaint. The Commission should, in the context of modernising the State aid rules, invite the Member States to assess, through a ‘market test’, whether there is true market demand or supply for particular services, and assist them in doing so. This should also be taken into account when the Commission assesses the validity of a particular complaint.
**Amendment 4**

**Proposal for a regulation**

**Recital 1c (new)**

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**Text proposed by the Commission**

(1c) The legal basis for this Regulation, Article 109 TFEU, provides only for consultation of the European Parliament, not for codecision in line with other areas of market integration and economic regulation further to the entry into force of the Lisbon Treaty. This democratic deficit cannot be tolerated in respect of proposals that concern the means of oversight by the Commission of decisions and acts by national and local elected authorities, in particular as regards services of general economic interest related to fundamental rights. This deficit should be corrected in any future Treaty change. The Commission’s Communication of 28 November 2012 entitled ‘A blueprint for a deep and genuine economic and monetary union’ foresees proposals for a Treaty change by 2014. Such a proposal should include a specific proposal amending Article 109 TFEU in order to adopt the regulations referred to in that Article in accordance with the ordinary legislative procedure.

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**Amendment**

**Amendment 5**

**Proposal for a regulation**

**Recital 3**

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**Text proposed by the Commission**

(3) For the purpose of assessing the compatibility of an aid measure after the opening of the formal investigation procedure, in particular as regards novel or technically complex measures subject to detailed assessment, the Commission should be able, by simple request or by decision, to require any undertaking, association of undertakings or Member State to provide all information necessary for completing its assessment, if the information at its disposal is not sufficient, taking due account of the principle of proportionality, in particular for small and medium-sized enterprises.

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**Amendment**

(3) For the purpose of assessing the compatibility of an aid measure after the opening of the formal investigation procedure, in particular as regards novel or technically complex measures subject to detailed assessment, the Commission should be able, by simple request or by decision, to require any undertaking, association of undertakings or Member State to provide all information necessary for completing its assessment, if the information at its disposal is not sufficient, taking due account of the principle of proportionality, in particular for small and medium-sized enterprises. Such powers already exist for the enforcement of antitrust law and it is anomalous that they do not exist for the enforcement of State aid law, given that State aid can be equally distortive to the internal market as infringements of Articles 101 or 102 of the Treaty.
Amendment 6
Proposal for a regulation
Recital 3a (new)

Text proposed by the Commission

(3a) In its Resolution of 17 January 2013 on state aid modernisation, the European Parliament has already expressed its support for the information to be gathered by the Commission directly from market participants, if the information at its disposal is not sufficient.

Amendment 7
Proposal for a regulation
Recital 3b (new)

Text proposed by the Commission

(3b) In order to balance these new investigating powers, the Commission should be accountable to the European Parliament. The Commission should inform the European Parliament on a regular basis about ongoing investigation procedures.
Amendment 8
Proposal for a regulation
Recital 4

(4) The Commission should be able to enforce compliance with requests for information addressed to any undertaking or association of undertakings, as appropriate, by means of proportionate fines and periodic penalty payments. The rights of the parties requested to provide information should be safeguarded by giving them the opportunity to make their views known before any decision imposing fines or periodic penalty payments. The Court of Justice of the European Union should have unlimited jurisdiction with regard to such fines and periodic penalties pursuant to Article 261 of the Treaty.

Amendment 9
Proposal for a regulation
Recital 9

(9) The Commission may, on its own initiative, examine information from whatever source on unlawful aid, in order to ensure compliance with Article 108 of the Treaty, and to assess their compatibility with the internal market. In that context, complaints are an essential source of information for detecting infringements of Union State aid rules.
Amendment 10
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

(9a) Member States should have an incentive to notify State aid measures and they should not be penalised unduly if the Commission takes excessive time to examine notified State aid. Therefore, if a decision by the Commission is not received within six months of notification, any future recovery decision concerning that aid should demonstrate that the notification was incomplete and that the Member State did not respond adequately to information requests.

Amendment 11
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) Complainants should be required to demonstrate that they are interested parties within the meaning of Article 108(2) TFEU and of Article 1(h) of Regulation (EC) No 659/1999. They should also be required to provide a certain amount of information in a form that the Commission should be empowered to define in an implementing provision.

Amendment

(11) Complainants should be required to demonstrate that they are interested parties within the meaning of Article 108(2) TFEU and of Article 1(h) of Regulation (EC) No 659/1999. However, too narrow an interpretation of the term ‘interested party’ should be avoided. All complainants should be required to provide a certain minimum amount of information in an easily accessible and user-friendly form that the Commission should be empowered to define in an implementing provision. Where complainants fail to submit comments or provide information indicating the existence of unlawful aid or the misuse of aid with the potential to distort competition within the internal market, the Commission should be able to deem the complaint withdrawn.

Amendment 12
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

(11a) The Commission should consider investigating third party complaints where a sufficient body of evidence is given to show a distortion to competition within the internal market.
Amendment 13
Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) In order to ensure that the Commission addresses similar issues in a consistent manner across the internal market, it is appropriate to complete the existing powers of the Commission by introducing a specific legal basis to launch investigations into sectors of the economy or into certain aid instruments across several Member States. For reasons of proportionality, sector inquiries should be based on a prior analysis of publicly available information pointing to the existence of State aid issues in a particular sector or concerning the use of a particular aid instrument in several Member States, for example, that existing aid measures in a particular sector or based on a particular aid instrument in several Member States are not, or no longer, compatible with the internal market. Such inquiries would enable the Commission to deal in an efficient and transparent way with horizontal State aid issues.

Amendment

(13) In order to ensure that the Commission addresses similar issues in a consistent manner across the internal market, it is appropriate to complete the existing powers of the Commission by introducing a specific legal basis to launch investigations into sectors of the economy or into certain aid instruments across several Member States. For reasons of proportionality, sector inquiries should be based on a prior analysis of publicly available information pointing to the existence of State aid issues in a particular sector or concerning the use of a particular aid instrument in several Member States, for example, that existing aid measures in a particular sector or based on a particular aid instrument in several Member States are not, or no longer, compatible with the internal market. Given that, through direct links to their constituencies, Members of the European Parliament can also be alerted to possible divergences of State aid practices within a given sector, the European Parliament should also be given the power to request the Commission look into this sector. In these cases, to keep the European Parliament informed on investigations, the Commission shall send interim reports to the European Parliament detailing the progress of those investigations. Such inquiries would enable the Commission to deal in an efficient and transparent way with horizontal State aid issues.
Amendment 14
Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) Consistency in the application of State aid rules requires that arrangements be established for cooperation between the courts of the Member States and the Commission. Such cooperation is relevant for all courts of the Member States that apply Article 107(1) and Article 108 of the Treaty, in whatever context. In particular, national courts should be able to ask the Commission for information or for its opinion on points concerning the application of State aid law. The Commission should also be able to submit written or oral observations to courts which are called upon to apply Article 107(1) or Article 108 of the Treaty. Those observations should be submitted within the framework of national procedural rules and practices including those safeguarding the rights of the parties.

Amendment

(14) Consistency in the application of State aid rules requires that arrangements be established for cooperation between the courts of the Member States and the Commission. Such cooperation is relevant for all courts of the Member States that apply Article 107(1) and Article 108 of the Treaty, in whatever context. In particular, national courts should be able to ask the Commission for information or for its opinion on points concerning the application of State aid law. The Commission should also be able to submit written or oral observations to courts which are called upon to apply Article 107(1) or Article 108 of the Treaty. Those non-binding observations should be submitted within the framework of national procedural rules and practices including those safeguarding the rights of the parties.

Amendment 15
Proposal for a regulation
Article 1 — point 2

Text proposed by the Commission

1. After the initiation of the formal investigation procedure provided for in Article 6, the Commission may, if it considers it to be relevant, require an undertaking, an association of undertakings or another Member State to provide all information necessary to enable it to complete its assessment of the measure at stake, if the information available to it is not sufficient.

Amendment

1. After the initiation of the formal investigation procedure provided for in Article 6, the Commission may, if it considers it to be relevant and proportional, require an undertaking, an association of undertakings or another Member State to provide all information necessary to enable it to complete its assessment of the measure at stake, if the information available to it is not sufficient.
Amendment 16
Proposal for a regulation
Article 1 — point 2
Regulation (EC) No 659/1999
Article 6 a — paragraph 5

Text proposed by the Commission

5. The Commission shall inform the Member State concerned of the content of requests for information sent pursuant to paragraphs 1 to 4.

Amendment

5. When sending requests, the Commission shall simultaneously provide the Member State concerned with a copy of requests for information sent pursuant to paragraphs 1 to 4.

The Commission shall also, within one month of receipt, provide the Member State concerned with copies of all the documents it receives pursuant to the request for information, to the extent the information does not include confidential information which cannot be aggregated or otherwise adapted to protect the identity of the informant. The Commission shall give the Member State concerned an opportunity to make observations on those documents within one month of receipt.

Amendment 17
Proposal for a regulation
Article 1 — point 2
Regulation (EC) No 659/1999
Article 6b — paragraph 1 — point (a)

Text proposed by the Commission

(a) they supply incorrect or misleading information in response to a request made pursuant to Article 6a(3);

Amendment

(a) they supply incorrect, incomplete or misleading information, or intentionally omit relevant information, in response to a request made pursuant to Article 6a(3);

Amendment 18
Proposal for a regulation
Article 1 — point 2
Regulation (EC) No 659/1999
Article 6 b — paragraph 1 — point (b)

Text proposed by the Commission

(b) they supply incorrect, incomplete or misleading information in response to a decision adopted pursuant to Article 6a(4), or do not supply the information within the specified time limit.

Amendment

(b) they supply incorrect, incomplete or misleading information, or intentionally omit relevant information, in response to a decision adopted pursuant to Article 6a(4), or do not supply the information within the specified time limit.
Amendment 19
Proposal for a regulation
Article 1 — point 2
Regulation (EC) No 659/1999
Article 6 b — paragraph 3

Text proposed by the Commission

3. In fixing the amount of the fine or periodic penalty payment, regard shall be had to the nature, gravity and duration of the infringement.

Amendment

3. In fixing the amount of the fine or periodic penalty payment, regard shall be had:

(a) to the nature, gravity and duration of the infringement;
(b) to whether the undertaking or an association of undertakings can be considered to be an interested party or a third party in the investigation;
(c) to the principle of proportionality, in particular as regards small and medium-sized enterprises;

Amendment 20
Proposal for a regulation
Article 1 — point 4
Regulation (EC) No 659/1999
Article 10 — paragraph 1 — subparagraph 2

Text proposed by the Commission

The Commission shall examine without undue delay any complaint submitted by any interested party in accordance with Article 20(2).

Amendment

The Commission shall examine without undue delay any complaint submitted by any interested party in accordance with Article 20(2). The Commission shall consider examining a complaint submitted by a third party where there is sufficient evidence given to show a distortion to competition within the internal market by allegedly unlawful aid or an alleged misuse of aid.
Amendment 21
Proposal for a regulation
Article 1 — point 4 a (new)
Regulation (EC) No 659/1999
Article 14 — paragraph 1a (new)

Text proposed by the Commission

(4a) In Article 14 the following paragraph is inserted:

‘1a. Where unlawful aid was previously notified to the Commission and was put into effect more than six months following that notification without the Commission having taken any decision pursuant to Article 4 in that time, the Commission shall demonstrate in any decision under paragraph 1 of this Article that the notification was incomplete and that the Member State did not provide all necessary information requested by the Commission in due time.’

Amendment 22
Proposal for a regulation
Article 1 — point 9
Regulation (EC) No 659/1999
Article 20 — paragraph 2 — subparagraph 1

Text proposed by the Commission

2. Any interested party may submit a complaint to inform the Commission of any alleged unlawful aid and any alleged misuse of aid. To that effect, the interested party shall duly complete a form that the Commission should be empowered to define in an implementing provision and provide all the mandatory information requested in it.

Amendment

2. Any interested party may submit a complaint to inform the Commission of any alleged unlawful aid and any alleged misuse of aid. To that effect, the interested party shall duly complete a form that the Commission should be empowered to define in an implementing provision and provide all the mandatory information requested in it. The Commission shall consider investigating when presented with sufficient evidence by a third party of allegedly unlawful aid or of alleged misuse of aid.
Amendment 23
Proposal for a regulation

Article 1 — point 9
Regulation (EC) No 659/1999

Article 20 — paragraph 2 — subparagraph 2

Text proposed by the Commission

Where the Commission considers that the facts and points of law put forward by the interested party do not provide sufficient grounds to show, on the basis of a first examination, the existence of unlawful aid or misuse of aid, it shall inform the interested party thereof and call upon it to submit comments within a prescribed period which shall not normally exceed one month. If the interested party fails to make known its views within the prescribed period, the complaint shall be deemed to have been withdrawn.

Amendment

Notwithstanding Article 13, where the Commission considers that the facts and points of law put forward by the interested party do not provide sufficient grounds to show, on the basis of a first examination, the existence of unlawful aid or misuse of aid, with a potential to distort competition within the internal market, it shall inform the interested party thereof and call upon it to submit comments. Those comments shall be submitted within a prescribed period normally not exceeding one month, unless justified on the basis of proportionality and by the amount or complexity of the information required to argue the case. If the interested party fails to make known its views within the prescribed period, or to provide further information which would indicate the existence of unlawful aid or misuse of aid with a potential to distort competition within the internal market, the complaint shall be deemed to have been withdrawn.

Amendment 24
Proposal for a regulation

Article 1 — point 10
Regulation (EC) No 659/1999

Article 20a — paragraph 1 — subparagraph 1

Text proposed by the Commission

1. Where the information available to the Commission suggests that State aid measures in a particular sector or based on a particular aid instrument may restrict or distort competition within the internal market in several Member States, or that existing aid measures in a particular sector or based on a particular aid instrument in several Member States are not, or no longer, compatible with the internal market, the Commission may conduct its inquiry into the sector of the economy or the use of the aid instrument concerned across various Member States. In the course of that inquiry, the Commission may request the Member States, or the undertakings or associations of undertakings concerned to supply the necessary information for the application of Articles 107 and 108 of the Treaty, taking due account of the principle of proportionality.

Amendment

1. Where the information available to the Commission suggests that State aid measures in a particular sector or based on a particular aid instrument may restrict or distort competition within the internal market in several Member States, or that existing aid measures in a particular sector or based on a particular aid instrument in several Member States are not, or no longer, compatible with the internal market, or after a request by the European Parliament based on similar information, the Commission may conduct its inquiry into the sector of the economy or the use of the aid instrument concerned across various Member States. In the course of that inquiry, the Commission may request the Member States, or the undertakings or associations of undertakings concerned to supply the necessary information for the application of Articles 107 and 108 of the Treaty, taking due account of the principle of proportionality.
Amendment 25
Proposal for a regulation
Article 1 — point 10
Regulation (EC) No 659/1999

Text proposed by the Commission

The Commission may publish a report on the results of its inquiry into particular sectors of the economy or particular aid instruments across various Member States and invite the Member States and any undertakings or associations of undertakings concerned to submit comments.

Amendment

The Commission shall publish a report on its website on the results of its inquiry into particular sectors of the economy or particular aid instruments across various Member States and invite the Member States and any undertakings or associations of undertakings concerned to submit comments. Where the European Parliament requests an inquiry, the Commission shall submit an interim report to the European Parliament. The Commission, when publishing its reports, shall comply with the rules on professional secrecy, in accordance with Article 339 of the Treaty.

Tuesday 2 July 2013
Port State control ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/31)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0129),

— having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0081/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 11 July 2012 (¹),

— after consulting the Committee of the Regions,

— having regard to the undertaking given by the Council representative by letter of 17 April 2013 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A7-0394/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2012)0062


(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Directive 2013/38/EU.)

Registration documents for vehicles ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/32)

Amendment 1
Proposal for a directive
Recital 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) The possibility of cancelling a registration of a vehicle in cases where inter alia a vehicle has been re-registered in another Member State or dismantled and scrapped should be introduced.</td>
<td>(3) The possibility of cancelling a registration of a vehicle in the Member State of its registration in cases where inter alia a vehicle has been re-registered in another Member State or dismantled and scrapped should be introduced.</td>
</tr>
</tbody>
</table>

Amendment 2
Proposal for a directive
Recital 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>(4) To reduce administrative burdens and ease the exchange of information between Member States, vehicle related information should be kept in national registers.</td>
<td>(4) To reduce administrative burdens and ease the exchange of information between Member States, vehicle related information should be kept in national electronic registers.</td>
</tr>
</tbody>
</table>

Amendment 3
Proposal for a directive
Recital 4 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(4a) Whereas, in order to facilitate those checks specifically intended to combat fraud and the illegal trade in stolen vehicles and to check the validity of the roadworthiness certificate, it is appropriate to establish close cooperation between Member States, based on an effective exchange of information, by using national electronic databases.</td>
<td></td>
</tr>
</tbody>
</table>

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0199/2013).
Amendment 4
Proposal for a directive
Article 1 — point 2
Directive 1999/37/EC
Article 2 — points e and f

Text proposed by the Commission

(e) ‘withdrawal of a registration’: shall mean a limited period of time in which the vehicle is not authorised to be used in road traffic, not involving a new process of registration;

Amendment

(e) ‘suspension of a registration’: shall mean an administrative act whereby, for a limited period of time, the vehicle is not authorised to be used in road traffic, following which — provided the reasons for suspension have ceased to apply — it may be used again without a new process of registration;

(f) ‘cancellation of a registration’: shall mean a permanent cancellation of the authorisation for the vehicle to be used in road traffic, involving a new process of registration.

(f) ‘cancellation of a registration’: shall mean a permanent cancellation by the competent authority of the authorisation for the vehicle to be used in road traffic, necessitating — if the vehicle is to be used again in road traffic — a new process of registration. The holder of the registration certificate may submit a request to the competent authority for cancellation of the registration.

(In line with this amendment ‘withdrawal’ shall be replaced by ‘suspension’ throughout the text)

Amendment 5
Proposal for a directive
Article 1 — point 3
Directive 1999/37/EC
Article 3 — paragraph 4

Text proposed by the Commission

4. Member States shall keep the data on all vehicles registered on their territory in an electronic register. The data in this register shall contain all elements in accordance with Annex I as well as the results of mandatory roadworthiness tests in accordance with Regulation XX/XX/XX [on periodic roadworthiness tests]. They shall make the technical data on vehicles available to the competent authorities or testing centres involved in roadworthiness testing.

Amendment

4. Member States shall keep the data on all vehicles registered on their territory in an electronic register. The data in this register shall contain the data specified in points II.4 to II.7 of Annex I as well as the results of periodic or other mandatory roadworthiness tests in accordance with Regulation XX/XX/XX [on periodic roadworthiness tests]. They shall make the technical data on vehicles available to the competent authorities or testing centres involved in roadworthiness testing.
Amendment 6
Proposal for a directive
Article 1 — point 3
Directive 1999/37/EC

Article 3 a — paragraph 1 — subparagraph 2

Text proposed by the Commission
The withdrawal shall be effective until the vehicle has passed a new roadworthiness test. On successful completion of the roadworthiness test, the registration authority shall without delay re-authorise the use of the vehicle in road traffic.

Amendment
The withdrawal shall be effective until the vehicle has passed a new roadworthiness test. On successful completion of the roadworthiness test, the registration authority shall without delay re-authorise the use of the vehicle in road traffic; no new process of registration shall be necessary.

Amendment 7
Proposal for a directive
Article 1 — point 3
Directive 1999/37/EC

Article 3 a — paragraph 2

Text proposed by the Commission
2. In case that a Member State registration authority receives a notification that a vehicle has been treated as an end-of-life vehicle in accordance with Directive 2000/53/EC the registration shall be cancelled and this information shall be added to its electronic register.

Amendment
2. In the event that a Member State registration authority receives a notification that a vehicle has been treated as an end-of-life vehicle in accordance with Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles the registration shall be cancelled and this information shall be added to its electronic register. Such cancellation shall not involve a new process of registration.

Amendment 8
Proposal for a directive
Article 1 — point 4
Directive 1999/37/EC

Article 5

Text proposed by the Commission
4. The following paragraph is added to Article 5:

Amendment
4. The following paragraphs are added to Article 5:
3. In case that a Member State receives a notification that a vehicle has been re-registered in another Member State, it shall cancel the registration of this vehicle on its territory.

3a. In the event that a vehicle is re-registered in another Member State and the proof of the last roadworthiness test and the date for the next roadworthiness test appear on the registration certificate, the Member State in which the vehicle is re-registered, when issuing the new registration certificate, shall recognise the validity of the roadworthiness certificate and, provided the certificate is valid in terms of the testing intervals applied in the Member State of re-registration, shall include a statement to that effect on the new registration certificate.

3b. In the event that the ownership of the vehicle changes and the proof of the last roadworthiness test and the date for the next roadworthiness test appear on the registration certificate, the Member State concerned, when issuing the new registration certificate to the new owner, shall recognise the validity of the roadworthiness certificate and shall include a statement to that effect on the new registration certificate.

Amendment 9
Proposal for a directive
Article 1 — point 5
Directive 1999/37/EC
Article 7 — paragraph 2

2. The delegation of power referred to in Article 6 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.

2. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for a period of five years from the date of entry into force of this Directive. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
Amendment 10
Proposal for a directive
Article 1 — point 6 a (new)
Directive 1999/37/EC

Article 9

Text proposed by the Commission

Amendment

6a. Article 9 shall be replaced by the following:

‘Member States shall assist one another in the implementation of this Directive. They may exchange information at bilateral or multilateral level in particular so as to check, before any registration of a vehicle, the latter’s legal status, where necessary in the Member State in which it was previously registered. Such checking may in particular involve the use of an electronic network, with national electronic databases being made available to other Member States.’

Amendment 11
Proposal for a directive
Article 1 — point 6 b (new)
Directive 1999/37/EC
Annex I — point II.5

Text proposed by the Commission

Amendment

6b. The following point shall be added to point II.5 of Annex I:

‘(Y) proof (for example stamp, date, signature) of roadworthiness and date for next roadworthiness test (to be repeated as often as necessary).’
Inspection of the roadworthiness of commercial vehicles


(Ordinary legislative procedure: first reading)

Amendment 1
Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmentally acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure to ensure that vehicles which constitute an immediate risk to road safety are not used on roads.

Amendment

(3) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmentally acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure. Periodic testing should be the main tool to ensure roadworthiness. Technical roadside inspections of commercial vehicles should only be complementary to periodic tests and should be targeted at vehicles on the road which constitute an immediate risk to road safety.

Amendment 2
Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) A number of technical standards and requirements on vehicle safety have been adopted within the Union. It is however necessary to ensure, through a regime of unexpected roadside inspections, that after being placed on the market, vehicles continue to meet safety standards throughout their lifetime.

Amendment

(4) A number of technical standards, requirements on vehicle safety and environmental standards have been adopted within the Union. It is however necessary to ensure, through a regime of unexpected technical roadside inspections, that after being placed on the market, vehicles remain technically roadworthy throughout their lifetime.

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0207/2013).
Amendment 3
Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Since, as shown by the Commission’s report on the implementation of Directive 2000/30/EC, numerous vehicles which are stopped for roadside inspections reveal no defects, the selection of vehicles for roadside inspection should be based on the risk profile of the operators and should be targeted at high-risk undertakings in order to reduce the burden on operators that maintain their vehicles in a proper way.

Amendment 4
Proposal for a regulation
Recital 6

Text proposed by the Commission

Amendment


(6) Technical roadside inspections should therefore be implemented via a risk rating system based on the number and severity of deficiencies found on vehicles operated by individual undertakings as stated in standardised roadworthiness certificates and roadside inspection reports.

Amendment 5
Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Taking into consideration the volume of traffic of commercial vehicles between Member States, and in order to avoid any discrimination based on the country of registration of the vehicle, the risk rating system should be implemented throughout the Union and based on an adequate level of harmonisation between all Member States of periodic roadworthiness testing and roadside checks.
Amendment 6
Proposal for a regulation
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator established the European Register of Road Transport Undertakings (ERRU). ERRU allows national electronic registers of transport undertakings to be interconnected throughout the Union, in compliance with the Union rules on the protection of personal data. The use of that system, operated by the competent authority of each Member State, facilitates cooperation among Member States and reduces the costs involved in checks for both undertakings and administrative bodies.

Amendment 7
Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Agricultural vehicles with a maximum design speed exceeding 40 km/h are in some instances being used to replace trucks for commercial road haulage purposes. It is important to ensure that where agricultural vehicles are used in this way they are treated in the same way as trucks as regards technical roadside inspections.

Amendment 8
Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) With a view to avoid unnecessary administrative burden and costs and to improve the efficiency of inspections, vehicles operated by undertakings not complying with road safety and environmental standards should be selected as a priority, while vehicles operated by responsible and safety-minded operators and properly maintained should be rewarded with less frequent inspections.
Amendment 9
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) Technical roadside inspections of the roadworthiness should consist of initial and, where necessary, more detailed inspections. In both cases they should cover all relevant parts and systems of vehicles. To achieve a more harmonised testing, for all of the possible test items, test methods and examples of deficiencies and their assessment according to their severity should be introduced.

Amendment

(11) Technical roadside inspections of roadworthiness should consist of initial and, where necessary, more detailed inspections. In both cases they should cover all relevant parts and systems of vehicles, including the securing of cargo. To achieve a more harmonised testing, for all of the possible test items, test methods and examples of deficiencies and their assessment according to their severity should be introduced. The use of standards for the securing of cargo and for its assessment should be encouraged.

Amendment 10
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

(11a) Since the proper performance of tyres is closely linked to their inflation pressure, the extension of the mandatory fitment to commercial vehicles of tyre pressure monitoring systems as defined in UNECE (United Nations Economic Commission for Europe) Regulation 64.02 should be considered and, if it is found to be appropriate, the functioning of such systems should be checked in the course of technical roadside inspections.

Amendment

(11a) Since the proper performance of tyres is closely linked to their inflation pressure, the extension of the mandatory fitment to commercial vehicles of tyre pressure monitoring systems as defined in UNECE (United Nations Economic Commission for Europe) Regulation 64.02 should be considered and, if it is found to be appropriate, the functioning of such systems should be checked in the course of technical roadside inspections.

Amendment 11
Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

(11b) Member States may check cargo securing during technical roadside inspections according to existing standards. The outcome of such checks should not be introduced into the risk rating system until the rules on cargo securing are harmonised at Union level. Pending such harmonisation, the use of the European standards and the European Best Practice Guidelines on Cargo Securing for Road Transport for assessment purposes should be encouraged.
Amendment 12
Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Reports of technical roadside inspections are in several Member States elaborated by electronic means. In such cases a print out of the inspection report should be handed over to the driver. All the data and information gathered during roadside inspections should be transferred to a common repository of the Member State in order that the data can be easier processed and information transfer can be performed without additional administrative burden.

Amendment

(12) Reports of technical roadside inspections are in several Member States elaborated by electronic means. In such cases, it is important that full advantage be taken of the benefits of electronic communication, and recourse to print-outs of the inspection report should be minimised. All the data and information gathered during roadside inspections should be transferred to a common repository of the Member State in order that the data can be more easily processed and information transfer can be performed without any additional administrative burden.

Amendment 13
Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) The use of mobile inspection units reduces the delay and costs for operators as more detailed inspections can be performed directly at the roadside. Testing centres may also be used in certain circumstances to carry out more detailed inspections.

Amendment

(13) The use of mobile inspection units reduces the delay and costs for operators as more detailed inspections can be performed directly at the roadside. Testing centres may also be used to carry out more detailed inspections when they are located nearby.

Amendment 14
Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

(13a) Personnel performing initial roadside inspections should have the appropriate skills to carry out visual inspections in an efficient manner.
**Amendment 15**
Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

(14a) No fee should be charged to undertakings or drivers for the performance of the initial technical roadside inspection. However, in order to mitigate the costs arising from the use of technical equipment for a more detailed roadside inspection either by mobile inspection unit or in a test centre located nearby, Member States should be able to charge a fee if major or dangerous deficiencies have been found indicating that the undertaking operating the vehicle has not complied with its responsibility to keep the vehicle in a roadworthy condition. In order to limit the financial burden for such undertakings, the amount of the fee should not exceed that payable for a periodic roadworthiness test for a vehicle of the same vehicle category. Any revenue or income derived from the charging of such fees should be used to enhance road safety.

**Amendment 16**
Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) In order to ensure the efficient exchange of information between Member States, there should be within each Member State a single body acting as contact point for liaising with other relevant competent authorities. That body should also compile relevant statistics. Furthermore, Member States should apply a coherent national enforcement strategy on their territory and may designate a single body to coordinate its implementation. The competent authorities in each Member State should designate procedures setting out time limits and the contents of the information to be forwarded.

Amendment

(16) In order to ensure the efficient exchange of information between Member States, there should be within each Member State a single body acting as contact point for liaising with other relevant competent authorities. That body should also compile relevant statistics, in particular in relation to the categories of commercial vehicles checked during technical roadside inspections, the number and type of deficiencies found, and their severity. Furthermore, Member States should apply a coherent national enforcement strategy on their territory and may designate a single body to coordinate its implementation. The competent authorities in each Member State should designate procedures setting out time limits and the contents of the information to be forwarded.
Amendment 17
Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In order to allow a monitoring of the roadside inspection regime implemented in the Union Member States should communicate on a biannual basis to the Commission the results of the roadside inspections performed. The Commission should report the data collected to the European Parliament.

Amendment

(17) In order to allow a monitoring of the roadside inspection regime implemented in the Union Member States should communicate to the Commission, before 31 March of every second year, the results of the roadside inspections performed. The Commission should report the data collected to the European Parliament.

Amendment 18
Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

(17a) In order to minimise the time loss for undertakings and drivers and to increase overall efficiency, the performance of technical roadside inspections, along with inspections to check compliance with social legislation in the field of road transport, in particular Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport (1), Directive 2006/22/EC and Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (2), should be encouraged.

Amendment

(17a) In order to minimise the time loss for undertakings and drivers and to increase overall efficiency, the performance of technical roadside inspections, along with inspections to check compliance with social legislation in the field of road transport, in particular Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport (1), Directive 2006/22/EC and Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (2), should be encouraged.


Amendment 19
Proposal for a regulation
Article 1 — paragraph 1

Text proposed by the Commission

This Regulation establishes a regime of roadside inspections of commercial vehicles circulating within the territory of the Member States.

Amendment

1. This Regulation establishes a regime of technical roadside inspections of the roadworthiness of commercial vehicles circulating within the territory of the Member States.
Amendment 20
Proposal for a regulation
Article 1 — paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Technical roadside inspections shall be carried out without discrimination on grounds of the nationality of the driver or of the country of registration or entry into service of the commercial vehicle concerned.

Amendment 75
Proposal for a regulation
Article 2 — paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation shall apply to commercial vehicles with a design speed exceeding 25 km/h of the following categories, as defined in Directive 2007/46/EC of the European Parliament and the Council:

— motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver’s seat — vehicle category M2 and M3,

— motor vehicles having at least four wheels, normally used for the road carriage of goods and with a maximum permissible mass not exceeding 3 500 kg — vehicle category N1,

— motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg — vehicle categories N2 and N3,

— trailers and semi-trailers with a maximum permissible mass not exceeding 3 500 kg — vehicle categories O1 and O2,

— trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg — vehicle categories O3 and O4.

— motor vehicles and any attached trailer, used for the carriage of passengers and with more than eight seats, excluding the driver’s seat — vehicle category M2 and M3,

— motor vehicles and any attached trailer, used for the carriage of goods and having a maximum permissible mass not exceeding 3 500 kg — vehicle category N1,

— motor vehicles and any attached trailer used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg — vehicle categories N2 and N3,

— wheeled tractors of category T5, the use of which mainly takes place on public roads for commercial road haulage purposes, with a maximum design speed exceeding 40 km/h.

— motor vehicles and any attached trailer used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg — vehicle categories N2 and N3,
Amendment 28
Proposal for a regulation
Article 3 — paragraph 1 — point 6

Text proposed by the Commission

(6) ‘commercial vehicle’ means a motor vehicle and its trailer intended for the transport of goods or passengers for professional purposes;

Amendment

(6) ‘commercial vehicle’ means a motor vehicle and its trailer intended for the transport of goods or passengers for the carriage of goods by road in vehicles for reward;

Amendment 29
Proposal for a regulation
Article 3 — paragraph 1 — point 9

Text proposed by the Commission

(9) ‘roadside inspection’ means an unexpected inspection of the roadworthiness of a commercial vehicle circulating on roads open to public traffic within the territory of a Member State carried out by the authorities, or under their direct supervision;

Amendment

(9) ‘technical roadside inspection’ means an unexpected inspection of the roadworthiness of a commercial vehicle, and of the securing of its cargo, whilst that vehicle is circulating on roads open to public traffic within the territory of a Member State carried out by the authorities, or under their direct supervision;

Amendment 30
Proposal for a regulation
Article 3 — paragraph 1 — point 10

Text proposed by the Commission

(10) ‘roadworthiness test’ means a verification that the parts and components of a vehicle comply with its safety and environmental characteristics at the time of approval, first registration or entry into service, or at the time of retrofitting;

Amendment

(10) ‘roadworthiness test’ means an inspection to ensure that a vehicle is safe to be used on public roads and complies with required safety and environmental characteristics at the time of approval, first registration or entry into service, or at the time of retrofitting;

Amendment 31
Proposal for a regulation
Article 3 — paragraph 1 — point 11

Text proposed by the Commission

(11) ‘competent authority’ means an authority or public body responsible for managing the national system of roadside inspections.

Amendment

(11) ‘competent authority’ means an authority or public body entrusted by the Member State with responsibility for managing the system of roadside inspections, including where appropriate the carrying-out of technical roadside inspections;
Amendment 32
Proposal for a regulation
Article 3 — paragraph 1 — point 12 a (new)

Text proposed by the Commission

(12a) ‘undertaking’ means any natural or legal person, association or group of persons without legal personality, whether profit-making or not, or any official body, whether it has its own legal personality or is dependent on an authority with legal personality, which engages in carriage by road, whether for hire or reward, or for its own account;

Amendment 33
Proposal for a regulation
Article 3 — paragraph 1 — point 14 a (new)

Text proposed by the Commission

(14a) ‘vehicle safety inspection’ means a visual inspection, a performance test and a functional check of a commercial vehicle’s chassis/frame, coupling devices, steering, tyres, wheels and braking equipment;

Amendment 34
Proposal for a regulation
Article 3 — paragraph 1 — point 14 b (new)

Text proposed by the Commission

(14b) ‘testing centre’ means a public or private body or establishment authorised by a Member State to carry out roadworthiness tests;

Amendment 35
Proposal for a regulation
Article 3 — paragraph 1 — point 14 c (new)

Text proposed by the Commission

(14c) ‘operator’ means an individual or legal entity which operates the vehicle as its owner or is authorised to operate the vehicle by its owner.
Amendment 37
Proposal for a regulation
Article 5

Text proposed by the Commission

Each Member State shall carry out in every calendar year a total number of initial roadside inspections, corresponding to at least 5% of the total number of vehicles referred to in Article 3(1) that are registered in its territory.

Amendment

Each Member State shall carry out in every calendar year an appropriate number of initial roadside inspections.

The total number of initial roadside inspections shall correspond to at least 5% of the total number of the following commercial vehicles referred to in Article 2(1) that are registered in its territory:

- motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver’s seat — vehicle category M2 and M3,

- motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg — vehicle categories N2 and N3,

- trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg — vehicle categories O3 and O4.

At least 5% of commercial vehicles that are not registered in its territory but operating there shall be proportionally checked.

Amendment 76
Proposal for a regulation
Article 6

Text proposed by the Commission

1. A roadside inspections risk rating system based on the number and severity of deficiencies found on vehicles operated by individual undertakings shall be introduced at national level. The risk rating system shall be operated by the competent authority of the Member State.

Amendment

1. In order to improve the efficiency of technical roadside inspections, a roadside inspections risk rating system based on the number and severity of deficiencies found on commercial vehicles during periodic roadworthiness tests and technical roadside inspections shall be introduced at Union level. The risk rating system shall be based on a national electronic register interconnected throughout the Union and operated by the competent authority in each Member State.

2. A risk profile shall be attributed to each undertaking identified in the **roadside inspections** risk rating system using the criteria **set out in** Annex I.

Undertakings shall be classified according to the following risk profile:

— high risk,
— medium risk,
— low risk.

In order to allow undertakings to improve their risk profile, information on compliance with roadworthiness requirements from voluntary regular vehicle safety inspections by undertakings carried out in line with the following frequencies shall be taken into account when establishing the risk rating of an undertaking:

— Category N2 vehicles with a maximum permissible mass exceeding 7.5 tonnes: initially, 42 months after the date of first registration and, thereafter, every six months after the last roadworthiness test;
— Category N3 vehicles: initially, 30 months after the date of first registration and, thereafter, every six months after the last roadworthiness test;
— Category O4 vehicles: initially, 30 months after the date of first registration and, thereafter, every six months after the last roadworthiness test.

3. With a view to **implement** the roadside inspections risk rating system, Member States **may** use the risk rating system established **in accordance with** Article 9 of Directive 2006/22/EC of the European Parliament and the Council.

The risk rating system shall contain the information on roadworthiness of vehicles referred to in Article 2 four years after the entry into force of this Regulation.
Amendment 39
Proposal for a regulation
Article 7 — paragraph 1

Text proposed by the Commission

1. Drivers of a vehicle registered in a Member State shall keep on board the roadworthiness certificate corresponding to the latest roadworthiness test and the report of the last roadside inspection, when they are available.

Amendment

1. Drivers of a vehicle registered in a Member State shall keep on board the roadworthiness certificate corresponding to the latest roadworthiness test and the report of the last roadside inspection, when they are available. If the certificate and the report are available electronically in the Member State of the vehicle, the authorities cannot ask for paper copies to be kept onboard.

Amendment 40
Proposal for a regulation
Article 7 — paragraph 3

Text proposed by the Commission

3. Individual undertakings shall ensure that the vehicles which they operate are in a good roadworthy condition at all times.

Amendment

3. Undertakings that operate vehicles which fall within the scope of this Regulation shall ensure that the vehicles which they operate are in good roadworthy condition at all times and that the original or a certified copy of the roadworthiness certificate and a proof of test issued pursuant to Article 10 of Regulation XX [on periodic roadworthiness tests] in respect of the most recent roadworthiness test is kept on board.

Amendment 41
Proposal for a regulation
Article 7 — paragraph 3

Text proposed by the Commission

3. Individual undertakings shall ensure that the vehicles which they operate are in a good roadworthy condition at all times.

Amendment

(Does not affect the English version)

Amendment 42
Proposal for a regulation
Article 9

Text proposed by the Commission

When identifying vehicles to be subject to a roadside inspection, inspectors shall select as a priority vehicles operated by undertakings with a high-risk profile as referred to in Article 6 (2). Other vehicles may be selected for inspection when there is a suspicion that the vehicle presents a risk to road safety.

Amendment

When identifying vehicles to be subject to a roadside inspection, inspectors may, if the Member State so decides, select as a priority vehicles operated by undertakings with a high risk profile as referred to in Article 6(2). Other vehicles may be selected for inspection when there is a suspicion that the vehicle presents a risk to road safety.
Amendment 43
Proposal for a regulation

Article 10 — paragraph 1 — subparagraph 2

Text proposed by the Commission

On each initial inspection of a vehicles, the inspector shall:

(a) check the roadworthiness certificate and roadside inspection report, where available, kept on board in accordance with Article 7(1);

(b) carry out a visual assessment of the condition of the vehicle and of its cargo.

Amendment

On each initial inspection of a vehicles, the inspector:

(a) shall check the roadworthiness certificate corresponding to the most recent roadworthiness test, the proof of test issued pursuant to Article 10 of Regulation XX [on periodic roadworthiness tests] and, where available, the latest roadside inspection report, kept on board in accordance with Article 7(1);

(b) shall carry out a visual assessment of the technical condition of the vehicle;

Amendment 44
Proposal for a regulation

Article 10 — paragraph 1 — subparagraph 2 — point b a (new)

Text proposed by the Commission

(ba) may carry out a compliance check in respect of any other regulatory requirement pertaining to the operation of a commercial vehicle within the Union.

Amendment

Amendment 45
Proposal for a regulation

Article 10 — paragraph 2 — subparagraph 2 — indent 2 a (new)

Text proposed by the Commission

— chassis/frame,

Amendment

Amendment 46
Proposal for a regulation

Article 10 — paragraph 2 — subparagraph 2 — indent 3

Text proposed by the Commission

— axles, wheels tyres and suspension.

Amendment

— wheels and tyres,
Amendment 47
Proposal for a regulation
Article 10 — paragraph 2 — subparagraph 2 — indent 3 a (new)

Text proposed by the Commission

— coupling equipment,

Amendment

— nuisance.

Amendment 48
Proposal for a regulation
Article 10 — paragraph 2 — subparagraph 2 — indent 4

Text proposed by the Commission

— nuisance: noise and exhaust fumes.

Amendment

— nuisance.

Amendment 49
Proposal for a regulation
Article 10 — paragraph 2 — subparagraph 3

Text proposed by the Commission

The inspection of each of these areas shall cover one, several or all of the items listed in Annex II and relevant to these areas.

Amendment

The inspection of each of those areas shall cover all the items listed in Annex II that are considered necessary and relevant to those areas.

Amendment 50
Proposal for a regulation
Article 10 — paragraph 2 — subparagraph 4

Text proposed by the Commission

In addition, the inspector may check other areas of inspection listed in Annex II point 1 and covering one, several or all of the items listed in this Annex.

Amendment

In addition, and whenever necessary due to a potential safety risk, the inspector may check other areas of inspection listed in part 1 of Annex II covering all the items listed in that Annex that are considered necessary and relevant to those areas.
Amendment 77
Proposal for a regulation
Article 10 — paragraph 2 — subparagraph 5

Text proposed by the Commission
Where the roadworthiness certificate or a roadside inspection report demonstrates that an inspection of one of the items listed in Annex II, has been carried out in the course of the preceding month, the inspector shall not check this item, except where justified on the grounds of an obvious deficiency.

Amendment
Where the roadworthiness certificate corresponding to the most recent roadworthiness test, voluntary regular vehicle safety inspection or a roadside inspection report demonstrates that an inspection of one of the items listed in Annex II has been carried out in the course of the preceding three months, the inspector shall not check that item, except where such inspection is justified on the grounds of an obvious deficiency.

Amendment 52
Proposal for a regulation
Article 11 — paragraph 2

Text proposed by the Commission
2. Where the inspections are to be carried out in a testing centre, the place of the initial roadside inspection shall not be fixed more than 10 km away from this centre.

Amendment
2. Where the inspections are to be carried out in a testing centre, they must be carried as soon as possible out in the nearest centre.

Amendment 53
Proposal for a regulation
Article 11 — paragraph 3

Text proposed by the Commission
3. Mobile inspection units shall include appropriate equipment for carrying out a roadside inspection, including at least the equipment necessary to assess the condition of the brakes, steering, suspension and emissions of the vehicle.

Amendment
3. Mobile inspection units shall include appropriate equipment for carrying out a roadside inspection, including at least the equipment necessary to assess the condition of the brakes, steering, suspension, emissions and weight of the vehicle.

Amendment 54
Proposal for a regulation
Article 12 — paragraph 2 — indent 3

Text proposed by the Commission
— dangerous deficiencies that constitute a direct and immediate risk to road safety such that the vehicle may not be used on the road under any circumstances.

Amendment
— dangerous deficiencies that constitute a direct and immediate risk to road safety justifying the Member State concerned or its competent authorities banning the vehicle from use on the road.
**Amendment 55**

Proposal for a regulation

**Article 13**

**Specific rules concerning the inspection** of cargo securing

*The inspector* may subject a vehicle to an inspection of the cargo securing in accordance with Annex IV. The follow-up procedures referred to in Article 14 shall also apply in case of major or dangerous deficiencies related to cargo securing.

**Inspection** of cargo securing

*Inspectors* may subject a vehicle to an inspection of the cargo securing in accordance with existing standards. The outcome of such an inspection shall not be introduced into the risk rating system until the rules on cargo securing are harmonised at Union level.

By ...[align to date in Article 18a of the proposal for a Regulation on periodic roadworthiness tests], the Commission shall submit to the European Parliament and to the Council a report on the level of harmonisation in the area of cargo securing in road transport, the checking thereof at the roadside and the result of an analysis of methods to ensure that undertakings operating the vehicle, consignors, freight forwarders, loaders and other relevant operators involved in the handling of cargo are complying with cargo securing requirements.

The report shall be accompanied, if appropriate, by a legislative proposal.

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**Amendment 56**

Proposal for a regulation

**Article 14 — paragraph 1**

1. Any major deficiency revealed by an initial or a more detailed inspection shall be rectified without delay and in the vicinity of the inspection spot.

Amendment

1. Any major deficiency revealed by an initial or a more detailed inspection shall be rectified without delay and in a location with the requisite equipment as close as possible to the place in which the initial or more detailed inspection was carried out.
Amendment 57
Proposal for a regulation
Article 14 — paragraph 3 — subparagraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3. The inspector shall not authorise a vehicle classified with dangerous deficiencies, to be used until such deficiencies have been rectified on the spot of the inspection. <strong>The inspector may authorise such a vehicle to be used in order to reach the closest workshop where those deficiencies can be rectified, on the condition that the dangerous deficiencies have been fixed in such a way as to allow it to reach this workshop and that there is no immediate risk to the safety of its occupants or other road users.</strong></td>
<td></td>
</tr>
</tbody>
</table>

Amendment 58
Proposal for a regulation
Article 14 — paragraph 3 — subparagraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td><strong>The inspector may authorise the vehicle classified with dangerous deficiencies to be brought directly to the closest location where this vehicle can be repaired or impounded.</strong></td>
<td><strong>The inspector may authorise the vehicle classified with dangerous deficiencies to be brought directly to the closest available location where it can be repaired or impounded.</strong></td>
</tr>
</tbody>
</table>

Amendment 59
Proposal for a regulation
Article 16 — paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>2. The inspector shall communicate to the competent authority the results of the more detailed roadside inspections within a reasonable time limit following these inspections. The competent authority shall keep this information for 36 months from the date of its reception.</td>
<td>2. The inspector shall communicate <strong>electronically</strong> to the competent authority the results of the more detailed roadside inspections within a reasonable time following those inspections. The competent authority shall introduce that information in the national register referred to in Regulation (EC) No 1071/2009 and keep it for 36 months from the date of its receipt.</td>
</tr>
</tbody>
</table>
Amendment 60
Proposal for a regulation
Article 16 — paragraph 3

Text proposed by the Commission

3. The results of the roadside inspection shall be commu-
nicated to the registration authority of the vehicle.

Amendment

3. The results of the roadside inspection shall be commu-
nicated electronically to the registration authority of the vehicle,
to the owner of the vehicle and, in the case of vehicles
registered in another Member State, through the use of ERRU,
as provided for in Regulation (EC) No 1071/2009.

Amendment 61
Proposal for a regulation
Article 18 — paragraph 1

Text proposed by the Commission

1. When major or dangerous deficiencies, in particular those
resulting in a prohibition to use the vehicle, are found in a
vehicle not registered in the Member State of inspection, the
contact point shall inform the competent authority of the
Member State of registration of the vehicle of the results of this
inspection

Amendment

1. When major or dangerous deficiencies, in particular those
resulting in a prohibition to use the vehicle, are found in a
vehicle not registered in the Member State of inspection, the
contact point shall inform the competent authority of the
Member State of registration of the vehicle of the results of that
inspection.

This information shall contain the elements of the roadside
inspection report as set out in Annex VI.

The Member State of registration shall take that information
into account when classifying undertakings pursuant to
Article 6(2).

That information shall contain the elements of the roadside
inspection report as set out in Annex VI, shall be in a
standardised format and shall be communicated through the
national electronic register referred to in Article 16 of

The Commission shall adopt detailed rules concerning the
procedures and formats for the notification of vehicles with
major or dangerous deficiencies to the competent authority of
the Member State of registration in accordance with the
examination procedure referred to in Article 23(2).

Amendment 62
Proposal for a regulation
Article 18 — paragraph 2 — subparagraph 2

Text proposed by the Commission

The competent authority of the Member State of registration of
the vehicle shall inform the Member State of inspection of the
action taken.

Amendment

The competent authority of the Member State of registration of
the vehicle shall inform the competent authority of the Member
State of inspection of the action taken and introduce the
information into ERRU.
Amendment 63
Proposal for a regulation
Article 18 — paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In the event that major or dangerous deficiencies are found, the name of the operator shall be provided to the contact point in accordance with Article 16.

Amendment 64
Proposal for a regulation
Article 18 — paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Member State of registration shall provide information to the authority performing a technical roadside inspection concerning the risk profile of the undertaking whose vehicle is being inspected. That information shall be provided by electronic means within a reasonable time. The Commission shall adopt implementing acts concerning detailed rules on the procedures for the provision of such information to such authorities.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 23(2).

Amendment 65
Proposal for a regulation
Article 20 — paragraph 2 — subparagraph 2

Text proposed by the Commission

The Commission shall report the data collected to the European Parliament.

Amendment

The Commission shall submit to the European Parliament a report summarising the data collected.

Amendment 66
Proposal for a regulation
Article 22 — paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Article 21 shall be conferred for an indeterminate period of time [from the date of entry into force of this Regulation.]

Amendment

2. The delegation of power referred to in Article 21 shall be conferred on the Commission for a period of five years [from the date of entry into force of this Regulation.] The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
Amendment 67
Proposal for a regulation
Article 24 — paragraph 2

Texte proposé par la Commission

2. Rules laid down in accordance with paragraph 1 shall include penalties for failure by a driver or operator to cooperate with the inspector and to rectify deficiencies detected during an inspection.

Amendment

2. Rules laid down in accordance with paragraph 1 shall include penalties for failure by a driver or operator to cooperate with the inspector and for the illegal use of a vehicle resulting from non-compliance with Article 14.

Amendment 68
Proposal for a regulation
Annex II — part 2 — item 5.2.2 — point da (new)

Text proposed by the Commission

5.2.2. Wheels Visual inspection of both side of each wheel

Amendment by Parliament

5.2.2. Wheels Visual inspection of both side of each wheel (da) Wheel not compatible with wheel hub

Amendment 69
Proposal for a regulation
Annex II — part 2 — item 5.2.3 — column 2: Method

Text proposed by the Commission

5.2.3 Tyres Visual inspection of the entire tyre by rolling the vehicle backwards and forwards.

Amendment by Parliament

5.2.3 Tyres Visual inspection of the entire tyre by rolling the vehicle backwards and forwards.

Use a pressure gauge to measure tyre pressure and compare it with the values given by the manufacturer.
Amendment 70
Proposal for a regulation
Annex III — part 1 — heading: Dangerous deficiencies — paragraph 1

Text proposed by the Commission

Deficiencies that constitute a direct and immediate risk to road safety. Further use of the vehicle on the road is not permitted, although in some instances it may be permitted to be driven under specified conditions directly to a specified location, for example for immediate repair or impounding of the vehicle.

Amendment

Deficiencies that constitute a direct and immediate risk to road safety justifying the Member State concerned or its competent authorities banning the vehicle from the road, although in some instances it may be permitted to be driven under specified conditions directly to a specified location, for example for immediate repair or impounding of the vehicle.

Amendment 71
Proposal for a regulation
Annex 3 — part 2 — item 5.2.3 — point e

Text proposed by the Commission

5.2.3. Tyres (e) Tyre tread depth not in accordance with the requirements\(^{(1)}\).

Less than 80 % of required tread depth

Amendment by Parliament

5.2.3. Tyres (e) Tyre at minimum legal tread depth.

Tyres below minimum legal tread depth

Amendment 72
Proposal for a regulation
Annex 3 — part 2 — item 5.2.3 — point ga (new)

Text proposed by the Commission

5.2.3. Tyres

Amendment by Parliament

5.2.3. Tyres (ga) In-service operating pressure in one of the vehicle's tyres reduced by 20 %
Roadworthiness tests for motor vehicles and their trailers ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/34)

Amendment 1

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmental acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure to ensure that vehicles which constitute an immediate risk to road safety are not used on roads.

Amendment

(3) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmental acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure. Periodic testing should be the main tool to ensure roadworthiness. Roadside inspections of commercial vehicles should only be complementary to periodic tests and should be targeted at vehicles which constitute an immediate risk to road safety.

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0210/2013).
Amendment 2  
Proposal for a regulation 
Recital 3 a (new) 

Text proposed by the Commission  
Amendment  
(3a) All vehicles used on public roads, without prejudice to requirements of periodic roadworthiness testing, are required to be roadworthy at all times when they are used.

Amendment 3  
Proposal for a regulation 
Recital 3 b (new) 

Text proposed by the Commission  
Amendment  
(3b) Enforcement of roadworthiness measures should include awareness campaigns focusing on vehicle owners and aimed at developing good practices and habits resulting from basic checks on their vehicle.

Early disclosure of a motor-vehicle roadworthiness deficiency helps to remedy that deficiency and hence prevent accidents, and accident-related costs saved should be used to part-fund the establishment of a bonus scheme.
### Amendment 6

**Proposal for a regulation**

**Recital 6**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6) A large fraction of total emissions of road transport, in particular CO2 emissions, is due to a minority of vehicles with malfunctioning emission control systems. It is estimated that 5% of the vehicle fleet causes 25% of all pollutant emissions. Therefore, a periodic regime of roadworthiness tests would also contribute to improve the environment through the reduction of the average vehicle emissions.</td>
<td>(6) A large fraction of total emissions of road transport, in particular CO2 emissions, is due to a minority of vehicles with malfunctioning emission control systems. It is estimated that 5% of the vehicle fleet causes 25% of all pollutant emissions. <em>This also applies to an increase in particulates and NOx emissions from engines of modern design which require a more comprehensive emissions test, including a check, by means of an electronic control device, of the integrity and functionality of the vehicle’s own on-board diagnostic (OBD) system, verified by existing tailpipe testing to ensure a complete emissions system test, since testing by reference to the OBD alone is not reliable.</em> Therefore, a periodic regime of roadworthiness tests would also contribute to improve the environment through the reduction of the average vehicle emissions.</td>
</tr>
</tbody>
</table>

### Amendment 8

**Proposal for a regulation**

**Recital 8**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(8) Agricultural vehicles with a maximum design speed exceeding 40 km/h are <em>more and more</em> used to replace trucks in local transport activities. Their risk potential is comparable to that of trucks and therefore this vehicle category should be treated in the same way as trucks regarding roadworthiness testing.</td>
<td>(8) Agricultural vehicles with a maximum design speed exceeding 40 km/h are <em>in some instances being</em> used to replace trucks for commercial road haulage purposes. It is important to ensure, where agricultural vehicles are used in this way, that they are treated in the same way as trucks regarding roadworthiness testing.</td>
</tr>
</tbody>
</table>
Amendment 9
Proposal for a regulation
Recital 9

(9) Vehicles of historic interest are supposed to conserve heritage of the époque they have been built and considered to be hardly used on public roads, it should be left to Member States to extend the period of periodic roadworthiness testing for such vehicles. It should also be for Member States to regulate roadworthiness testing of other types of specialised vehicles.

(10) Roadworthiness testing is a sovereign activity and should therefore be done by the Member States or by entrusted bodies under their supervision. Member States should remain responsible for roadworthiness testing in any cases even if the national system allows for authorisation of private bodies, including those involved in performing repairs.

Amendment 10
Proposal for a regulation
Recital 10

(10) Roadworthiness testing is a sovereign activity and as such should be done by the Member State concerned, or by a public body entrusted with that task by the State or by bodies or establishments designated and directly supervised by the State, including duly authorised private bodies. In particular, where establishments designated as vehicle testing centres also perform motor vehicle repairs, Member States should make every effort to ensure the objectivity and high quality of the vehicle testing.

Amendment 11
Proposal for a regulation
Recital 10 a (new)

(10a) With a view to better application of the principle of free movement within the Union, the roadworthiness certificate issued in the original Member State of registration should be mutually recognised among Member States for the purpose of re-registration.
### Amendment 12
Proposal for a regulation

**Recital 10 b (new)**

**Text proposed by the Commission**

(10b) *When there is evidence that harmonisation of roadworthiness testing has been achieved to a sufficient degree, provisions for full mutual recognition of roadworthiness certificates throughout the Union should be established.*

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### Amendment 13
Proposal for a regulation

**Recital 11**

**Text proposed by the Commission**

(11) *For the inspection of vehicles and especially for their electronic safety components it is crucial to have access to the technical specifications of each single vehicle. Therefore vehicle manufacturers should not only provide the complete set of data as covered by the certificate of conformity (CoC) but also the access to data necessary for verification of the functionality of safety and environmental related components. The provisions related to access to repair and maintenance information should be applied similarly for this purpose, allowing inspection centres to have access to those information-elements necessary for roadworthiness testing. This is of crucial importance especially in the field of electronic controlled systems and should cover all elements that have been installed by the manufacturer.*

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### Amendment 14
Proposal for a regulation

**Recital 12**

**Text proposed by the Commission**

(12) *To achieve a high quality of testing throughout the Union test equipment to be used during testing, its maintenance and calibration should be specified on Union level.*

**Amendment**

(12) *To achieve a high quality of testing throughout the Union of test equipment to be used during testing, its maintenance and calibration should be specified at Union level. Incentives should be created for innovations in the areas of testing systems, procedures and equipment, thus making it possible to achieve further cost reductions and improvements in use.*
Amendment 15
Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) Inspectors, when performing roadworthiness tests, should act independently and any conflict of interests should be avoided. The result of roadworthiness tests should not thus be linked to salary or any economic or personal benefit.

Amendment

(13) Inspectors, when performing roadworthiness tests, should act independently and any conflict of interests should be avoided. Member States should ensure that assessments are carried out properly and should pay particular attention to their objectivity.

Amendment 16
Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

(13a) The quality and impartiality of roadworthiness testing centres is crucial for achieving the target of higher road safety. Therefore, testing centres carrying out roadworthiness tests should, for example, meet the minimum requirements in respect of ISO 17020 on general criteria for the operation of various types of bodies performing inspection.

Amendment

(13a) The quality and impartiality of roadworthiness testing centres is crucial for achieving the target of higher road safety. Therefore, testing centres carrying out roadworthiness tests should, for example, meet the minimum requirements in respect of ISO 17020 on general criteria for the operation of various types of bodies performing inspection.

Amendment 17
Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) Results of a test should not be altered for commercial purposes. Only, if the findings of the roadworthiness test performed by an inspector are manifestly incorrect, the supervising body should be able to modify the results of a roadworthiness test.

Amendment

(14) Results of a test should not be altered for commercial purposes. Only, if the findings of the roadworthiness test performed by an inspector are manifestly incorrect should the supervising body be able to modify the results of a roadworthiness test and impose the appropriate penalties on the body which issued the certificate.
(15) High standards of roadworthiness testing require a high level of skills and competences of the testing personnel. A training system including an initial training and periodic refresher trainings should be introduced. A transitional period should be defined to allow for a smooth transition of existing testing personnel into the periodic training regime.

Member States which already apply more stringent training, competence and testing requirements than the minimum requirements should be allowed to maintain their high standards.

(17) Frequency of tests should be adapted according to the type of vehicle and to their mileage. Vehicles are more likely to present technical deficiencies when they reach a certain age and, in particular when intensively used, after a certain mileage. It is therefore appropriate to increase the test frequency for older vehicles and for vehicles with high mileage.

Frequency of tests should be adapted according to the type of vehicle. Vehicles are more likely to present technical deficiencies when they reach a certain age. It is therefore appropriate to test older vehicles more frequently.
Amendment 20
Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Roadworthiness tests should cover all items relevant to the specific design, construction and equipment of the tested vehicle. Within these items and considering the current state of vehicle technology, modern electronic systems should be included in the list of items to be tested. To achieve a harmonisation of roadworthiness testing, testing methods should be provided for each of the test items.

Amendment

(19) Roadworthiness tests should cover all items relevant to the specific design, construction and equipment of the tested vehicle. Those items should be updated to take account of evolving research and technical progress on vehicle safety. Substandard wheels fitted onto non-standard axles should be treated as a critical safety item and should therefore be included in roadworthiness testing. Within these items and considering the current state of vehicle technology, modern electronic systems should be included in the list of items to be tested. To achieve a harmonisation of roadworthiness testing, testing methods should be provided for each of the test items.

Amendment 21
Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission

(20a) Roadworthiness test standards should be set at a common Union-wide high minimum level, allowing those Member States which already have roadworthiness test standards at a level higher than required by this Regulation to maintain their higher standards and to adapt them to technical progress where appropriate.
Amendment 22
Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) The holder of the registration of a vehicle subject to a roadworthiness test during which deficiencies are found, in particular those which represent a risk to road safety, should rectify such deficiencies without delay. In case of dangerous deficiencies, the registration of the vehicle should be withdrawn until those deficiencies are fully rectified.

Amendment

(21) The holder of the registration of a vehicle subject to a roadworthiness test during which deficiencies are found, in particular a vehicle which represents a risk to road safety, should rectify such deficiencies without delay. In the case of dangerous deficiencies, the vehicle should not be driven on public roads until those deficiencies are fully rectified.

Amendment 23
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) A roadworthiness certificate should be issued after each test, including inter alia information related to the identity of the vehicle and information on the results of the test. With a view to ensure a proper follow-up of roadworthiness tests, Member States should collect and keep such information in a database.

Amendment

(22) To ensure the proper follow-up of testing results, a roadworthiness certificate should be issued after each test and should also be created in electronic format, with the same level of detail in relation to vehicle identity and test results as is contained in the original test certificate. Furthermore, Member States should collect and keep such information in a centralised database in order to ensure that the authenticity of the periodic technical inspection results can be easily verified.
Amendment 24
Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Since some Member States do not require the registration of certain categories of vehicles, such as light trailers, the information on the successful passing of a roadworthiness test should be made available by a proof of test displayed in a visible manner on the vehicle.

Amendment 25
Proposal for a regulation
Recital 23

Text proposed by the Commission

Amendment

(23) Odometer fraud is considered to affect between 5% and 12% of used cars sales, resulting in a very important cost to society of several billions Euros yearly and in an incorrect evaluation of a roadworthiness condition of a vehicle. With a view to combat odometer fraud, the recording of mileage in the roadworthiness certificate combined with the obligation to present the certificate of the previous test would facilitate the detection of tampering or manipulation of the odometer. Odometer fraud should be more systematically considered as an offence liable to a penalty.

(23) Odometer fraud is considered to affect between 5% and 12% of used car sales within a single country, while the figure is far higher in the case of cross-border sales, resulting in a very significant cost to society of several billion euros yearly and in an incorrect evaluation of the roadworthiness of a vehicle. With a view to combating odometer fraud, the recording of mileage in the roadworthiness certificate combined with the obligation to present the certificate of the previous test would facilitate the detection of tampering with, or manipulation of, the odometer. The establishment of an electronic vehicle information platform recording the mileage of vehicles and the serious accidents in which they have been involved throughout their lifetime, with due regard for data protection, would also help to prevent manipulation and to make important information accessible. Odometer fraud should moreover be more systematically considered as an offence liable to a penalty.
Amendment 26
Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Roadworthiness testing is part of a wider regulatory scheme, governing vehicles throughout their lifetime from approval via registrations, inspections until scrapping. The development and interconnection of national and manufacturers’ electronic vehicle databases should in principle contribute to improve the efficiency of the whole vehicle administrative chain and reduce costs and administrative burdens. The Commission should therefore carry out a study on the feasibility, costs and benefits of setting-up a European electronic vehicle information platform for this purpose.

Amendment

(25) Roadworthiness testing is part of a wider regulatory scheme, governing vehicles throughout their lifetime from approval via registrations, inspections until scrapping. The development and interconnection of national and manufacturers’ electronic vehicle databases would contribute to improve the efficiency of the whole vehicle administrative chain and reduce costs and administrative burdens.

Amendment 27
Proposal for a regulation
Recital 25 a (new)

Text proposed by the Commission

(25a) Since the objective of this Regulation should be to encourage further harmonisation and standardisation of periodic roadworthiness testing of vehicles, which should eventually lead to the establishment of a single market for periodic roadworthiness testing in the Union with a system of mutual recognition of roadworthiness testing certificates which allows vehicles to be tested in any Member State, the Commission should draft a report on progress in the harmonisation process in order to determine when such a mutual recognition system could be established.
Amendment 28
Proposal for a regulation
Recital 26

(26) In order to supplement this Regulation with further technical details, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with a view to take into account, when appropriate, evolution of the Union type-approval legislation in relation with vehicle categories, as well as the need to update the Annexes in the light of technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

Amendment 29
Proposal for a regulation
Recital 29

(29) Since the objective of this Regulation, namely to lay down minimum common requirements and harmonised rules concerning the conduct of roadworthiness tests of vehicles within the Union, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Amendment 30
Proposal for a regulation
Article 1

This Regulation establishes a regime of periodic roadworthiness tests of vehicles.
Amendment 31
Proposal for a regulation
Article 2 — paragraph 1 — indent 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>— motor vehicles <strong>having at least four wheels, used</strong> for the carriage of <strong>passengers and with</strong> not more than eight seats in addition to the driver’s seat — vehicle category M1,</td>
<td>— motor vehicles <strong>designed and constructed primarily</strong> for the carriage of <strong>persons and their luggage, comprising</strong> not more than eight seats in addition to the driver’s seat — vehicle category M1,</td>
</tr>
</tbody>
</table>

Amendment 32
Proposal for a regulation
Article 2 — paragraph 1 — indent 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>— motor vehicles <strong>used</strong> for the carriage of <strong>passengers and with</strong> more than eight seats, excluding the driver’s seat — vehicle category M2 and M3,</td>
<td>— motor vehicles <strong>designed and constructed primarily</strong> for the carriage of <strong>persons and their luggage, comprising</strong> more than eight seats, excluding the driver’s seat — vehicle category M2 and M3,</td>
</tr>
</tbody>
</table>

Amendment 33
Proposal for a regulation
Article 2 — paragraph 1 — indent 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>— motor vehicles <strong>having at least four wheels, normally used</strong> for the road carriage of goods <strong>and with</strong> a maximum <strong>permissible</strong> mass not exceeding <strong>3 500 kg</strong> — vehicle category N1,</td>
<td>— motor vehicles <strong>designed and constructed primarily</strong> for the carriage of goods, <strong>having</strong> a maximum mass not exceeding <strong>3,5 tonnes</strong> — vehicle category N1,</td>
</tr>
</tbody>
</table>

Amendment 34
Proposal for a regulation
Article 2 — paragraph 1 — indent 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>— motor vehicles <strong>used</strong> for the carriage of goods <strong>and</strong> having a maximum <strong>permissible</strong> mass exceeding <strong>3 500 kg</strong> — vehicle categories N2 and N3,</td>
<td>— motor vehicles <strong>designed and constructed primarily</strong> for the carriage of goods, having a maximum mass exceeding <strong>3,5 tonnes</strong> — vehicle categories N2 and N3,</td>
</tr>
</tbody>
</table>
Amendment 35
Proposal for a regulation
Article 2 — paragraph 1 — indent 5

Text proposed by the Commission
— trailers and semi-trailers with a maximum permissible mass not exceeding 3 500 kg — vehicle categories O1 and O2.

Amendment
— trailers designed and constructed for the carriage of goods or of persons as well as for the accommodation of persons, having a maximum mass of more than 750 kg but not exceeding 3.5 tonnes — vehicle category O2.

Amendment 36
Proposal for a regulation
Article 2 — paragraph 1 — indent 6

Text proposed by the Commission
— trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg — vehicle categories O3 and O4.

Amendment
— trailers designed and constructed for the carriage of goods or of persons as well as for the accommodation of persons, having a maximum mass exceeding 3.5 tonnes — vehicle categories O3 and O4.

Amendment 117/1
Proposal for a regulation
Article 2 — paragraph 1 — indent 7

Text proposed by the Commission
— two- or three-wheel vehicles — vehicle categories L1e, L2e, L3e, L4e, L5e, L6e and L7e.

Amendment
— from 1 January 2016 two- or three-wheel vehicles — vehicle categories L3e, L4e, L5e and L7e.

Amendment 38
Proposal for a regulation
Article 2 — paragraph 1 — indent 8

Text proposed by the Commission
— wheeled tractors with a maximum design speed exceeding 40 km/h — vehicle category T5.

Amendment
— wheeled tractors of category T5 used mainly on public roads with a maximum design speed exceeding 40 km/h.
**Amendment 39**

Proposal for a regulation

**Article 2 — paragraph 1 a (new)**

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**Text proposed by the Commission**

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**Amendment**

1a. Mandatory periodic roadworthiness tests may be extended by Member States to other vehicle categories. Member States shall inform the Commission of any extension decisions taken by them, giving reasons for those decisions.

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**Amendment 117/2**

Proposal for a regulation

**Article 2 — paragraph 1 b (new)**

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**Text proposed by the Commission**

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**Amendment**

1b. This Regulation shall apply as from 1 January 2018 to the following vehicle categories unless the Commission demonstrates in its report under Article 18a that such a measure would be ineffective:

— two- or three-wheel vehicles — vehicle categories L1e, L2e and L6e.

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**Amendment 40**

Proposal for a regulation

**Article 2 — paragraph 2 — indent 2**

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**Text proposed by the Commission**

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**Amendment**

— vehicles belonging to armed forces, fire services, civil protection, emergency or rescue services,

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**Amendment 41**

Proposal for a regulation

**Article 2 — paragraph 2 — indent 4 a (new)**

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**Text proposed by the Commission**

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**Amendment**

— O2 category trailers having a maximum mass not exceeding 2.0 tonnes but not including O2 category trailers of the trailer caravan type.
Amendment 42
Proposal for a regulation
Article 3 — point 5

Text proposed by the Commission

(5) ‘two- or three-wheel vehicles’ means any power-driven vehicle on two wheels with or without sidecar, tricycles and quadricycles;

Amendment

deleted

Amendment 43
Proposal for a regulation
Article 3 — point 7

Text proposed by the Commission

(7) ‘vehicle of historic interest’ means any vehicle which fulfils all the following conditions:

— It was manufactured at least 30 years ago,
— It is maintained by use of replacement parts which reproduce the historic components of the vehicle;
— It has not sustained any change in the technical characteristics of its main components such as engine, brakes, steering or suspension and
— It has not been changed in its appearance;

Amendment

(7) ‘vehicle of historic interest’ means any vehicle which is considered to be historic by the Member State of registration or one of its appointed authorising bodies and which fulfils all the following conditions:

— it was manufactured or registered for the first time at least 30 years ago;
— its specific type, as defined by the relevant legal acts of the Union on type approval, is no longer in production;
— it is preserved and maintained in a historically correct condition, and therefore has not undergone major changes in its technical characteristics;

Amendment 44
Proposal for a regulation
Article 3 — point 9

Text proposed by the Commission

(9) ‘roadworthiness test’ means a verification that the parts and components of a vehicle comply with its safety and environmental characteristics in force at the time of approval, first registration or entry into service, as well as at the time of retrofitting;

Amendment

(9) ‘roadworthiness test’ means an inspection to ensure that a vehicle is safe to be used on public roads and complies with required safety and environmental characteristics at the time of approval, first registration or entry into service, or at the time of retrofitting;
Amendment 45
Proposal for a regulation
Article 3 — point 13

Text proposed by the Commission

(13) ‘inspector’ means a person authorised by a Member State to carry out roadworthiness tests in a testing centre or on behalf of a competent authority.

Amendment

(13) ‘inspector’ means a person authorised by a Member State or its competent authority to carry out roadworthiness tests in a testing centre or on behalf of a competent authority.

Amendment 46
Proposal for a regulation
Article 4 — paragraph 2

Text proposed by the Commission

2. Roadworthiness tests shall be carried out only by the competent authority of a Member State or by testing centres authorised by Member States.

Amendment

2. Roadworthiness tests shall be carried out, in principle, in the Member State in which the vehicle is registered by the competent authority of that Member State or by a public body entrusted with the task by the State or by bodies or establishments certified and supervised by the State, including authorised private bodies.

Amendment 47
Proposal for a regulation
Article 4 — paragraph 3

Text proposed by the Commission

3. Vehicle manufacturers shall provide the testing centres or, when relevant, the competent authority, with access to the technical information necessary for roadworthiness testing, as set out in Annex I. The Commission shall adopt detailed rules concerning the procedures on access to the technical information set out in Annex I in accordance with the examination procedure referred to in Article 16(2).

Amendment

3. Vehicle manufacturers shall provide, free of charge, the testing centres and test equipment manufacturers or, when relevant, the competent authority, with access to the technical information necessary for roadworthiness testing, as set out in Annex I. For test equipment manufacturers, that information shall include the information required to allow the test equipment to be used for the purposes of conducting a pass or fail assessment of the functionality of vehicle electronic control systems. The Commission shall adopt detailed rules concerning the procedures on access to the technical information set out in Annex I and examine the feasibility of a single point of access in accordance with the examination procedure referred to in Article 16(2).
Amendment 48
Proposal for a regulation
Chapter 3 — title

Text proposed by the Commission

REQUIREMENTS CONCERNING ROADWORTHINESS TESTS

Amendment

MINIMUM REQUIREMENTS CONCERNING ROADWORTHINESS TESTS

Amendment 50
Proposal for a regulation
Article 5 — paragraph 1 — indent 2

Text proposed by the Commission

— Vehicles of category M1, N1 and O2: four years after the date on which the vehicle was first registered, then two years and thereafter annually;

Amendment

— Vehicles of category M1, N1 and O2: four years after the date on which the vehicle was first registered, and thereafter every two years;

Amendment 51
Proposal for a regulation
Article 5 — paragraph 1 — indent 3

Text proposed by the Commission

— Vehicles of category M1 registered as taxis or ambulances, vehicles of categories M2, M3, N2, N3, T5, O3 and O4: one year after the date on which the vehicle was first registered, and thereafter annually.

Amendment

— Vehicles of category M1 registered as taxis or ambulances, vehicles of categories M2, M3, N2, N3, O3 and O4: one year after the date on which the vehicle was first registered, and thereafter annually;

Amendment 52
Proposal for a regulation
Article 5 — paragraph 1 — indent 3 a (new)

Text proposed by the Commission

— Vehicles of category T5 used mainly on public roads: one year after the date on which the vehicle was first registered, and thereafter annually;

Amendment

— Vehicles of category T5 used mainly on public roads: one year after the date on which the vehicle was first registered, and thereafter annually;

Amendment 53
Proposal for a regulation
Article 5 — paragraph 1 — indent 3 b (new)

Text proposed by the Commission

— Other categories of vehicles: at intervals defined by the Member State of registration.
Amendment 54
Proposal for a regulation
Article 5 — paragraph 1a (new)

Text proposed by the Commission

1a. Any Member State may provide funding for roadworthiness tests should a vehicle owner decide to reduce the inspection interval to one year. The funding period shall begin no sooner than 10 years following the date of first registration of the vehicle.

Amendment 55
Proposal for a regulation
Article 5 — paragraph 1b (new)

Text proposed by the Commission

1b. A Member State may require that vehicles of any class registered in its territory be subject to more frequent periodic roadworthiness testing.

Amendment 56
Proposal for a regulation
Article 5 — paragraph 2

Text proposed by the Commission

2. In the case where a vehicle of categories M1 or N1 reaches a mileage of 160 000 km on the first roadworthiness test after the vehicle was first registered, it shall be subject to a roadworthiness test thereafter annually.

Amendment

deleted

Amendment 57
Proposal for a regulation
Article 5 — paragraph 3

Text proposed by the Commission

3. The holder of the registration certificate may request the testing centre, or the competent authority or the bodies or establishments certified and supervised by the State if relevant, to carry out the roadworthiness test during a period extending from the beginning of the month preceding the month of the anniversary date referred to in paragraph 1 until the end of the second month following this date, without affecting the date for the next roadworthiness test.
Amendment 58
Proposal for a regulation
Article 5 — paragraph 4 — indent 3

Text proposed by the Commission
— in case of a change of the holder of the registration certificate of a vehicle.

Amendment
deleted

Amendment 59
Proposal for a regulation
Article 5 — paragraph 4 — indent 3 a (new)

Text proposed by the Commission
— when the vehicle has reached a mileage of 160 000 km.

Amendment

Amendment 60
Proposal for a regulation
Article 6 — paragraph 1

Text proposed by the Commission
1. The roadworthiness test shall cover the areas referred to in Annex II, point 2.

Amendment
1. The roadworthiness test shall cover at least the areas referred to in Annex II, point 2.

Amendment 61
Proposal for a regulation
Article 6 — paragraph 2

Text proposed by the Commission
2. For each area referred to in paragraph 1, the competent authorities of the Member State or the testing centre shall carry out a roadworthiness test covering at least the items and using the method applicable to the testing of those items, as set out in Annex II, point 3.

Amendment
2. For each area referred to in paragraph 1, the competent authorities of the Member State or the testing centre shall carry out a roadworthiness test covering at least the items and using the method applicable to the testing of those items, as set out in Annex II, point 3, or an equivalent alternative approved by a competent authority.
**Amendment 62**  
Proposal for a regulation  
Article 8 — paragraph 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The testing centre or, if relevant, the competent authority that has conducted a roadworthiness test on a vehicle shall issue a roadworthiness certificate to that vehicle <strong>that contains</strong> at least the elements laid down in Annex IV.</td>
<td>1. The testing centre or, if relevant, the competent authority that has conducted a roadworthiness test on a vehicle shall issue a roadworthiness certificate to that vehicle, <strong>which shall also be available in electronic format, containing</strong> at least the elements laid down in Annex IV. To that end, the Commission shall draw up a standard European Union form for roadworthiness tests.</td>
</tr>
</tbody>
</table>

**Amendment 63**  
Proposal for a regulation  
Article 8 — paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. The testing centre or, if relevant, the competent authority, shall provide the person presenting the vehicle to the test with the roadworthiness certificate or, in case of electronic established roadworthiness certificate, a duly certified printout of such certificate.</td>
<td>2. As soon as the test has been satisfactorily completed, the testing centre or, if relevant, the competent authority shall provide the person presenting the vehicle to the test with a roadworthiness certificate or, where the certificate is in electronic form, shall make available a printout of the test results.</td>
</tr>
</tbody>
</table>

**Amendment 64**  
Proposal for a regulation  
Article 8 — paragraph 2 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. Where an application for re-registration of a vehicle has been received, and the vehicle originates from another Member State, the registration authorities shall recognise the vehicle’s roadworthiness certificate, once its validity has been verified at the time of re-registration. Such recognition shall cover the same period as the original validity period of the certificate, except where that original validity period extends beyond the maximum legal duration in the Member State where the vehicle is being re-registered. In that event, validity shall be aligned downwards, and calculated from the date on which the original roadworthiness certificate was issued for the vehicle. Before the date of application of this Regulation, Member States shall communicate to each other the format of the roadworthiness certificate recognised by their respective competent authorities as well as instructions on how to verify authenticity.</td>
<td></td>
</tr>
</tbody>
</table>
Amendment 65
Proposal for a regulation
Article 8 — paragraph 4

Text proposed by the Commission

4. For the purposes of checking the odometer reading, and where this information was not communicated electronically following the previous roadworthiness test, the inspector shall require the person presenting the vehicle to the test to show the certificate issued following the previous roadworthiness test.

Amendment

4. For the purposes of checking the odometer reading, where fitted, and where the information on that reading was not communicated electronically following the previous roadworthiness test, the inspector shall require the person presenting the vehicle to the test to show the certificate issued following the previous roadworthiness test, if that certificate has not been issued electronically.

Amendment 66
Proposal for a regulation
Article 8 — paragraph 5

Text proposed by the Commission

5. The results of the roadworthiness test shall be notified to the registration authority of the vehicle. This notification shall contain the information mentioned in the roadworthiness certificate.

Amendment

5. The results of the roadworthiness test shall be notified by electronic means to the registration authority of the vehicle without delay. That notification shall contain the information mentioned in the roadworthiness certificate.

Amendment 67
Proposal for a regulation
Article 9 — paragraph 2

Text proposed by the Commission

2. In the case of major deficiencies, the competent authority shall decide on the conditions under which a vehicle may be used before undergoing another roadworthiness test. The latter test shall take place within six weeks following the initial test.

Amendment

2. In the case of major deficiencies, the national competent authority may decide on the conditions under which a vehicle may be used before undergoing another roadworthiness test. The latter test shall take place within six weeks following the initial test.

Amendment 68
Proposal for a regulation
Article 9 — paragraph 3

Text proposed by the Commission

3. In the case of dangerous deficiencies, the vehicle shall not be used on publicly accessible roads and its registration shall be withdrawn in accordance with Article 3a of Directive XXX of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles until the deficiencies are rectified and a new roadworthiness certificate is issued testifying that the vehicle is in a roadworthy condition.

Amendment

3. In the case of dangerous deficiencies, the Member State or the competent authority may prevent or restrict the use of the vehicle on public roads until any dangerous deficiencies are rectified.
Amendment 69  
Proposal for a regulation  
Article 10 — paragraph 1

Text proposed by the Commission

The testing centre or, if relevant, the competent authority of the Member State that has carried out a roadworthiness test on a vehicle registered in its territory shall issue a proof to each vehicle having successfully passed such a test. The proof shall indicate the date of the next roadworthiness test.

Amendment

The testing centre or, if relevant, the competent authority of the Member State that has carried out a roadworthiness test on a vehicle registered in its territory shall issue a proof to each vehicle having successfully passed such a test. The proof shall indicate the date of the next roadworthiness test. **No proof of roadworthiness need be issued if it is possible to indicate in the vehicle registration document that the roadworthiness test has been conducted and the date of the next such test.**

Amendment 70  
Proposal for a regulation  
Article 10 — paragraph 1 a (new)

Text proposed by the Commission

Where the tested vehicle belongs to a vehicle category not subject to registration in the Member State where it has been put into service, the proof of test shall be displayed in a visible manner on the vehicle.

Amendment

Each Member State shall recognise the proof issued by another Member State in accordance with paragraph 1 or a corresponding record in the vehicle registration document, provided that it was issued for a vehicle registered in that Member State.

Amendment 71  
Proposal for a regulation  
Article 10 — paragraph 2

Text proposed by the Commission

Each Member State shall recognise the proof issued in accordance with paragraph 1.

Amendment

Each Member State shall recognise the proof issued by another Member State in accordance with paragraph 1 or a corresponding record in the vehicle registration document, provided that it was issued for a vehicle registered in that Member State.

Amendment 72  
Proposal for a regulation  
Article 11 — paragraph 1

Text proposed by the Commission

1. Testing facilities and equipment used for carrying out roadworthiness tests shall comply with the minimum technical requirements laid down in Annex V.

Amendment

1. Testing facilities and equipment used for carrying out roadworthiness tests shall comply with at least the minimum technical requirements laid down in Annex V.
Amendment 73
Proposal for a regulation
Article 11 — paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Testing centres in which inspectors perform roadworthiness tests shall be authorised by a Member State or by its competent authority.

Amendment 74
Proposal for a regulation
Article 11 — paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Testing centres which have already been authorised by Member States prior to the entry into force of this Regulation shall be retested for compliance with the minimum standards following a period of at least five years from the entry into force of this Regulation.

Amendment 75
Proposal for a regulation
Article 11 — paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. To meet minimum requirements in terms of quality management, testing centres shall comply with the requirements of the authorising Member State. Testing centres shall ensure the objectivity and the high quality of the vehicle testing.

Amendment 76
Proposal for a regulation
Article 12 — paragraph 1

Text proposed by the Commission

Amendment

1. Roadworthiness tests shall be carried out by inspectors fulfilling the minimum competence and training requirements laid down in Annex VI. Member States may lay down additional competence and training requirements.
Amendment 77
Proposal for a regulation
Article 12 — paragraph 1 a (new)

Text proposed by the Commission

1a. Member States shall prescribe adequate training for inspectors in line with the qualification requirements.

Amendment 78
Proposal for a regulation
Article 12 — paragraph 2

Text proposed by the Commission

2. The competent authorities or, where applicable, approved training centres shall deliver a certificate to inspectors who fulfil the minimum competence and training requirements. This certificate shall include at least the information mentioned in Annex VI, point 3.

Amendment 79
Proposal for a regulation
Article 12 — paragraph 3

Text proposed by the Commission

3. Inspectors employed by competent authorities of the Member States or a testing centre at the date of application of this Regulation shall be exempted from the requirements laid down in Annex VI, point 1. The Member States shall deliver a certificate of equivalence to these inspectors.

Amendment 80
Proposal for a regulation
Article 12 — paragraph 4 a (new)

Text proposed by the Commission

4a. A person who has performed repairs or maintenance on a vehicle shall not be involved as an inspector in the subsequent conducting of a periodic roadworthiness test of that same vehicle unless the supervising body has established to its satisfaction that a high level of objectivity can be guaranteed. Member States may prescribe stronger requirements regarding the separation of activities.
Amendment 81
Proposal for a regulation
Article 12 — paragraph 5

Text proposed by the Commission

5. The testing centre shall inform the person presenting the vehicle to the test of the necessary repairs to be carried out and shall not alter the results of the test for commercial purposes.

Amendment

5. The testing centre shall inform the person or repair workshop presenting the vehicle to the test of the deficiencies identified on the vehicle and shall not alter the results of the test for commercial purposes.

Amendment 82
Proposal for a regulation
Article 13 — paragraph 1 — subparagraph 1 a (new)

Text proposed by the Commission

Each Member State shall ensure that testing centres in its territory are supervised.

Amendment

Amendment 83
Proposal for a regulation
Article 13 — paragraph 2

Text proposed by the Commission

2. Testing centres directly operated by a competent authority shall be exempted from the requirements regarding authorisation and supervision.

Amendment

2. Testing centres directly operated by a Member State’s competent authority shall be exempted from the requirements regarding authorisation and supervision.

Amendment 84
Proposal for a regulation
Article 15

Text proposed by the Commission

The Commission shall examine the feasibility, costs and benefits of the establishment of an electronic vehicle information platform with a view to exchange information on data related to roadworthiness testing between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres and the vehicle manufacturers.

Amendment

The Commission shall examine the most efficient and effective way to establish an electronic vehicle information platform by taking advantage of existing and already implemented IT solutions with regard to international data exchange so as to minimise costs and avoid duplication. The examination shall consider the most appropriate way to link the existing national systems with a view to exchanging information on data related to roadworthiness testing and odometer readings between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres, the test equipment manufacturers and the vehicle manufacturers.
The Commission shall also examine the collection and storage of existing safety-related data concerning vehicles which have been involved in serious accidents. Those data should include at least information concerning components with a safety function which have been replaced and repaired.

The information on the history of a vehicle should be made available to inspectors testing that vehicle and, in anonymised form, to Member States, so as to help them plan and carry out measures to improve road safety, and also to the holder of the registration certificate or the vehicle owner.

On the basis of that examination, the Commission shall put forward and evaluate different policy options, including the possibility of removing the requirement of a proof of test as provided for in Article 10 and the establishment of a system for exchanging information between Member States, in the event of cross-border sales of vehicles, about the mileage readings of, and serious accidents suffered by, those vehicles throughout their lifetime. Within two years after the date of application of this Regulation, the Commission shall report to the European Parliament and to the Council on the results of the examination, and accompany it with a legislative proposal, if appropriate.

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**Amendment 85**

**Proposal for a regulation**

**Article 17**

The Commission shall be empowered to adopt delegated acts in accordance with Article 19 with a view:

- to update Article 2(1) and Article 5(1) and (2) as appropriate in order to take account of the changes to the vehicle categories stemming from amendments to the legislation referred to in Article 3(1),

- to update the Annexes in the light of technical progress or in order to take account of the modification in international or Union legislation.

The Commission shall be empowered to adopt delegated acts in accordance with Article 18 with a view to updating:

(a) the designation of vehicle categories in Article 2(1) and Article 5(1) and (2) as appropriate in the event of changes to the vehicle categories stemming from amendments to the type approval legislation referred to in Article 2(1), without affecting the scope or the frequency of testing;

(b) point 3 of Annex II in respect of methods and reasons for failure, and Annex V, in the event of the availability of more efficient and effective test methods, and Annex I, should additional information be required in order to carry out roadworthiness tests;
Text proposed by the Commission

(c) point 3 of Annex II in respect of the list of test items, methods, reasons for failure, Annex III in respect of the assessment of deficiencies, and Annex V, in order to adapt them to developments in Union safety or environmental legislation, and Annex I, should additional information be required in order to carry out roadworthiness tests.

Amendment 86
Proposal for a regulation
Article 18 — paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Article 17 shall be conferred for an indeterminate period of time from [the date of entry into force of this Regulation].

Amendment

2. The power to adopt delegated acts referred to in Article 17 shall be conferred on the Commission for a period of five years from [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 87
Proposal for a regulation
Article 18 a (new)

Text proposed by the Commission

Article 18a

Reporting on two- or three-wheel vehicles

No later than [three years from the date of publication of this Regulation], the Commission shall submit a report to the European Parliament and the Council on the inclusion of two- or three-wheel vehicles in the scope of this Regulation. The report shall assess the road safety situation in the Union for that category of vehicles. In particular, the Commission shall compare road safety results for that category of vehicles in Member States which carry out roadworthiness testing of that category of vehicles with those in Member States which do not test that category of vehicles, in order to assess whether roadworthiness testing of two- or three-wheel vehicles is proportionate to the road safety objectives set. The report shall be accompanied, if appropriate, by legislative proposals.
Amendment 110
Proposal for a regulation
Article 18b (new)

Text proposed by the Commission

Amendment

Article 18b

Reporting

No later than [five years from the date of publication of this Regulation], the Commission shall submit a report to the European Parliament and the Council on the implementation and the effects of this Regulation, in particular as regards the frequency of testing, the level of harmonisation of periodic roadworthiness tests and the effectiveness of the provisions on the mutual recognition of roadworthiness certificates in cases of registration of vehicles originating from another Member State. The report shall also analyse whether there is a sufficient level of harmonisation to allow for full mutual recognition of roadworthiness certificates throughout the Union and whether there is a need for higher European standards in order to achieve that goal. The report shall be accompanied, if appropriate, by legislative proposals.

Amendment 88
Proposal for a regulation
Article 19 — paragraph 2

Text proposed by the Commission

Amendment

2. Each Member State shall take the necessary measures to ensure that manipulation or tampering of an odometer is regarded as an offence and is punishable by effective, proportionate, dissuasive and non-discriminatory penalties.

2. Each Member State shall take the necessary measures to ensure that manipulation of, or tampering with, vehicle components and systems which have a bearing on compliance with safety and environmental requirements or an odometer is regarded as an offence and is punishable by effective, proportionate, dissuasive and non-discriminatory penalties, and to ensure the accuracy of the odometer reading during the entire lifetime of a vehicle.

Amendment 89
Proposal for a regulation
Annex I — part 5 — point 5.3 — indent 8 a (new)

Text proposed by the Commission

Amendment

— Recommended tyre pressure
Amendment 90
Proposal for a regulation
Annex II — part 1 — paragraph 4 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where it is not possible to test a vehicle using a recommended test method set out in this Annex, the test centre may conduct the test in accordance with an alternative method which has been approved in writing by the appropriate competent authority. The competent authority must be satisfied that safety and environmental standards will be maintained.</td>
<td></td>
</tr>
</tbody>
</table>

Amendment 91
Proposal for a regulation
Annex II — part 3 — item 1.8 — point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.8 Brake fluid Measuring of boiling temperature or water (a) Brake fluid boiling temperature to low or water content to high</td>
</tr>
</tbody>
</table>

Amendment by Parliament

| 1.8 Brake fluid Measuring of boiling temperature or water (a) Brake fluid boiling temperature to low content |

Amendment 92
Proposal for a regulation
Annex II — part 3 — item 3.3 — point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3. Rear-view mirrors or devices Visual inspection. (a) Mirror or device missing or not fitted according to the requirements</td>
</tr>
</tbody>
</table>

Amendment by Parliament

| 3.3. Rear-view mirrors or devices Visual inspection. (a) Mirror or device missing or not fitted according to the requirements including those outlined in Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles registered in the Community. |
Amendment 93
Proposal for a regulation
Annex II — part 3 — item 4.1.2

Text proposed by the Commission

4.1.2. Alignment

Determine the horizontal aim of each headlamp on dipped beam using a headlamp aiming device or a screen.

Aim of a headlamp not within limits laid down in the requirements.

Amendment by Parliament

4.1.2. Alignment

Determine the horizontal and vertical aim of each headlamp on dipped beam using a headlamp aiming device and an electronic control device in order to check the dynamic functionality where relevant.

Aim of a headlamp not within limits laid down in the requirements.

Amendment 94
Proposal for a regulation
Annex II — part 3 — item 4.1.3

Text proposed by the Commission

4.1.3. Switching

Visual inspection and by operation. (a) Switch does not operate in accordance with the requirements (1) (Number of headlamps illuminated at the same time)

(b) Function of control device impaired.

Amendment by Parliament

4.1.3. Switching

Visual inspection and by operation, and using where appropriate an electronic control device. (a) Switch does not operate in accordance with the requirements (1) (Number of headlamps illuminated at the same time)

(b) Function of control device impaired.
Amendment 95
Proposal for a regulation
Annex II — part 3 — item 4.1.5

Text proposed by the Commission

4.1.5. Levelling devices (where mandatory)

Visual inspection and by operation if possible. (a) Device not operating.

(b) Manual device cannot be operated from driver's seat.

Amendment by Parliament

4.1.5. Levelling devices (where mandatory)

Visual inspection and by operation, and using where appropriate an electronic control device. (a) Device not operating.

(b) Manual device cannot be operated from driver's seat.

Amendment 96
Proposal for a regulation
Annex II — part 3 — item 4.3.2

Text proposed by the Commission

4.3.2. Switching

Visual inspection and by operation (a) Switch does not operate in accordance with the requirements

(b) Function of control device impaired.

Amendment by Parliament

4.3.2 Stop lamps — emergency brake light switching

Visual inspection and by operation, using an electronic control device to vary the brake pedal sensor input value and verify by observation the emergency brake light functionality. (a) Switch does not operate in accordance with the requirements

(b) Function of control device impaired.

(ba) Emergency brake light functions fail to operate, or do not operate correctly.
Amendment 97
Proposal for a regulation
Annex II — part 3 — item 4.5.2

Text proposed by the Commission

4.5.2 Alignment (X)(2)  
by operation and using a headlamp aiming device  
Front fog lamp out of horizontal alignment when the light pattern has cut-off line

Amendment by Parliament

4.5.2 Alignment (X)(2)  
by operation and using a headlamp aiming device  
Front fog lamp out of horizontal and vertical alignment when the light pattern has cut-off line

Amendment 98
Proposal for a regulation
Annex II — part 3 — item 5.2.2. — point d a (new)

Text proposed by the Commission

5.2.2. Wheels  
Visual inspection of both sides of each wheel with vehicle over a pit or on a hoist.  
(a) Any fracture or welding defect

(...)

Amendment by Parliament

5.2.2. Wheels  
Visual inspection of both sides of each wheel with vehicle over a pit or on a hoist.  
(a) Any fracture or welding defect

(...)

(da) Wheel not compatible with wheel hub

Amendment 99
Proposal for a regulation
Annex II — part 3 — item 5.2.3. — column 2

Text proposed by the Commission

5.2.3. Tyres  
Visual inspection of the entire tyre by either rotating the road wheel with it off the ground and the vehicle over a pit or on a hoist, or by rolling the vehicle backwards and forwards over a pit.
5.2.3. Tyres

Visual inspection of the entire tyre by either rotating the road wheel with it off the ground and the vehicle over a pit or on a hoist, or by rolling the vehicle backwards and forwards over a pit.

Use a pressure gauge to measure tyre pressure and compare it with the values given by the manufacturer.

Amendment 100
Proposal for a regulation
Annex II — part 3 — item 8.2.1.2

Text proposed by the Commission

8.2.1.2 Gaseous emissions

Measurement using an exhaust gas analyser in accordance with the requirements\(^{(1)}\). Alternatively, for vehicles equipped with suitable on-board diagnostic systems, the proper functioning of the emission system can be checked by appropriate reading of the OBD device and checks on the proper functioning of the OBD system in place of emission measurements at engine idle in accordance with the manufacturer’s conditioning recommendations and other requirements\(^{(1)}\).

(a) Either, gaseous emissions exceed the specific levels given by the manufacturer;

(b) Or, if this information is not available, the CO emissions exceed,

   i) for vehicles not controlled by an advanced emission control system,

      — 4,5 %, or

      — 3,5 %

      according to the date of first registration or use specified in requirements\(^{(1)}\).

   ii) for vehicles controlled by an advanced emission control system,

      — at engine idle: 0,5 %

      — at high idle: 0,3 %

      or

      — at engine idle: 0,3 %\(^{6}\)

      — at high idle: 0,2 %

      according to the date of first registration or use specified in requirements\(^{(1)}\).
Text proposed by the Commission

(c) Lambda outside the range $1 \pm 0.03$ or not in accordance with the manufacturer’s specification

(d) OBD readout indicating significant malfunction

Amendment by Parliament

8.2.1.2 Gaseous emissions

Measurement using an exhaust gas analyser in accordance with the requirements. The tailpipe testing shall always be the default method of exhaust emission assessment, even if combined with OBD.

For vehicles equipped with OBD in accordance with requirements, reading of OBD information and checks (readiness) on the proper functioning of the OBD system at engine idle in accordance with the manufacturer’s recommendations and other requirements.

Measurement of NOx levels by means of a suitable equipment/suitably equipped gas analyser, using existing tailpipe test methods.

(a) Either, gaseous emissions exceed the specific levels given by the manufacturer;

(b) Or, if this information is not available, the CO emissions exceed,

i) for vehicles not controlled by an advanced emission control system,

— 4.5%, or

— 3.5% according to the date of first registration or use specified in requirements.

ii) for vehicles controlled by an advanced emission control system,

— at engine idle: 0.5%

— at high idle: 0.3%

or

— at engine idle: 0.3% (6a)

— at high idle: 0.2% (6a)

or

— at engine idle: 0.2% (6a)

— at high idle: 0.1% (6a)
Amendment  by Parliament

...according to the date of first registration or use specified in requirements(1).

(c) Lambda outside the range \(1 \pm 0.03\) or not in accordance with the manufacturer’s specification

(d) OBD readout indicating significant malfunction at engine idle speed.

NOx level not in accordance with the requirements or in excess of the specific levels given by the manufacturer.

\(\text{\textsuperscript{6a}}\) Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

Amendment 101
Proposal for a regulation
Annex II — part 3 — item 8.2.2.2

Text proposed by the Commission

8.2.2.2 Opacity

Vehicles registered or put into service before 1 January 1980 are exempted from this requirement

(a) Exhaust gas opacity to be measured during free acceleration (no load from idle up to cut-off speed) with gear lever in neutral and clutch engaged.

(b) Vehicle preconditioning:

1. Vehicles may be tested without preconditioning although for safety reasons checks should be made that the engine is warm and in a satisfactory mechanical condition.

2. Precondition requirements:

  (a) For vehicles registered or put into service for the first time after the date specified in requirements(1), opacity exceeds the level recorded on the manufacturer’s plate on the vehicle;

  (b) Where this information is not available or requirements(1) do not allow the use of reference values, for naturally aspirated engines: \(2.5 \text{ m}^{-1}\),
(i) Engine shall be fully warm, for instance the engine oil temperature measured by a probe in the oil level dipstick tube to be at least 80 °C, or normal operating temperature if lower, or the engine block temperature measured by the level of infrared radiation to be at least an equivalent temperature. If, owing to vehicle configuration, this measurement is impractical, the establishment of the engine’s normal operating temperature may be made by other means, for example by the operation of the engine cooling fan. for turbo-charged engines: 3,0 m$^{-1}$.

(ii) Exhaust system shall be purged by at least three free acceleration cycles or by an equivalent method. or, for vehicles identified in requirements (1) or first registered or put into service for the first time after the date specified in requirements (1).

(c) Test procedure: 1,5 m$^{-1}$.

1. Engine and any turbocharger fitted, to be at idle before the start of each free acceleration cycle. For heavy-duty diesels, this means waiting for at least 10 seconds after the release of the throttle.

2. To initiate each free acceleration cycle, the throttle pedal must be fully depressed quickly and continuously (in less than one second) but not violently, so as to obtain maximum delivery from the injection pump.
3. During each free acceleration cycle, the engine shall reach cut-off speed or, for vehicles with automatic transmissions, the speed specified by the manufacturer or if this data is not available then two thirds of the cut-off speed, before the throttle is released. This could be checked, for instance, by monitoring engine speed or by allowing a sufficient time to elapse between initial throttle depression and release, which in the case of vehicles of category 1 and 2 of Annex 1, should be at least two seconds.

4. Vehicles shall only be failed if the arithmetic means of at least the last three free acceleration cycles are in excess of the limit value. This may be calculated by ignoring any measurement that departs significantly from the measured mean, or the result of any other statistical calculation that takes account of the scattering of the measurements. Member States may limit the number of test cycles.

5. To avoid unnecessary testing, Member States may fail vehicles which have measured values significantly in excess of the limit values after less than three free acceleration cycles or after the purging cycles. Equally to avoid unnecessary testing, Member States may pass vehicles which have measured values significantly below the limits after less than three free acceleration cycles or after the purging cycles.
8.2.2.2 Opacity

Vehicles registered or put into service before 1 January 1980 are exempted from this requirement.

(a) Exhaust gas opacity to be measured during free acceleration (no load from idle up to cut-off speed) with gear lever in neutral and clutch engaged. The tailpipe testing shall always be the default method of exhaust emission assessment, even if combined with OBD.

(b) Vehicle preconditioning:

1. Vehicles may be tested without preconditioning although for safety reasons checks should be made that the engine is warm and in a satisfactory mechanical condition.

2. Precondition requirements:

(i) Engine shall be fully warm, for instance the engine oil temperature measured by a probe in the oil level dipstick tube to be at least 80 °C, or normal operating temperature if lower, or the engine block temperature measured by the level of infrared radiation to be at least an equivalent temperature. If, owing to vehicle configuration, this measurement is impractical, the establishment of the engine’s normal operating temperature may be made by other means, for example by the operation of the engine cooling fan.

(a) For vehicles registered or put into service for the first time after the date specified in requirements (1), opacity exceeds the level recorded on the manufacturer’s plate on the vehicle;

(b) Where this information is not available or requirements (1) do not allow the use of reference values, for naturally aspirated engines: 2.5 m⁻¹,

for turbo-charged engines: 3.0 m⁻¹.
(ii) Exhaust system shall be purged by at least three free acceleration cycles or by an equivalent method.

or, for vehicles identified in requirements(1) or first registered or put into service for the first time after the date specified in requirements(1),

(c) Test procedure:

1. Engine and any turbocharger fitted, to be at idle before the start of each free acceleration cycle. For heavy-duty diesels, this means waiting for at least 10 seconds after the release of the throttle.

2. To initiate each free acceleration cycle, the throttle pedal must be fully depressed quickly and continuously (in less than one second) but not violently, so as to obtain maximum delivery from the injection pump.

3. During each free acceleration cycle, the engine shall reach cut-off speed or, for vehicles with automatic transmissions, the speed specified by the manufacturer or if this data is not available then two thirds of the cut-off speed, before the throttle is released. This could be checked, for instance, by monitoring engine speed or by allowing a sufficient time to elapse between initial throttle depression and release, which in the case of vehicles of category 1 and 2 of Annex 1, should be at least two seconds.
4. Vehicles shall only be failed if the arithmetic means of at least the last three free acceleration cycles are in excess of the limit value. This may be calculated by ignoring any measurement that departs significantly from the measured mean. Member States may limit the number of test cycles.

5. To avoid unnecessary testing, Member States may fail vehicles which have measured values significantly in excess of the limit values after less than three free acceleration cycles or after the purging cycles. Equally to avoid unnecessary testing, Member States may pass vehicles which have measured values significantly below the limits after less than three free acceleration cycles or after the purging cycles.

Measurement of NOx levels and particulates by means of suitable equipment/a suitably equipped gas analyser, using existing free acceleration test methods.

NOx level or particulate values not in accordance with the requirements or in excess of the specific levels given by the manufacturer.

\(^{(30)}\) Type-approved according to limits of Table 1 of Annex 1 to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).
Amendment 102
Proposal for a regulation
Annex III — item 1.8 — point a

Text proposed by the Commission

1.8 Brake fluid
(a) Brake fluid boiling temperature too low or water content too high

Amendment by Parliament

1.8 Brake fluid
(a) Brake fluid boiling temperature too low

Amendment 103
Proposal for a regulation
Annex III — item 5.2.2 — point d a (new)

Text proposed by the Commission

<table>
<thead>
<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>5.2.2. Wheels</td>
<td>(a) Any fracture or welding defect.</td>
<td>x</td>
</tr>
<tr>
<td>(...)</td>
<td></td>
<td></td>
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</tbody>
</table>

Amendment by Parliament

<table>
<thead>
<tr>
<th>Minor</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>5.2.2. Wheels</td>
<td>(a) Any fracture or welding defect.</td>
<td>x</td>
</tr>
<tr>
<td>(...)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(da) Wheel not compatible with wheel hub.</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

Amendment 104
Proposal for a regulation
Annex III — item 5.2.3

Text proposed by the Commission

<table>
<thead>
<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>5.2.3. Tyres</td>
<td>(a) Tyre size, load capacity, approval mark or speed rating not in accordance with the requirements and affecting road safety</td>
<td>x</td>
</tr>
</tbody>
</table>
### Text proposed by the Commission

<table>
<thead>
<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insufficient load capacity or speed rating for actual use, tyre touches other fix vehicle parts impairing safe driving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(b) Tyres on same axle or on twin wheels of different sizes.</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(c) Tyres on same axle of different construction (radial/cross-ply).</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(d) Any serious damage or cut to tyre. Cord visible or damaged</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(e) Tyre tread depth not in accordance with the requirements (1). Less than 80% of required tread depth</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(f) Tyre rubbing against other components (flexible anti spray devices). Tyre rubbing against other components (save driving not impaired)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(g) Re-grooved tyres not in accordance with requirements (1). Cord protection layer affected</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(h) Air pressure monitoring system malfunctioning obviously inoperative</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

### Amendment by Parliament

<table>
<thead>
<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
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<tbody>
<tr>
<td>5.2.3. Tyres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Tyre size, load capacity, approval mark or speed rating not in accordance with the requirements (1) and affecting road safety</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Insufficient load capacity or speed rating for actual use, tyre touches other fix vehicle parts impairing safe driving</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(b) Tyres on same axle or on twin wheels of different sizes.</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(c) Tyres on same axle of different construction (radial/cross-ply).</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(d) Any serious damage or cut to tyre. Cord visible or damaged</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(e) Tyre tread wear indicator becomes visible. Tyre at legal tread depth. Tyres below legal tread depth.</td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>
### Amendment by Parliament

<table>
<thead>
<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
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</thead>
<tbody>
<tr>
<td>(f) Tyre rubbing against other components (flexible anti-spray devices).</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Tyre rubbing against other components (save driving not impaired)</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(g) Re-grooved tyres not in accordance with requirements(1).</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Cord protection layer affected</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(h) Tyre pressure monitoring system malfunctioning or tyre obviously underinflated</td>
<td>x</td>
<td></td>
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<tr>
<td>obviously inoperative</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>(i) In-service operating pressure in one of the vehicle tyres reduced by 20%, but not below 150 kPa</td>
<td>x</td>
<td></td>
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</table>

### Amendment 105

**Proposal for a regulation**

**Annex III — item 8.2.1.2 — point b**

<table>
<thead>
<tr>
<th>Minor</th>
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<th>Dangerous</th>
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</table>

8.2.1.2 Gaseous emissions

(b) Or, if this information is not available, the CO emissions exceed,

(…)

ii) for vehicles controlled by an advanced emission control system,

— at engine idle: 0.5 %
— at high idle: 0.3 %

or

— at engine idle: 0.3 %
— at high idle: 0.2 %

according to the date of first registration or use specified in requirements(1).

### Amendment by Parliament

<table>
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<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
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</thead>
</table>

8.2.1.2 Gaseous emissions

(b) Or, if this information is not available, the CO emissions exceed,
Amendment by Parliament

(...)

ii) for vehicles controlled by an advanced emission control system,

— at engine idle: 0,5 %
— at high idle: 0,3 %
or
— at engine idle: 0,3 %
— at high idle: 0,2 %
or
— at engine idle: 0,2 % (6a)
— at high idle: 0,1 % (6a)

according to the date of first registration or use specified in requirements(1).

(6a) Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

Amendment 106
Proposal for a regulation
Annex III — item 8.2.2.2 — point b

Text proposed by the Commission

<table>
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<tr>
<th>Minor</th>
<th>Major</th>
<th>Dangerous</th>
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</table>

8.2.2.2 Opacity

Vehicles registered or put into service before 1 January 1980 are exempted from this requirement

Where this information is not available or requirements(1) do not allow the use of reference values, x

for naturally aspirated engines: 2,5 m\(^{-1}\),
for turbo-charged engines: 3,0 m\(^{-1}\),
or, for vehicles identified in requirements(1) or first registered or put into service for the first time after the date specified in requirements(1),

1,5 m\(^{-1}\).
8.2.2.2 Opacity

Vehicles registered or put into service before 1 January 1980 are exempted from this requirement. Where this information is not available or requirements\(^{(1)}\) do not allow the use of reference values, x

for naturally aspirated engines: \(2.5 \text{ m}^{-1}\),

for turbo-charged engines: \(3.0 \text{ m}^{-1}\),

or, for vehicles identified in requirements\(^{(1)}\) or first registered or put into service for the first time after the date specified in requirements\(^{(1)}\),

\(1.5 \text{ m}^{-1}\).

or

\(0.5 \text{ m}^{-1} \quad \text{(6a)}\)

\(^{(6a)} \) Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

**Amendment 107**
Proposal for a regulation
Annex IV — point 6 a (new)

**Amendment 108**
Proposal for a regulation
Annex V — part I — paragraph 2 a (new)
Amendment 109
Proposal for a regulation
Annex V — part 1 — paragraph 1 — point 15 a (new)

Text proposed by the Commission

15a) A pressure gauge to measure tyre pressure;

P7_TA(2013)0298

Priority substances in the field of water policy ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/35)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0876),

— having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0026/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 23 May 2012 (1),

— having regard to the opinion of the Committee of the Regions of 30 November 2012 (2),

— having regard to the undertaking given by the Council representative by letter of 17 April 2013 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0397/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(2) OJ C 17, 19.1.2013, p. 91.
P7_TC1-C OD(2011)0429


(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/39/EU.)

P7_TA(2013)0299

Certain categories of horizontal State aid and public passenger transport services by rail and by road *


(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2012)0730),

— having regard to Article 109 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0005/2013),

— having regard to Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (1),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Transport and Tourism (A7-0179/2013),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

5. Instructs its President to forward its position to the Council and the Commission.

Amendment 2
Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, empowers the Commission to declare by means of regulations that certain specified categories of aid are compatible with the internal market and are exempted from the notification requirement of Article 108(3) of the Treaty.

Amendment

(1) Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, empowers the Commission to declare by means of regulations that certain specified categories of aid are compatible with the internal market and are exempted from the notification requirement of Article 108(3) of the Treaty. Regulation (EC) No 994/98 specifies those categories, while the details of the exemptions and their objectives are clarified in the relevant regulations and guidelines.

Amendment 3
Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

(1a) The Commission aims to find the right balance between concentrating its enforcement efforts on cases with a significant impact on the internal market by exempting certain specified categories of State aid from the notification requirements, while at the same time preventing too many services from being excluded from State aid scrutiny.

Amendment

(1a) The Commission aims to find the right balance between concentrating its enforcement efforts on cases with a significant impact on the internal market by exempting certain specified categories of State aid from the notification requirements, while at the same time preventing too many services from being excluded from State aid scrutiny.

Amendment 1
Proposal for a regulation

Recital 1 b (new)

Text proposed by the Commission

(1b) Due regard should be given to the conclusions of the European Court of Auditors special report No 15/2011 entitled ‘Do the Commission procedures ensure effective management of State aid control?’.
Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Regulation (EC) No 994/98 authorises the Commission to exempt aid for research and development, but not for innovation. Innovation has since become a Union policy priority in the context of ‘Innovation Union’, one of the Europe 2020 flagship initiatives. Moreover, many aid measures for innovation are relatively small and create no significant distortions of competition.

Amendment

(3) Regulation (EC) No 994/98 authorises the Commission to exempt aid for research and development, but not for innovation, including social innovation, has since become a Union policy priority in the context of ‘Innovation Union’, one of the Europe 2020 flagship initiatives. Moreover, many aid measures for innovation are relatively small and create no significant distortions of competition, in particular if they are in line with the Europe 2020 flagship initiatives and the new framework programme for research and innovation, Horizon 2020. The new general block exemption regulation will specify the conditions and types of aid suitable for exemption.

Amendment 23

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) In the amateur sports sector, public support measures, to the extent that they constitute State aid, usually have limited effects on intra-Union trade and do not create serious distortions of competition. The amounts granted are typically also limited. Clear compatibility conditions can be defined on the basis of the experience acquired so as to ensure that aid to amateur sports does not give rise to any significant distortion.

Amendment

(9) As a rule, amateur sport cannot be regarded as an economic activity. Where, exceptionally, amateur sports include economic activities and public support measures constitute State aid, they have fundamentally limited effects on intra-Union trade and do not create distortions of competition. The amounts granted are typically also limited. Clear compatibility conditions can be defined on the basis of the experience acquired so as to ensure that aid to amateur sports does not give rise to any significant distortion where such sports, exceptionally, include economic activities. The new general block exemption regulation should clarify whether, and distinguish between, State aid considered to be directed towards sport associations for their activities or towards sport infrastructure projects.
Amendment 24
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

(9a) In view of the major social significance of sport, encouraging youth development within professional clubs is acknowledged in the case-law of the Court of Justice of the European Union to be a legitimate aim. Union State aid policy should therefore create a clear framework in which Member States can promote those objectives and support sports organisations for that purpose.

Amendment 6
Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) In relation to aid concerning air and maritime transport, in the Commission’s experience, aid having a social character to residents of remote regions for transport, provided that it is granted without discrimination related to the identity of the carrier, does not give rise to any significant distortion and clear compatibility conditions can be defined.

Amendment

deleted
Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In relation to aid for transport by rail, road and inland waterways, Article 93 of the Treaty states that aid meeting the needs of coordination of transport or representing reimbursement for the discharge of certain obligations inherent in the concept of a public service shall be compatible with the Treaties. *Article 9 of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road currently exempts from the prior notification requirement laid down in Article 108(3) of the Treaty public service compensations for the operation of public passenger transport services or for complying with tariff obligations that are established through general rules and paid in accordance with Regulation (EC) No 1370/2007. In order to harmonize the approach to block exemption regulations in the field of State aid, and in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to in Article 93 of the Treaty should be brought under the scope of Regulation (EC) No 994/98. Article 9 of Regulation (EC) No 1370/2007 should be therefore be deleted with effect from six months after the entry into force of a regulation adopted by the Commission concerning this category of State aid.*

Amendment

(11) In relation to aid for transport by rail, road and inland waterways, Article 93 of the Treaty states that aid meeting the needs of coordination of transport or representing reimbursement for the discharge of certain obligations inherent in the concept of a public service shall be compatible with the Treaties.
Amendment 8
Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In the field of aid to broadband, the Commission has in recent years acquired vast experience and has devised guidelines. In the Commission's experience, aid for certain types of broadband infrastructure does not give rise to any significant distortion and could benefit from a group exemption, provided that certain compatibility conditions are met. This is true of aid covering the provision of basic broadband in regions where there is no broadband infrastructure and where none is likely to be developed in the near future ('white' areas) as well as aid for small individual aid measures covering very high-speed next-generation access (NGA) networks in areas where there is no NGA infrastructure and where no such infrastructure is likely to be developed in the near future. It is also true of aid to broadband-related civil engineering works and passive broadband infrastructure, where the Commission has acquired substantial case experience and clear compatibility conditions can be defined.

Amendment

(12) In the field of aid to broadband, the Commission has in recent years acquired vast experience and has devised guidelines. In the Commission's experience, aid for certain types of broadband infrastructure does not give rise to any significant distortion and could benefit from a group exemption, provided that certain compatibility conditions are met. This is true of aid covering the provision of basic broadband in regions where there is no broadband infrastructure and where none is likely to be developed in the near future ('white' areas) as well as aid for small individual aid measures covering very high-speed next-generation access (NGA) networks in areas where there is no NGA infrastructure and where no such infrastructure is likely to be developed in the near future. It is also true of aid to broadband-related civil engineering works and passive broadband infrastructure, where the Commission has acquired substantial case experience and clear compatibility conditions can be defined. A block exemption for civil engineering works and broadband infrastructure should support investments, especially in rural areas and remote regions. Free-market access for operation of the infrastructure should be guaranteed as a condition for benefiting from the block exemption.

Amendment 9
Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) Therefore, the scope of Regulation (EC) No 994/98 should be extended to include such categories of aid.

Amendment

(13) Therefore, the scope of Regulation (EC) No 994/98 should be extended to include categories of aid hereby identified.
Recital 14

(14) Regulation (EC) No 994/98 requires the thresholds for each category of aid in respect of which the Commission adopts a block exemption regulation to be expressed either in terms of aid intensities in relation to a set of eligible costs or in terms of maximum aid amounts. This condition makes it difficult to block-exempt certain types of measures involving State support which, because of the specific way in which they are designed, cannot be expressed in terms of aid intensities or maximum amounts, e.g. financial engineering instruments or certain forms of measures aimed to promote risk capital investments. This is in particular due to the fact that such complex measures may involve aid at different levels (direct beneficiaries, intermediate beneficiaries, indirect beneficiaries). Given the increasing importance of such measures and their contribution to Union objectives, there should be more flexibility to make it possible to exempt such measures. It should therefore be possible to define the thresholds in terms of the maximum level of State support, whether it qualifies as State aid or not.

Recital 15a (new)

(15a) In order to ensure a level playing field in line with the internal market principles, the national aid schemes should guarantee an open and equal access to the State aid support for all the relevant actors of the market, in particular through the use of schemes or systems of aid rather than individual aid.
Amendment 12
Proposal for a regulation

Recital 15 b (new)

Amendment

(15b) An efficient level playing field also requires the full and transparent application of national and Union public procurement legislation. Therefore, national authorities should comply with the applicable public procurement rules when designing State aid schemes or granting State aid support to be exempted on the basis of this Regulation.

Amendment 13
Proposal for a regulation

Recital 15 c (new)

Amendment

(15c) The legal basis for this Regulation, Article 109 TFEU, provides only for consultation of the European Parliament, not for the ordinary legislative procedure in line with other areas of market integration and economic regulation further to the entry into force of the Lisbon Treaty. This democratic deficit cannot be tolerated in respect of proposals that concern the means of oversight by the Commission of decisions and acts by national and local elected authorities. This deficit should be corrected in any future Treaty change. The Commission’s Communication of 28 November 2012 entitled ‘A blueprint for a deep and genuine economic and monetary union’ foresees proposals for a Treaty change by 2014. Such a proposal should include a specific proposal amending Article 109 TFEU in order to adopt the regulations referred to in that Article in accordance with the ordinary legislative procedure.

Amendment 14
Proposal for a regulation

Article 1 — point 1

Regulation (EC) No 994/98

Article 1 — paragraph 1 — point a — point ii

Text proposed by the Commission

(ii) research, development and innovation;

Amendment

(ii) research, development and innovation, in particular if in line with the Europe 2020 flagship initiatives and the Horizon 2020 policy objectives:
<table>
<thead>
<tr>
<th>Amendment</th>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment 15</td>
<td>(iii) environmental protection;</td>
<td>(iii) environmental protection, in particular if in line with the Europe 2020 flagship initiatives and the Union environmental policy objectives;</td>
</tr>
<tr>
<td>Amendment 16</td>
<td>(va) promotion of tourism, in particular if in line with the Union tourism policy objectives;</td>
<td></td>
</tr>
<tr>
<td>Amendment 25</td>
<td>(x) amateur sports;</td>
<td>(x) amateur sports and youth development in sport;</td>
</tr>
</tbody>
</table>
Amendment 17
Proposal for a regulation

Article 1 — point 1
Regulation (EC) No 994/98

Article 1 — paragraph 1 — point a — point xi

Text proposed by the Commission

(xix) residents of remote regions for transport, when this aid has a social character and is granted without discrimination related to the identity of the carrier;

Amendment

deleted

Amendment 18
Proposal for a regulation

Article 1 — point 1
Regulation (EC) No 994/98

Article 1 — paragraph 1 — point a — point xii

Text proposed by the Commission

(xix) coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 of the Treaty;

Amendment

deleted

Amendment 19
Proposal for a regulation

Article 1 — point 2
Regulation (EC) No 994/98

Article 3 — paragraph 2

Text proposed by the Commission

2. On implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to such regulations, Member States shall forward to the Commission, with a view to publication on the Commission’s website, summaries of the information regarding such systems of aid or such individual aids as are not covered by exempted aid systems.

Amendment

2. On implementation of aid systems or individual aids granted outside any system, which have been exempted pursuant to such regulations, Member States shall take into consideration the respect of public procurement rules, Europe 2020 and the environmental policies and objectives of the Union. Member States shall forward to the Commission, with a view to publication on the Commission’s website, summaries of the information regarding such systems of aid or such individual aids as are not covered by exempted aid systems.
Amendment 20
Proposal for a regulation
Article 1 — point 2 a (new)
Regulation (EC) No 994/98
Article 3 — paragraph 4

(2a) Article 3(4) is replaced by the following:

‘4. At least once a year, Member States shall supply the Commission with a report on the application of group exemptions, in accordance with the Commission’s specific requirements, preferably in computerised form. The Commission shall make access to those reports available to the European Parliament and all the Member States. The Advisory Committee referred to in Article 7 shall examine and evaluate those reports once a year.’

Amendment 21
Proposal for a regulation
Article 1 — point 2 b (new)
Regulation (EC) No 994/98
Article 5

(2b) Article 5 is replaced by the following:

‘Article 5
Evaluation report
Every two years the Commission shall submit a report to the European Parliament and to the Council on the application of this Regulation. The report shall, in particular, provide for a broad cost-benefit assessment of the group exemptions granted in accordance with this Regulation as well as an assessment of its contribution to the overall Europe 2020 flagship initiatives and the Horizon 2020 policy objectives. The Commission shall submit a draft report for consideration by the Advisory Committee referred to in Article 7. Every year the Commission shall submit to the European Parliament and to the Council the results of the monitoring exercise on the application of the group exemption regulations and publish on its website a summary report, including a clear overview of the levels and type of incompatible State aid granted by the Member States under the group exemption regulations.’
Amendment 22
Proposal for a regulation

Article 2
Regulation (EC) No 1370/2007

Article 9 shall be deleted with effect from six months after the entry into force of a Commission regulation concerning the category of State aid referred to in Article 1 (a) xii of Council Regulation (EC) No 994/98.
Election of the Ombudsman

European Parliament decision of 3 July 2013 electing the European Ombudsman

(2016/C 075/37)

The European Parliament,

— having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 24 and Article 228 thereof,

— having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

— having regard to its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman’s duties (1),

— having regard to Rule 204 of its Rules of Procedure,

— having regard to the call for nominations (2),

— having regard to its vote of 3 July 2013,

1. Elects Emily O’REILLY to exercise the function of European Ombudsman from 1 October 2013 until the end of the parliamentary term;

2. Requests Emily O’REILLY to take an oath before the Court of Justice;

3. Instructs its President to have the annexed decision published in the Official Journal of the European Union;

4. Instructs its President to forward this Decision to the Council, the Commission and the Court of Justice.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT

of 3 July 2013

electing the European Ombudsman

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/377/EU, Euratom.)

Wheeled vehicles (Amendment of Decision 97/836/EC (‘revised 1958 Agreement’)) ***

European Parliament legislative resolution of 3 July 2013 on the draft Council decision amending Decision 97/836/EC with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (‘Revised 1958 Agreement’) (09978/2013 — C7-0069/2013 — 2012/0099(NLE))

(Consent)

(2016/C 075/38)

The European Parliament,

— having regard to the draft Council decision (05978/2013),

— having regard to the request for consent submitted by the Council in accordance with Article 207(4) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0069/2013),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on International Trade (A7-0192/2013),

1. Consents to the draft Council decision;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.

Wheeled vehicles (Amendment of Council Decision 2000/125/EC (‘parallel agreement’)) ***

European Parliament legislative resolution of 3 July 2013 on the draft Council decision amending Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles (‘Parallel Agreement’) (05975/2013 — C7-0071/2013 — 2012/0098(NLE))

(Consent)

(2016/C 075/39)

The European Parliament,

— having regard to the draft Council decision (05975/2013),

— having regard to the request for consent submitted by the Council in accordance with Article 207(4) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0071/2013),
having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on International Trade (A7-0194/2013),

1. Consents to the draft Council decision;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.

P7_TA(2013)0307

Mobilisation of the European Globalisation Adjustment Fund: application EGF/2013/000 TA 2013 — technical assistance at the initiative of the Commission


The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0291 — C7-0126/2013),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (I) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the European Council conclusions on a Compact for Growth and Jobs of 28-29th June 2012,

— having regard to the European Council conclusions of 7-8th February 2013,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0243/2013),

A. whereas the European Union with its European Globalisation Adjustment Fund (EGF) has set up legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns, aggravated by the economic, financial and social crisis, and to assist their reintegration into the labour market;

B. whereas the Commission implements the EGF in accordance with the general rules laid down by Regulation (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget (3) and the implementing rules applicable to this form of implementation of the Union budget;

C. whereas the Union’s financial assistance to workers made redundant should be adequate and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the Interinstitutional Agreement of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;

D. whereas up to 0.35 % of the annual EGF amount can be made available each year for technical assistance at the initiative of the Commission, in order to finance monitoring, information, administrative and technical support, as well as audit, control and evaluation activities necessary to implement the EGF Regulation, as laid down in Article 8(1) of that Regulation, including the provision of information and guidance for the Member States in using, monitoring and evaluating the EGF and providing information on using the EGF to the European and national social partners (Article 8(4) of the EGF Regulation);

E. whereas, in accordance with Article 9(2) of the EGF Regulation, the Commission is obliged to set up an internet site, available in all Union languages, to provide and disseminate information on applications and highlighting the role of the budgetary authority;

F. whereas, on the basis of those articles, the Commission requested that the EGF be mobilised to cover expenditures in relation to technical assistance in order to monitor applications received and paid and measures proposed and implemented, to expand the website, produce publications and audio-visual tools, to create a knowledge base, to provide administrative and technical support to Member States, and to prepare for the final evaluation of the EGF (2007-2013);

G. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation;

1. Agrees with the measures proposed by the Commission to be financed as technical assistance in accordance with Article 8(1) and (4) as well as with Article 9(2) of the EGF Regulation;

2. Deeply regrets that the results of the final ex-post evaluation of EGF will arrive too late to feed into the discussion on the new regulation on the EGF for 2014-2020, especially regarding the effectiveness of the use of the crisis derogation criterion, since the concerned EGF cases were not analysed in the EGF mid-term evaluation report.

3. Notes that the Commission has already started to work in 2011 on the electronic application form and on the standardised procedures for simplified applications, faster processing of the applications and better reporting: asks the Commission to present the progress made following the use of technical assistance in 2011 and in 2012.

4. Recalls the importance of networking and exchange of information on the EGF; supports, therefore, the funding of the Expert Group of Contact Persons of the EGF as well as other networking activities among the Member States including this year’s seminar for practitioners on the implementation of the EGF; underlines the need to further enhance the liaising between all those involved in EGF applications, including namely the social partners, to create as many synergies as possible;

5. Calls on the Commission to invite the Parliament to the seminars and meetings of the Expert Group of Contact Persons organised by means of technical assistance, by using the relevant provisions of the Framework Agreement on relations between the European Parliament and the European Commission (1);

6. Encourages the Member States to profit from the exchange of best practices and to learn particularly from those Member States that have already put in place national information networks on the EGF involving the social partners and stakeholders at local level with a view to having a good structure for assistance in place once any situation which falls under the scope of the EGF might occur;

7. Calls on the Commission to invite the social partners to the seminars for practitioners organised by means of technical assistance;

8. Requests the Member States and all the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; notes in this sense, the improved procedure put in place by the Commission, following Parliament’s request to accelerate the release of grants, aimed at presenting to the budgetary authority with the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; expects that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency, accountability and visibility of the EGF will be achieved.

9. Is concerned about the possible adverse impact which reducing the staffing level may have on the swift, regular and effective evaluation of incoming applications and implementation of the EGF technical assistance; considers that any short- or long-term revision in staff should be based on a prior impact assessment and should take full account, inter alia, of the Union’s legal obligations and the institutions’ new competences and increased tasks arising from the Treaties.

10. Regrets that the Commission does not envisage any particular awareness-raising activities for 2013 given that some Member States, including users of the EGF, question the utility and advantages of the EGF.

11. Notes the fact that following repeated requests from Parliament, the 2013 budget shows payment appropriations of EUR 50 million on the EGF budget line 04 05 01; recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and therefore deserves a dedicated allocation, which would avoid unnecessary delays, due to the fact that now its financing is made through transfers from other budget lines, which may be detrimental to the achievement of the social, economic and policy objectives of the EGF.

12. Hopes that the actions taken by the Commission in the area of technical assistance will help to raise the added value of the EGF and will lead to more targeted and long term support for and reintegration of redundant workers.

13. Deeply regrets the decision of the Council to block the extension of the ‘crisis derogation’ which allows for the provision of financial assistance to workers made redundant as a result of the current social, financial and economic crisis, in addition to those losing their job because of changes in global trade patterns, and which allows an increase in the rate of Union co-financing to 65% of the programme costs for applications submitted after the 31 December 2011 deadline; calls on the Council to reintroduce this measure without delay, especially in the context of the rapidly deteriorating social situation in several Member States following the expansion and deepening of the recession.

14. Approves the decision annexed to this resolution;

15. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

16. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (EGF/2013/000 TA 2013 — Technical assistance at the initiative of the Commission)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/420/EU.)
Investigations conducted by the European Anti Fraud Office (OLAF) ***II


(Ordinary legislative procedure: second reading)

(2016/C 075/41)

The European Parliament,

— having regard to the Council position at first reading (17427/1/2012 –C7-0051/2013),
— having regard to the opinion of the Court of Auditors of 12 July 2011 (1),
— having regard to its position at first reading (2) on the Commission proposal to Parliament and the Council (COM(2006) 0244),
— having regard to the amended Commission proposal (COM(2011)0135),
— having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
— having regard to Rule 72 of its Rules of Procedure,
— having regard to the recommendation for second reading of the Committee on Budgetary Control (A7-0225/2013),

1. Approves the Council position at first reading;
2. Approves the joint statement by Parliament, the Council and the Commission annexed to this resolution;
3. Takes note of the Commission statements annexed to this resolution;
4. Notes that the act is adopted in accordance with the Council position;
5. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
6. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the Official Journal of the European Union;
7. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the European Parliament, the Council and the Commission

‘Each time the European Parliament, the Council and the Commission appoint new members of the new Supervisory Committee they should also appoint those members to take office at the next partial replacement.’

(2) OJ C 16 E, 22.1.2010, p. 201.
Commission statement

‘The Commission confirms that the Office has declared that it will at all times act in compliance with the Protocol No 7 on the Privileges and Immunities of the European Union and the Statute for Members of the European Parliament, fully respecting the freedom and independence of Members as provided for in Article 2 of the Statute.’

Commission statement

‘The Commission intends to maintain the current powers of the Director-General of the European Anti-fraud Office to lay down the conditions and detailed arrangements for recruiting at the Office, in particular as to the length of contracts and their renewals.’

P7_TA(2013)0309

Coordination of laws, regulations and administrative provisions relating to undertakings for collective securities ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/42)

[Amendment No 1 unless otherwise stated]

AMENDMENTS BY THE EUROPEAN PARLIAMENT (*)

to the Commission proposal

DIRECTIVE 2013/…/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0125/2013).

(*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.
Having regard to the opinion of the European Central Bank (1),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Directive 2009/65/EC of the European Parliament and of the Council (2) should be amended in order to take into account market developments and the experiences of market participants and supervisors gathered so far, in particular to address discrepancies between national provisions in respect of depositaries’ duties and liability, remuneration policy and sanctions.

(2) In order to address the potentially detrimental effect of poorly designed remuneration structures on the sound management of risks and control of risk-taking behaviour by individuals, there should be an express obligation for undertakings of collective investment in transferable securities (UCITS) management companies to establish and maintain, for those categories of staff whose professional activities have a material impact on the risk profiles of the UCITS they manage, remuneration policies and practices that are consistent with sound and effective risk management. Those categories of staff should include any employee and any other member of staff at fund or sub-fund level who are decision takers, fund managers and persons who take real investment decisions, persons who have the power to exercise influence on such employees or members of staff, including investment policy advisors and analysts, senior management and any employees receiving total remuneration that takes them into the same remuneration bracket as senior management and decision takers. Those rules should also apply to UCITS investment companies that do not designate a management company.

(3) The principles governing remuneration policies should recognise that UCITS management companies are able to apply those policies in different ways according to their size and the size of the UCITS they manage, their internal organisation and the nature, scope and complexity of their activities. However, UCITS management companies should, in any event, ensure that they apply all those principles simultaneously.

(4) The principles regarding sound remuneration policies established in this Directive should be consistent with and be complemented by the principles set out in the Commission Recommendation 2009/384/EC of 30 April 2009 on remuneration policies in the financial services sector (3) and by the work of the Financial Stability Board and G-20 commitments to mitigate risk in the financial services sector.

(4a) Guaranteed variable remuneration should be exceptional because it is not consistent with sound risk management or the pay-for-performance principle and should not be a part of prospective compensation plans.

(4b) Remuneration paid from the fund to management companies should, like the remuneration paid by management companies to their staff, be consistent with sound and effective risk management and with the interests of investors.

(4c) In addition to pro rata remuneration, it should be possible for costs and expenses directly linked to the maintenance and safeguarding of investments, such as those for legal action, protection or enforcement of the rights of the unit-holder or for retrieval of or compensation for lost assets, to be charged to the fund by the management company. The Commission should assess which are the common product related costs and expenses in the Member States for retail investment products. The Commission should conduct a consultation exercise and an impact assessment, and should put forward a legislative proposal if there is a need for further harmonisation.

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(1) OJ C 96, 4.4.2013, p. 18.
(2) OJ L 302, 17.11.2009, p. 32.
(3) OJ L 120, 15.5.2009, p. 22.
In order to promote supervisory convergence in the assessment of remuneration policies and practices, the European Securities and Markets Authority (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council (1) should ensure the existence of guidelines on sound remuneration policies in the asset management sector. The European Banking Authority (EBA) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council (2) should assist ESMA in the elaboration of such guidelines. Those guidelines should, in particular, provide further instructions on partial neutralisation of the remuneration principles reconcilable with the risk profile, risk appetite and the strategy of the management company and the UCITS it manages. ESMA’s guidelines on remuneration policies should, where appropriate, be aligned, to the extent possible, with those for funds regulated under Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers (3). Furthermore, ESMA should supervise the adequate enforcement of those guidelines by competent authorities. Deficiencies should be addressed promptly with supervisory action in order to safeguard the level playing field across the internal market.

The provisions on remuneration should be without prejudice to the full exercise of fundamental rights guaranteed by the Treaties, to general principles of national contract and labour law, applicable legislation regarding shareholders’ rights and involvement and the general responsibilities of the administrative and supervisory bodies of the institution concerned, as well as the right, where applicable, of social partners to conclude and enforce collective agreements, in accordance with national laws and custom.

In order to ensure the necessary level of harmonisation of the relevant regulatory requirements in different Member States, additional rules should be adopted defining the tasks and duties of depositaries, designating the legal entities that may be appointed as depositaries and clarifying the liability of depositaries in cases UCITS assets are lost in custody or in the case of depositaries’ improper performance of their oversight duties. Such improper performance may result in the loss of assets but also in the loss of the value of assets, if, for example, a depositary tolerated investments that were not compliant with fund rules, while exposing the investor to unexpected or anticipated risks. Additional rules should also clarify the conditions under which depositary functions may be delegated.

It is necessary to clarify that a UCITS should appoint a single depositary having general oversight over the UCITS’s assets. Requiring that there be a single depositary should ensure that the depositary has a view over all the assets of the UCITS and both fund managers and investors have a single point of reference in the event that problems occur in relation to the safekeeping of the assets or the performance of oversight functions. The safekeeping of assets includes holding assets in custody or, where assets are of such a nature that they cannot be held in custody, verification of the ownership of those assets as well as record-keeping for those assets.

In performing its tasks, a depositary should act honestly, fairly, professionally, independently and in the interest of the UCITS or of the investors of the UCITS.

In order to ensure a harmonised approach to the performance of depositaries duties in all Member States irrespective of the legal form taken by the UCITS, it is necessary to introduce a uniform list of oversight duties that are incumbent on both a UCITS with a corporate form (an investment company) and a UCITS in a contractual form.

The depositary should be responsible for the proper monitoring of the UCITS’ cash flows, and, in particular, for ensuring that investor money and cash belonging to the UCITS is booked correctly on accounts opened in the name of the UCITS, or in the name of the management company acting on behalf of the UCITS, or in the name of the depositary acting on behalf of the UCITS. Therefore detailed provisions should be adopted on cash monitoring so as to ensure effective and consistent levels of investor protection. When ensuring investor money is booked in cash

(1) OJ L 331, 15.12.2010, p. 84.

(12) In order to prevent fraudulent cash transfers, it should be required that no cash account associated with the funds’ transactions be opened without the depositary's knowledge.

(13) Any financial instrument held in custody for a UCITS should be distinguished from the depositary's own assets, and at all times be identified as belonging to that UCITS; such a requirement should confer an additional layer of protection for investors should the depositary default.

(14) In addition to the existing duty to safe keep assets belonging to a UCITS, assets should be differentiated between those that are capable of being held in custody and those that are not, where a record-keeping and ownership verification requirement applies instead. The group of assets that can be held in custody should be clearly differentiated, since the duty to return lost assets should only apply to that specific category of financial assets.

(14a) The financial instruments held in custody by the depositary should not be reused by the depositary or by any third party to whom the custody function has been delegated for their own account.

(15) It is necessary to define the conditions for the delegation of the depositary's safe-keeping duties to a third party. Delegation and sub-delegation should be objectively justified and subject to strict requirements in relation to the suitability of the third party entrusted with the delegated function, and in relation to the due care, and diligence that the depositary should employ to select, appoint and review that third party. For the purpose of achieving uniform market conditions and an equally high level of investor protection, such conditions should be aligned with those applicable under Directive 2011/61/EU of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (2) and Regulation (EU) No 1095/2010. Provisions should be adopted to ensure that third parties have the necessary means to perform their duties and that they segregate UCITS’ assets.

(16) Entrusting the custody of assets to the operator of a securities settlement system as provided for in Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (3) or entrusting the provision of similar services to third-country securities settlement systems should not be considered a delegation of custody functions.

(17) A third party to whom the safe-keeping of assets is delegated should be able to maintain an omnibus account, as a common segregated account for multiple UCITS.

(18) Where custody is delegated to a third party, it is also necessary to ensure that the third party is subject to specific requirements on effective prudential regulation and supervision. In addition, in order to ensure that the financial instruments are in the possession of the third party to whom custody was delegated, periodic external audits should be performed.

(19) In order to ensure consistently high levels of investor protection, provisions on conduct and on the management of conflicts of interest should be adopted and they should apply in all situations, including in case of delegation of safe-keeping duties. Those rules should in particular ensure a clear separation of tasks and functions between the depositary, the UCITS and the management company.

(20) In order to ensure a high level of investor protection and to guarantee an appropriate level of prudential regulation and on-going control, it is necessary to establish an exhaustive list of entities that are eligible to act as depositaries, such that only credit institutions and investment firms are permitted to act as UCITS depositaries. In order to allow other entities that may have previously been eligible to act as depositaries for UCITS funds to convert themselves into eligible entities, transitional provisions should be provided for those entities.

It is necessary to specify and clarify the UCITS depositary's liability in case of the loss of a financial instrument that is held in custody. The depositary should be liable, where a financial instrument held in custody has been lost, to return a financial instrument of the identical type or of the corresponding amount to the UCITS. No further discharge of liability in case of loss of assets should be envisaged, except where the depositary is able to prove that the loss is due to an 'external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary'. In this context, a depositary should not be able to rely on internal situations such as a fraudulent act by an employee to discharge itself of liability.

Where the depositary delegates custody tasks and the financial instruments held in custody by a third party are lost, the depositary should be liable. It should also be established that in case of loss of an instrument held in custody, a depositary is bound to return a financial instrument of identical type or the corresponding amount, even if the loss occurred with a sub-custodian. The depositary should only discharge that liability where it can prove that the loss resulted from an external event beyond its reasonable control and with consequences that were unavoidable despite all reasonable efforts to the contrary. In this context, a depositary should not be able to rely on internal situations such as a fraudulent act by an employee to discharge itself of liability. No discharge of liability either regulatory or contractual should be possible in case of loss of assets by a depository or its sub-custodian.

Every investor in a UCITS fund should be able to invoke claims relating to the liability of its depositary, either directly or indirectly, through the management company. Redress against the depositary should not depend on the legal form that a UCITS fund takes (corporate or contractual form) or the legal nature of the relationship between the depositary, the management company and the unit-holders.

On 12 July 2010 the Commission proposed amendments to Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (1). It is essential that the proposal of 12 July 2010 be complemented by clarifying the obligations and the scope of the liability of the depositary and the sub-custodians of UCITS with a view to provide a high level of protection for UCITS investors where a depositary cannot meet its obligations set out in this Directive.

In the light of the provisions laid down in this Directive determining the scope of the functions and liabilities of depositaries, the Commission should analyse in which situations the failure of a UCITS depositary or a sub-custodian could lead to losses to UCITS unit holders, whether through the loss of net asset value of their units or other causes, which are not recoverable under those provisions and which, therefore, could require an extension of existing investor-compensation schemes to cover insurance or some kind of compensation which covers the custodian against the failure of a sub-custodian. The analysis should further investigate how to ensure that, in such situations, protection of investors or transparency is equivalent, whatever the chain of intermediation between the investor and the transferable securities affected by the failure. That analysis should be submitted to the European Parliament and to the Council, together with legislative proposals if necessary.

It is necessary to ensure that the same requirements apply to depositaries irrespective of the legal form a UCITS takes. Consistency of requirements should enhance legal certainty, increase investor protection and contribute to creating uniform market conditions. The Commission has not received any notification that the derogation from the general obligation to entrust assets to a depositary has been used by an investment company. Therefore, the requirements of Directive 2009/65/EC regarding the depositary of an investment company should be considered redundant.

In line with the Commission Communication of 8 December 2010 on reinforcing sanctioning regimes in the financial services sector, competent authorities should be empowered to impose pecuniary sanctions which are sufficiently high so as to be effective, dissuasive and proportionate, so as to offset expected benefits from behaviours which breach requirements.

In order to ensure a consistent application across Member States, when determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, Member States should be required to ensure that their competent authorities take into account all relevant circumstances.

(28) In order to strengthen the dissuasive effect on the public at large and to inform them about breaches of rules which may be detrimental to investors’ protection, sanctions should be published, save in certain well-defined circumstances. In order to ensure compliance with the principle of proportionality, sanctions should be published on an anonymous basis where publication would cause a disproportionate damage to the parties involved.

(29) In order to detect potential breaches, competent authorities should be entrusted with the necessary investigatory powers, and should establish effective mechanisms to encourage reporting of potential or actual breaches.

(30) This Directive should be without prejudice to any provisions in the law of Member States relating to criminal offences and sanctions.

(31) This Directive respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union as enshrined in the Treaty on the Functioning of the European Union.

(32) In order to ensure that the objectives of this Directive are attained, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union. In particular, the Commission should be empowered to adopt delegated acts to specify the particulars that need to be included in the standard agreement between the depositary and the management company or the investment company, the conditions for performing depositary functions, including the type of financial instruments that should be included in the scope of the depositary’s custody duties, the conditions subject to which the depositary may exercise its custody duties over financial instruments registered with a central depositary and the conditions subject to which the depositary should safe keep the financial instruments issued in a nominative form and registered with an issuer or a registrar, the due diligence duties of depositaries, the segregation obligation, the conditions subject to and circumstances in which financial instruments held in custody should be considered as lost, what is to be understood by external events beyond reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary. **The level of investor protection provided by those delegated acts should be at least as high as that provided by delegated acts adopted under Directive 2011/61/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.** The Commission, when preparing and drawing-up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(33) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011 (1), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(34) Since the objectives of this Directive, namely to improve investors’ confidence in UCITS, by enhancing requirements concerning the duties and the liability of depositaries, the remuneration policies of management companies and investment companies, and by introducing common standards for the sanctions applying to the main breaches of the provisions of this Directive, cannot be sufficiently achieved by Member States acting independently of one another, and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt the measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(34a) **The European Data Protection Supervisor has been consulted in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.**

(35) Directive 2009/65/EC should therefore be amended accordingly.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2009/65/EC is amended as follows:

(1) The following Articles are inserted:

‘Article 14a

1. Member States shall require management companies to establish and apply remuneration policies and practices that are consistent with and promote sound and effective risk management and do not encourage risk-taking which is inconsistent with the risk profiles, rules or instruments of incorporation of the UCITS they manage.

2. The remuneration policies and practices shall cover fixed and variable components of salaries and discretionary pension benefits.

3. The remuneration policies and practices shall apply to those categories of staff, including employees and other members of staff such as, but not limited to, temporary or contractual staff, at fund or subfund level who are:

(a) fund managers

(b) persons other than fund managers, who take investment decisions that affect the risk position of the fund;

(c) persons other than fund managers, who have the power to exercise influence on staff, including investment policy advisors and analysts;

(d) senior management, risk takers, personnel in control functions; or

(e) any other employee or member of staff such as, but not limited to, temporary or contractual staff receiving total remuneration that falls within the remuneration bracket of senior management and decision takers and whose professional activities have a material impact on the risk profiles of the management companies or of UCITS they manage.

4. In accordance with Article 16 of Regulation (EU) No 1095/2010, ESMA shall issue guidelines addressed to competent authorities which comply with Article 14b. Those guidelines shall take into account the principles on sound remuneration policies set out in Recommendation 2009/384/EC, the size of the management company and the size of UCITS they manage, their internal organisation and the nature, the scope and the complexity of their activities. In the process of development of the guidelines ESMA shall cooperate closely with the EBA in order to ensure consistency with requirements developed for other sectors of financial services, in particular credit institutions and investment firms.

Article 14b

1. When establishing and applying the remuneration policies referred to in Article 14a, management companies shall comply with the following principles in a way and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities:

(a) the remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking which is inconsistent with the risk profiles, rules or instruments of incorporation of the UCITS they manage;

(b) the remuneration policy is in line with the business strategy, objectives, values and interests of the management company and the UCITS it manages and the investors of such UCITS, and includes measures to avoid conflicts of interest;

(c) the management body of the management company, in its supervisory function, adopts and periodically reviews the general principles of the remuneration policy and is responsible for and oversees its implementation. The remuneration system shall not be primarily controlled by the chief executive officer and the management team. Relevant body members and employees involved in setting the remuneration policy and its implementation shall be independent and shall have expertise in risk management and remuneration. Details of those remuneration policies and the basis on which they have been decided shall be included in the Key Investor Information Document, including demonstrating adherence to the principles set out in Article 14a. [Am. 2 — part 1]
(d) the implementation of the remuneration policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for remuneration adopted by the management body in its supervisory function;

(da) comprehensive, accurate and timely information about remuneration practices is disclosed to all stakeholders in a durable medium or by means of a website and a paper copy is delivered free of charge upon request;

(e) staff engaged in control functions are compensated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;

(f) the remuneration of the senior officers in the risk management and compliance functions is directly overseen by the remuneration committee;

(g) where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the risk-adjusted performance of the individual and of the business unit or UCITS concerned and of the risk-adjusted overall results of the management company, and when assessing individual performance, financial as well as non-financial criteria are taken into account;

(h) the assessment of performance is set in a multi-year framework appropriate to the life-cycle of the UCITS managed by the management company in order to ensure that the assessment process is based on longer term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the redemption policy of the UCITS it manages, the long-term performance of the UCITS and their investment risks; [Am. 2 — part 2]

(i) guaranteed variable remuneration is exceptional, occurs only in the context of hiring new staff and is limited to the first year;

(j) fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration component;

(ja) the variable remuneration component is subject to the conditions set out in point (o), which provides that the variable remuneration shall be considerably contracted where subdued or negative financial performance of the management company or of the UCITS concerned occurs, taking into account both current compensation and reductions in payouts of amounts previously earned, including through malus or clawback arrangements. “Malus” and “clawback” mean malus and clawback as defined in ESMA Guidelines 2013/201; [Am. 2 — part 3]

(k) payments related to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure;

(l) the measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks;

(m) subject to the legal structure of the UCITS and its fund rules or instruments of incorporation, a substantial portion, and in any event at least 50% of any variable remuneration consists of units of the UCITS concerned, or equivalent ownership interests, or share-linked instruments or equivalent non-cash instruments, unless the management of UCITS accounts for less than 50% of the total portfolio managed by the management company, in which case the minimum of 50% does not apply.

The instruments referred to in this point shall be subject to an appropriate retention policy designed to align incentives with the interests of the management company and the UCITS it manages and the investors of such UCITS. Member States or their competent authorities may place restrictions on the types and designs of those instruments or ban certain instruments as appropriate. This point shall be applied to both the portion of the variable remuneration component deferred in line with point (n) and the portion of the variable remuneration component not deferred;
a substantial portion, and in any event at least 25%, of the variable remuneration component, is deferred over a period which is appropriate in view of the life cycle and redemption policy of the UCITS concerned and is correctly aligned with the nature of the risks of the UCITS in question.

The period referred to in this point shall be at least three to five years unless the life cycle of the UCITS concerned is shorter; remuneration payable under deferral arrangements vests no faster than on a pro-rata basis; in the case of a variable remuneration component of a particularly high amount, at least 60% of the amount shall be deferred;

the variable remuneration, including the deferred portion, is paid or vests only if it is sustainable according to the financial situation of the management company as a whole, and justified according to the performance of the business unit, the UCITS and the individual concerned.

The total variable remuneration shall generally be considerably contracted where subdued or negative financial performance of the management company or of the UCITS concerned occurs, taking into account both current compensation and reductions in payouts of amounts previously earned, including through malus or clawback arrangements;

the pension policy is in line with the business strategy, objectives, values and long-term interests of the management company and the UCITS it manages.

If the employee leaves the management company before retirement, discretionary pension benefits shall be held by the management company for a period of five years in the form of instruments referred to in point (m). In the case of an employee reaching retirement, discretionary pension benefits shall be paid to the employee in the form of instruments referred to in point (m), subject to a five year retention period;

staff are required to undertake not to use personal hedging strategies or remuneration- and liability-related insurance to undermine the risk alignment effects embedded in their remuneration arrangements;

variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements of this Directive.

1a. ESMA shall, in cooperation with the competent authorities, monitor the remuneration policies referred to in Article 14a. In the case of a breach of Article 14a and of this Article, ESMA may act in accordance with its powers under Article 17 of Regulation (EU) No 1095/2010, in particular by addressing recommendations to the competent authorities to prohibit temporarily, or restrict, the application of particular remuneration policies.

1b. The [UCITS/management company/remuneration committee] shall provide the investors with information in a durable medium on an annual basis setting out the remuneration policy of the UCITS for staff within the scope of Article 14a and describing how the remuneration has been calculated.

1c. Notwithstanding paragraph 1, Member States shall ensure that the competent authority may require the [UCITS/management company/remuneration committee] to explain in writing how any variable remuneration package is consistent with its obligation to adopt a remuneration policy that:

(a) promotes sound and effective risk management;

(b) does not encourage risk taking that is inconsistent with the rules or instruments of incorporation of the UCITS that they manage and/or the risk profile of each such UCITS.

Cooperating closely with EBA, ESMA shall include in its Guidance on remuneration policies how different sectoral remuneration principles, such as those in Directive 2011/61/EU and Directive 2013/36/EU, are to be applied where employees or other categories of personnel perform services subject to different sectoral remuneration principles. [Am. 3]

2. The principles set out in paragraph 1 shall apply to remuneration of any type paid by the management companies and to any transfer of units or shares of the UCITS, made to the benefits of those categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that falls into the remuneration bracket of senior management and risk takers, whose professional activities have a material impact on the risk profile or the risk profiles of the UCITS that they manage.
3. Management companies that are significant in terms of their size or the size of the UCITS they manage, their internal organisation and the nature, the scope and the complexity of their activities shall establish a remuneration committee. The remuneration committee shall be constituted in a way that enables it to exercise competent and independent judgment on remuneration policies and practices and the incentives created for managing risk.

The remuneration committee set up, where appropriate, in accordance with ESMA guidelines shall be responsible for the preparation of decisions regarding remuneration, including those which have implications for the risk and risk management of the management company or the UCITS concerned and which are to be taken by the management body in its supervisory function. The remuneration committee shall be chaired by a member of the management body who does not perform any executive functions in the management company concerned. The members of the remuneration committee shall be members of the management body who do not perform any executive functions in the management company concerned. The remuneration committee shall include employee representatives and shall ensure that its rules enable shareholders to act in concert. When preparing its decisions, the remuneration committee shall take into account the long-term interest of stakeholders, investors and the public interest.

(2) In Article 20(1), point (a) is replaced by the following:

‘(a) the written contract with the depositary referred to in Article 22(2);’

(3) Article 22 is replaced by the following:

‘Article 22

1. An investment company and, for each of the common funds it manages, a management company shall ensure that a single depositary is appointed in accordance with the provisions of this Chapter.

2. The appointment of the depositary shall take the form of a written contract.

That contract shall comprise rules establishing the flow of information deemed necessary to allow the depositary to perform its functions in respect of the UCITS for which it has been appointed as depositary, as set out in this Directive and in other laws, regulations and administrative provisions which are relevant for depositaries in the UCITS home Member State.

3. The depositary shall:

(a) ensure that the sale, issue, re-purchase, redemption and cancellation of units of the UCITS are carried out in accordance with the applicable national laws and the fund rules or instruments of incorporation;

(b) ensure that the value of the units of the UCITS is calculated in accordance with the applicable national laws and the fund rules or the instruments of incorporation;

(c) carry out the instructions of the management company or an investment company, unless they conflict with the applicable national laws or the fund rules or the instruments of incorporation;

(d) ensure that in transactions involving the assets of the UCITS any consideration is remitted to the UCITS within the usual time limits;

(e) ensure that the income of the UCITS is applied in accordance with the applicable national laws and the fund rules or the instruments of incorporation.

4. The depositary shall ensure that the cash flows of the UCITS are properly monitored, and shall in particular ensure that all payments made by or on behalf of investors upon the subscription of units of the UCITS have been received, and that all cash of the UCITS has been booked in cash accounts that meet the following conditions:

(a) they are opened in the name of the UCITS or in the name of the management company acting on behalf of the UCITS, or in the name of the depositary acting on behalf of the UCITS;

(b) they are opened at an entity referred to in points (a), (b) and (c) of Article 18(1) of Commission Directive 2006/73/EC(*) and
(c) they are maintained in accordance with the principles set out in Article 16 of Directive 2006/73/EC.

Where the cash accounts are opened in the name of the depositary acting on behalf of the UCITS, no cash of the entity referred to in point (b) of the first subparagraph and none of the own cash of the depositary shall be booked on such accounts.

5. The assets of the UCITS shall be entrusted to the depositary for safe-keeping as follows:

(a) for financial instruments as defined in Regulation (EU) No .../2013 of the European Parliament and of the Council of ... [on markets in financial instruments (MiFIR)] that may be held in custody, the depositary shall:

(i) hold in custody all financial instruments that may be registered in a financial instruments account opened in the depositary's books and all financial instruments that can be physically delivered to the depositary;

(ii) ensure that all those financial instruments that can be registered in a financial instruments account opened in the depositary's books are registered in the depositary's books within segregated accounts in accordance with the principles set out in Article 16 of Directive 2006/73/EC, opened in the name of the UCITS or the management company acting on behalf of the UCITS, so that they can be clearly identified as belonging to the UCITS in accordance with the applicable law at all times;

(b) for other assets the depositary shall:

(i) verify the ownership of the UCITS or the management company acting on behalf of the UCITS of such assets by assessing whether the UCITS or the management company acting on behalf of the UCITS holds the ownership based on information or documents provided by the UCITS or the management company and, where available, on external evidence;

(ii) maintain a record of those assets for which it is satisfied that the UCITS or the management company acting on behalf of the UCITS holds the ownership and keep that record up-to-date.

5a. The depositary shall provide the management company, on a regular basis, with a comprehensive inventory of all of the assets held in the name of the UCITS.

5b. The financial instruments held in custody by the depositary shall not be reused by the depositary or by any third party to whom the custody function has been delegated for their own account.

For the purposes of this Article, reuse means any use of financial instruments delivered in one transaction in order to collateralise another transaction including, but not limited to, transferring, pledging, selling and lending.

6. Member States shall ensure that in the event of insolvency of the depositary or of any regulated entity which holds in custody financial instruments belonging to a UCITS, financial instruments of a UCITS held in custody are unavailable for distribution among or realisation for the benefit of creditors of the depositary or of the regulated entity.

7. The depositary shall not delegate to third parties its functions as referred to in paragraphs 3 and 4.

The depositary may delegate to third parties the functions referred to in paragraph 5 only where:

(a) the tasks are not delegated with the intention of avoiding the requirements of this Directive;

(b) the depositary can demonstrate that there is an objective reason for the delegation;

(c) the depositary has exercised all due skill, care and diligence in the selection and the appointment of any third party to whom it wants to delegate parts of its tasks, and keeps exercising all due skill, care and diligence in the periodic review and ongoing monitoring of any third party to whom it has delegated parts of its tasks and of the arrangements of the third party in respect of the matters delegated to it.
The functions referred to in paragraph 5 may be delegated by the depositary only to a third party which at all time during the performance of the tasks delegated to it:

(a) has structures and expertise that are adequate and proportionate to the nature and complexity of the assets of the UCITS or the management company acting on behalf of the UCITS which have been entrusted to it;

(b) for custody tasks referred to in point (a) of paragraph 5, is subject to effective prudential regulation, including minimum capital requirements, and supervision in the jurisdiction concerned;

(c) for custody tasks referred to in paragraph 5, is subject to an external periodic audit to ensure that the financial instruments are in its possession;

(d) segregates the assets of the clients of the depositary from its own assets and from the assets of the depositary in such a way that they can at any time be clearly identified as belonging to clients of a particular depositary;

(e) makes adequate arrangements based on ESMA guidelines so that in the event of insolvency of the third party, assets of a UCITS held by the third party in custody are unavailable for distribution among or realisation for the benefit of creditors of the third party;

(f) complies with the general obligations and prohibitions set out in paragraph 5 of this Article and in Article 25.

For the purposes of point (e), ESMA shall issue guidelines addressed to competent authorities, in accordance with Article 16 of Regulation (EU) No 1095/2010, concerning adequate arrangements in the event of insolvency of the third party.

Notwithstanding point (b) of the third subparagraph, where the law of a third country requires that certain financial instruments be held in custody by a local entity and no local entities satisfy the delegation requirements laid down in points (a) to (f) of the third subparagraph, the depositary may delegate its functions to such a local entity only to the extent required by the law of the third country and only for as long as there are no local entities that satisfy the delegation requirements, and only where:

(i) the investors of the relevant UCITS are duly informed that such delegation is required due to legal constraints in the law of the third country, of the circumstances justifying the delegation and of the risks involved in such delegation, prior to their investment;

(ii) the UCITS, or the management company on behalf of the UCITS, have instructed the depositary to delegate the custody of such financial instruments to such a local entity.

The third party may, in turn, sub-delegate those functions, subject to the same requirements. In such a case, Article 24(2) shall apply mutatis mutandis to the relevant parties.

For the purposes of this paragraph, the provision of services by securities settlement systems as designated by Directive 98/26/EC or the provision of similar services by third-country securities settlement systems shall not be considered a delegation of its custody functions.'

(4) Article 23 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

‘2. The depositary shall be:

(a) a credit institution authorised in accordance with Directive 2006/48/EC;

(b) an investment firm, subject to capital adequacy requirements in accordance with Article 20 of Directive 2006/49/EC including capital requirements for operational risks, authorised in accordance with Directive 2004/39/EC, and which also provides the ancillary service of safe-keeping and administration of financial instruments for the account of clients in accordance with point (1) of Section B of Annex I to Directive 2004/39/EC; such investment firms shall in any case have own funds not less than the amount of initial capital referred to in Article 9 of Directive 2006/49/EC;
(ba) national central banks and any other category of institution that is subject to prudential regulation and ongoing supervision provided that it is subject to capital requirements as well as to prudential and organisational requirements of the same effect as entities under points (a) and (b).

Investment companies or management companies acting on behalf of the UCITS they manage, that, before [date: transposition deadline set out in Article 2(1) first subparagraph], appointed as a depositary an institution that does not meet the requirements set out in this paragraph, shall appoint a depositary that meets those requirements before [date: 1 year after a deadline set out in Article 2(1) first subparagraph.

3. Member States shall determine which of the categories of institutions referred to in paragraph 2(ba) is eligible to be depositaries.'

(b) paragraphs 4, 5 and 6 are deleted.

(5) Article 24 is replaced by the following:

'Article 24

1. Member States shall ensure that the depositary shall be liable to the UCITS and to the unit holders of the UCITS for the loss by the depositary or a third party to whom the custody of financial instruments held in custody in accordance with Article 22(5) has been delegated.

In case of a loss of a financial instrument held in custody, Member States shall ensure that the depositary shall return a financial instrument of identical type or the corresponding amount to the UCITS or the management company acting on behalf of the UCITS without undue delay. The depositary shall not be liable if it can prove that the loss has arisen as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary.

Member States shall ensure that the depositary shall also be liable to the UCITS, and to the investors of the UCITS, for all other losses suffered as a result of the depositary's negligent or intentional failure to properly fulfil its obligations pursuant to this Directive.

2. The liability of the depositary shall not be affected by any delegation referred to in Article 22(7).

3. The liability of the depositary referred to in paragraph 1 shall not be excluded or limited by agreement.

4. Any agreement that contravenes the provision of paragraph 3 shall be void.

5. Unit holders in the UCITS may invoke the liability of the depositary directly or indirectly through the management company.

5A. Nothing in this Article shall preclude a depositary from making arrangements for the purposes of meeting its liabilities under paragraph 1, provided that such arrangements do not limit or reduce those liabilities or result in a delay in the fulfilment of the depositary's obligations.'

(6) In Article 25, paragraph 2 is replaced by the following:

'2. In carrying out their respective functions, the management company and the depositary shall act honestly, fairly, professionally, independently and in the interest of the UCITS and the investors of the UCITS.

Neither the depositary nor any of its delegates shall carry out activities with regard to the UCITS or the management company on behalf of the UCITS that may create conflicts of interest between the UCITS, the investors in the UCITS, the management company and itself, unless the depositary has ensured that there is functional and hierarchical separation of the performance of potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the UCITS.'
(7) Article 26 is replaced by the following:

‘Article 26

1. The law or the fund rules of the common fund shall lay down the conditions for the replacement of the management company and of the depositary and rules to ensure the protection of unit-holders in the event of such replacement.

2. The law or the instruments of incorporation of the investment company shall lay down the conditions for the replacement of the management company and of the depositary and rules to ensure the protection of unit-holders in the event of such replacement.’

(8) The following Articles are inserted:

‘Article 26a

The depositary shall make available to its competent authorities, on request, all information which it has obtained while performing its duties and that may be necessary for the competent authorities of the UCITS or the UCITS management company. If the competent authorities of the UCITS or the management company are different from those of the depositary, the competent authorities of the depositary shall share the information received without delay with the competent authorities of the UCITS and the management company.

Article 26b

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 112 specifying:

(a) the particulars in relation to this Directive that need to be included in the written contract referred to in Article 22(2);

(b) the conditions for performing the depositary functions pursuant to Articles 22(3), (4) and (5), including:

(i) the type of financial instruments to be included in the scope of the custody duties of the depositary in accordance with point (a) of Article 22(5);

(ii) the conditions subject to which the depositary is able to exercise its custody duties over financial instruments registered with a central depositary;

(iii) the conditions subject to which the depositary is to safekeep the financial instruments issued in a nominative form and registered with an issuer or a registrar, in accordance with point (b) of Article 22(5);

(c) the due diligence duties of depositaries pursuant to point (c) of second subparagraph of Article 22(7);

(d) the segregation obligation pursuant to point (d) of third subparagraph of Article 22(7);

(e) the conditions subject to which and circumstances in which financial instruments held in custody are to be considered as lost for the purpose of Article 24;

(f) what is to be understood by external events beyond reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary pursuant to the first subparagraph of Article 24(1).

(fa) the conditions for fulfilling the independence requirement.’

(9) In Article 30, the first paragraph is replaced by the following:

‘Articles 13, 14, 14a and 14b shall apply mutatis mutandis to investment companies that have not designated a management company authorised pursuant to this Directive.’

(10) Section 3 of Chapter V is deleted.
In Article 69(3) the following subparagraph is added:

The annual report shall also contain:

(a) the total amount of remuneration for the financial year, split into fixed and variable remuneration paid by the management company and by the investment company to its staff, and the number of beneficiaries, and where relevant, the carried interest paid by the UCITS;

(b) the aggregate amount of remuneration broken down by categories of employees or other members of staff as referred to in Article 14a(3) of the financial group, the management company and, where relevant, of the investment company, whose actions have a material impact on the risk profile of the UCITS.

(11a) In Article 78(3), point (a) is replaced by the following:

‘(a) identification of the UCITS and the competent authority’;

Article 98 is amended as follows:

(a) In paragraph 2, point (d) is replaced by the following:

‘(d) require existing telephone records, and traffic data as defined in Article 2 second paragraph point (b) of Directive 2002/58/EC of the European Parliament and of the Council 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (*), that are held by UCITS, management companies, investment companies or depositaries, where a serious suspicion exists that such records related to the subject-matter of the inspection may be relevant to prove a breach by the UCITS, management companies, investment companies or depositaries of their obligations under this Directive; these records shall however not concern the content of the communication to which they relate.


(b) The following paragraph is added:

‘3. If a request for records of telephone or data traffic referred to in point (d) of paragraph 2 requires authorisation from a judicial authority according to national rules such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.’

Article 99 is replaced by the following:

‘Article 99

1. Without prejudice to the supervisory powers of competent authorities under Article 98 and without prejudice to the right for Member States to provide for and impose criminal penalties, Member States shall lay down rules on administrative penalties and other measures where the national provisions adopted in the implementation of this Directive have not been complied with, and shall ensure that those measures are applied. The sanctions and measures shall be effective, proportionate and dissuasive.

2. Member States shall ensure that where obligations apply to UCITS, management companies, investment companies or depositaries, in case of a breach, sanctions or measures may be applied to the members of the management body, and to any other individuals who under national law are responsible for the breach.

3. Competent authorities shall be given all investigatory powers that are necessary for the exercise of their functions. In the exercise of their powers, competent authorities shall cooperate closely to ensure that sanctions or measures produce the desired results and coordinate their action when dealing with cross border cases.’
The following articles are inserted:

‘Article 99a

1. **Member States** shall ensure that their laws, regulations or administrative provisions provide for penalties in respect of:

(a) the activities of UCITS are pursued without obtaining authorisation in breach of Article 5;

(b) the business of a management company is carried on without obtaining prior authorisation in breach of Article 6;

(c) the business of an investment company is carried on without obtaining prior authorisation in breach of Article 27;

(d) a qualifying holding in a management company is acquired, directly or indirectly, or such a qualifying holding in a management company is further increased so that the proportion of the voting rights or of the capital held would reach or exceed 20%, 30% or 50% or so that the management company would become its subsidiary (hereinafter referred to as the proposed acquisition), without notifying in writing the competent authorities of the management company in which the acquirer is seeking to acquire or increase a qualifying holding in breach of Article 11(1);

(e) a qualifying holding in a management company is disposed of, directly or indirectly, or reduced so that the proportion of the voting rights or of the capital held would fall below 20%, 30% or 50% or so that the management company would cease to be a subsidiary, without notifying in writing the competent authorities, in breach of Article 11(1);

(f) a management company has obtained an authorisation through false statements or any other irregular means in breach of Article 7(5)(b);

(g) an investment company has obtained an authorisation through false statements or any other irregular means in breach of Article 29(4)(b);

(h) a management company, on becoming aware of any acquisition or disposal of holdings in their capital that cause holdings to exceed or fall below one of the thresholds referred to in Article 11(10) of Directive 2004/39/EC, fails to inform the competent authorities of those acquisitions or disposals in breach of Article 11(1);

(i) a management company fails to, at least once a year, inform the competent authority of the names of shareholders and members possessing qualifying holdings and the sizes of such holdings in breach of Article 11(1);

(j) a management company fails to comply with procedures and arrangements imposed in accordance with the national provisions implementing Article 12(1)(a);

(k) a management company fails to comply with structural and organisational requirements imposed in accordance with the national provisions implementing Article 12(1)(b);

(l) an investment company fails to comply with procedures and arrangements imposed in accordance with the national provisions implementing Article 31;

(m) a management company or an investment company fails to comply with requirements related to delegation of its functions to third parties imposed in accordance with the national provisions implementing Articles 13 and 30;

(n) a management company or an investment company fails to comply with rules of conduct imposed in accordance with the national provisions implementing Articles 14 and 30;

(o) a depositary fails to perform its tasks in accordance with national provisions implementing paragraphs (3) to (7) of Article 22;

(p) an investment company and, for each of the common fund it manages, a management company repeatedly fails to comply with obligations concerning the investment policies of UCITS set out by national provisions implementing Chapter VII;
a management company or an investment company fails to employ a risk management process and a process for accurate and independent assessment of the value of OTC derivatives as set out in national provisions implementing Article 51(1);

an investment company and, for each of the common fund it manages, a management company repeatedly fails to comply with obligations concerning information to be provided to investors imposed in accordance with the national provisions implementing Articles 68 to 82;

a management company or an investment company marketing units of UCITS it manages in a Member State other than the UCITS home Member State fails to comply with the notification requirement set out in Article 93 (1).

2. Member States shall ensure that in all cases referred to in paragraph 1, the administrative sanctions and measures that may be applied include at least the following:

(a) a public warning or statement which indicates the natural or legal person and the nature of the breach;

(b) issuing an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;

(c) in case of a management company or a UCITS, withdrawal of the authorisation of the management company or the UCITS;

(d) imposing a temporary or permanent ban against any member of the management company's or the investment company's management body or any other natural person, who is held responsible, to exercise functions in those or in other companies;

(e) in case of a legal person, imposing effective, proportionate and dissuasive administrative pecuniary sanctions;

(f) in case of a natural person, imposing effective, proportionate and dissuasive administrative pecuniary sanctions;

(g) imposing administrative pecuniary sanctions of up to ten times the amount of the profits gained or losses avoided because of the breach where those can be determined.

Article 99b

Member States shall ensure that the competent authorities publish any sanction or measure imposed for breach of the national provisions adopted for the transposition of this Directive without undue delay, including information on the type and nature of the breach and the identity of persons responsible for it, unless such publication would seriously jeopardise the stability of financial markets. Where publication would cause a disproportionate damage to the parties involved, competent authorities shall publish the sanction or measure imposed on an anonymous basis.

Article 99c

1. Member States shall ensure that when determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, the competent authorities ensure that they are effective, proportionate and dissuasive and take into account all relevant circumstances, including:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the responsible natural or legal person;

(c) the financial strength of the responsible natural or legal person, as indicated by the total turnover of the responsible legal person or the annual income of the responsible natural person;

(d) the importance of profits gained or losses avoided by the responsible natural or legal person, the damage to other persons and, where applicable, the damage to the functioning of markets or the wider economy insofar as they can be determined;
(e) the level of cooperation of the responsible natural or legal person with the competent authority;

(f) previous breaches by the responsible natural or legal person.

2. ESMA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010 on types of administrative measures and sanctions and level of administrative pecuniary sanctions.

Article 99d

1. Member States shall ensure that competent authorities establish effective mechanisms to encourage reporting of breaches of the national provisions transposing this Directive to competent authorities and that the competent authorities provide one or more secure communication channels for persons to provide notification of such breaches. Member States shall ensure that the identity of the persons making such notifications by way of those channels is known only to the competent authority.

2. The mechanisms referred to in paragraph 1 shall include at least:

(a) specific procedures for the receipt of reports on breaches and their follow-up;

(b) appropriate protection for employees of investment companies and management companies who report breaches committed within the company;

(c) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in compliance with the principles laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (*).

2a. ESMA shall provide one or more secure communication channels for the notification of breaches of the national provisions transposing this Directive. Member States shall ensure that the identity of the persons making such notification by way of those channels is known only to ESMA.

2b. The notification in good faith to ESMA or to the competent authority of a breach of the national provisions transposing this Directive pursuant to paragraph 2a shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any law, regulation or administrative provision, and shall not involve the person making that notification in liability of any kind relating to such notification.

3. Member states shall require institutions to have in place appropriate procedures for their employees to report breaches internally through a specific channel.

Article 99e

1. Member States shall provide ESMA annually with aggregated information regarding all measures or sanctions imposed in accordance with Article 99. ESMA shall publish this information in an annual report.

2. Where the competent authority has published a measure or sanction, it shall also report the measures or sanctions to ESMA. Where a published measure or sanction relates to a management company, ESMA shall add a reference to the published measure or sanction in the list of management companies published under Article 6(1).

3. ESMA shall develop draft implementing technical standards concerning the procedures and forms for submitting information as referred to in this Article.

ESMA shall submit those draft implementing technical standards to the Commission by …

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

(*) OJ L 281, 23.11.1995, p. 31;
The following Article is inserted:

‘Article 104a

1. Member State shall apply Directive 95/46/EC to the processing of personal data carried out in the Member State pursuant to this Directive.

2. Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (*) shall apply to the processing of personal data carried out by ESMA pursuant to this Directive.

(*) OJ L 8, 12.1.2001, p. 1.’

In Article 112, paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

The power to adopt delegated acts referred to in Articles 12, 14, 43, 51, 60, 61, 62, 64, 75, 78, 81, 90, 95 and 111 shall be conferred on the Commission for a period of four years from 4 January 2011.

The power to adopt the delegated acts referred to in Article 50a shall be conferred on the Commission for a period of four years from 21 July 2011.

The power to adopt the delegated acts referred to in Articles 22 and 24 shall be conferred on the Commission for a period of four years from [...] The Commission shall draw up a report in respect of delegated powers not later than six months before the end of the four-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes them in accordance with Article 112a.’

In Article 112a, paragraph 1 is replaced by the following:

‘1. The delegation of power referred to in Articles 12, 14, 22, 24, 43, 50a, 51, 60, 61, 62, 64, 75, 78, 81, 90, 95 and 111 may be revoked at any time by the European Parliament or by the Council.’

Annex I is amended as set out in the Annex to this Directive

Article 2

1. Member States shall adopt and publish, by [...] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply the laws, regulations and administrative provisions referred to in paragraph 1 from [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Where the documents accompanying notification of transposition measures by the Member States are not sufficient to assess fully the compliance of those measures with certain provisions of this Directive, the Commission may, upon a request by ESMA in view to carrying out its tasks under Regulation (EU) No 1095/2010, or on its own initiative, require Member States to provide more detailed information regarding the transposition of this Directive and implementation of those measures.
Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4

This Directive is addressed to the Member States.

Done at …,

For the European Parliament

The President

For the Council

The President

ANNEX

In Annex I, point 2 of the Schedule A is replaced by the following:

‘2. Information concerning the depositary:

2.1. The identity of the depositary of the UCITS and a description of its duties;

2.2. A description of any safe-keeping functions delegated by the depositary, and any conflicts of interest that may arise from such delegation.

Information on all entities involved in providing custody of the fund’s assets, together with conflicts of interest that may arise, is available on request from the depositary.’
P7_TA(2013)0310

Timing of auctions of greenhouse gas allowances ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/43)

Amendment 21

Proposal for a decision

Article 1

Directive 2003/87/EC

Article 10 — paragraph 4 — subparagraph 1 — last sentence

Text proposed by the Commission

The Commission shall, where appropriate, adapt the timetable for each period so as to ensure an orderly functioning of the market.

Amendment

Where an assessment shows for the individual industrial sectors that no significant impact on sectors or subsectors exposed to a significant risk of carbon leakage is to be expected, the Commission may, in exceptional circumstances, adapt the timetable for the period referred to in Article 13(1) beginning on 1 January 2013 so as to ensure an orderly functioning of the market. The Commission shall make no more than one such adaptation for a maximum number of 900 million allowances.

P7_TA(2013)0311

Serious cross-border threats to health ***I


(Ordinary legislative procedure: first reading)

(2016/C 075/44)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0866),

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0046/2013).
— having regard to Article 294(2) and Article 168(4)(c) and 168(5) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0488/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 28 March 2012 (1),

— after consulting the Committee of the Regions,

— having regard to the undertaking given by the Council representative by letter of 28 May 2013 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0337/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2011)0421

Position of the European Parliament adopted at first reading on 3 July 2013 with a view to the adoption of Decision No …/2013/EU of the European Parliament and of the Council on serious cross-border threats to health and repealing Decision No 2119/98/EC

(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Decision No 1082/2013/EU.)

P7_TA(2013)0312

Implementing enhanced cooperation in the area of financial transaction tax *


(Special legislative procedure — consultation)

(2016/C 075/45)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2013)0071),

— having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0049/2013),

Wednesday 3 July 2013

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Budgets (A7-0230/2013),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to demonstrate, in a comprehensive impact assessment and cost-benefit analysis, that any enhanced cooperation will respect the competences, rights and obligations of non-participating Member States;

3. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

4. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

5. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

6. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

(1) In 2011, the Commission took note of a debate on-going at all levels on additional taxation of the financial sector. The debate originates from the desire to ensure that the financial sector fairly and substantially contributes to the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future, to dis-incentivise excessively risky activities by financial institutions, to complement regulatory measures aimed at avoiding future crises and to generate additional revenue for general budgets or specific policy purposes.

Amendment

(1) In 2011, the Commission took note of a debate on-going at all levels on additional taxation of the financial sector. The debate originates from the desire to ensure that the financial sector fairly and substantially contributes to the costs of the crisis and that it is taxed in a fair way vis-à-vis other sectors for the future, to dis-incentivise excessively risky activities by financial institutions, to complement regulatory measures aimed at avoiding future crises and reducing speculation, and to generate additional revenue for general budgets, inter alia as a contribution to fiscal consolidation or specific policy purposes towards sustainability and the stimulation of growth, education and employment with particular focus on youth employment. The introduction of a financial transaction tax (FTT) thus shows a positive distribution and steering capacity by appropriately supplementing existing regulatory reform initiatives.
Amendment 2
Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) According to the European Council's conclusions of 8 February 2013 on the Multiannual Financial Framework 2014-2020, part of the revenues from FTT should be allocated to the Union budget as genuine own resources. The use of FTT revenue as Union own resources is possible under the enhanced cooperation procedure only if national contributions of participating Member States to the Union budget would be reduced by the same amount and would avoid the disproportionate contribution by participating Member States compared to non-participating Member States. Once FTT is implemented at Union level, all or part of the amount of the own resources originating from FTT should be added to the national contributions of the Member States in order to gather new funding sources for European investment without a reduction of the national contributions of the participating Member States to the Union budget.

Amendment 3
Proposal for a directive
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Prior to the introduction of FTT the Commission should demonstrate that enhanced cooperation will not undermine the internal market or economic, social and territorial cohesion. It should also demonstrate that it neither constitutes a barrier to, or discrimination in relation to, trade between Member States, nor distorts competition between them. The Commission should present a new robust analysis and impact assessment, of the consequences the proposal for a common FTT on participating and non-participating Member States and on the internal market as a whole.
Amendment 4
Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

(2a) FTT will truly achieve its objectives only if it is introduced at global level. The enhanced cooperation of 11 Member States therefore constitutes a first step towards FTT at Union-level and, ultimately, at a global level. The Union will continuously advocate the global introduction of FTT and will urge for FTT to be put on the agenda of G-20 and G-8 summits.

Amendment 5
Proposal for a directive
Recital 3

Text proposed by the Commission

(3) In order to prevent distortions through measures taken unilaterally by the participating Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to improve the proper functioning of the internal market, it is important that the basic features of a FTT in the participating Member States are harmonised at Union level. Incentives for tax arbitrage between the participating Member States and allocation distortions between financial markets in those States, as well as possibilities for double or non-taxation should thereby be avoided.

Amendment

(3) Several of the 11 participating Member States have already established, or are in the process of establishing, a form of FTT. In order to prevent distortions through measures taken unilaterally by the participating Member States, bearing in mind the extremely high mobility of most of the relevant financial transactions, and thus to improve the proper functioning of the internal market, it is important that the basic features of a FTT in the participating Member States are harmonised at Union level. Incentives for tax arbitrage between the participating Member States and allocation distortions between financial markets in those States, as well as possibilities for double or non-taxation should thereby be avoided.
Amendment 6
Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In light of the substantial progress with regard to European financial market regulation, such as Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (¹), Directive 2013/36/EU and this Directive, participating Member States that have introduced banking levies in light of the recent financial crisis should review the necessity of such taxes and their compatibility with the rules and the aims of Union law and the internal market.


Amendment 7
Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) Any harmonisation of FTT amongst participating Member States should not result in extra-territorial taxation infringing the potential tax base of non-participating Member States.

Amendment 8
Proposal for a directive
Recital 4

Text proposed by the Commission

Amendment

(4) The improvement of the operation of the internal market, in particular the avoidance of distortions between the participating Member States requires that a FTT applies to a broadly determined range of financial institutions and transactions, to trade in a wide range of financial instruments, including structured products, both in the organised markets and 'over-the-counter', as well as to the conclusion of all derivative contracts and to material modifications of the operations concerned.
Amendment 9
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) With the exception of the conclusion or material modification of derivative contracts, the trade on primary markets and transactions relevant for citizens and businesses such as conclusion of insurance contracts, mortgage lending, consumer credits or payment services should be excluded from the scope of FTT, so as not to undermine the raising of capital by companies and governments and to avoid impact on households.

Amendment

(8) With the exception of the conclusion or material modification of derivative contracts, the trade on primary markets and transactions relevant for citizens and businesses such as conclusion of insurance contracts, mortgage lending, consumer credits or payment services should be excluded from the scope of FTT, so as not to undermine the raising of capital by companies and governments and to avoid a negative impact on households and the real economy.

Amendment 10
Proposal for a directive
Recital 13a (new)

Text proposed by the Commission

(13a) With a view to strengthening the position of regulated markets, and in particular of stock exchange trading, which is strictly regulated, controlled and transparent, as opposed to unregulated, less controlled and less transparent over-the-counter (OTC) trading, Member States should apply higher tax rates to OTC transactions. This will make it possible to effect a shift in trading from markets with little or no regulation to regulated markets. The higher rates should not apply to financial transactions of OTC derivatives where they objectively reduce risks and therefore serve the real economy.

Amendment

(13a) With a view to strengthening the position of regulated markets, and in particular of stock exchange trading, which is strictly regulated, controlled and transparent, as opposed to unregulated, less controlled and less transparent over-the-counter (OTC) trading, Member States should apply higher tax rates to OTC transactions. This will make it possible to effect a shift in trading from markets with little or no regulation to regulated markets. The higher rates should not apply to financial transactions of OTC derivatives where they objectively reduce risks and therefore serve the real economy.

Amendment 11
Proposal for a directive
Recital 15a (new)

Text proposed by the Commission

(15a) Non-financial enterprises execute significant transactions on financial markets in order to reduce risks directly associated with their commercial business. FTT should not apply to those institutions when they execute such transactions. However, where non-financial enterprises engage in speculative transactions that are not associated with the reduction of risk in their commercial activities, they should be treated as financial institutions and FTT should apply to them.

Amendment

(15a) Non-financial enterprises execute significant transactions on financial markets in order to reduce risks directly associated with their commercial business. FTT should not apply to those institutions when they execute such transactions. However, where non-financial enterprises engage in speculative transactions that are not associated with the reduction of risk in their commercial activities, they should be treated as financial institutions and FTT should apply to them.
Amendment 12
Proposal for a directive
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) In order to make tax avoidance a high-cost and low-profit venture and to ensure better enforcement, the residence and issuance principle should be complemented by the ‘transfer of legal title principle’.

Amendment 13
Proposal for a directive
Recital 15 c (new)

Text proposed by the Commission

Amendment

(15c) Where appropriate, the Commission should enter into negotiations with third countries in order to facilitate the collection of FTT. The Commission should also revise its definition of uncooperative jurisdictions and should update its action plan against tax fraud, tax evasion and aggressive tax planning accordingly.

Amendment 14
Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) The minimum tax rates should be set at a level sufficiently high for the harmonisation objective of a common FTT to be achieved. At the same time, they have to be low enough so that delocalisation risks are minimised. deleted

Amendment 15
Proposal for a directive
Recital 19

Text proposed by the Commission

Amendment

(19) In order to prevent tax fraud and evasion the participating Member States should be obliged to adopt appropriate measures.

(19) In order to prevent tax fraud, tax evasion and aggressive tax planning, such as substitution, the participating Member States should be obliged to adopt appropriate measures.
Amendment 16
Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The Commission should establish an expert working group (FTT Committee) comprising representatives from all Member States, the Commission, the European Central Bank (ECB) and the European Supervisory Authority (European Securities and Markets Authority) (ESMA) to assess the effective implementation of this Directive and prevent tax fraud, tax evasion and aggressive tax planning and to preserve the integrity of the internal market. The FTT Committee should supervise financial transactions in order to detect abusive arrangements as defined in Article 14, to propose countermeasures in a duly manner and to coordinate the implementation of those countermeasures at national level if required. It should make full use of Union law in the field of taxation and financial services regulation and of the instruments for cooperation on tax matters established by international organisations including the OECD and the Council of Europe. Where appropriate, the representatives of the participating Member States should be able to form a sub-group in order to address matters that do not affect the non-participating Member States regarding implementation of FTT.

Amendment 17
Proposal for a directive
Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) Member States have an obligation to cooperate at administrative level in the field of taxation pursuant to Directive 2011/16/EU and to give each other mutual assistance for the recovery of claims relating to taxes, duties and other measures pursuant to Directive 2010/24/EU.
Amendment 18
Proposal for a directive
Recital 21

In order to allow the adoption of more detailed rules in certain technical areas, regarding registration, accounting, reporting obligations and other obligations intended to ensure that FTT due to the tax authorities is effectively paid to the tax authorities, and their timely adaptation as appropriate, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the measures necessary to this effect. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.

Amendment 19
Proposal for a directive
Article 2 — paragraph 1 — point 2 — point c

(c) the conclusion of derivatives contracts before netting or settlement;

(c) the conclusion of derivatives contracts, including contracts for difference and speculative forward transactions, before netting or settlement;

Amendment 20
Proposal for a directive
Article 2 — paragraph 1 — point 2 — point c a (new)

(ca) currency spots on the foreign exchange markets;
Amendment 21
Proposal for a directive
Article 2 — paragraph 1 — point 2 — point e

Text proposed by the Commission
(e) a repurchase agreement, a reverse repurchase agreement, a securities lending and borrowing agreement;

Amendment
(e) a repurchase agreement, a reverse repurchase agreement, a securities lending and borrowing agreement, including cancelled orders made when engaging in high-frequency trading.

Amendment 22
Proposal for a directive
Article 2 — paragraph 1 — point 3 a (new)

Text proposed by the Commission

Amendment
(3a) ‘sovereign issuer’ means a sovereign issuer as defined in point (d) of Article 2(1) of Regulation (EU) No 236/2012;

Amendment 23
Proposal for a directive
Article 2 — paragraph 1 — point 3 b (new)

Text proposed by the Commission

Amendment
(3b) ‘sovereign debt’ means a sovereign debt as defined in point (f) Article 2(1) of Regulation (EU) No 236/2012;

Amendment 24
Proposal for a directive
Article 2 — paragraph 1 — point 7 a (new)

Text proposed by the Commission

Amendment
(7a) ‘SME growth market’ means a multi-trading facility that is registered as an SME growth market in accordance with Article 35 of Directive [MiFID];
<table>
<thead>
<tr>
<th>Amendment 25</th>
<th>Proposal for a directive</th>
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<td>Article 2 — paragraph 1 — point 12 a (new)</td>
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<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>(12a) ‘high-frequency trading’ means algorithmic trading in financial instruments at speeds where the physical latency of the mechanism for transmitting, cancelling or modifying orders becomes the determining factor in the time taken to communicate the instruction to a trading venue or to execute a transaction;</td>
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<th>Amendment 26</th>
<th>Proposal for a directive</th>
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<td>Article 2 — paragraph 1 — point 12 b (new)</td>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>(12b) ‘high-frequency trading strategy’ means a trading strategy for dealing on own account in a financial instrument which involves high-frequency trading and has at least two of the following characteristics:</td>
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</tbody>
</table>

(i) it uses co-location facilities, direct market access or proximity hosting;

(ii) it relates to a daily portfolio turnover of at least 50%;

(iii) the proportion of orders cancelled (including partial cancellations) exceeds 20%;

(iv) the majority of positions taken are unwound within the same day;

(v) over 50% of the orders or transactions made on trading venues offering discounts or rebates to orders which provide liquidity are eligible for such rebates.
Amendment 27
Proposal for a directive
Article 2 — paragraph 2

Text proposed by the Commission

2. Each of the operations referred to in points (a), (b), (c) and (e) of paragraph 1(2) shall be considered to give rise to a single financial transaction. Each exchange as referred to in point (d) thereof shall be considered to give rise to two financial transactions. Each material modification of an operation as referred to in points (a) to (e) of paragraph 1(2) shall be considered to be a new operation of the same type as the original operation. A modification is considered to be material in particular where it involves a substitution of at least one party, in case the object or scope of the operation, including its temporal scope, or the consideration agreed upon is altered, or where the original operation would have attracted a higher tax had it been concluded as modified.

Amendment

2. Each of the operations referred to in points (a), (b), (c) and (e) of paragraph 1(2) shall be considered to give rise to a single financial transaction. Each exchange as referred to in point (d) thereof shall be considered to give rise to two financial transactions. Each material modification of an operation as referred to in points (a) to (e) of paragraph 1(2) shall be considered to be a new operation of the same type as the original operation. A modification is considered to be material in particular where it involves a substitution of at least one party, in case the object or scope of the operation, including its temporal scope, or the consideration agreed upon is altered, or where the original operation would have attracted a higher tax had it been concluded as modified. Any novation of transactions carried out for the purposes of clearing or settlement by a CCP or by another clearing house or settlement system operator or interoperable systems as defined in Directive 98/26/EC shall not constitute a material modification under this paragraph.

Amendment 28
Proposal for a directive
Article 2 — paragraph 3 — point d

Text proposed by the Commission

(d) where the average annual value of financial transactions in two consecutive calendar years does not exceed fifty per cent of the overall average net annual turnover, as defined in Article 28 of Directive 78/660/EEC, the undertaking, institution, body or person concerned shall be entitled, upon request, to be considered as not being or no longer being a financial institution.

Amendment

(d) where the average annual value of financial transactions in two consecutive calendar years does not exceed 20% of the overall average net annual turnover, as defined in Article 28 of Directive 78/660/EEC, the undertaking, institution, body or person concerned shall be entitled, upon request, to be considered as not being or no longer being a financial institution.
Amendment 29
Proposal for a directive
Article 2 — paragraph 3 — point d a (new)

Text proposed by the Commission

(da) the calculation of the average annual value of financial transactions referred to in that point shall not take account of financial transactions concerning non-OTC derivative contracts which meet one of the criteria referred to in Article 10 of Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP (*)

(*) OJ L 52, 23.2.2013, p. 11.

Amendment 30
Proposal for a directive
Article 3 — paragraph 1 a (new)

Text proposed by the Commission

1a. In the event of the implementation of FTT in Member States other than the 11 participating Member States, it will be extended to those other Member States on mutual terms.

Amendment 31
Proposal for a directive
Article 3 — paragraph 2 — point a

Text proposed by the Commission

(a) Central Counter Parties (CCPs) where exercising the function of a CCP;

Amendment

(a) Central Counter Parties (CCPs) where exercising the function of a CCP, or other clearing houses, settlement agents or systems, as defined in Directive 98/26/EC, where exercising their function of clearing, including any possible novation, or settlement;
Amendment 32
Proposal for a directive
Article 3 — paragraph 2 — point c a (new)

Text proposed by the Commission

Amendment

(ca) SME growth markets;

Amendment 33
Proposal for a directive
Article 3 — paragraph 2 — point cb (new)

Text proposed by the Commission

Amendment

(cb) A person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital (market maker), when performing an essential function with regard to illiquid bonds and shares in his role of liquidity provider, as provided for in the agreement between the market maker and the organised venue where the financial transaction is carried out, where that transaction is not part of a high-frequency trading strategy.

Amendment 34
Proposal for a directive
Article 3 — paragraph 2 — subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall adopt, in accordance with Article 16, delegated acts specifying the conditions under which a financial instrument will be deemed to be illiquid for the purposes of this Directive.
Amendment 35
Proposal for a directive
Article 3 — paragraph 4 — point g a (new)

Text proposed by the Commission

(ga) the transfer of the right to dispose of a financial instrument as owner and any equivalent operation implying the transfer of the risk associated with the financial instrument between entities of a group or between entities of a network of decentralised banks, where these transfers are carried out in order to fulfil a legal or prudential liquidity requirement that is set by national or Union law.

Amendment 36
Proposal for a directive
Article 4 — paragraph 1 — point e a (new)

Text proposed by the Commission

(ea) it is a branch of an institution established in a participating Member State pursuant to point (c);

Amendment 37
Proposal for a directive
Article 4 — paragraph 1 — point g

Text proposed by the Commission

(g) it is party, acting either for its own account or for the account of another person, or is acting in the name of a party to the transaction, to a financial transaction in a structured product or one of the financial instruments referred to in Section C of Annex I of Directive 2004/39/EC issued within the territory of that Member State, with the exception of instruments referred to in points (4) to (10) of that Section which are not traded on an organised platform.
Amendment 38
Proposal for a directive
Article 4 — paragraph 2a (new)

Text proposed by the Commission

Amendment

2a. For the purposes of this Directive, a financial instrument shall be deemed to be issued within the territory of a participating Member State where any of the following conditions is fulfilled:

(a) it is a security or a derivative relating to such security and the registered office of the issuer of the security is located in that Member State;

(b) it is a derivative other than one referred to in point (a) and is admitted to trading in an organised platform and the public law governing the trading conducted under the systems of the platform is the law of that Member State;

(c) it is a financial instrument other than one referred to in point (a) or (b), which is cleared by a CCP or other clearing houses or settlement agents or systems as defined by Directive 98/26/EC where the law governing the CCP or the system concerned is the law of that Member State;

(d) it is a financial instrument other than one referred to in point (a), (b) or (c), and the applicable law relating to the agreement under which the transaction in the relevant financial instrument has been carried out is the law of that Member State;

(e) it is a structured instrument and at least 50% of the value of assets backing the structured instrument are referring to financial instruments issued by a legal person that is registered in a participating Member State.
Amendment 39
Proposal for a directive
Article 4a (new)

Text proposed by the Commission

Amendment

Article 4a
Transfer of legal title

1. A financial transaction in relation to which no FTT has been levied shall be deemed legally unenforceable and shall not result in a transfer of legal title of the underlying instrument.

2. A financial transaction in relation to which no FTT has been levied shall be deemed not to fulfil the requirements for central clearing under Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (1) or the own funds requirements under Regulation (EU) No 575/2013 of the European Parliament and the Council of 27 June 2013 on prudential requirements for credit institutions and investment firms.

3. In the event of automatic electronic payment schemes with or without the participation of payment settlement agents, revenue authorities of a Member State may establish a system of automatic electronic collection of FTT and certificates for transferring legal title.

Amendment 40
Proposal for a directive
Article 9 — paragraph 2 — subparagraph 2

Text proposed by the Commission

Amendment

Those rates shall not be lower than:

(a) 0,1 % in respect of the financial transactions referred to in Article 6;

(b) 0,01 % in respect of financial transactions referred to in Article 7.

Those rates shall be:

(a) 0,1 % in respect of the financial transactions referred to in Article 6 except for those referred to in point (5) of Article 2(1), with a maturity of up to three months;

(b) 0,01 % in respect of financial transactions referred to in Article 7;

(ba) 0,01 % in respect of the financial transactions referred to in point (5) of Article 2(1) with a maturity of up to three months.

### Amendment 41
Proposal for a directive
Article 9 — paragraph 3a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>3a. Notwithstanding paragraph 3, participating Member States shall apply a higher rate than those specified in paragraph 2 to OTC financial transactions referred to in Articles 6 and 7. Financial transactions of OTC derivatives which are objectively measurable as reducing risks as defined by Article 10 of Commission Delegated Regulation (EU) No 149/2013 shall not be subject to that higher rate.</td>
<td></td>
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</tbody>
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### Amendment 42
Proposal for a directive
Article 11 — paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>2. The Commission <strong>may</strong>, in accordance with Article 16 adopt delegated acts specifying the measures to be taken pursuant to paragraph 1 by the participating Member States.</td>
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### Amendment 43
Proposal for a directive
Article 11 — paragraph 5 — subparagraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>The Commission <strong>may</strong> adopt implementing acts providing for uniform methods of collection of the FTT due. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).</td>
<td></td>
</tr>
<tr>
<td>The Commission <strong>shall</strong> adopt implementing acts providing for uniform methods of collection of the FTT due and prevention of tax fraud, tax evasion and aggressive tax planning. Member States may adopt additional measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2).</td>
<td></td>
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</tbody>
</table>
Amendment 44
Proposal for a directive
Article 11 — paragraph 6 a (new)

Text proposed by the Commission

Amendment
6a. The administrative burden imposed on tax authorities through the introduction of FTT shall be kept to a minimum. To that end, the Commission shall encourage cooperation between national tax authorities.

Amendment 45
Proposal for a directive
Article 11 — paragraph 6 b (new)

Text proposed by the Commission

Amendment
6b. Member States shall, on an annual basis, submit to the Commission and to Eurostat transaction volumes against which revenues have been collected by type of institution. They shall make that information public.

Amendment 46
Proposal for a directive
Article 12

Text proposed by the Commission

The participating Member States shall adopt measures to prevent tax fraud and evasion.

Amendment
The participating Member States shall adopt measures to prevent tax fraud, tax evasion and aggressive tax planning.

Amendment 47
Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment
1. The Commission shall establish an expert working group (the FTT Committee) comprising representatives from all Member States, the Commission, the ECB, and ESMA, to assist participating Member States in the effective implementation of this Directive and prevent tax fraud, tax evasion and aggressive tax planning and to preserve the integrity of the internal market.
2. The FTT Committee shall assess the effective implementation of this Directive, assess the effects on the internal market and detect avoidance schemes including abusive arrangements as defined in Article 14 in order to propose countermeasures, where appropriate, making full use of Union law in the field of taxation and financial services regulation and of the instruments for cooperation on tax matters established by international organisations.

3. In order to assess matters with regard to the effective execution of FTT the participating Member States may form a sub-committee of the FTT Committee, comprising representatives of the participating Member States. The sub-committee shall only be in charge of matters that do not affect the non-participating Member States regarding the effective execution of FTT.

Amendment 48
Proposal for a directive
Article 16 — paragraph 2

2. The delegation of powers referred to in Article 11(2) shall be conferred for an indeterminate period of time from the date referred to in Article 19.

Amendment 49
Proposal for a directive
Article 16 — paragraph 3

3. The delegation of power referred to in Article 11(2) may be revoked at any time by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.
Amendment 50
Proposal for a directive
Article 16 — paragraph 4

Text proposed by the Commission

4. As soon as it adopts a delegated act, the Commission shall notify it to the Council.

Amendment

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Amendment 51
Proposal for a directive
Article 16 — paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 11(2) shall enter into force only if no objection has been expressed by the Council within a period of 2 months of notification of that act to the Council or, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by 2 months at the initiative of the Council.

Amendment

5. A delegated act adopted pursuant to Article 11(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Amendment 52
Proposal for a directive
Article 19 — paragraph 1

Text proposed by the Commission

Every five years and for the first time by 31 December 2016, the Commission shall submit to the Council a report on the application of this Directive, and, where appropriate, a proposal.

Amendment

Every three years and for the first time by 31 December 2016, the Commission shall submit to the European Parliament and the Council a report on the application of this Directive, and, where appropriate, a proposal.

Amendment 53
Proposal for a directive
Article 19 — paragraph 2

Text proposed by the Commission

In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy and it shall take into account the progress on taxation of the financial sector in the international context.

Amendment

In that report the Commission shall, at least, examine the impact of the FTT on the proper functioning of the internal market, the financial markets and the real economy and it shall take into account the progress on taxation of the financial sector in the international context. Based on the results of that examination, necessary adjustments shall be undertaken.
Amendment 54
Proposal for a directive
Article 19 — paragraph 2 a (new)

Text proposed by the Commission

In addition, the Commission shall assess the impact of certain provisions, such as the appropriate scope of FTT and the rate of taxation with regards to pension funds, taking due account of the diverse risk profiles and business models.

Amendment 55
Proposal for a directive
Article 20 — paragraph 1 — subparagraph 2 a (new)

Text proposed by the Commission

For instruments referred to in point 3a of Article 2(1) the rate referred to in point (a) of Article 9(2) shall be 0.05 % until 1 January 2017.

For institutions referred to in point (8)(f) of Article 2(1) , the rate referred to in point (a) of Article 9(2) shall be 0.05 % and the rate referred to in point (b) of Article 9(2) shall be 0.005 % until 1 January 2017.

Adoption by Latvia of the euro on 1 January 2014 *


(Consultation)
(2016/C 075/46)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2013)0345),

— having regard to the Commission Convergence Report 2013 (COM(2013)0341) and the European Central Bank Convergence Report of June 2013 as regards Latvia,

— having regard to the Commission Staff Working Document accompanying the Commission Convergence report 2013 on Latvia (SWD(2013)0196),
— having regard to its resolution of 1 June 2006 on the enlargement of the euro zone (1),

— having regard to its resolution of 20 June 2007 on improving the method for consulting Parliament in procedures relating to enlargement of the euro area (2),

— having regard to Article 140(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0183/2013),

— having regard to Rule 83 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0237/2013),

A. whereas Article 140 of the Treaty on the Functioning of the European Union (TFEU) provides for the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria: the achievement of a high degree of price stability; the sustainability of the government’s financial position; the observance of the normal fluctuation margins provided for by the exchange-rate mechanism; and the durability of convergence achieved by the Member State and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest rate levels (the Maastricht criteria);

B. whereas Latvia has complied with the Maastricht criteria in accordance with Article 140 TFEU and Protocol No 13 on the convergence criteria annexed to the Treaty on European Union and to the TFEU;

C. whereas the Rapporteur visited Latvia to assess the readiness of that country to enter the euro area;

D. whereas the people of Latvia have taken extraordinary efforts to overcome the financial crisis and have returned to the path of competitiveness and growth;

1. Approves the Commission proposal;

2. Favours the adoption of the euro by Latvia on 1 January 2014;

3. Notes that the assessment of the Commission and the European Central Bank (ECB) has taken place against the background of the global financial crisis which has affected the prospects for nominal convergence of many other Member States and has in particular triggered a significant cyclical downward shift of inflation rates;

4. Notes, in particular, that the global financial crisis has hit Latvia hard in terms of poverty, unemployment and demographic developments; urges Latvia and its partners in the Union to implement stringent macroprudential standards aiming at avoiding unsustainable capital flows and credit growth trends experienced ahead of the crisis;

5. Notes that Latvia fulfils the criteria as a result of determined, credible and sustainable efforts by the Latvian Government and the Latvian people; points out that the overall sustainability of the macroeconomic and financial situation will depend on the implementation of balanced and far reaching reforms aiming at combining discipline with solidarity and long term sustainable investments not only in Latvia but also in the economic and monetary union as a whole;

6. Notes that in its 2013 Convergence Report the ECB expressed some concerns with regard to the long-term sustainability of Latvia’s economic convergence; stresses in particular the following statements and recommendations contained therein:

— joining a currency union entails foregoing monetary and exchange rate instruments and implies an increased importance of internal flexibility and resilience; the authorities should, therefore, consider avenues to further strengthen the alternative counter-cyclical policy instruments at their disposal, in addition to what has been done since 2009;

— Latvia needs to continue along a path of comprehensive fiscal consolidation in line with the requirements of the Stability and Growth Pact, and to implement and to comply with a fiscal framework that helps to avoid a return to pro-cyclical policies in the future;

both the need for a stronger institutional environment and the fact that the shadow economy, although declining, is estimated to still be relatively large are not only entailing public revenue losses but also distort competition, harm Latvia's competitiveness and reduce the country's attractiveness as a destination for foreign direct investment, thus hampering longer-term investment and productivity; considers that those concerns need to be taken seriously especially if the current trends regarding inflation and financial flows are reversed; deems however that these concerns do not change the overall positive assessment on the adoption of the euro by Latvia;

7. Calls on the Latvian Government to maintain its prudent fiscal policy stance, together with its overall stability-oriented policies, anticipating potential future macroeconomic imbalances and risks to price stability as well as correcting the imbalances indentified by the Commission in the framework of the alert mechanism report; notes that price stability in Latvia is very dependent on the dynamics of commodity prices due to low energy efficiency and high level of energy imports from a single source in the composition of its consumer basket; calls on the Latvian Government to make improvements in this regard and to enhance its general efforts to reach all EU 2020 national targets;

8. Is concerned by the current low support of the Latvian citizens for the adoption of the euro; calls on the Latvian Government and authorities to communicate more actively with the Latvian citizens in order to ensure more public support for the adoption of the euro; calls on the Latvian Government and authorities to continue their information and communication campaign with the aim of reaching all Latvian citizens;

9. Calls on the Latvian Government to address structural deficiencies in the labour market by appropriate structural and educational reforms; calls, in particular, on the Latvian Government to address the level of poverty and the widening gap of income inequality;

10. Acknowledges the stability of the Latvian banking sector during the last three years; points out, however, that the banking business model was seriously challenged during the first stage of the global financial crisis; underlines that a meltdown of the Latvian financial system was only avoided at that time by an EU-IMF bail-out; welcomes recent reforms aiming at reinforcing the regulation of Latvian banks active in the non-resident deposits (NRD) business; calls on the Latvian authorities to ensure that a strict supervision of those banks is observed and adequate additional risk management measures are implemented; further calls on the Latvian authorities to remain cautious about possible mismatches between banks' asset-liability maturity structures that can be considered a danger to financial stability;

11. Calls on the Latvian authorities to maintain the present course of practical preparations to ensure a smooth changeover process; calls on the Latvian Government to establish appropriate control mechanisms to ensure that the introduction of the euro is not used for hidden price increases;

12. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

13. Deplores the extremely narrow timeline within which Parliament has been asked to provide its opinion in accordance with Article 140 TFEU; asks the Commission and Member States planning to adopt the euro to provide for an appropriate timeline in order to allow Parliament to deliver an opinion on the basis of a more comprehensive and inclusive debate;

14. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

15. Instructs its President to forward its position to the Council, the Commission, the European Central Bank, the Eurogroup and the governments of the Member States.
Further macro-financial assistance for Georgia

European Parliament legislative resolution of 4 July 2013 on the joint text approved by the Conciliation Committee for a decision of the European Parliament and of the Council providing further macro-financial assistance for Georgia (PE-CONS 00038/2013 — C7-0168/2013 — 2010/0390(COD))

(Ordinary legislative procedure: third reading)

The European Parliament,
— having regard to the joint text approved by the Conciliation Committee and the relevant statement by Parliament and the Council (PE-CONS 00038/2013 — C7-0168/2013),
— having regard to its position at first reading (1) on the Commission proposal to Parliament and the Council (COM(2010) 0804),
— having regard to its position at second reading (2) on the Council position at first reading (3),
— having regard to the Commission’s opinion on Parliament’s amendments to the Council position at first reading (COM(2013)0067),
— having regard to the Council position at second reading,
— having regard to Article 294(13) of the Treaty on the Functioning of the European Union,
— having regard to Rule 69 of its Rules of Procedure,
— having regard to the report of its delegation to the Conciliation Committee (A7-0244/2013),
1. Approves the joint text;
2. Confirms the joint statement by Parliament and the Council annexed to this resolution;
3. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication, together with the statement by Parliament and the Council thereon, in the Official Journal of the European Union;
5. Instructs its President to forward this legislative resolution to the Council, the Commission and the national parliaments.

ANNEX TO THE LEGISLATIVE RESOLUTION

Joint Declaration by the European Parliament and the Council adopted together with the decision providing further macro-financial assistance to Georgia

The European Parliament and the Council:
— agree that the adoption of the decision on providing further macro-financial assistance to Georgia should be seen in the wider context of the need for a framework that should secure sound and effective decisions on providing macro-financial assistance to third countries;

— agree that the adoption of decisions on macro-financial assistance operations should be based on the considerations and
the principles set out below for the granting of Union macro-financial assistance to eligible third countries and
territories, without prejudice to the right of legislative initiative and the legal form that a future instrument formalising
these considerations and principles might take;

— commit to fully reflect these considerations and principles in the future individual decisions on granting Unions's
macro-financial assistance.

PART A — CONSIDERATIONS

(1) The Union is a major provider of economic, financial and technical assistance to third countries. Union macro-
financial assistance (‘macro-financial assistance’) has proved an efficient instrument for economic stabilisation and a
driver for structural reforms in countries and territories benefitting from such assistance (beneficiaries). In
accordance with its overall policy in respect of candidate, potential candidate, and neighbourhood countries, the
Union should be in a position to provide macro-financial assistance to those countries with the aim of developing a
zone of shared stability, security, and prosperity.

(2) Macro-financial assistance should be based on ad-hoc, country-specific decisions of the European Parliament and of
the Council. These principles aim to enhance the efficiency and effectiveness of the decision-making process leading
to such decisions and their implementation, and to strengthen the application by the beneficiary of the political pre-
conditions for granting macro-financial assistance and to improve the transparency and democratic scrutiny of that
assistance.

(3) In its resolution on the implementation of macro-financial assistance to third countries of 3 June 2003, the
European Parliament called for a framework regulation for macro-financial assistance in order to expedite the
decision-making process and provide this financial instrument with a formal and transparent basis.

(4) In its conclusions of 8 October 2002, the Council established criteria (the so-called Genval criteria) to guide macro-
financial assistance operations. It would be appropriate to update and clarify these criteria, inter alia the criteria for
determining the appropriate form of assistance (a loan, a grant or a combination thereof).

(5) These principles should enable the Union to make macro-financial assistance available expeditiously, in particular
when circumstances call for immediate action, and to increase the clarity and transparency of the criteria applicable
to the implementation of macro-financial assistance.

(6) The Commission should ensure that macro-financial assistance is in line with the key principles, objectives and
measures taken within the different areas of external action and other relevant Union policies.

(7) Macro-financial assistance should support the Union's external policy. The Commission services and the European
External Action Service (EEAS) should work closely together throughout the macro-financial assistance operation in
order to coordinate, and to ensure the consistency of, Union external policy.

(8) Macro-financial assistance should support the beneficiaries' commitment to common values shared with the Union,
including democracy, the rule of law, good governance, respect for human rights, sustainable development and
poverty reduction, and to the principles of open, rules-based and fair trade.

(9) A pre-condition for granting macro-financial assistance should be that the eligible country respects effective
democratic mechanisms, including a multi-party parliamentary system and the rule of law, and guarantees respect
for human rights. Those pre-conditions should be regularly monitored by the Commission.

(10) The specific objectives of individual macro-financial assistance decisions should include the strengthening of the
efficiency, transparency and accountability of public finance management in the beneficiaries. The achievement of
these objectives should be regularly monitored by the Commission.

(11) Macro-financial assistance should aim to support the restoration of a sustainable external finance situation for third
countries and territories that are facing a shortage of foreign currency and related external financing difficulties.
Macro-financial assistance should neither provide regular financial support, nor have as its primary aim the support
of the economic and social development of the beneficiaries.
(12) Macro-financial assistance should be complementary to the resources provided by the International Monetary Fund (IMF) and other multilateral financial institutions, and there should be fair burden-sharing between the Union and other donors. Macro-financial assistance should ensure the added value of the involvement of the Union.

(13) In order to ensure that the Union's financial interests linked to macro-financial assistance are protected efficiently, the beneficiaries should take appropriate measures relating to the prevention of, and the fight against, fraud, corruption and any other irregularities linked to this assistance, and provision should be made for checks by the Commission and for audits by the Court of Auditors.

(14) The choice of the procedure for the adoption of the memoranda of understanding should be decided in accordance with the criteria set out in Regulation (EU) No 182/2011. In this context, the advisory procedure should apply as a general rule, but considering the potentially important impact of the operations superior to the threshold set out in part B, it is appropriate that the examination procedure is used for the latter operations.

PART B — PRINCIPLES

1. Aim of the assistance

(a) Macro-financial assistance should be an exceptional financial instrument of untied and undesignated balance-of-payments support to eligible third countries and territories. It should aim to restore a sustainable external finance situation for eligible countries and territories facing external financing difficulties. It should underpin the implementation of a policy programme that contains strong adjustment and structural reform measures designed to improve the balance of payment position, in particular over the programme period, and reinforce the implementation of relevant agreements and programmes with the Union.

(b) Macro-financial assistance should be conditional on a significant and residual external financing gap having been determined by the Commission in cooperation with the multilateral financial institutions over and above the resources provided by the IMF and other multilateral institutions, despite the implementation of strong economic stabilisation and reform programmes by the relevant country or territory.

(c) Macro-financial assistance should be of a short-term nature and should be discontinued as soon as the external financial situation has been brought back to a sustainable situation.

2. Eligible countries and territories

The third countries and territories eligible to become beneficiaries of macro-financial assistance should be:

— candidate and potential candidate countries,

— countries and territories covered by the European Neighbourhood Policy,

— in exceptional and duly justified circumstances, other third countries that play a determining role in regional stability, are of strategic importance for the Union, and are politically, economically and geographically close to the Union.

3. Form of the assistance

(a) Macro-financial assistance should generally take the form of a loan. In exceptional cases, however, the assistance may be provided in the form of a grant or a combination of a loan and a grant. When determining the appropriate share of a possible grant element, the Commission, when preparing its proposal, should take into consideration the level of economic development of the beneficiary, as measured by per capita income and poverty ratios, as well as its ability to repay, drawing on debt sustainability analysis while ensuring that the principle of fair burden-sharing between the Union and other donors is respected. For this purpose, the Commission should also take into account the extent to which international financial institutions and other donors apply concessional terms to the country in question.

(b) Where macro-financial assistance takes the form of a loan, the Commission should be empowered on behalf of the Union to borrow the necessary funds on the capital markets or from financial institutions and on-lend them to the beneficiary.
Borrowing and lending operations should be carried out in euro using the same value date and should not involve the Union in the transformation of maturities, or in any exchange or interest rate risk.

All costs incurred by the Union which relate to borrowing or lending operations should be borne by the beneficiary.

At the request of the beneficiary, and where circumstances permit an improvement of the interest rate of the loan, the Commission may decide to refinance all or part of its initial borrowings or restructure the corresponding financial conditions. Refinancing and restructuring operations should be carried out in accordance with the conditions laid down in point 3(d) and should not have the effect of extending the average maturity of the borrowing concerned or of increasing the amount of capital outstanding at the date of the refinancing or restructuring.

4. Financial provisions

(a) The amounts of macro-financial assistance provided in the form of grants should be consistent with the budget appropriations provided for in the multi-annual financial framework.

(b) The amounts of macro-financial assistance provided in the form of loans should be provisioned in accordance with the Regulation establishing a Guarantee Fund for external actions. The amounts of the provisions should be consistent with the budget appropriations provided for in the multi-annual financial framework.

(c) Annual appropriations should be authorised by the budgetary authority within the limits of the multi-annual financial framework.

5. Amount of the assistance

(a) The determination of the amount of the assistance should be based on the residual external financing needs of the eligible country or territory, and should take into account its capacity to finance itself with its own resources, and in particular the international reserves at its disposal. Those financing needs should be determined by the Commission in cooperation with international financial institutions, based on a complete quantitative assessment and transparent supporting documentation. In particular, the Commission should draw on the latest balance of payments projections of the IMF for the relevant country or territory and take into account the expected financial contributions from multilateral donors, as well as the pre-existing deployment of the Union’s other external financing instruments in that eligible country or territory.

(b) The Commission documentation should contain information on the projected stock of foreign exchange reserves in the absence of macro-financial assistance compared to levels considered to be adequate, as measured by relevant indicators such as the ratio of reserves to short-term external debt and the ratio of reserves to imports of the beneficiary country.

(c) The determination of the amount of macro-financial assistance provided should also take into account the need to ensure fair burden sharing between the Union and the other donors and the added value of the overall Union involvement.

(d) Where the financing needs of the beneficiary decrease fundamentally during the period of disbursement of the macro-financial assistance compared to the initial projections, the Commission should, in accordance with the advisory procedure where the assistance is equal to or below EUR 90 million, and in accordance with the examination procedure where the assistance is above EUR 90 million, reduce the amount of such assistance or suspend or cancel it.

6. Conditionality

(a) A pre-condition for granting macro-financial assistance should be that the eligible country or territory respects effective democratic mechanisms, including a multi-party parliamentary system and the rule of law and guarantees respect for human rights. The Commission should provide a publicly available assessment (1) on the fulfilment of this pre-condition and should monitor it throughout the life-cycle of the macro-financial assistance. This point should be applied in accordance with the Decision establishing the organisation and functioning of the EEAS.

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(1) This assessment will be based on the annual report on human rights and democracy in the world foreseen in the EU Strategic Framework and Action Plan on Human Rights and Democracy (Council Conclusions on Human Rights and Democracy, 25 June 2012).
Macro-financial assistance should be conditional on the existence of a non-precautionary credit arrangement between the eligible country or territory and the IMF, which fulfils the following conditions:

- the objective of the arrangement is consistent with the purpose of the macro-financial assistance, namely to alleviate short-term balance of payment difficulties;

- the implementation of strong adjustment measures consistent with the aim of macro-financial assistance, as defined in point 1(a).

The disbursement of the assistance should be conditional on a continuous satisfactory track record in respect of an IMF-supported policy programme and on the fulfilment of the pre-condition referred to in letter (a) of this point. It should also be conditional on the implementation, within a specific time frame, of a series of clearly defined economic policy measures focusing on structural reforms and sound public finances, to be agreed between the Commission and the beneficiary and to be laid down in a Memorandum of Understanding.

With a view to protecting the Union’s financial interests and reinforcing the beneficiaries’ governance, the Memorandum of Understanding should include measures that aim to enhance the efficiency, transparency and accountability of public finance management systems.

Progress in mutual market opening, the development of rules-based and fair trade and other priorities in the context of the Union’s external policy should also be duly taken into account in designing the policy measures.

The policy measures should be consistent with the existing partnership agreements, cooperation agreements or association agreements concluded between the Union and the beneficiary and with the macroeconomic adjustment and structural reform programmes implemented by the beneficiary with the support of the IMF.

### 7. Procedure

(a) A country or territory seeking macro-financial assistance should make a request in writing to the Commission. The Commission should check whether the conditions referred to in points 1, 2, 4 and 6 are met and, if appropriate, could submit a proposal for a decision to the European Parliament and to the Council.

(b) The decision to provide a loan should specify the amount, the maximum average maturity and the maximum number of instalments of the macro-financial assistance. If the decision includes a grant element, it should also specify the amount, and the maximum number of instalments. The decision to provide a grant should be accompanied by a justification for the grant (or grant element) of assistance. In both cases, the period during which the macro-financial assistance is available should be defined. As a rule, that availability period should not exceed three years. When submitting a proposal for a new decision to grant macro-financial assistance, the Commission should provide the information referred to in point 12(c).

(c) Following the adoption of the decision granting macro-financial assistance, the Commission, acting in accordance with the advisory procedure where the assistance is equal to or below EUR 90 million, and in accordance with the examination procedure where the assistance is above EUR 90 million, should agree with the beneficiary, in the Memorandum of Understanding, on the policy measures referred to in points 6(c), (d), (e) and (f).

(d) Following the adoption of the decision granting macro-financial assistance, the Commission should agree with the beneficiary on the detailed financial terms of the assistance. Those detailed financial terms should be laid down in a Grant or Loan Agreement.

(e) The Commission should inform the European Parliament and the Council of developments in country-specific assistance, including disbursements thereof, and provide those institutions with the relevant documents in due time.

### 8. Implementation and financial management

(a) The Commission should implement macro-financial assistance in accordance with Union financial rules.

(b) The implementation of macro-financial assistance should be under direct centralised management.
(c) Budget commitments should be made on the basis of decisions taken by the Commission in accordance with this point. Where macro-financial assistance extends over a number of financial years, budget commitments for that assistance may be split into annual instalments.

9. Disbursement of the assistance

(a) Macro-financial assistance should be disbursed to the central bank of the beneficiary.

(b) The macro-financial assistance should be disbursed in successive instalments, subject to the fulfilment of the pre-condition referred to in point 6(a) and the conditions referred to in point 6(b) and (c).

(c) The Commission should verify at regular intervals that the conditions referred to in point 6(b) and (c) continue to be met.

(d) Where the pre-condition referred to in point 6(a) and the conditions referred to in point 6(b) and (c) are not met, the Commission should temporarily suspend or cancel the disbursement of the macro-financial assistance. In such cases, it should inform the European Parliament and the Council of the reasons for suspension or cancellation.

10. Support measures

Budgetary funds of the Union may be used to cover expenditure necessary for the implementation of macro-financial assistance.

11. Protection of the Union’s financial interests

(a) Any agreements under each country-specific decision should contain provisions ensuring that beneficiaries should regularly check that financing provided from the budget of the Union has been properly used, take appropriate measures to prevent irregularities and fraud, and, if necessary, take legal action to recover any funds provided under each country-specific decision that have been misappropriated.

(b) Any agreement under a country-specific decision should contain provisions ensuring the protection of the Union’s financial interests, in particular with respect to fraud, corruption and any other irregularities, in accordance with relevant Union law.

(c) The Memorandum of Understanding referred to in point 6(c) should expressly entitle the Commission and the Court of Auditors to perform audits during and after the availability period of the macro-financial assistance, including document audits and on-the-spot audits such as operational assessments. The Memorandum should also expressly authorise the Commission or its representatives to carry out on-the-spot checks and inspections.

(d) During the implementation of the macro-financial assistance, the Commission should monitor, by means of operational assessments, the soundness of the beneficiary’s financial arrangements, the administrative procedures and the internal and external control mechanisms which are relevant to such assistance.

(e) Any agreement under a country-specific decision should contain provisions ensuring that the Union is entitled to the full repayment of the grant and/or the early repayment of the loan where it has been established that, in relation to the management of macro-financial assistance, a beneficiary has engaged in an act of fraud or corruption or any other illegal activity detrimental to the financial interests of the Union.

12. Annual report

(a) The Commission should examine the progress made in implementing macro-financial assistance and should submit an annual report to the European Parliament and the Council by 30 June of each year.

(b) The annual report should assess the economic situation and prospects of the beneficiaries, as well as the progress made in implementing the policy measures referred to in point 6(c).

(c) It should also provide updated information on the available budgetary resources in the form of loans and grants, taking into account operations that are being envisaged.
13. Evaluation

(a) The Commission should send ex-post evaluation reports to the European Parliament and the Council, assessing the results and efficiency of recently-completed macro-financial assistance operations and the extent to which they have contributed to the aims of the assistance.

(b) The Commission should regularly, and at least every four years, evaluate the provision of the macro-financial assistance, providing the European Parliament and the Council with a detailed overview of macro-financial assistance. The purpose of such evaluations should be to ascertain whether the objectives of the macro-financial assistance have been met and whether the conditions of the macro-financial assistance, including the threshold set out in point 7(c), continue to be met, as well as to enable the Commission to make recommendations for the improvement of future operations. In its evaluation, the Commission should also assess the cooperation with European or multilateral financial institutions when providing macro-financial assistance.

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P7_TA(2013)0321

Attacks against information systems


(Ordinary legislative procedure: first reading)

(2016/C 075/48)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2010)0517),

— having regard to Article 294(2) and Article 83(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0293/2010),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 4 May 2011 (1),

— having regard to the undertaking given by the Council representative by letter of 21 June 2013 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Industry, Research and Energy (A7-0224/2013),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

(1) OJ C 218, 23.7.2011, p. 130.
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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P7_TC1-COD(2010)0273


(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Directive 2013/40/EU.)

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P7_TA(2013)0330

Draft amending budget No 1/2013 — Expenditure related to the accession of Croatia to the EU


(2016/C 075/49)

The European Parliament,

— having regard to Article 314 of the Treaty on the Functioning of the European Union and Article 106a of the Euratom Treaty,


— having regard to the general budget of the European Union for the financial year 2013, as definitively adopted on 12 December 2012 (2),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (3) (hereinafter referred to as ‘IIA of 17 May 2006’), and in particular to point 29 thereof,

— having regard to the proposal for a Decision of the European Parliament and of the Council amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regards the multiannual financial framework, to take account of the expenditure requirements resulting from the accession of Croatia to the European Union (COM(2013)0157),

— having regard to Draft amending budget No 1/2013 of the European Union for the financial year 2013, which the Commission adopted on 18 March 2013 (COM(2013)0156),

— having regard to the position adopted by the Council on 26 June 2013 on Draft amending budget No 1/2013 (11607/2013 — C7-0199/2013),

(2) OJ L 66, 8.3.2013.
having regard to Rules 75b and 75e of its Rules of Procedure,

— having regard to the report of the Committee on Budgets (A7-0246/2013),

A. whereas Draft amending budget No 1/2013 aims to incorporate into the 2013 budget the commitment and payment appropriations needed to cover expenditure related to the accession of Croatia to the Union as from 1 July 2013;

B. whereas in parallel, the Commission, pursuant to point 29 of the IIA of 17 May 2006, submitted a proposal for the adjustment of the multiannual financial framework to accommodate these changes;

C. whereas the proposed increase of EUR 655.1 million in commitments and EUR 374 million in payments reflects the financial package agreed at the Accession Conference of 30 June 2011, excluding heading 5 since the administrative expenditure linked to the accession of Croatia is already included in the 2013 budget;

1. Takes note of Draft amending budget No 1/2013, as submitted by the Commission, and of the Council’s position thereon;

2. Emphasises the purely technical nature of this Amending budget which is simply the consequence of the unanimous agreement on the Treaty concerning the accession of the Republic of Croatia to the European Union as the 28th Member State of the Union; stresses that for that reason this Amending budget has been kept separate from the ongoing political interinstitutional debate on how to settle the issue of outstanding payments from 2012 and from the negotiations on Draft amending budget No 2/2013;

3. Recalls that, according to point 29 of the IIA of 17 May 2006, the resources to finance this Amending budget are to be covered through an adjustment of the financial framework, namely a revision of the ceilings for 2013 in commitments and payments;

4. Reiterates its position that the eight-week period provided for by the Treaty on the Functioning of the European Union to inform the national parliaments of any draft legislative act does not apply to budgetary issues; regrets therefore that despite the very tight timeframe for the entry into force of this Amending budget, the Council has nevertheless let this period elapse before adopting its position, thus squeezing the time for adoption by Parliament as provided for by the Treaty;

5. Regrets furthermore the difficulty with which, even after the eight-week deadline had elapsed, the Council reached an agreement on this revision, which has led to a delay in the availability of the funding for Croatia due as from 1 July 2013; warns that this must not become a precedent for further enlargements;

6. Welcomes the fact that the Council was eventually able to agree on a revision without any offsetting of the 2013 ceilings for payments by the required EUR 374 million; considers that, given the limited amount concerned and the current shortage of payment appropriations in the 2013 budget, this is the proper way to fulfil the obligation that the Member States took out when signing the Accession Treaty and to respect the provisions of point 29 of the IIA of 17 May 2006;

7. Deplores the fact, however, that as regards the revision in commitments the Council decided to neglect the political importance of adopting the Commission’s proposal as such, opting instead to offset the appropriations required; considers that that position contradicts the spirit of the unanimous decision taken when signing the Treaty of Accession as well as of the IIA of 17 May 2006; highlights that that decision sends a wrong political signal not only to Croatia but to the other candidate countries as well; stresses that that decision is accepted only because it concerns the last 6 months of the current MFF (2007-2013); points out that this should not constitute a precedent for future enlargements that might occur under the next MFF (2014-2020);

8. Regrets that heading 5 has been identified as the main source for the offsetting in commitments, since this could lead to the lack of the necessary resources to cover the challenged salary adjustments in the event that the ruling of the Court of Justice is still delivered in 2013;

9. Nevertheless, considering the political importance and the legal urgency of ensuring the necessary funding to Croatia, decides to approve, without amendment, Council’s position on Draft amending budget No 1/2013;
10. Instructs its President to declare that Amending budget No 1/2013 has been definitively adopted and arrange for its publication in the Official Journal of the European Union;

11. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments.