EUROPEAN PARLIAMENT

2013-2014 SESSION

Sittings of 15 to 18 April 2013

The Minutes of this session have been published in OJ C 242 E, 23.8.2013.

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Key to symbols used

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

Amendments by Parliament:

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)0118

Equal treatment between men and women in the access to and supply of goods and services


(2016/C 045/01)

The European Parliament,

— having regard to Articles 19(1) and 260 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (1),


— having regard to the judgment of the Court of Justice of the European Union of 1 March 2011 in Case C-236/09 (Test-Achats) (3),

— having regard to the report of the European Network of Legal Experts in the Field of Gender Equality of December 2010 entitled 'EU Rules on Gender Equality: How are they transposed into national law?',


— having regard to the report of the European Network of Legal Experts in the Field of Gender Equality of June 2011 entitled 'Trans and intersex people: Discrimination on the grounds of sex, gender identity and gender expression',

— having regard to its position of 30 March 2004 on the proposal for a Council directive implementing the principle of equal treatment between women and men in the access to and supply of goods and services (4),

(3) OJ C 130, 30.4.2011, p. 4.
— having regard to its resolution of 17 June 2010 on assessment of the results of the 2006-2010 Roadmap for Equality
between women and men, and forward-looking recommendations (1),

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

— having regard to the report of the Committee on Women’s Rights and Gender Equality (A7-0044/2013),

A. whereas the directive prohibits both direct and indirect discrimination based on sex in access to and the supply of goods
and services that are available to the public, in both the public and private sectors;

B. whereas the directive addresses aspects related to discrimination based on sex outside the labour market;

C. whereas less favourable treatment of women for reasons of pregnancy and maternity is also prohibited, as well as
harassment and sexual harassment and instruction to discriminate wherever goods or services are offered or supplied;

D. whereas following the entry into force of the Lisbon Treaty, appropriate action to combat discrimination based on sex
will be dealt through a special legislative procedure requiring unanimity in the Council and the consent of Parliament
(Article 19(1) TFEU);

E. whereas according to the information available, the directive has been transposed in most of the Member States either
through the adoption of new legislation, or by amending the existing legislation in this field;

F. whereas in some Member States transposition was incomplete or the deadline for transposition was delayed;

G. whereas in some cases national legislation goes further than required by the directive by also covering education or
discrimination in relation to the media and advertising;

H. whereas the opt-out laid down in Article 5(2) of the directive created legal uncertainty and potential legal challenges in
the long term;

I. whereas the Commission’s application report, which, under the directive, was due in 2010, has been postponed until
2014 at the latest;

J. whereas the judgment of the Court of Justice of the European Union of 1 March 2011 in Case C-236/09 (Test-Achats)
ruled that Article 5(2) of this directive providing derogation to insurance and related financial services works against
the achievement of the objective of equal treatment between men and women and is incompatible with the EU’s Charter
of Fundamental Rights;

K. whereas the provision concerned is consequently considered to be invalid upon the expiry of an appropriate transitional
period, in this case with effect from 21 December 2012;

L. whereas, on 22 December 2011, the Commission published non-binding guidelines aimed at clarifying the situation
with regard to insurance companies and related financial services;

M. whereas, in line with Court of Justice of the European Union jurisprudence, discrimination against transgender people
and discrimination on grounds of gender identity may amount to discrimination on grounds of sex (2) in policy and
legislation in the field of equality between women and men;

1. Regrets the fact that the Commission has not presented its report on the application of Council Directive 2004/113/
EC or published up-to-date data on ongoing national implementation processes;

2. Acknowledges that the Test-Achats ruling may have had an impact on Member States’ implementation processes, but
notes that this alone cannot justify the failure to publish the report required by the directive in time;

3. Calls on the Commission to publish its report and all available data with all possible dispatch;

(1) OJ C 236 E, 12.8.2011, p. 87.
(2) Case C-13/94 (P. v S. and Cornwall County Council); Case C-117/01 (K.B. v National Health Service Pensions Agency and Secretary
of State for Health); Case C-423/04 (Sarah Margaret Richards v Secretary of State for Work and Pensions).
4. Calls on the Commission and the Member States to take concrete measures to explain the directive and its impact, with concrete examples, in order to ensure that both women and men can take full ownership of the directive and use it appropriately as an effective tool for safeguarding their rights with regard to equal treatment in access to all goods and services;

5. Welcomes the Test-Achats ruling, but considers that it has created ongoing uncertainty on the insurance market; expects the development of unisex criteria to result in pricing based on multiple risk factors which fairly reflects individuals’ level of risk regardless of gender, and to detect any potential gender-based discrimination;

6. Considers that the guidelines published by the Commission — in the absence of a binding or legislative effect — have not fully dispelled this uncertainty;

7. Calls on the Commission to take practical steps to address the problem by proposing a new legislative text that is fully in line with the guidelines;

8. Notes that the insurance industry should keep making an effort to rearrange premiums in line with unisex criteria by applying actuarial calculations on the basis of other factors;

9. Calls on the Commission to open informal dialogue with the insurance industry on risk assessment;

10. Calls on the Commission to present the methodology it will use to measure the effects of the Test-Achats ruling on insurance pricing;

11. Calls on the Commission to analyse the issue with a focus on consumer protection policy as well;

12. Calls on the Commission and the Member States closely to follow developments on the insurance market, and if there are any signs of de facto indirect discrimination, to take all necessary measures to address the problem and to avoid unjustified higher pricing;

13. Stresses that this directive is not limited solely to the insurance field and that its broader scope and potential for progress in respect of access to goods and services in both the public and private spheres need to be explained in detail in order to enable both women and men fully to understand its reach and purpose, and consequently to make appropriate use of its features and possibilities;

14. Notes that the provision relating to the shift in the burden of proof has been implemented in most national legislation in the Member States; calls on the Commission to monitor the application of this provision in all Member States;

15. Calls on the Commission to take into consideration cases of discrimination in relation to pregnancy, planning of motherhood, and maternity as regards, for instance, the housing sector (renting) or difficulties in obtaining loans, as well as access to medical goods and services, in particular access to legally available reproductive healthcare and gender reassignment treatment;

16. Calls on the Commission to monitor particularly closely any discrimination related to breastfeeding, including possible discrimination in access to goods and services in public spaces and areas;

17. Calls on the Commission to monitor the implementation and application of the directive with regard to pregnant asylum-seeking women awaiting the outcome of their asylum claims, in order to ensure that these women are covered by the contracts and products in question;

18. Calls on the Commission, in line with Court of Justice case-law, fully to include discrimination on grounds of gender identity in future policy and legislation in the field of equality between women and men;

19. Notes with disappointment that in some Member States women entrepreneurs, in particular single mothers, are frequently discriminated against when trying to secure loans or credit for their businesses and still often face barriers based on gender stereotypes;

20. Calls on the Commission to gather best practices and make them available to Member States in order to provide the necessary resources for supporting positive action and ensuring better implementation of the respective provisions at national level;
21. Draws attention to the lack of effectiveness of some equality bodies owing to their lack of actual ability to act, staff shortages and lack of adequate financial resources;

22. Calls on the Commission properly and accurately to monitor the situation of the ‘equality bodies’ established following the entry into force of the directive, and to check whether all the conditions laid down by EU legislation have been met; places particular emphasis on the fact that the current economic crisis cannot be used as a justification for shortcomings as regards the proper functioning of equality bodies;

23. Underlines the need for data and more transparency from the Commission on ongoing infringement procedures and actions;

24. Calls on the Commission to establish a public database of legislation and case law relating to discrimination on gender; insists on the need to improve protection for victims of gender-based discrimination;

25. Points out the need for financial support for, and EU coordination of, further training for legal practitioners active in the field of gender-based discrimination, taking into account the role played by national courts;

26. Points out the need for the directive to be transposed in a timely manner in all Member States;

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

P7_TA(2013)0119

Advancing development through trade

European Parliament resolution of 16 April 2013 on Advancing Development through Trade (2012/2224(INI))

(2016/C 045/02)

The European Parliament,

— having regard to the Commission’s communication of 18 September 2002 on trade, growth and development, (COM (2012)0022) of 27 January 2012, which updates a communication on the same subject,

— having regard to Articles 207 and 208 of the Treaty on the Functioning of the European Union and Article 3 of the Treaty on European Union,

— having regard to the Commission’s other communications and staff working documents in recent years of relevance to this subject, including those on Policy Coherence for Development (COM(2009)0458, SEC(2010)0421, SEC(2011) 1627), on the EU Plan of Action on Gender Equality and Women’s Empowerment in Development 2010-2015 (SEC (2010)0263), on increasing the impact of EU development policy: an Agenda for Change (COM(2011)0637), on financing for development COM (2012)0366, on the EU approach to resilience (COM(2012)0586), on social protection in EU development cooperation (COM(2012)0446) and on engagement with civil society in external relations (COM (2012)0492), as well as to its communication on Aid for Trade (COM(2007)0163) and its annual monitoring reports on this aid,

— having regard to the Council’s conclusions on the EU’s approach to trade, growth and development in the next decade, of 16 March 2012, and to its other conclusions of relevance to this subject,

— having regard to the Cotonou Agreement (1),

— having regard to the regulations relating to the Development Cooperation Instrument (DCI) (2) and the European Development Fund (EDF) and their implementation,

(1) The Cotonou Agreement, as revised in 2005 and 2010.
— having regard to the EU Strategic Framework on Human Rights and Democracy and to point 11, on trade, in the associated Action Plan (1),

— having regard to the Enhanced Integrated Framework for trade-related assistance to Least Developed Countries, prepared under the leadership of the World Bank,

— having regard to the ILO Decent Work Agenda and the UN Social Protection Floor Initiative,

— having regard to the Fourth World Conference on Women held in Beijing in September 1995, the Declaration and the Platform for Action adopted in Beijing,

— having regard to its resolutions of relevance to trade and development, including on trade and poverty (2); aid for trade (3); Economic Partnership Agreements (4); the EU’s generalised system of preferences (5); Corporate Social Responsibility (CSR) (6), tax matters in relation to developing countries (7); EU-Africa relations (8); food security (9); the general development of the EU’s development policy (10) and Policy Coherence for Development (11),

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

— having regard to the report of the Committee on Development and the opinion of the Committee on International Trade (A7-0054/2013),

A. whereas Articles 207 and 208 of the Treaty on the Functioning of the European Union are clearly interlinked; whereas Article 207 states that the EU’s commercial policy shall be based on the principles and objectives of the Union’s external action, and whereas Article 208 requires that the Union’s policies which are likely to affect developing countries shall take account of the objectives of development cooperation;

B. whereas, following the Beijing Declaration and Platform for Action, Member States and the Commission have adopted the strategy of gender mainstreaming as part of their development cooperation policy;

C. whereas poverty reduction and the pursuit of the Millennium Development Goals are centrepieces of the EU’s development policy and should also guide the EU’s trade policy towards developing countries; whereas the promotion of human rights should be integrated into this policy, and contribute to the rights-based approach to development adopted by the EU;

D. whereas the link between trade liberalisation and poverty reduction is not automatic, but opening up trade can be one of the most effective drivers of economic growth and development, if and when the right conditions are in place;

E. whereas the prospects for successful trade-driven development depend inter alia on well-functioning institutions, an effective fight against corruption, a healthy private sector and the pursuit of broad-based and inclusive economic development, diversification and progressive increases in added value;

F. whereas the EU’s trade policy towards developing countries seeks to better integrate them into the international trading system, but lacks clearly defined development objectives and therefore risks, instead, destroying local production and increasing dependence on commodity exports; whereas despite significant liberalisation efforts, some developing countries, notably LDCs, have not been able to diversify production and exports;

(7) OJ C 56 E, 26.2.2013, p. 75.
G. whereas the impact of globalisation on poverty reduction is uneven; whereas a large proportion of the population in developing countries still lives in extreme poverty, particularly in the LDCs; only 18% of the extremely poor were living in LDCs in 1990 but that share had doubled to 36% by 2007;

H. whereas the negotiations on Economic Partnership Agreements are far behind schedule, overall progress is still weak, development objectives are not clearly identified in the EU EPA strategy, and a fresh focus on development in the negotiations, rather than a deadline, is needed to remedy this situation;

I. whereas poor countries have difficulties in compensating for the decline in trade taxes resulting from the current global context of trade liberalisation; whereas there is a danger that customs tariffs on processed goods which exceed those on raw materials may help to consign developing countries to the role merely of exporters of raw materials;

J. whereas the negative trade and development effects on developing countries of the Common Agricultural Policy must be eliminated;

K. whereas the expansion of agrofuels has relied overwhelmingly on the expansion of large-scale industrial monoculture, thereby extending agricultural practices that are harmful for the environment, biodiversity, soil fertility and water availability; whereas the expansion of agrofuels may have dramatic consequences in terms of violation of land rights, loss of access to vital natural resources, deforestation and environmental degradation;

L. whereas upper-middle-income countries will be excluded from the EU’s Generalised System of Preferences from 1 January 2014, but it is uncertain to what extent this will lead to the opening of new export opportunities for the least developed countries;

M. whereas Aid for Trade (AfT) is designed to assist developing countries inter alia in building trade capacity, reducing administrative barriers to trade, putting in place an efficient infrastructure for the transport of goods, and strengthening local businesses to prepare them for meeting local demand and competition and allow them to benefit from new market opportunities; whereas Aid for Trade should help promote processing and diversification of production, assist regional integration, facilitate technology transfers, facilitate the establishment or development of domestic productive capacity, and help reduce income inequality;

N. whereas regional integration is an effective means of achieving prosperity, peace and security; whereas the development benefits of better functioning internal and regional trade may be as significant as, or more significant than, those of increased external trade, especially in a context of climate change; whereas regional trade in Africa is dominated by trade in processed goods, in contrast to the domination of raw materials in the external trade;

O. whereas the export of natural resources is often associated with corruption as well as with stagnation in other economic sectors; whereas the existence of a ‘resource curse’ phenomenon is now widely recognised and the EU’s trade policy must seek to help prevent and counteract this phenomenon;

P. whereas ‘conflict resources’ are natural resources whose systematic exploitation and trade in a context of conflict contribute to, benefit from or result in the commission of serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law;

Q. whereas EU policies must support and never harm food security; whereas it is also imperative to halt the re-assignment of agricultural land in food-insecure developing countries or regions away from production of food for local or regional needs (the ‘land grab’ problem);

R. whereas, in particular, support for biofuels has led to indirect land-use change and volatile food prices in developing countries;
5. whereas ensuring land tenure security for smallholders, who constitute the majority of land owners in developing countries and are the most vulnerable, is the foundation of healthy real estate and credit markets which are essential to stable and sustainable development;

6. whereas investing in opportunities for women, with regard to microcredit in particular, is essential in order to achieve high returns in terms of economic and social development;

Making trade an efficient driver of growth, development and poverty reduction

1. Confirms its position that facilitating sustainable development must be the overriding objective of the EU’s trade policy towards developing countries; takes the view that concrete and sustainable development objectives should be formulated for all initiatives in the framework of this policy;

2. Stresses that since it cannot be taken for granted that trade liberalisation leads to growth and poverty reduction, trade and aid for trade policies must consistently be designed on the basis of transparent, inclusive and participatory processes involving all stakeholders, with special attention to the most disadvantaged, especially women;

3. Points out that fair trade between the EU and developing countries must be based on the full respect for, and guarantee of, ILO labour standards and working conditions and must ensure the application of the highest possible social and environmental standards; emphasises that this includes paying a fair price for the resources and agricultural products of developing countries;

4. Asks that special attention be paid to the promotion of gender equality and women’s empowerment;

5. Welcomes the focus on the business environment, regional integration and world markets, as well as on social protection, health, education and jobs in the Agenda for Change (COM(2011)0637);

6. Calls for full implementation of Policy Coherence for Development, including through termination of any iniquitous production and trade practices, of over-fishing and of agricultural subsidies that harm development and threaten food security;

7. Stresses that investment policy raises two main challenges for developing countries: at the national level, investment policy needs to be included within development strategy, incorporating sustainable development objectives; at the international level, it is necessary to strengthen the development dimension of international investment agreements (IIAs) and to balance the rights and obligations of States and investors;

8. Regrets that, according to Unctad’s World Investment Report 2012, some IIAs concluded in 2011 keep to the traditional Treaty model that focuses on investment protection as the sole aim of the Treaty; welcomes, however, the fact that some new IIAs include provisions to ensure that the Treaty does not interfere with, but rather contributes to, countries’ sustainable development strategies that focus on the environmental and social impacts of investment;

9. Notes with concern the growing number of Investor-State Dispute Settlement (ISDS) cases filed under International Investment Agreements (IIAs) whereby investors have challenged core public policies, claiming that these policies have negatively affected their business prospects; points out, in this context, that the Unctad World Investment Report (2012) indicates that IIAs are becoming increasingly controversial and politically sensitive, primarily owing to the spread of IIA-based investor-state arbitrations which provoke growing discontent (e.g. Australia’s trade policy statement announcing that it would stop including ISDS clauses in its future IIAs) and which reflect, inter alia, deficiencies in the system (e.g. the wide scope of provisions such as expropriation, concerns regarding the qualification of arbitrators, lack of transparency and high costs of the proceedings, and the relationship between ISDS and state-state proceedings); insists therefore that any future European investment agreements must ensure that international investor-state dispute settlements do not undermine the ability of states to legislate in favour of the public interest;
10. Recalls that mobilising investment for sustainable development remains a major challenge for developing countries, particularly for LDCs; emphasises, in this context, that Unctad has developed a comprehensive Investment Policy Framework for Sustainable Development (IPFS) that puts a particular emphasis on the relationship between foreign investment and sustainable development;

11. Calls on the EU to actively use the many instruments at its disposal to support peace, respect for human rights, democracy, the rule of law, good governance, sound public finances, investments in infrastructure, compliance with social standards by European firms and their subsidiaries, reliable provision of basic services and the pursuit of inclusive and sustainable growth and poverty reduction in developing countries and thereby also help create a conducive environment for efficient Aid for Trade and sustainable trade development;

12. Highlights that the successful integration of developing countries into world trade requires more than better market access and strengthened international trade rules; stresses consequently that AfT programming should support developing countries in their domestic efforts to promote local trade, remove supply-side constraints and address structural weaknesses, which can be addressed through domestic reforms in trade-related policies, trade facilitation, enhancement of customs capacities, upgrading of infrastructure, enhancement of productive capacities and the building of domestic and regional markets;

13. Recalls that the link between international trade and poverty reduction is not automatic; notes, in this respect, that Unctad states that the average level of trade integration of the LDCs, measured by the ratio of exports and imports of goods and services to GDP, has actually been higher than that of the advanced economies since the early 1990s; considers therefore that the persistence of mass poverty in the LDCs is the consequence of underdevelopment and the failure of these countries to promote structural transformation, build productive capacity, and create productive employment at the national level;

14. Emphasises also Unctad’s argument that the premature and rapid trade liberalisation that many low-income developing countries were encouraged to undertake in the 1980s and 1990s led to de-industrialisation and a form of integration that intensified their dependence on, and vulnerability to, external markets, while the countries that have benefited the most from trade liberalisation and have experienced the largest reductions in absolute poverty are those that have opened their economies moderately and gradually in line with the development of their productive capacities, and have made progress towards structural transformation;

15. Stresses that for growth and wealth creation to be inclusive, sustainable and efficient in poverty reduction, it should be pursued in sectors heavily affected by poverty and in sectors in which poor people are active; points out that growth should also benefit and empower women and be focused on improving the general business climate for SMEs to flourish, as well as for sustainable microfinance and micro-credit opportunities to emerge; emphasises that development and trade policies in this area should be guided by innovation, creativity and competitiveness, with a view to creating jobs and empowering the disadvantaged;

16. Welcomes the Commission’s recognition of the need to support the participation of small producers and businesses; points to the market potential of Fair Trade schemes and the efficiency of such schemes in facilitating social development;

17. Proposes that the Commission creates more momentum for sustainable public procurement at the international level;

18. Calls on the EU, its Member States and other donors to acknowledge the vital role of women for economic development, and to adapt aid efforts to empower women, socially and financially, including through targeted support for business development and access to micro-finance services specifically for women;

19. Reminds the Commission and the Member States of the EU Plan of Action on Gender Equality and Women’s Empowerment in Development and the activities proposed by the Action;

20. Reiterates the EU’s obligation to apply policy coherence for development and respect for, and promotion and protection of, human rights and gender equality in all its external policies, including international trade; looks forward to full implementation of the points on trade in the Action Plan attached to the EU’s Strategic Framework on Human Rights and Democracy;
21. Considers that sustainable economic development strategies should, inter alia, provide for participation of the private sector in the real economy, regional cohesion and integration of markets through cross-border cooperation, and the development of open and fair trade, embedded in a rules-based multilateral trade framework;

22. Recalls the importance of investment aimed at creating, developing and strengthening key port, transport, energy and telecommunications infrastructure, and in particular cross-border infrastructure;

23. Urges countries in receipt of trade development aid also to mobilise their own domestic resources, including budgetary revenue through proper collection of taxes and human capital; calls on the Commission to provide support, where countries derive income from the exploitation of natural resources, for the transparent and sustainable management of these resources; emphasises the need to establish full transparency regarding payments made to governments by European enterprises; calls on the Commission to support sustainable industrialisation strategies in developing countries, aimed at trading in value-added products;

24. Considers that the EU’s trade and investment development aid tools, in particular the revised Generalised Scheme of Preferences and the Economic Partnership Agreements, are effective; stresses nonetheless that trade aid cannot be reduced to these instruments alone; reminds the EU of its aim for its total aid budget to be 0.7% of GNI by 2015; urges the Commission to increase the share of its total aid budget that is allocated to technical assistance, including the field of standardisation; calls on the EU to display greater consistency in the implementation of its trade, agricultural, environmental, energy and development policies;

25. Considers it essential that European development aid through trade policies incorporate all aspects of innovation — financial as well as technological and organisational innovation — on the basis of best practices;

26. Recommends that the Commission negotiate the inclusion of actually enforceable human rights provisions in all future bilateral trade and cooperation agreements, in order genuinely to contribute to a rights-based approach to development;

27. Stresses the importance of decent wage levels and decent safety at work standards for a sustainable global trade system and new global production chains; reminds the Commission, in this connection, of its communication ‘Promoting Decent Work for All’;

28. Hopes to see, for the sake of consistency in the policies conducted by the EU, greater collaboration between the different Commission and EEAS services, and the three institutions of the Commission, the Council and the European Parliament;

29. Considers that the criteria for evaluating development through trade and investment policies and programmes should include statistics not only on growth and trade, but also on the number of jobs created and improvements in the quality of life for people living in developing countries, in terms of human, social, cultural and environmental development;

Putting trade negotiations and agreements into a clearer development framework

30. Stresses the importance of combining trade reforms with well-designed public policies, notably social protection; stresses, more broadly, the importance of timely, and well-prepared National Development Strategies and systematic impact assessments of existing trade policy on poverty; calls on the Commission to implement the guidance prepared by the UN rapporteur on the right to food which calls for the use of Human Rights Impact Assessments — ‘Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements’ — when concluding trade and investment agreements, to ensure that these are consistent with obligations under international human rights instruments; also urges the EU to incorporate clear conditionality and clauses on human rights and democracy in all its trade agreements;

31. Stresses the importance of anchoring corporate social responsibility (CSR) in free trade agreements with developing countries in order to promote human rights and social and environmental standards; suggests including a comprehensive human rights chapter, in addition to social and environmental chapters, in all future free trade agreements;
32. Calls on the Commission to encourage governments of developing countries to conduct broad consultations including non-state and non-business actors during their trade policy-making: invites the Commission also to favour transparency during negotiations, so as to facilitate continued broad and effective involvement of stakeholders and support the pursuit of development results;

33. Calls for in-depth impact analyses, from a climate, gender and sustainability perspective, of the outcome of multilateral and bilateral trade agreements negotiated between the EU and third countries; urges the Commission to authorise explicit support for the management of climate change as part of all aid-for-trade and other relevant development aid;

34. Believes that benchmarks for development progress should be set in trade agreement negotiations in order to facilitate monitoring and, when necessary, modification of timetables for implementation of measures, modification of accompanying measures, which may include Aid for Trade and assistance for adjustment, and the preparation of new initiatives, when the pursuit of the development objectives so requires; highlights that providing developing countries with the legal and other expertise necessary to work effectively within the WTO and similar organisations is essential for trade negotiations;

35. Calls on the EU to further lower trade barriers and trade-distorting subsidies in order to help developing countries increase their share of global trade; calls for the abolition of agricultural export subsidies, committed to in the WTO Doha Development Round, to be implemented at the earliest possible date;

36. Encourages the Commission to support the call by the UN special rapporteur on the right to food to put in place a system of positive incentives to encourage the import into the EU of agricultural products that comply with specified environmental, social and human rights standards, in particular by ensuring fair revenues for producers and living wages for agricultural workers;

37. Calls on the EU to always ensure that its broad approach to trade negotiations, with the inclusion of issues like investment, government procurement, competition, trade in services and intellectual property rights, is in line with the respective needs and development strategies of partner countries; urges therefore the EU to define its policy in full respect of the 'special and differential treatment' granted to developing countries; reiterates too that governments and parliaments must retain the right to regulate investment, both so as to be able to discriminate in favour of investors that support the country's development and to ensure that there are obligations and duties on all, including foreign, investors regarding compliance with labour, environmental, human rights and other standards;

38. Welcomes the inclusion of the gender aspect in the sustainability impact assessments linked to trade negotiations; calls on the Commission to take note of these assessments and ensure that the identified gender issues are indeed addressed by the policy measures accompanying the trade agreements;

39. Believes that the focus in the negotiations on Economic Partnership Agreements should be on content rather than on deadlines; states that, for agreements to lead to development, a more flexible approach is needed on the part of the EU, encouraging the diversification of ACP countries' economies, with increased processing activities and increased regional trade;

Aid for Trade

40. Supports the Commission's proposal to differentiate its aid for trade and to focus its efforts on the countries most in need, especially the least developed countries (LDCs) and low-income countries;

41. Calls for AfT instruments to be focused not only on trade between the EU and developing countries, but also on support for internal, regional and South-South trade, as well as on triangular trade between ACP countries by promoting cross-border value chains, by increasing the efficiency of key services and by reducing transport costs, which at the same time can help strengthen developing countries' ties with the global markets;

42. Encourages the development of more effective support instruments in relation to production adjustment and diversification, as well as to the responsible and sustainable development of processing industries and small and medium-sized companies in developing countries;
43. Stresses that gender inequalities in relation to access to resources, such as microloans, credit, information and technology, should be taken into account when defining strategies for aid-for-trade and other relevant development aid;

44. Supports the package to promote trade for small operations in developing countries announced in the Commission communication; calls on the Commission to make progress in developing this package and calls on all donors to allocate sufficient funds to implement this package specifically to support the participation of small business in trade schemes that secure added value for producers, including those responding to sustainability (e.g. Fair Trade); requests regular updates on implementation of this package;

45. Notes that trade capacity is dependent on both hardware (infrastructure) and software (expertise); calls therefore for EU aid to be invested so as to promote both elements in many countries, particularly in cooperation with the least developed countries;

46. Calls on the EU to ensure that Aid for Trade promotes poverty-reducing and inclusive instruments, so its primary focus should be on the needs of small operators; stresses that Aid for Trade should be used to develop sustainable value chains with a pro-poor focus in order to enhance the goal of acquiring a sustainable supply chain;

47. Calls for the EU to focus on remedying the problems in the AfT programmes, especially with regard to implementation and monitoring capacity; calls subsequently for a shift in perspective that focuses on results and outcomes instead of inputs, but recognises the need for diligent and concerted external scrutiny that ensures open and transparent trade practices;

48. Calls for the EU to integrate the private sector in the design of AfT projects more effectively with a view to empowering companies in developing countries to boost trade;

Development and the role of the private sector

49. Considers that, in view of the transformation in the structure of international trade and of North-South trade, ownership of aid programmes by the beneficiary countries, together with transparency, accountability and sufficient resources, are crucial factors contributing to their effectiveness and success, the aim being to reduce disparities in wealth, share prosperity and achieve regional integration; also considers it crucial that the design and monitoring of these programmes systematically involve national, regional and local institutions, as well as civil society, and provide for oversight by the donors;

50. Calls on the Commission to take better account of new challenges posed by development aid through trade, such as the differentiation of levels of development, support for local production and the diversification thereof, and the promotion of social and environmental standards;

51. Urges all donors — public and private — to coordinate their actions more and to adjust them in line with current funds, particularly given the current situation with regard to budget cuts; recalls that the BRICS countries are now both aid beneficiaries and donors; calls on them to cooperate with the EU so their experience can be shared and their actions optimised, and to accept more responsibilities vis-à-vis the less developed countries and within the donor community; expresses concern at the proliferation of tied aid practices and urges the developed countries and the major emerging countries to avoid resorting to such practices;

52. Asks the Commission and all donors to seek out innovative types of development funding and partnerships; recalls, in this connection, that peer-to-peer lending can also contribute to advancing development through trade; recommends better coordination of development projects funded by regional development banks and the World Bank/International Finance Corporation, and more widespread use of interregional funding schemes such as the EU-Africa Infrastructure Trust Fund;

53. Urges the EU-based companies with production facilities in developing countries to abide strictly by obligations to respect human rights and freedoms, social and environmental standards, equality between women and men, core labour standards, international agreements and payment of appropriate taxes in a transparent manner; calls for the implementation without exception of the right to freedom from forced labour and especially from child labour;
54. Is convinced of the potential of the private sector to function as a driving force in development and stresses that in order to realise this potential the process needs to serve local communities and generate, via the principle of inclusive fair supply chains, empowerment for all actors involved, from the producer/worker to the consumer;

55. Welcomes the fact that a broad range of industries and transnational corporations set supplier codes of conduct detailing the social and environmental performance standards for their global supply chains; recalls however that the proliferation and heterogeneity of CSR codes present challenges; notes, in particular, that owing to the heterogeneity of the CSR concept, with different companies having developed different standards on accounting, auditing and reporting, levels of CSR are hard to compare; calls once more, therefore, on the EU to strive for a clear international legal framework for the responsibilities and obligations of business with regard to human rights;

56. Calls moreover on EU-based and other companies to abide by the ten core principles of the UN’s Global Compact and Guiding Principles on Business and Human Rights;

57. Calls for stronger EU efforts in relation to tax havens and capital flight, which undermine revenues of both EU and developing countries and work against poverty alleviation and wealth creation in poor countries; highlights that illegal capital flight from developing countries represents between six and 8.7 per cent of their GDP and 10 times the total development assistance for these countries; calls therefore on the Commission to proactively seek further opportunities for cooperation with developing countries on this issue; calls in particular for an international convention with the purpose of eliminating harmful tax structures (on the model of a multilateral mechanism for automatic tax-information exchange) that would include sanctions both for non-cooperative jurisdictions and for financial institutions that operate within tax havens (i.e. by considering the possibility of withdrawing banking licences from financial institutions that operate with tax havens along the lines of the US Stop Tax Haven Abuse Act);

58. Urges the EU, other aid donors, partner country authorities and local and international private actors in developing countries to explore possible areas of cooperation for sustainable development in order to maximise the development output of business activities and to include civil society organisations at all levels of discussions;

59. Highlights the vital importance of promoting public-private growth initiative partnerships in EU development policies and engaging the experience, expertise and management systems of the private sector in partnership with public resources; calls for helping local authorities in European Member States with experience in, for example, building infrastructure, to twin and cooperate with local authorities in developing countries;

60. Believes that Foreign Direct Investment is also a strong driver for sustained economic growth, the transfer of know-how, enterprising spirit and technology and job creation, and is therefore vital to development; calls for the development agenda to focus on supporting capacity-building in developing countries aimed at creating a transparent, predictable and favourable investment climate where red tape for business is reduced to a minimum, property rights are respected, competition is promoted and sound macroeconomic policies are pursued;

61. Notes that despite the implementation of the Kimberley Process for the certification of conflict diamonds, trade in natural resources is still fuelling rebels and human rights abuses are still taking place in mining areas; emphasises therefore the urgent need for a system of due diligence for gems and valuable minerals, such as so-called conflict minerals; takes the view that such a measure could contribute to addressing the overriding challenge of the resource curse and increase the benefits for developing countries to trade their commodities; welcomes, in this context, the Commission’s plans to publish a communication on conflict minerals;

62. Acknowledges that the Commission is a partner in the Extractive Industries Transparency Initiative (EITI); calls on the Commission and parties active within the extractive industry to actively encourage more producer countries to join the initiative;

63. Stresses that natural resources pose two main challenges for developed and developing countries: the environmental challenge of coping with impacts from using resources throughout their lifecycle, and the socio-political challenge of coping with human rights and poverty internationally;
64. Strongly supports the legislative proposal for country-by-country reporting as part of the revision of the Accounting and Transparency Directive, in order to discourage corruption and prevent tax avoidance; calls on European extractive industries operating in developing countries to set an example in terms of social responsibility and the promotion of decent work;

65. Points out that the governance problem in the resource sector has been addressed almost entirely by voluntary initiatives, the most prominent being the Extractive Industries Transparency Initiative that attempts to improve information transparency; observes, however, that although necessary, EITI is not sufficient to address the wider problem of corruption and bribery in the extractive sector; notes also that the UN Framework on Business and Human Rights (protect, respect, access to remedy) is not yet specific with regard to extractive industries and resources; in this respect, takes the view that there is a need to add specific provisions on extractive industries to the UN Framework on Business and Human Rights and that a first step might be to appoint a UN Human Rights Council special rapporteur on that issue, with a mandate to assess and develop recommendations;

66. Takes the view that standards for transparency and certification need to be enlarged over time to fully address bribery and corruption in the extractive sector and beyond; calls, more broadly, on the EU to support stronger governance mechanisms to address the environmental and human rights dimensions of resource exploitation; takes the view, in particular, that an international convention for sustainable resource management is essential to lay down fundamental legal principles for sustainable resource management;

67. Stresses that sustainable mining requires approaches that address the whole lifecycle of resources; points out that the complexity of global supply chains hinders transparency; takes the view, therefore, that existing transparency initiatives should be accompanied by certification efforts in the form of product labelling along mineral supply chains;

68. Demands that private actors involved in trade with or refinement of products from extractive industries take steps to ensure the regular, thorough and strict follow-up of CSR principles along the supply chain;

69. Calls on the Commission and the EEAS to build on the recently ratified Dodd-Frank Act by the US Securities Exchange Commission requiring resource extraction issuers to disclose certain payments made to governments; encourages the Commission to extend reporting requirements for extractive industries to other industries and to look at whether the disclosures should be independently audited;

70. Takes the view that bilateral trade and investment policies should refer to common principles such as those provided by the Natural Resource Charter; considers, in line with due diligence supply chain efforts, that this could be accompanied by sectoral provisions in areas relating to smelters and refineries and metal and recycling industries;

71. Urges the EU to acknowledge that export restrictions can be a component of some countries’ development strategies or be justified for environmental protection reasons;

**Food security and biofuels**

72. Urges the EU and all other donors not to facilitate or contribute to the reassignment of fertile land in food-insecure countries and regions to purposes other than food production and to establish good practice approaches to land and resource management for biofuels and other cash crops;

73. Stresses the need to remove incentives for farmers in food-insecure countries to use their land for purposes other than food production, such as production of biofuels; believes that research and innovation, supported by pro-active policies in developed as well as in developing countries, can help reduce the contradiction between food security and energy interests;

74. Instructs its President to forward this resolution to the Council and the Commission.
Trade and investment-driven growth for developing countries

European Parliament resolution of 16 April 2013 on trade and investment-driven growth for developing countries (2012/2225(INI))

(2016/C 045/03)

The European Parliament,

— having regard to Articles 207 and 208 of the Treaty of the Functioning of the European Union and Article 3 of the Treaty on European Union,

— having regard to the Commission communication ‘Trade, growth and development — tailoring trade and investment policy for those countries most in need’ (COM(2012)0022),

— having regard to the Commission communication ‘Trade, Growth and World Affairs — Trade Policy as a core component of the EU’s 2020 Strategy’ (COM(2010)0612),

— having regard to the Commission communication ‘Improving EU support to developing countries in mobilising Financing for Development’ (COM(2012)0366),

— having regard to the Commission communication ‘A new response to a changing Neighbourhood’ (COM(2011)0303),

— having regard to the Commission communication ‘Increasing the impact of EU Development Policy — an Agenda for Change’ (COM(2011)0637),

— having regard to the Commission communication ‘Global Europe: a New Approach to financing EU external action’ (COM(2011)0865),

— having regard to the Commission communication ‘Towards a comprehensive European international investment policy’ (COM(2010)0343),

— having regard to the communication ‘A renewed EU strategy 2011-14 for Corporate Social Responsibility’ (COM(2011)0681),

— having regard to the Commission communication ‘Towards an EU Aid for Trade strategy — the Commission’s contribution’ (COM(2007)0163),

— having regard to the communication ‘Trade and Development: Assisting Developing Countries to Benefit from Trade’, (COM(2002)0313),

— having regard to the 2012 EU Accountability Report on Financing for Development, and in particular the section on aid for trade (SWD(2012)0199),

— having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (ACP) and the European Union, signed in Cotonou on 23 June 2000, and its revisions in 2005 and 2010,

— having regard to its resolutions of 25 November 2010 on human rights and social and environmental standards in international trade agreements (1), international trade policy in the context of climate change imperatives (2) and corporate social responsibility in international trade agreements (3),

2 OJ C 99 E, 3.4.2012, p. 94.
— having regard to its resolution of 23 May 2007 on the EU’s Aid for Trade (1),

— having regard to its resolutions of 25 March 2009 on the economic partnership agreements with the ACP regions and states (2),

— having regard to its resolution of 27 September 2011 on a New Trade Policy for Europe under the Europe 2020 Strategy (3),


— having regard to its position of 13 September 2012 on the proposal for a regulation of the European Parliament and of the Council amending Annex I to Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations (5),

— having regard to its resolution of 6 April 2011 on future European international investment policy (6),

— having regard to its position of 11 December 2012 on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council establishing transitional arrangements for bilateral investment agreements between Member States and third countries (7),

— having regard to its resolution of 16 February 2012 on the proposal for a Council decision on the conclusion of the regional Convention on pan-Euro-Mediterranean preferential rules of origin (8),

— having regard to the Council conclusions of 16 March 2012 on the EU’s approach to trade, growth and development in the next decade and of 15 October 2012 on financing for development,

— having regard to its resolution of 25 March 2010 on the effects of the global financial and economic crisis on developing countries and on development cooperation (9),

— having regard to the opinion of the European Economic and Social Committee of 18 September 2012 (10),

— having regard to the WTO’s Aid-for-Trade Work Programme 2012-2013,

— having regard to the joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on the European Union Development Policy: ‘The European Consensus’ (11),

— having regard to the EU Strategy on Aid for Trade: Enhancing EU support for trade-related needs in developing countries, adopted on 15 May 2007,

— having regard to the Almaty Programme of Action for Landlocked Developing Countries adopted on 28—29 August 2003,

— having regard to the Paris Declaration on Aid Effectiveness of 2 March 2005 and to the Busan Partnership for Effective Development Cooperation established on 1 December 2011,

(3) OJ C 56 E, 26.2.2013, p. 87.
(5) Texts adopted, P7_TA(2012)0342
(6) OJ C 296 E, 2.10.2012, p. 34.
(7) Texts adopted, P7_TA(2012)0471
(8) Texts adopted, P7_TA(2012)0060
(10) OJ C 4 E, 7.1.2011, p. 34.
(11) OJ C 43, 15.2.2012, p. 73.
— having regard to the Istanbul Programme of Action for the LDCs for the decade 2011-2020 (1),

— having regard to the ‘Seoul Development Consensus for Shared Growth’ adopted at the G-20 summit in Seoul on 11— 12 November 2010,

— having regard to UNCTAD’s World Investment Report 2012, the 2011 United Nations (UN) Guiding Principles on Business and Human Rights, the UN Guiding principles on human rights impact assessments of trade and investment agreements, the UNCTAD/FAO/World Bank/IFAD Principles for Responsible Agricultural Investment, the 2011 Revision of the OECD Guidelines for Multinational Enterprises, the Doha Mandate adopted at UNCTAD’s XIII Ministerial Conference in 2012 and the Rio+20 Conference in 2012,

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

— having regard to the report of the Committee on International Trade and the opinion of the Committee on Development (A7-0053/2013),

A. whereas the EU’s trade and investment policy should be guided by the general principles of its external action as laid down in Articles 3 and 21 TEU, and should contribute to ‘the sustainable development of the Earth ...., free and fair trade, eradication of poverty and the protection of human rights’;

B. whereas Articles 207 and 208 of the Treaty on the Functioning of the European Union are interlinked; whereas Article 207 states that the EU’s commercial policy shall be based on the principles and objectives of the Union’s external action; whereas Article 208 requires that the Union’s policies which are likely to affect developing countries shall take account of the objectives of development cooperation;

C. whereas trade and investment between the EU, developing countries (DCs) and least developed countries (LDCs) is a means of achieving those objectives by stimulating the sustainable and inclusive growth of all parties enabling the transfer of technologies and skills and helping to create jobs, making it possible to increase competitiveness and productivity, achieve greater social cohesion and combat inequality;

D. whereas trade and investment cannot in themselves have a decisive impact on growth and sustainable development, since the structural weaknesses (shortfalls in human capital, governance and infrastructure, a weak private sector, heavy reliance on exports of raw materials, poor export diversification, high trade costs, etc) from which DCs, including LDCs, suffer hamper their full access to world trade;

E. whereas the EU trade and investment policy designed to stimulate growth in beneficiary countries must be in line with the development targets set by the relevant authorities and the principle of Policy Coherence for Development, and go hand-in-hand with technical and financial assistance and, where appropriate, development of North-South, cross-border and South-South public-private partnerships;

F. whereas, in 2010, South-South trade came to account for 23 % of world trade; whereas, according to the WTO’s 2011 World Trade Report, preferential South-South agreements represented two-thirds of all such agreements, and North-South agreements only one-quarter; whereas, according to the World Investment Report 2012, the emerging economies between them attract almost half of the world’s foreign direct investment (FDI);

G. whereas many countries are still not fully benefiting from trade, and the ratio of least-developed countries (LDCs) in the world GDP is falling; whereas, in spite of a high economic growth rate, the 49 LDCs still account for only 1,12 % of world trade; whereas trade has not been equally beneficial to all DCs, and in some cases has exacerbated social inequalities;

H. whereas the major emerging countries, which still belong to the DC category, are simultaneously donors and beneficiaries of aid for trade; whereas the EU and the other developed countries should take greater account of the complex status of these new players, their importance and their specific characteristics, and hence adapt their aid for trade;

I. whereas trade and investment measures to promote sustainable development can have very varied origins and forms; whereas several different programmes and actions may be run within the same country, but a lack of coordination can reduce their effectiveness and relevance and, ultimately, dent the public’s confidence in such measures;

J. whereas the EU and its Member States are the largest donors of aid for trade, with EUR 10,7 billion committed in 2010 (or almost a third of the total amount of ODA); whereas the economic and financial crisis has raised the issue of reducing the funding earmarked for public-sector development assistance, and in particular aid for trade, as well as that of the effectiveness of its use;

K. whereas the EU has committed itself to increasing its total aid budget to 0,7 % of GNI by 2015;

1. Supports the Commission’s aim of enhancing synergies between trade and development policies; recommends that it take account of beneficiary countries’ needs and capacities, encouraging instruments such as regional integration which can ensure that better advantage is taken of such synergies, and give priority to measures aimed at:

— promoting sustainable and inclusive development;

— creating jobs and reinforcing skills and the development of human capital while reducing social inequalities;

— improving resistance to economic shocks;

— supporting the development of the private sector, in particular small operators, including micro businesses and small and medium-sized enterprises, in order to foster their participation in trade and investment at local, regional, cross-border, bilateral and multilateral level;

— improving fiscal governance and the fight against corruption, tax fraud and evasion, money laundering and tax havens, including by establishing information exchanges and supervisory mechanisms on corporate payments;

— improving the trade and investment climate, including the implementation of trade facilitation measures;

— diversifying trade and investment flows; and,

— providing the necessary technical assistance to ensure the proper development of these measures;

2. Calls on the EU to respect the principle of Policy Coherence for Development when drawing up and implementing its trade, agricultural, environmental and energy policies, and to assess the impact of these policies on the level of development of the DCs and the LDCs;

3. Stresses the importance of decent wage levels and decent workplace safety standards for a sustainable global trade system and new global production chains; reminds the Commission in this regard of its communication ‘Promoting Decent Work for All’;

4. Urges the EU, other aid donors, authorities in partner countries and local and international private actors in developing countries to explore possible areas of cooperation for sustainable development, in order to maximise the contribution of business activities to achieving development goals;

5. Stresses the need for the EU, in order to increase wealth and living standards among the poorest, to specifically target some of its trade-related assistance for responsible and sustainable development towards building local and regional trade capacities within and among these countries; welcomes the objectives of the Development Cooperation Instrument, which highlights the priorities of employment and growth in developing countries;

6. Considers the ownership by beneficiary countries of programmes for developing trade and investment to be one of the decisive factors in their success; believes that national, regional and local authorities and civil society must be systematically involved, in accordance with the rule of law, in the framing and monitoring of national programmes;
7. Encourages the DCs to mainstream the objective of sustainable economic development, as a cross-cutting national policy goal laid down in their respective strategies and initiatives; asks the Commission to work, inter alia by offering more assistance, towards increasing governments’ capacity to incorporate issues linked to sustainable and inclusive economic development into their national trade strategies and programmes;

8. Notes that better training in development issues would allow the clearer identification of concrete development needs and of possible ways to fulfil them in order to guide and facilitate the tasks of trade negotiators and other trade officials;

9. Views as decisive investment aimed at creating, developing, strengthening and maintaining key sustainable transport, sustainable energy and telecommunications infrastructure, in particular cross-border infrastructure and intermodal hubs;

10. Emphasises the need to establish full transparency regarding payments made to governments by European enterprises; calls on the Commission to support sustainable industrialisation strategies in developing countries aimed at trading in value-added products rather than just raw materials;

11. Considers that when trade and investment are used as drivers for sustainable growth and economic development, they should target in particular the following objectives, while developing the production and infrastructure that is needed:

**Agriculture:**

— support for self-employed farmers and small cooperatives and for the development of sustainable agricultural, piscicultural and breeding practices which enable supply chains to be established, consolidated and diversified;

— improving their access to financing and microfinancing:

— supporting DCs in accessing information and in aligning to international health and plant health standards, in order to guarantee fair competition and broader access to markets, including better access for DCs to the markets of industrialised countries while better protecting their populations;

— gradual removal of export restrictions and action to counter agricultural price speculation and volatility;

— support for the introduction and marketing of socially and environmentally friendly goods and services, including eco-tourism, with a view to ensuring added value for the producers and respect for sustainability criteria;

— sustainable and transparent management of natural resources;

— programmes for the fair access of farmers to land;

— creating access to capacity-building, especially around product diversification; enhancing products’ added value and assisting in compliance with standards and technical requirements for local, regional and international markets;

— put in place a system of positive incentives in the Sustainable Development Subheadings of trade agreements, to encourage imports of agricultural products to the EU that comply with international environmental, social and human rights standards, in particular by ensuring fair incomes for producers and a living wage for agricultural workers, as called for by the UN special rapporteur on the right to food;

— support the need for DCs and LDCs to ‘carve off’ certain sensitive agricultural products from reciprocal liberalisation;

**Industry:**

— the creation, strengthening and diversification of production capacities and sustainable manufacturing development that generates, via inclusive fair supply chains, benefits for the local actors involved;
— improving the business and investment climate in order to facilitate private-sector participation, including local small businesses and, where appropriate, the development of public-private partnerships;

— the gradual removal of trade restrictions, taking account of the need for DCs to diversify their economy and the need to protect infant industries in order to build up a sustainable domestic industrial base;

— protection of intellectual property rights, including GIs, taking account the level of development of countries and with a view to favouring technology transfer (including green technology), in compliance with the Doha Declaration on TRIPS and Public Health;

— promoting decent working conditions, transparency and sustainability; fostering sustainable and equitable forms of work; reinforcing labour safety standards and social protection systems, with particular reference to the ILO recommendations on national social protection floors;

**Services:**

— strengthening the rule of law and good governance in order to improve the legal certainty, transparency and legality of private investments, and in particular of FDI;

— carefully scrutinise existing provisions and negotiating directives on financial services in and for trade agreements, given that these should not hamper adequate financial regulation within the EU and its trading partners;

— improving the conditions for public procurement;

— enhancing the efficiency of public services;

— promoting services that facilitate trade and investment, and particularly environment-friendly services, including tourism, logistics and investment;

**Administration:**

— helping national governments to decide their national trade policies and strategies with an adequate level of transparency and participation;

— developing common tools and resources to provide the least developed countries concerned with practical information and methods;

— support for the reform of tax and customs administrations, and for measures aimed at limiting the informal sector’s share of the economy as well as reintegrating the informal sector into the regulated economy;

— improving the effectiveness, governance and organisation of transit systems and the movement of goods, persons and services;

— establishing institutions that facilitate trade and investment and the creation of guarantee funds and risk capital funds, including seed capital and business angels;

12. Supports the Commission’s proposal to differentiate its aid for trade and to focus its efforts on the countries most in need, especially the least developed countries; recommends, nevertheless, that the Commission take account of a country’s general level of development and its needs, capacities and internal development inequalities, in addition to the standard indicators (gross national product, human capital and vulnerability to economic shocks); urges the Commission to take account of the principles of the Enhanced Integrated Framework (EIF) for the LDCs;

13. Emphasises that social entrepreneurship and social innovation in the developing countries are the engines of growth for development, and can help reduce inequality and promote growth, provided that profits are reinvested in the economy;

14. Takes the view that while transfers of funds and microfinance remain relevant tools, they alone cannot meet all funding requirements; calls on all donors to seek out and promote innovative forms of financing and partnership; supports the introduction of South-South and triangular partnerships; recommends more widespread use of interregional funding schemes, such as those implemented in connection with the EU-Africa Infrastructure Trust Fund;
15. Supports the package for promoting trade for small operators in developing countries announced in the Commission communication; calls on the Commission to make progress on developing this package, and calls on all donors to allocate sufficient funds for its implementation, and, specifically, to support the participation of small businesses in trade schemes that secure added value for producers, including those responding to sustainability (e.g. Fair Trade); requests regular updates on implementation;

16. Welcomes the adoption of the communication ‘Improving EU support to developing countries in mobilising Financing for Development’; calls on the Commission to implement its proposals swiftly, with a view to mobilising additional sustainable, predictable and effective financing; welcomes the guidelines set out in the OECD’s Policy Framework for Investment User’s Toolkit; welcomes the results of the Busan Global Partnership for Effective Development Cooperation and the Istanbul Principles for CSO Development Effectiveness;

17. Expresses its concern at the proliferation of tied aid practices; urges the developed countries and the major emerging countries not to resort to such practices, but, rather, to make efforts to harness regional and local resources, including human capital, in their economic development projects centring on trade and investment;

18. Recognises the work done by the international institutions (the WTO, UNCTAD, UNIDO, the OECD, the G20, the World Bank and the multilateral development banks) in the field of aid for trade; favours, in the framework of aid for trade programmes, the inclusion of measures to help DCs compensate for the losses stemming from trade liberalisation; considers that a system should be established to facilitate international, national and local cooperation between donors under the coordination of UNCTAD and the WTO; recalls the EU’s commitment to promote and facilitate the representation and participation of DCs in the above international institutions;

19. Deplores the lack of coordination of investment policies, including at the international level; welcomes the agreement reached by Parliament and the Council on transitional arrangements for bilateral investment agreements between Member States and third countries; encourages the Commission to develop an EU policy on international investment which ensures proper investment protection, enhances legal certainty, and reflects the capacity of states to generate common rules and standards, while taking into account particular social, economic and environmental needs such as, inter alia, those set out in UNCTAD’s Investment Policy Framework for Sustainable Development; recalls that DCs suffer disproportionately from high costs of investor-to-state dispute settlement;

20. Considers it essential to reform the IIAs in order to strengthen their development dimension, by balancing the rights and obligations of states and investors, ensuring sufficient policy space for sustainable development policies, and making investment promotion provisions more concrete and more closely aligned with sustainable development objectives;

21. Urges the Commission to produce disaggregated data on outbound EU foreign direct investment (FDI) to DCs and LDCs, considering the following categories of investment: mergers and acquisitions, intra-company shuffling of assets, speculative investment and green investment;

22. Believes that cooperation should also focus on capacity and institution-building, so that DCs are able to frame the necessary conditions for investment, such as building tax-collection capacities, fighting tax evasion, and implementing the highest accounting standards;

23. Welcomes the WTO’s decision to facilitate accession for LDCs; calls on the developed countries and the major emerging countries which are WTO members to use the derogation applicable to services in the case of LDCs and to apply preferential treatment to services and service providers from LDCs, while paying particular attention to Mode 4, which is a priority for LDCs;

24. Hopes that the EU and its Member States will use their influence, especially on the major emerging countries, to achieve a swift conclusion of the trade facilitation agreement negotiated as part of the Doha Round;

25. Welcomes the commitment made by the BRICS countries to promote the growth and economic development of the DCs; calls on them to link their actions to respect for democratic principles and good governance and the promotion thereof; asks the Commission to continue to include a democracy and human rights clause in all trade agreements with developing countries;
26. Urges the Commission to propose tangible ways of bolstering its support for swifter and deeper regional integration amongst DCs, with a view to developing regional markets and creating regional value chains; to this end, invites the Commission to promote regional integration in its bilateral and regional trade agreements; calls on the Commission to consider simplifying and harmonising rules of origin and the means of facilitating their use by small-volume exporters; calls on the Commission to strengthen its partnerships with existing regional institutions, and particularly the African Development Bank; points out the vital role played by the local private sector in terms of trade integration and economic development;

27. Welcomes the reform of rules of origin and the entry into force of the reformed generalised system of preferences (GSP); hopes the Commission will come forward with a report on the consequences for beneficiary countries of the change in that system, and particularly for those countries for which preferences have been withdrawn, in accordance with the provisions of Article 40 of the new rules;

28. Takes note of the provisional application of a first economic partnership agreement (EPA) with a group of African countries; encourages the Commission to take stock of the lack of progress so far in concluding other EPAs which take full account of the development interests of DCs; calls on the Commission to harness this momentum in order to relaunch the ongoing negotiations on EPAs between the EU and interested DCs, in order to gradually integrate their markets in the multilateral trade framework; stresses the importance of establishing a firm and fair legal and commercial framework for promoting EU investment in ACP countries in a form that is mutually beneficial; calls on the Commission to take into account Parliament's recommendations concerning preference erosion and the flexibility and scope of tariff dismantling, and to pay particular attention to implementing the EPAs;

29. Believes that the EU has developed tools in the field of development assistance through trade and investment, including the GSP and EPAs, that are effective provided their provisions and implementation criteria do not result in discrimination or limitations that may prove disadvantageous to their potential beneficiaries; urges the Commission, nonetheless, to combine all the existing instruments in a genuine overarching strategy that also comprises measures in the fields of technical assistance for trade, capacity-building and trade-related adjustment, also in relation to standardisation; believes that the Commission and the European External Action Service should develop synergies in order to further enhance the Union's commercial diplomacy worldwide;

30. Encourages the Commission to include Trade and Sustainable Development chapters in bilateral trade agreements with binding environmental and labour rules and CSR clauses; considers that, additionally, the Commission should offer cooperation to help DCs and LDCs meet those standards; believes that a strong involvement of civil society in the monitoring of the implementation of such chapters increases awareness and acceptance of environmental and social standards;

31. Recommends that the Commission negotiate the inclusion of binding and enforceable human rights provisions, in addition to social and environmental provisions, in all future trade agreements in order to increase the effectiveness and credibility of the EU's conditionality policy;

32. Urges the EU to design its trade agreements so as to foster responsible investor behaviour and compliance with best international practises of corporate social responsibility (CSR) and good corporate governance; stresses, in particular, that in order for growth to be inclusive and efficient in terms of poverty reduction, it should be pursued in sectors in which poor people are active, should benefit and empower women, and should be associated with the creation of jobs as well as with the development of finance for micro-enterprises and small businesses;

33. Calls on EU-based companies with production facilities in developing countries to set an example by abiding by obligations to respect human rights and freedoms, social and environmental standards, core labour standards and international agreements;

34. Calls on European corporations whose subsidiaries or supply chains are located in developing countries to comply with their national and international legal obligations in the areas of human rights, labour standards and environmental rules;

35. Welcomes the fact that a broad range of industries and transnational companies have adopted codes of conduct detailing social and environmental performance standards for their global supply chains; recalls, however, that differing accounting, auditing and reporting standards for these codes make them difficult to compare; stresses that better implementation of the UN Guiding Principles on Business and Human Rights will contribute to EU objectives regarding specific human rights issues and core labour standards;
36. Stresses that EU assistance to governments of third countries in implementing social and environmental regulation is a necessary complement to advancing the CSR of European businesses worldwide;

37. Notes that, notwithstanding the implementation of the Kimberley Process for the certification of conflict diamonds, trade in natural resources is still fuelling rebels and human rights abuses are still taking place in mining areas; emphasises, therefore, the urgent need for a system of due diligence for extraction of and trade in gems and other so-called conflict minerals; takes the view that such a measure could contribute to addressing the overriding challenge of the resource curse and increase the benefits for developing countries of trading their commodities;

38. Acknowledges that the Commission is a partner in the Extractive Industries Transparency Initiative (EITI); calls on the Commission and parties active within the extractive industry actively to encourage more producer countries to join the initiative;

39. Urges the Commission, when concluding trade and investment agreements, to implement the guidance prepared by the UN rapporteur on the right to food which calls for the use of Human Rights Impact assessments ('Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements'), so as to ensure that the agreements are consistent with obligations under international human rights instruments;

40. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, and the ACP-EU Joint Parliamentary Assembly.
Facility for providing financial assistance for Member States whose currency is not the euro

European Parliament resolution of 17 April 2013 on the proposal for a Council regulation establishing a facility for providing financial assistance for Member States whose currency is not the Euro (COM(2012)0336 — 2012/0164(APP))

(2016/C 045/04)

The European Parliament,

— having regard to the proposal for a Council regulation (COM(2012)0336) (the ‘BoP proposal’),

— having regard to the request for consent to be submitted by the Council in accordance with Article 352 of the Treaty on the Functioning of the European Union,

— having regard to the Treaty on the functioning of the European Union (TFEU), in particular Articles 143 and 352 thereof,

— having regard to the Commission proposal of 23 November 2011 for a Regulation by the European Parliament and by the Council on the strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area, the amendments thereto adopted by Parliament on 13 June 2012 and the provisional text of the final agreement with Council (1),

— having regard to the Commission proposal of 23 November 2011 for a Regulation by the European Parliament and by the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area, the amendments thereto adopted by Parliament on 13 June 2012 and the provisional text of the final agreement with Council (2),

— having regard to Council Regulation (EC) No 332/2002 of 18 February 2002, establishing a facility providing medium-term financial assistance for Member States’ balances of payments (3),

— having regard to its resolution of 20 November 2012 with recommendations to the Commission on the report of the Presidents of the European Council, the Commission, the European Central Bank and the Eurogroup ‘Towards a genuine Economic and Monetary Union’ (4),

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

— having regard to the interim report of the Committee on Economic and Monetary Affairs (A7-0129/2013),

A. whereas, pursuant to Article 352 of the Treaty on the Functioning of the European Union (TFEU), the Council, acting in accordance with a special legislative procedure, will adopt a regulation on establishing a facility for providing financial assistance for Member States whose currency is not the euro, acting unanimously, after obtaining the consent of Parliament;

B. whereas a balance of payments (BoP) facility was established in 2002 by Council Regulation (EC) No 332/2002, enabling financial assistance to Member States whose currency is not the euro;

C. whereas the total amount available in that facility has been increased from the initial EUR 12 000 million to EUR 25 000 million in December 2008 and to EUR 50 000 million in May 2009, in response to the financial crisis; whereas out of the EUR 50 000 million, EUR 13 400 million have been disbursed to Romania, Latvia and Hungary, in addition to a precautionary reservation of EUR 1 400 million to Romania;

(1) Text adopted of 12.3.2013 (P7_TA-PROV(2013)0069 (the ‘Gauzès file’).
(2) Text adopted of 12.3.2013 (P7_TA-PROV(2013)0070 (the ‘Ferreira file’).
D. whereas Hungary, Romania and Latvia were the first Member States to request and benefit from Union financial assistance at the beginning of the financial and economic crisis by means of a BoP facility; whereas the economic and financial crisis has seriously hit several non-euro area Member States;

E. whereas the global economic crisis has had a severe impact on all Member States, provoking a deterioration of their public deficit, balance of payment as well as the overall debt.

F. whereas the European Stability Mechanism (ESM), which was established in October 2012, is the main support mechanism for euro area Member States, with a lending capacity of EUR 500,000 million, provided by subscribed capital; whereas the ESM will, in the future, under certain conditions, be able to fund banks in difficulties directly;

G. whereas in its resolution of 20 November 2012, Parliament requested that the ESM evolve towards Community-method management, that it be made accountable to Parliament and that key decisions, such as the granting of financial assistance to a Member State and the conclusion of memorandums, should be subject to proper scrutiny by Parliament;

H. whereas it is critical that the facility contains democratic accountability mechanisms as well as consideration of the functioning of national parliaments;

I. whereas the BoP proposal does not provide for Member States whose currency is not the euro to benefit from financial instruments which are fully comparable to those within the ESM at their disposal;

J. whereas updating Regulation (EC) No 332/2002 would help ensuring a level playing field between euro area and non-euro area Member States and would simplify the procedure for activating the balance of payments facility;

K. whereas it is important to safeguard the role of the social partners and respect different national practice and institutions for wage formation when implementing Regulation (EC) No 332/2002 and the Regulation to be adopted on the basis of the BoP proposal, in particular when drafting and implementing macroeconomic adjustment programmes; whereas this is a horizontal issue for the whole of the Union and therefore consistency between euro area and non-euro area Members States is motivated in this regard.

1. Welcomes the BoP proposal as a first step towards achieving a level playing field between euro area and non-euro area Member States; acknowledges that the task is not simple given the features of the mechanisms recently created for the euro area;

2. Believes that the BoP financial assistance can play an important role in helping Member States to improve their administrative capacity to absorb Union funds more effectively;

3. Is of the opinion, however, that a number of amendments, outlined in this interim report, are needed in order to achieve an acceptable outcome; therefore requests in the interest of transparent decision-making that the Council and the Commission await the adoption of this interim report before adopting the regulation on the basis of the BoP proposal;

4. Highlights that Article 352 TFEU is a suitable legal basis for the Regulation to be adopted on the basis of the BoP proposal and stresses that this basis allows the establishment of new types of Union financial assistance and of a framework for such assistance beyond the scope of the assistance provided under Article 143 TFEU;

5. Regrets that the Commission did not conduct a wide consultation before the adoption of the BoP proposal, and that the Commission did not provide reasons to suggest that this was because of exceptional urgency, as required pursuant to Article 2 of Protocol No 2 on the application of the principles of subsidiarity and proportionality annexed to the TFEU and to the Treaty on European Union (TEU);

6. Points out and regrets that no reference was made to the application of the principles of subsidiarity and proportionality as required by Article 5 of Protocol No 2 on the application of the principles of subsidiarity and proportionality annexed to the TFEU and to the TEU; asks the Commission and Council to make an explicit reference to the above mentioned principles before submission of the draft Regulation for consent of the European Parliament;
7. Asks the Council and the Commission to take account of the following requests before submission of the draft Regulation for consent of the European Parliament:

(i) the Union budget is the ultimate collateral for all assistance measures under the BoP proposal; against this background, the Commission should present appropriate solutions beyond existing provisions as to how Parliament's budgetary oversight role of the Union budget could be more substantially taken into account in the BoP proposal and implemented so as to allow for true accountability;

(ii) the Commission should clarify the relationship between any assistance that might be granted to a non-euro area Member State under Regulation (EU) No 407/2010 establishing the European Financial Stability Mechanism (1) and the provisions and instruments established pursuant to the Regulation to be adopted on the basis of the BoP proposal after the discontinuation of the European Financial Stability Mechanism (EFSM);

(iii) since the EFSM will soon be discontinued, as announced by EU leaders at the 2010 European Council, in light of the entry into force of the ESM Treaty, the outstanding funding capacity in the EFSM (approximately EUR 10 000 million) could be transferred to the BoP facility, which would increase its firepower from EUR 50 000 million to EUR 60 000 million; once Member States reimburse the loans taken out from the EFSM, the Union budget guarantee will no longer be needed for the reimbursed amount, thus freeing the budget for guaranteeing new loans. Upon the discontinuation of the EFSM, the remaining EFSM capacity will no longer be used in the EFSM framework and could be used from then onwards under the BoP facility;

(iv) no effective link or material conditionality should be established between the BoP facility and the use of structural funds in the BoP proposal; conditions relating to the use of structural funds should, if needed, be addressed in the relevant Cohesion Policy legislative act;

(v) Article 2(4) of the BoP proposal, on the consultation requirement with the Commission where financial assistance outside the Union is sought, should not apply to a Member State receiving financial assistance on a precautionary basis in the form of a credit line which is not conditioned to the adoption of new policy measures by the concerned Member State, as long as the credit line is not drawn;

(vi) it is necessary to enhance the transparency and accountability within the enhanced surveillance process by adapting the economic dialogue in a way that allows the relevant national parliament as well as the European Parliament to invite the Commission, the Council, the European Central Bank (ECB) and the International Monetary Fund (IMF) for an exchange of views;

(vii) the Commission should present its draft recommendation to grant a loan to a Member State together with the draft macroeconomic adjustment programme to the European Parliament;

(viii) regarding the conditions and the procedures for granting loans, the European Central Bank (ECB) should have less involvement in the preparation of the adjustment programmes; in its opinion on the BoP proposal of 7 January 2013 (CON/2013/2), the ECB considers it inappropriate to assume such a role for a non-euro area Member State; therefore, as the ECB suggested it, Article 3(3) 'acting in liaison with the ECB' and Article 3(8) 'in liaison with the ECB' should be replaced by 'taking into account the view of the ECB, should the ECB decide to give advice in this respect';

(ix) in general, more clarity and specifications are required for the elaboration and assessment of the macroeconomic adjustment programme, particularly regarding policy and procedural requirements aiming at re-establishing 'a sustainable balance of payments position and at restoring its capacity to finance itself fully on the financial markets';

(x) with reference to Article 4(1), regarding conditions for granting a precautionary conditioned credit line (PCCL), the BoP proposal would benefit from more operational clarity on two concepts, namely 'sustainability of the external position' and the 'presence or absence of bank solvency problems that would pose systemic threats to the banking system stability'; with that purpose such concepts should be specified directly in Article 4 with explicit references to the appropriate indicators foreseen in relevant Union texts (CRD IV, ESRB, ESAs regulations, ‘6pack’, fiscal sustainability reports) or at the very least by means of delegated acts. In the same rationale, Article 4 should make

explicit that the global assessment foreseen should be carried out by the Commission and should be made public, as appropriate. A reference to the assessments foreseen in the framework of the macroeconomic imbalances procedure as established by Regulation (EU) No 1176/2011 should also be added to eligibility criteria;

(xi) more clarity and more precise guidelines are needed with regard to Article 4(2) referring to conditions for granting a enhanced conditions credit line (ECCL), of the BoP proposal as to the thresholds and criteria of the assessment at which a Member State is no longer eligible for a PCCL, but still eligible for an ECCL as well as clarity on the procedures leading to the assessment referred to in such paragraph;

(xii) more clarity is needed with regard to Article 6(5) of the BoP proposal on the transition process from an ECCL to a loan in the event of a deterioration of the economic situation, especially as regards the timing and the determining factors of that transition;

(xiii) an indirect bank recapitalisation instrument for non-euro Member States should be established, particularly in light of the potential participation of these Member States in the upcoming single supervisory mechanism and of the need to provide them with a fiscal backstop.

An indirect bank recapitalisation instrument is proposed instead of a direct one, because putting the latter in place under the BoP framework would directly expose the Union budget to the risk presented by the financial institution being recapitalised.

That indirect instrument would take the form of a loan for bank recapitalisation, alongside the three existing instruments for financial assistance under the BoP (PCCLs, ECCLs and loans). There are no legal challenges standing in the way of a loan for bank recapitalisation, which would be disbursed to the government of the Member State concerned for the purpose of recapitalising its financial institutions, under strict conditionality;

(xiv) other than the indirect bank recapitalisation instrument above, the possibility of changing the ESM treaty and of allowing non-euro Members States, participating in the single supervisory mechanism, to benefit from the bank recapitalisation tool of the ESM could be considered provided that participation in the single supervisory mechanism and the ESM is permanent and provides for the same rights and obligations as for euro Member States. In that case, the Member States would make a capital contribution specifically to the bank recapitalisation instrument of the ESM.

The idea of setting up an ESM subsidiary to be used for direct recapitalisation, which would limit the negative impact that buying bank equity could have on the ESM’s credit rating and lending capacity, should be explored and developed further, with a view to also encompassing those non-euro Member States participating in the single supervisory mechanism;

(xv) it should be kept in mind that any future single bank resolution fund, as part of the banking union framework, should also be inclusive towards non-euro Member States;

(xvi) the final agreement of the Parliament and the Council negotiating teams on the substance of the Gauzès file is welcome but it is important that the Regulation to be adopted on the basis of the BoP proposal reflect the current state of play, in particular as regards:

— transparency of Commission decisions (Articles 2(3) and 2(5) of the Gauzès file);

— specifications concerning the reinforcement of the efficiency and the effectiveness of revenue collection capacity and the fight against tax fraud and evasion, with a view to safeguarding tax revenues (Article 9 of the Gauzès file);

— parameters to take into account when subjecting a Member State to enhanced surveillance (Article 2(1)) and specifications for the conduct of Member States under enhanced surveillance, including the mention of an adapted role for the ECB (Article 3(1)) as referred to in point (viii) of this paragraph;
— transparency and accountability to European Parliament and where relevant to the national parliaments, including obligations to disclose macroeconomic adjustment programmes and the expected distribution of the adjustment effort (Articles 2, 3, 7 and 18 of the Gauzès file);

— the consideration of the practice and institutions of wage formation and the observance of Articles 151 and 152 TFEU and of Article 28 of the Charter of Fundamental Rights of the European Union in the context of the Union strategy for growth and jobs as well as specifications regarding the obligation to involve social partners and civil society in accordance with national law and practice;

— specifications regarding the evaluation on the government debt sustainability analysis, including disclosure requirements (Article 6 of the Gauzès file);

— additional specifications regarding the mandate of technical assistance provided to Member States under programme (Article 7(8) of the Gauzès file);

— the need for realistic, updated and disclosed forecasts (Articles 6 and 7(5) of the Gauzès file);

— the recognition and role of spill-over effects (Article 1(1), Article 3(6) and 7(5) of the Gauzès file);

— comprehensive audit of a Member State’s public finances within the macroeconomic adjustment programme (Article 7(9) of the Gauzès file);

— assessment of whether deviations from the programme are within or beyond Member State control, assessment of the consequences resulting from the macroeconomic adjustment programme and the explicit protection of health care and education sectors (Articles 7(5) and 7(7) of the Gauzès file);

— the Member State under assistance shall consider, in close cooperation with the Commission, whether to take all necessary measures to invite private investors to maintain their overall exposure on a voluntary basis (Article 7(6) of the Gauzès file);

— economic dialogue with the Commission, the ECB and the IMF (Article 3(9) of the Gauzès file);

— regular communication of the review mission assessment in post-programme surveillance to the competent committee of the European Parliament and to the parliament of the Member State concerned, including the possibility to conduct an economic dialogue (Articles 14(3) and 14(5) of the Gauzès file);

— reverse qualified majority voting in the Council regarding corrective measures under post-programme surveillance (Article 14(4) of the Gauzès file);

— report on a review of the Regulation to be adopted on the basis of the BoP proposal (in line with Article 19 of the Gauzès file);

(xvii) Article 6(2) of the BoP proposal on enhanced surveillance integrates a certain number of elements which reflect the substance of the Ferreira file. Therefore, the BoP proposal should be updated with the aim of ensuring a level playing field so as to reflect the agreement of the Parliament and the Council negotiating teams on the relevant parts of the Ferreira file, namely:

— on standards and procedures regarding specifications for reporting requirements, including delegated acts for these reporting requirements (Article 10 of the Ferreira File);

— monitoring requirements on the quality of public finances including provisions regarding the impact of foreseen budgetary measures on the targets set by the Union’s Strategy for growth and jobs (EU2020 targets) and the adaptations that an assistance programme entails on the National Reform Programmes as well as a description and quantification of budgetary measures, including foreseen tax policy reforms and potential spill-over effects of foreseen measures for other Member States (Article 6 of the Ferreira File);
inductions on the expected economic returns on non-defence public investment projects having a significant budgetary impact (Article 4(1) of the Ferreira File);

8. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the European Central Bank, the European Stability Mechanism and the International Monetary Fund.

P7_TA(2013)0176

European Central Bank annual report (2011)


(2016/C 045/05)

The European Parliament,

— having regard to the 2011 Annual Report of the European Central Bank,

— having regard to Article 284 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Article 15 of the Statute of the European System of Central Banks and of the European Central Bank,

— having regard to its resolution of 2 April 1998 on democratic accountability in the third phase of the EMU (1),

— having regard to its resolution of 1 December 2011 on the European Central Bank (ECB) Annual Report for 2010 (2),

— having regard to Rule 119(1) of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0031/2013),

A. whereas real GDP growth in the eurozone was 1.5% in 2011, which represents a slowdown from 1.9% in 2010; whereas several Member States experienced a severe economic downturn over the same period;

B. whereas unemployment in the eurozone increased from 10% at the end of 2010 to 10.7% at the end of 2011; whereas youth unemployment increased significantly over the same period;

C. whereas about 14.4 million new jobs have been created in the eurozone since 1999, compared with approximately 10.7 million in the United States;

D. whereas, in 2011, the ECB increased interest rates twice, in April and July (25 basis points each time) and reduced them twice at the end of the year, in November and December (again 25 basis points each time);

E. whereas the average inflation rate in the eurozone was 2.7% in 2011, up from 1.6% in 2010 and M3 growth was 1.5% in 2011, down from 1.7% in 2010;

F. whereas the consolidated financial statement of the Eurosystem reached EUR 2 735 billion at the end of 2011, representing an increase of around 36% over the course of 2011;

G. whereas the ECB launched its first three-year Long Term Refinancing Operation (LTRO) on 21 December 2011, which allotted EUR 489.2 billion in three-year maturity loans;

H. whereas the growth of credit to the private sector slowed down significantly from 1.6% in 2010 to 0.4% in 2011, and loans to the private sector from 2.4% in 2010 to 1.2% in 2011;

(2) Texts adopted, P7_TA(2011)0530.
I. whereas both the M3 broad aggregate and the annual growth rate of credit extended to the private sector experienced a sharp deceleration over the last quarter of 2011;

J. whereas the outstanding amount of bonds settled under the securities market programme at the end 2011 stood at EUR 211.4 billion;

K. whereas non-marketable assets became the largest component of assets put forward as collateral to the Eurosystem in the course of 2011, representing 23% of the total, and whereas non-marketable securities, together with asset-backed securities, represent more than 40% of total assets put forward as collateral;

L. whereas average gross general government debt rose from 85.6% to 88% of GDP and the aggregate general government deficit fell from 6.2% to 4.1% of GDP; whereas some eurozone countries experienced rising deficit levels;

M. whereas Article 282 of the TFEU states that the primary objective of the ECB is to maintain price stability and that the ECB should support general economic policies of the Union without prejudice to price stability, and also whereas the ECB is conferred specific tasks regarding the European Systemic Risk Board (ESRB);

N. whereas a low inflation environment is the best contribution monetary policy can make to creating favourable conditions for economic growth, job creation, social cohesion and financial stability;

O. whereas the ECB's long-term refinancing operations of December 2011 and February 2012 meant that European banks were granted over EUR 1 trillion — EUR 489 billion and EUR 529.5 billion, respectively — in the form of low-interest loans with a term of three years and a 1% interest rate;

P. whereas the recommendations concerning transparency of voting and the publication of summary minutes put forward in previous Parliament resolutions on the ECB annual reports have not yet been taken into account;

Q. whereas price stability is fundamental if excessive inflation is to be prevented;

R. whereas maintaining a flow of credit to SMEs is particularly important as they employ 72% of the eurozone's labour force and have significantly higher gross job creation (and destruction) rates than large enterprises;

**Monetary policy**

1. Commends the proactive stance of the ECB during 2011 and 2012, in a context in which risks to eurozone stability increased considerably;

2. Welcomes the ECB's stance in these times of crises, both as far as its monetary policy and its actions to stabilise the financial markets are concerned;

3. Notes that the fear of inflation in the medium term and the decisions of April and July 2011 to increase the key ECB interest rates may have contributed, among other factors, to increasing the policy-induced risk premia of financial intermediaries and, therefore, to slowing down credit growth, weakening further the already anaemic economic recovery that was observed in the first trimester of 2011; understands that at that time there was a rebound in economic activity and an increase in price levels which led the ECB to fear a return to inflation in the medium term;

4. Welcomes the subsequent decision to revert these decisions at the end of 2011, and the additional reduction in 2012, as well the adoption of non-standard measures with the objective of aiming at restoring the monetary transmission mechanism;

5. Notes that the rise in inflation observed in 2011 was mainly due to rising price on energy and, to a much lesser degree, food and other commodities, among other factors;

6. Acknowledges the efforts undertaken by the ECB to help stabilise markets, namely through the Securities Markets Programme (SMP), the three-year longer-term refinancing operation (LTRO) and the Outright Monetary Transactions (OMT), but points out that a structural solution to the crisis is not yet in sight;
7. Notes the SMP helped temporarily to alleviate pressure on borrowing costs for eurozone Member States experiencing or threatened with serious difficulties with respect to their financial stability; notes that the liquidity absorbing operations conducted in order to stabilise these purchases reduced the levels of excess reserves, contributing, to a certain extent, to the aim to regain control of the euro overnight index average (EONIA);

8. Acknowledges that while the two three-year LTROs have been effective in avoiding a credit crunch, questions remain as to the ability of the financial sector to return the loans received by the ECB; points out that the results, in terms of credit growth, have been unsatisfactory; notes that the decision to launch the first three-year LTRO on 21 December 2011 coincided with the winding down of the SMP programme; understands the ECB does not consider any of its operations as a direct financing of sovereign debt;

9. Asks the ECB to publish, in its monthly report, figures for the amount of public debt of each Member State posted as collateral by financial institutions;

10. Notes the transfer of risks from struggling banks and governments to the ECB's balance sheet, which is now worth more than 30% of the eurozone's GDP; stresses that the three-year LTROs do not provide a fundamental solution to the crisis;

11. Expresses its deep concern over the rising levels of excess liquidity observed through 2011, in particular in the second semester, which is due to a lack of confidence between banks and a lack of lending to the real economy, arising from the uncertainty created by economic stagnation and over-indebtedness of the public and private sectors in some Member States; points out that this situation, which is indicative of risks conducive to a liquidity trap, damages the efficiency of monetary policy efforts;

12. Notes that swap lines with other central banks, as well as the recourse to the main refinancing operations, the medium and long-term refinancing operations with full allotment at fixed rates, the recourse to the marginal lending facility and the deposit facility remained all at significantly high levels throughout 2011, signalling a severe impairment of the monetary transmission mechanism and the eurozone interbank lending market;

13. Is concerned about the significantly high levels of Emergency Liquidity Assistance (ELA) lines provided by national central banks in the course of 2011 under the authorisation of the ECB, and demands further disclosure of, and complementary information on, the precise extent of such lines and the underlying operations, and on the conditions attached to them;

14. Notes that the credit available to businesses and households is still far below the pre-crisis levels and has slowed down its growth in 2011; underlines that this fact, combined with the fact that the deposit facility held EUR 315.754 million on 28 September 2012, has clearly justified the ECB’s decision to reduce the rates applied to the marginal lending facility, the main refinancing operations and the deposit facility;

15. Takes note of the measures of the ECB on the lowering of collateral requirements and the stance on collateral rules for asset-backed securities (ABS), as these are deeply correlated with loans to households and SMEs;

16. Remains, however, worried about the significant levels of non-marketable assets and asset-backed securities put forward as collateral to the Eurosystem in the framework of its refinancing operations; asks the ECB to provide information on which central banks have accepted such securities, and to disclose detailed information on the valuation methods regarding all assets, including impaired ones;

17. Believes that, on collateral rules, the same standards should apply for sovereign as for regional government bonds in those cases where regions have legislative and tax powers, as both types of bond have relevant influence on the good transmission of the ECB monetary policy;

18. Underlines that institutions which have benefited from extraordinary central bank liquidity support should be subject to conditionality, including the commitment by institutions benefiting from such support to increase the levels of credit by establishing loan targets to the real economy, and especially to SMEs and to households, without which such efforts may prove to be ineffective;
19. Asks the ECB to explore, in close cooperation with Member State governments, competent national supervisory authorities and the Commission, the possibility of implementing a framework, such as the MERLIN programme elaborated by the Bank of England in partnership with the UK treasury, regarding conditionalities attached to the access to central bank non-conventional facilities such as targets on loans granted to SMEs;

20. Warns that in the absence of proper conditionality, non-standard measures such as three-year LTROs may fall short of producing the desired effects, increasing volatility and favouring the formation of asset bubbles in financial markets or, alternatively, facilitating the deleveraging process without meaningful counterparts regarding credit allocation; calls, therefore, on the ECB to analyse carefully the effects, both desired and undesired, of these or other measures;

21. Acknowledges that since the monetary transmission mechanism is not functioning properly, the ECB should seek ways to target SMEs more directly; points out that at present similar SMEs from across the eurozone do not have similar access to loans despite having similar economic prospects and risks; invites the ECB to implement a policy to purchase high-quality securitised SME loans directly, particularly from some Member States where the monetary transmission mechanism is broken; stresses that this policy should be limited in amount and time, fully sterilised and directed to avoid risks on the ECB balance sheet;

22. Underlines that such terms should be directly linked to the economic benefits provided by banks by means of the non-conventional monetary policy measures and the bail-out programmes, assuring that the new revenues allowed by these policies will result in more credit placements;

23. Recalls that monetary policy shares a part of the responsibility for the creation of asset bubbles, given the unsustainable credit growth during the years leading up to the crisis, even though price stability was ensured; underlines the importance of asset price trends and credit dynamics as indicators for monitoring financial stability;

24. Recalls its position on the Capital Requirements Directive (CRD) IV negotiation process to impose additional conditions to institutions having benefited from ECB liquidity support;

25. Deems that the TARGET2 settlement system has played a crucial role for safeguarding the integrity of the eurozone financial system; notes, however, that the significant TARGET2 imbalances reveal the worrying fragmentation of financial markets within the eurozone, as well as the ongoing capital flight in Member States experiencing or threatened with serious difficulties with respect to their financial stability;

26. Congratulates the ECB and the Eurosystem for making more transparent the TARGET2 system in its 2011 annual report; asks the ECB and the Eurosystem to publish monthly statistics on the system's evolution;

27. Believes that the TARGET2 system is fundamental for the good functioning of the euro;

28. Underlines that interesting lessons may be drawn for the Eurozone from the study of the functioning of balance of payments systems in other federal monetary unions such as the United States;

29. Asks the ECB and the Commission to consider whether articles 129,3 and 129,4 of the TFEU may provide an appropriate legal basis for increasing the overall transparency and granularity of the Eurosystem's consolidated balance sheet;

**The economic crisis and the ECB**

30. Calls on the ECB to make public the legal decision concerning the OMT programme in order to be able to analyse more deeply its details and implications;

31. Welcomes the ECB's commitment to guarantee a pari passu status for asset holdings related to any future OMT programme, as well as its emphasis on the sterilisation of all OMT purchases, in order to mop up excess reserves; acknowledges, at the same time, the challenges related to such sterilisation measures and underlining the need to closely monitor and evaluate the effects; believes that the OMT programme may fit the needs of those countries that are close to finish their bail-out and are beginning to issue debt again;
32. Points out that the ongoing crisis is a matter of concern as it threatens the substantial efforts made by Member States regarding their budgetary consolidation and crisis response strategies; notes that the current severe economic downturn in several eurozone Member States has negative economic and fiscal consequences, such as effects on tax revenues and social expenditure in those countries, further deteriorating their public debt problems;

33. Points out that sovereign bonds and financial institutions show persistent vulnerabilities and that the negative feedback loop between sovereign bonds and banks can only be broken through fiscal consolidation and banking sector capitalisation in an economic growth environment;

34. Considers that a cause of public accounts unsustainability in some countries of the eurozone is the ongoing economic recession, causing rising unemployment and falling tax revenues; affirms, therefore, that policies to foster growth and job creation must be a key priority for the Union;

35. Encourages ECB President Mario Draghi to resume a tradition initiated by his predecessor Jean-Claude Trichet, who at the Eurogroup meetings persistently raised the issue of macroeconomic imbalances, especially the differentials between productivity and wage increases, which led to a marked divergence between competitiveness levels between the Member States;

36. Considers that the ECB’s actions should be assessed in the context of the current debate on the future of the EMU; points out that it has called for an increased budgetary capacity for the EMU, in the framework of the EU budget and based on specific own-resources (including a financial transaction tax), to support growth and social cohesion, and to address imbalances, structural divergences and financial emergencies which are directly connected to the monetary union, without undermining its traditional functions to finance common policies; considers that such a budgetary capacity would significantly improve the policy-mix in the EMU;

37. Notes the ECB’s reluctance to assume its own share in debt restructuring processes, including on the bonds it acquired in the secondary market, below face value; notes the ECB’s reluctance to disclose relevant information on the matter to date, notably the price at which it purchased Greek bonds; understands that the ECB deemed that such participation would have amounted to monetary government financing;

38. Recalls that the ECB signalled its readiness to cooperate with national central banks and Member State governments in setting up a mechanism aimed at channelling to debt reduction efforts any profit made by means of the SMP operations on Greek sovereign debt securities held for monetary purposes; asks the aforementioned parties to act diligently to set up such a mechanism;

39. Notes that the economic situation in some economies is generating severe capital flows that worsen those economies’ funding difficulties and that are unsustainable in the short and — even more — long term; stresses that these imbalances have had massive distorting effects leading to costly negative externalities and are a problem for the entire eurozone, threatening the stability of all its economies; these imbalances can only be dealt with if a comprehensive and far-reaching solution to the eurozone crisis is implemented that is built on an approach combining solidarity and responsibility;

40. Asks that ways be explored to make the ‘troika’, in which ECB representatives participate democratically accountable to the European Parliament; insists on the fact that the public hearings currently organised in Parliament are not enough to ensure democratic accountability;

41. Invites the ECB to present, in the framework of the Monetary Dialogue and in its next annual report, an ex post assessment of its involvement in, and impacts for, the adjustment programmes, the potential conflicts of interests arising from such participation and the adequacy of its macroeconomic assumptions and scenarios;
Banking union

42. Considers it urgent to create the banking union, a project that is only made possible through a coherent articulation of instruments, responsibilities and overall democratic accountability;

43. Considers that, to overcome the structural deficiencies inherent in the EMU, and to effectively curb the pervasive moral hazard, the proposed banking union should draw on the earlier reform of the Union financial services sector (including the creation of the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), the European Insurance and Occupational Pensions Authority (EIOPA) and the ESRB) and on the strengthened economic governance (in particular in the eurozone), and new budgetary framework, of the European Semester to ensure greater resilience and competitiveness of, and increased confidence in, the Union banking sector, and to secure enhanced capital reserves in order to prevent Member States’ public budgets from having to bear the costs of future bank bail-outs;

44. Calls for the single supervisory mechanism (SSM) to be put in place as soon as possible in order to increase the credibility of the Eurozone banking system; points out that the conferral of supervisory tasks to the ECB is without prejudice to the adoption, through the ordinary legislative procedure, of a future and more comprehensive architecture fully separated from monetary policy;

45. Welcomes the current impetus aiming at building a SSM; points out that enhanced proposals on banking recovery and a single European resolution authority, and on deposit guarantee schemes, are necessary in order to complete the broad set of legal instruments required for a banking union;

46. Calls on the Commission to put forward proposals for a new European resolution fund and a European deposit guarantee scheme that complement the supervisory functions of the ECB;

47. Deems that it is of paramount importance that effective safeguards are introduced to avoid that conflicting agendas are reflected in the ECB’s monetary policy and its supervisory powers; stresses that any possible erosion of the ECB’s authority for monetary policy, as well as any erosion of its supervisory powers due to monetary policy imperatives, need to be addressed by means of a suitable mechanism set up to identify and resolve potential conflicts;

48. Underlines the difficulties facing the banking union project arising from the persistence of the economic crisis which is generating a process whereby banks are re-nationalising their activities; considers that this could undermine the spirit and the efficiency of the Single Market;

49. Notes that the debate over the creation of a banking union with the objective of a more stable and resilient financial system is intimately connected to the need to design and introduce ring-fencing and institutional separation in the banking sector — inspired by, for example, OECD recommendations and the recommendations presented in the Vickers and Liikanen reports — as well as the need to fully regulate the shadow-banking sector;

50. Takes the view that all Member States participating in SSM should be involved with equal rights and responsibilities.

51. Believes that it should be consulted in the nomination of the members of the Supervisory Council of the ECB;

52. Recognises the importance of the EBA-designed single rule book for maintaining the cohesion of the Single Market;

Institutional matters

53. Regrets the lack of transparency of the working method as well as the lack of accountability of and democratic control over the Troika; believes that any such body, current and future, involving the ECB and/or the Commission should be accountable both to the European Parliament and to national parliaments at their respective levels;

54. Stresses the importance of making the regular monetary dialogue between the ECB and Parliament much more effective, noting in particular that Members of the European Parliament (MEPs) do not receive sufficient feedbacks on the results and implementation of the proposals and ideas that they put forward during the dialogue; asks the ECB to publish on a web page its replies to written questions addressed to it by MEPs; asks the ECB to provide detailed reactions to Parliament’s annual reports on the ECB in its subsequent annual reports;
55. Calls on the ECB to publish the summary minutes of the Governing Council meetings, including arguments and voting records, and improve access to ECB documents and policy procedures;

56. Understands that, in most cases, decisions are being taken on a consensual basis;

57. Stresses that it will fully play its role as legislator in all matters involving a banking supervision; underlines the need to reinforce the ECB’s democratic accountability in view of the new responsibilities conferred to the institution regarding supervisory tasks, its involvement in the Troika’s programmes and, more generally, its prominent role in managing the crisis;

58. Points out that a Treaty revision concerning the ECB’s new tasks in the field of prudential supervision should not be excluded as a means to reflect the evolving nature of the EU institutional setting, the pressing accountability and oversight issues and the challenges prompted by the deepening of the Union;

59. Urges the Governing Council of the ECB to improve significantly and disclose its rules on conflicts of interests and cooling-off periods with regard to senior ECB executives, and to keep a record of meetings between senior ECB officials and stakeholders;

60. Is deeply concerned about the absence of women in the ECB’s executive board, a situation that runs counter to the principles enshrined in the Treaty concerning equality between men and women (Articles 2, 3 and 8 in the TEU, as well as Article 21 in the Charter of Fundamental Rights), that contributes to the feeling among EU citizens that the ECB is remote to their concerns, and that is contrary to the Commission’s and Parliament’s recommendations for improving gender parity in high-level decision boards in the economic sector;

61. Insists that, in the event that ECB becomes in the end single supervisor for banks in the eurozone, even on a temporary basis, Parliament should have a clear role in the nomination of the members of the supervisory board;

62. Calls for its powers to impeach an ECB Governing Council member, in cases of serious misconduct, to be enhanced;

63. Instructs its President to forward this resolution to the Council and the Commission, to the Eurogroup and to the European Central Bank.
Impact of the financial and economic crisis on human rights


The European Parliament,

— having regard to the Joint Communication from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission to the European Parliament and the Council of 12 December 2011 entitled ‘Human rights and democracy at the heart of EU external action — Towards a more effective approach’ (COM(2011)0886),

— having regard to the EU Strategic Framework and Action Plan on Human Rights and Democracy (11855/2012), as adopted by the Foreign Affairs Council on 25 June 2012,

— having regard to the European Union’s Guidelines on Human Rights,

— having regard to the conclusions of the Los Cabos (Mexico) G20 Summit of 18—19 June 2012,

— having regard to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 13 October 2011 entitled ‘Increasing the impact of EU Development Policy: an Agenda for Change’ (COM(2011)0637),

— having regard to the Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee of 27 January 2012 entitled ‘Trade, growth and development — Tailoring trade and investment policy for those countries most in need’ (COM(2012)0022),

— having regard to the Universal Declaration of Human Rights of 1948,

— having regard to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR),

— having regard to the General Affairs Council Conclusions of 24 September 2012,

— having regard to UN Human Rights Council resolution S-10/1 of 23 February 2009 on the impact of the global economic and financial crises on the universal realisation and effective enjoyment of human rights,

— having regard to the UN Conference on the World Financial and Economic Crisis and Its Impact on Development, held in New York from 24 to 26 June 2009, and the outcome document adopted by the Conference (as endorsed by UN General Assembly resolution 63/303 of 9 July 2009),

— having regard to the United Nations Millennium Declaration of 8 September 2000 on the Millennium Development Goals (1)

— having regard to the Rome Principles for Sustainable Global Food Security, adopted by the World Summit on Food Security held in Rome on 16—18 November 2009,

— having regard to the 2009 UN report by the then UN Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, currently Special Rapporteur on extreme poverty and human rights,

— having regard to the report of 4 February 2009 by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik,

(1) http://www.un.org/millennium/declaration/ares552e.htm
— having regard to UN policy briefing note No 07 of October 2012 by the UN Special Rapporteur on the right to food, Olivier de Schutter, and the UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, entitled 'Underwriting the poor — A Global Fund for Social Protection',

— having regard to its resolution of 25 March 2010 on the effects of the global financial and economic crisis on developing countries and on development cooperation (1),

— having regard to its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements (2),

— having regard to its resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy (3),

— having regard to its resolution of 8 June 2011 on investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe (4),

— having regard to its resolution of 6 July 2011 on the financial, economic and social crisis: recommendations concerning the measures and initiatives to be taken (5),

— having regard to the Commission Communication of 13 October 2011 entitled ‘The future approach to EU budget support to third countries’ (COM(2011)0638),

— having regard to its resolution of 23 October 2012 on an Agenda for Change: the future of EU development policy (6),

— having regard to the Global Monitoring Report 2012 of 20 April 2012 by the World Bank and International Monetary Fund,

— having regard to the joint report by the International Labour Organisation (ILO) and the World Bank of 19 April 2012 entitled ‘Inventory of Policy Responses to the Financial and Economic Crisis’,


— having regard to the report of the International Labour Organisation entitled ‘Global employment trends for youth 2012’ of May 2012,

— having regard to Rules 48 and 119(2) of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A7-0057/2013),

A. whereas, although the financial and economic crisis affects, to varying degrees, all regions in the world, including the European Union, the scope of the present resolution is to assess the impact of the financial and economic crisis in third countries, with the main focus on developing and least developed countries;

B. whereas the financial and economic crisis is in fact a global systemic crisis and has become intertwined with numerous other crises, such as the food, environmental and social crises;

C. whereas not only economic and social rights but also political rights are affected by the crisis when governments in some cases limit freedom of expression or association in the context of growing discontent and economic hardship, as reflected, in particular, by popular protests such as those which took place in North Africa and the Middle East in 2011;

(1) OJ C 4 E, 7.1.2011, p. 34.
(2) OJ C 99 E, 3.4.2012, p. 31.
(5) OJ C 33 E, 5.2.2013, p. 140.
D. whereas civil and political rights are at risk as a result of the brutal repression of social protests in many countries around the world; stresses that the right to information and the right to participate in government policy decisions concerning measures to fight the crisis must be respected;

E. whereas, although the impact of the crisis on civil and political rights has yet to be fully evaluated, it is clear that it has magnified social unrest, leading sometimes to violent repression, and has multiplied the failures to respect basic rights, such as freedom of expression and the right to information;

F. whereas the financial and economic crisis has had a negative impact on developing and least developed countries, mainly reflected in shrinking demand for their exports, high levels of indebtedness, the risk of reduced foreign direct investment (FDI) inflow and declining Official Development Assistance (ODA), also affecting human rights since fewer resources are available to ensure social and economic rights, and more people are being driven into poverty;

G. whereas the global economic crisis has had a major impact on living standards in the developing world over the last 10 years, and whereas the rate of inequality has increased in one quarter of developing economies, thus limiting access to education, food, land, and credit;

H. whereas the EU's collective ODA decreased from EUR 53,5 billion in 2010 to EUR 53,1 billion in 2011, bringing the EU ODA level to 0,42 % of GNI, down from the 2010 outcome of 0,44 % of GNI; whereas the EU and its Member States nevertheless remain the world's leading providers of ODA;

I. whereas the objective of the trade agreements signed by the EU with partner countries is, inter alia, to promote and expand trade and investment, and to improve market access, with a view to increasing economic growth, cooperation and social cohesion, reducing poverty, creating new employment opportunities, improving working conditions and raising living standards, and thereby ultimately contributing to the fulfilment of human rights;

J. whereas proper monitoring and practical enforcement of the human rights clause of each trade agreement must be guaranteed; whereas any systematic violation of the human rights clause enshrined in the EU's trade agreements entitles each signatory party to take 'appropriate measures', which may include totally or partially suspending or terminating the agreement or imposing restrictions;

K. whereas the Aid-for-Trade Initiative has shown positive results, contributing to the development of better trading capacity and economic infrastructure in partner countries;

L. whereas the failure to put into place adequate measures to prevent, detect and root out all forms of corruption is one of the reasons for the financial crisis; whereas widespread corruption in the public and private sectors, both in developing and developed countries, hampers effective, broad and equal protection and promotion of civil, political and social rights; whereas corruption impedes democracy and the rule of law and directly affects the population since it increases the cost of public services, lowers their quality and often restricts poor people's access to water, education, health care and many other key services;

M. whereas the current economic crisis carries significant implications for democracy and governance assistance by the European Union and other major donors; whereas economic difficulties for donor countries are likely to encourage reductions in overseas assistance; whereas, however, the global crisis makes it all the more important to sustain support for political reform and democratic development in third countries;

N. whereas the financial and economic crisis is also having a disproportionate effect on the rights of specific groups of people, particularly the poorest and marginalised;

O. whereas the rights of the poorest people have been most affected by the crisis; whereas, according to the World Bank, 1,2 billion people live in extreme poverty on less than USD 1,25 a day; whereas the World Bank estimates that, even in the event of a rapid recovery, some additional 71 million people in the world will remain in extreme poverty by 2020 as a result of the economic crisis; whereas three-quarters of the world's poor live in middle-income countries;
whereas the financial crisis has spread around the world through a variety of transmission channels, interacting with other crises (such as the food and fuel crises) at different speeds and intensities; notes with concern that, owing to the crisis, the World Bank and the UN estimate that between 55 and 103 million more people have to live in poverty, thereby jeopardising further achievement of human rights;

whereas people who are living in poverty and are extremely vulnerable need effective and affordable access to justice in order to be able to claim their rights or challenge violations of human rights committed against them; whereas lack of access to a fair trial and judicial process further subjects them to economic and social vulnerability;

whereas global unemployment reached 200 million in 2012 — an increase of 27 million since the start of the crisis in 2008, jeopardising the right to work and resulting in a decrease in household incomes; whereas worsening economic conditions and unemployment may have an impact on the health of individuals, which can cause a lack of self-esteem or even depression;

whereas more than 40% of workers employed in developing countries work in the informal sector, leading in many cases to unstable and unequal working conditions without any social protection, and only 20% of their families have access to any form of social protection;

whereas because of the crisis, women's rights have deteriorated through, for example, additional unpaid work and increased violence; whereas the development of public services and establishment of effective social protection systems are essential in ensuring respect for women's economic and social rights;

whereas women often experience unequal treatment in the workplace compared to men, in terms of access to employment, salary, dismissal, social security benefits and rehiring;

whereas the crisis disproportionately affects young people; whereas, globally, 74.8 million young people aged 15–24 were unemployed in 2011, an increase of more than 4 million since 2007, with an exceptionally high level of unemployment in the Middle East and North Africa;

whereas, in low- and middle-income countries, there are around 200 million young people who have not completed primary school and have thus been denied their right to education;

whereas children are particularly affected by the financial and economic crisis, with their circumstances often aggravated by the vulnerabilities and risks experienced by their caregivers;

whereas, globally, 61 million primary-school age children are not attending school and the progress towards achieving universal primary education has stalled since 2008; whereas sub-Saharan Africa, with 31 million children out of school, accounts for half of the world's total number, and more girls than boys are forced to leave school in order to contribute to household work because of the pressures of poverty;

whereas empirical evidence suggests that, in times of economic crisis, when education budgets are reduced, more children will prematurely leave school or not attend at all to join the workforce; whereas over 190 million children between the ages of 5 and 14 are forced to work, with one in four children aged 5-17 being used as child labourers in sub-Saharan Africa, compared to one in eight in Asia-Pacific and one in ten in Latin America and the Caribbean; whereas girls in particular are at a higher risk of being taken out of school and forced into child labour or domestic work at home; whereas this creates a negative impact on child welfare and the right to education, and in the long term affects the quality of the labour force and overall development;

whereas rising and volatile food prices caused by financial speculation on the derivatives markets are affecting millions of people struggling to meet basic needs; whereas since 2007 global progress in reducing hunger has slowed; whereas 868 million people are suffering from chronic malnutrition, with the vast majority (850 million people) living in developing countries; whereas the coping strategies adopted by vulnerable households includes cutting down on the quantity and/or quality of food eaten at critical stages of child development or during pregnancy, with long-lasting effects on physical growth and mental health;
AB. whereas, in the face of the rising demand for agricultural goods destined for food production and increasingly for energy and industrial use, the competition for land, a resource that is becoming more and more scarce, is also growing; whereas national and international investors use long-term purchase or lease agreements to secure vast tracts of land, which might cause socio-economic and environmental problems for the countries affected and especially for the local population;

AC. whereas the impact of the economic crisis can be particularly acute for older people who may be at greater risk of losing their jobs and are less likely to be retrained and re-employed; whereas the crisis can limit their access to affordable healthcare;

AD. whereas the rising price of medicines (by up to 30 %) is having a negative impact on the right to health of the most vulnerable, notably children, the elderly and persons with disabilities;

AE. whereas, globally, 214 million migrant workers are now, as a result of the economic crisis, more affected by unequal treatment, underpayment or non-payment of wages, and physical abuse;

AF. whereas remittances, microfinance and foreign direct investment are means of alleviating the shock of the crisis on the economies of developing countries;

AG. whereas trafficking in human beings is a modern form of slavery and a severe violation of fundamental human rights; whereas traffickers are exploiting their potential victims’ need to find a decent job and escape poverty; whereas women and girls account for two thirds of the victims of trafficking in human beings;

AH. whereas, globally, 1,3 billion people have no access to electricity; whereas access to energy, in particular electricity, is vital to the achievement of several Millennium Development Goals since, inter alia, it reduces poverty through improved productivity, generates greater income and micro-enterprise development, and leads to economic and social empowerment;

AI. whereas the agricultural sector provides employment and livelihood for more than 70 % of the labour force in developing countries; whereas the share of ODA allocated to agriculture is falling all the time and currently accounts for only 5 % of the total; whereas, in resource-poor low-income countries, growth in the agricultural sector is five times more effective in reducing poverty than growth in other sectors (eleven times in sub-Saharan Africa); whereas rural development and measures designed to support agriculture, in particular local production, are key elements of all development strategies and are vital for eradicating poverty, hunger and underdevelopment;

AJ. whereas aggregate data often used to describe the impact of the crisis can hide huge disparities between and within countries; whereas it is difficult to access the real-time data necessary to fully understand the impact of the economic crisis on regions and vulnerable groups; whereas there is a need for collaborative and innovative data collection and analysis at global level;

1. Reiterates its strong determination to defend and promote human rights and fundamental freedoms — civil, political, economic, social and cultural — as a core principle of the European Union’s foreign policy and underpinning all other policies, as enshrined in the Treaty of Lisbon, in particular in the context of the economic and financial crisis;

2. Stresses that human rights include the right to food, water, education, adequate housing, land, decent work, health and social security; condemns the fact that these rights have been under attack in a number of countries since the crisis began; recognises that worsening poverty is the main factor preventing people from asserting these rights; calls for the EU to invest more effort and money in achieving the Millennium Development Goals (MDGs), given the evidence that the world is falling far short of the goals set for 2015;

3. Insists on the fact that the response to the crisis must include internationally coordinated multilateral cooperation at both the regional and the inter-regional levels with a strong human rights-based approach at its core;
4. Recalls the duty of governments to respect, protect and fulfil human rights, including economic and social rights, as well as digital freedoms, at all times, as stated in international human rights law; calls on governments to guard against all forms of discrimination and to ensure basic human rights for all; deplores the existing gap between legal recognition and political enforcement of these rights;

5. Reaffirms that while the global economic crisis poses a severe threat to the fulfilment of economic, social and cultural rights, there is no justification for states, whatever their level of income, to compromise on their obligation to respect fundamental human rights; stresses that governments have, at all times, an obligation to ensure ‘minimum essential levels’ of the social and economic rights necessary for living in dignity;

6. Urges governments to place the interests of the most vulnerable sections of the population at the centre of policy responses by using a human rights framework in the decision-making process; calls on governments to pursue all the necessary measures to ensure access to justice for all, with a particular focus on people living in poverty, who need to have a full understanding of their rights and the means to realise them; calls on the EU to step up the fight against impunity and its support for the rule of law and justice reform programmes in partner countries, to enable an active civil society to form the basis of any democratisation process;

7. Welcomes the EU’s commitment to promoting economic, social and cultural rights and to strengthening efforts to ensure universal and non-discriminatory access to basic services, with a particular focus on poor and vulnerable groups, as set out in the Strategic Framework on Human Rights and Democracy; looks forward to seeing this reflected in concrete measures, including in the human rights country strategies drafted by the EU Delegations;

8. Insists that the EU Special Representative for Human Rights should ensure that human rights are at the forefront of policy initiatives, with a particular emphasis on the most vulnerable groups in the societies of third countries;

9. Stresses the importance of ensuring that support for human rights and democracy promotion is not undermined by a decrease in the budget for such projects in response to the crisis; in this connection, emphasises the need to offer steady support to projects financed by the European Instrument for Human Rights and Democracy (EIDHR) for human rights defenders, including those working for economic and social rights, such as the rights of workers and migrants, and stresses the importance of promoting human rights education;

10. Reminds governments of their duty to ensure that civil society organisations (CSOs) possess the necessary means to carry out their role within society, and not to use the current crisis as an excuse to reduce support for CSOs; calls for sufficient funding of the Civil Society Facility post-2013 to further strengthen civil society’s capacity in partner countries;

11. Stresses that the Commission should include human rights provisions in impact assessments for legislative and non-legislative proposals, implementing measures, and trade and investment agreements that have a significant economic, social and environmental impact;

12. Notes with concern that the global economic crisis is jeopardising Official Development Aid spending by EU Member States; recalls that the costs of the global economic crisis are being borne disproportionately by poor countries, despite having originated in the richer countries; urges, therefore, the EU and its Member States to maintain and deliver on their existing bilateral and multilateral ODA commitments and on the targets identified in the UN Millennium Declaration, especially by addressing those areas which suffer from a lack of progress at present and to ensure efficient use of development aid in order to guarantee the best value for money and consistency between human rights and development policies; points out that, through their potential contribution to official development assistance, the emerging countries also have an important role to play;

13. Urges the Commission, the EEAS and the Member States to model crisis responses and development policy on a human rights-based approach, as set out in the Commission’s Communication ‘Increasing the impact of EU Development Policy: an Agenda for Change’, and in the Parliament’s resolution of 23 October 2012 on the Communication (\textsuperscript{1});

(\textsuperscript{1}) Texts adopted, P7_TA(2012)0386.
14. Stresses the importance of policy coherence and coordination in order to attain the objective of poverty reduction and to increase the credibility and the impact of EU external assistance;

15. Reiterates that budget support to partner countries and all trade agreements should be conditional on respect for human rights and democracy in the partner countries; takes the view that donors and lenders should, in particular, respond in a coordinated manner to reported cases of fraud and corruption and foster reforms in those countries towards good governance and transparency; urges the EU and the Member States to make systematic risk assessments of widespread corruption in partner countries, which may hamper the desired effects of development and humanitarian projects;

16. Calls on developing countries to devise economic policies which promote sustainable growth and development, create jobs, place vulnerable social groups at the forefront of policy responses, and base development on a sound fiscal system that rules out tax evasion, which is necessary for mobilising domestic resources in a more efficient and equitable manner;

17. Encourages foreign and domestic investors to instigate strong Corporate Social Responsibility policies in all countries, with an emphasis on sustainable development and good governance and with a clear focus on human rights, decent work, labour standards, freedom of association, collective bargaining and other social considerations;

18. Encourages developing countries to use trade preferences afforded by the EU within the Generalised System of Preferences (GSP) framework in order to boost their economy, diversify their exports and improve their competitiveness; recalls their obligation in the GSP+ framework, to ratify and effectively implement the core international conventions on human and labour rights, environmental protection and good governance, which are listed under this scheme;

19. Calls on the EU to support and adopt the international target of universal energy access by 2030 as this will contribute to economic empowerment and social benefits for the poorest and most vulnerable in developing countries;

20. Welcomes the introduction of a specific enforcement mechanism to monitor implementation of human rights clauses in ‘new generation’ bilateral and regional EU agreements; welcomes efforts to improve analysis of the human rights situation in third countries when launching or concluding trade and/or investment agreements; notes with concern that the current human rights monitoring provisions in the relevant agreements are not clearly defined or sufficiently ambitious; calls on the EU to adopt an unflinching principled stance in insisting that its partner countries comply with the human rights clauses in international agreements;

21. Welcomes the refocusing of the EU’s aid towards least developed countries, urging middle-income countries to commit an increasing proportion of their fiscal revenues to social protection schemes and the fulfillment of human rights for the poorest and most vulnerable;

22. Calls on the international community to provide adequate assistance to governments in sub-Saharan Africa in order to prevent the financial crisis worsening the humanitarian crisis in some countries in the region;

23. Calls on governments to respect their obligations towards citizens in terms of the good stewardship of natural resources;

24. Urges governments to take all the necessary measures to reduce extremes in income inequality and put in place conditions that will enable those currently living in extreme poverty to fully realise their potential and live in dignity;

25. Urges governments in developing countries to elaborate social protection schemes, since these are essential for protecting the most vulnerable and building resilience against economic and environmental shocks and have proved to be an investment in society rather than a cost, as shown by social welfare programmes, such as Brazil’s bolsa familia or demand-driven public works schemes like India’s National Rural Employment Guarantee Scheme (NREGS); stresses that the success of these cash transfer schemes depends largely on conditionality such as school enrolment and attendance as well as health aspects, most notably the vaccination of children;

26. Welcomes the joint initiative launched by the UN Special Rapporteur on the right to food, Olivier De Schutter, and the UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, to strengthen social protection systems in developing countries through a Global Fund for Social Protection, by means of which international solidarity can be transposed to benefit the least developed countries; asks the Commission to provide support for these programmes;
27. Considers that investment in sustainable agriculture in developing countries is an important accelerant for combating food insecurity and boosting overall growth; urges governments to support responsible private-sector investment and small-scale food producers, especially women and agricultural cooperatives, which are the most effective in reducing extreme poverty by increasing returns on labour; stresses the importance of investment in rural infrastructure that reduces transaction costs and enables farmers to reach markets and generate more income;

28. Calls on governments to prevent national and international financial speculators investing in land from having a negative impact on small-scale farmers and local producers by causing displacement, environmental problems and food and income insecurity; recalls in this regard that secure employment and nutrition are conditions for respect for human rights, democratisation and any political engagement;

29. Reminds governments and the private sector alike to respect informal and traditional land ownership, as well as land-use rights; stresses that vulnerable groups such as indigenous peoples are most in need of protection, as land is often the only resource from which they can derive their subsistence;

30. Urges governments not to cut or limit food subsidies since these subsidies can limit the prevalence of hunger and improve nutrition in recipient households;

31. Calls for more transparency on the commodity markets to avoid price volatility of agrarian raw materials caused by excessive speculation, and underlines the need for greater international attention and enhanced coordination on this issue;

32. Reminds governments that youth employment policies should focus not only on job creation, but also on ensuring a level of income and working conditions that are appropriate for an adequate standard of living;

33. Expresses its support for the global introduction of a financial transaction tax, which can be an innovative financing mechanism for development, ultimately contributing to the universal fulfilment of economic and social rights; encourages all Member States to support the EU budget proposal for a financial transaction tax;

34. Stresses that combating illicit financial flows, tax havens and speculation on commodities are necessary steps for the achievement of human rights, especially in low-income countries;

35. Believes that developing countries should introduce innovative financing systems for economic policies; encourages developing countries to develop financial mechanisms connected with their own resources;

36. Calls for an increase in the competitiveness of enterprises in developing countries, making for a reduction in unemployment and the promotion of employment policies;

37. Considers of the utmost importance the strengthening of skills development and training policies, including non-formal education, internships and on-the-job training, which provide support for a successful transition from school to the labour market;

38. Stresses that the events of the Arab Spring have revealed a number of shortfalls in EU policies towards the region, including the situation of young people, who face mass unemployment and a lack of prospects in their countries; calls on the EU to take more effective action to tackle the effects of the financial crisis in third countries, including by taking due account of reports by civil society organisations;

39. Urges both governments of countries with high child-labour rates and international donors to promote preventative measures, such as expanding school access, improving school quality and reducing school costs in order to decrease poverty rates and encourage economic growth;

40. Urges governments to provide second-chance education programmes for those who have not attended primary school in order to equip them with literacy and numeracy skills, as well as livelihood skills that can help them to escape poverty;

41. Urges governments to step up child protection support measures, including measures to tackle violence against children and promote awareness-raising among government officials on violence against children;
42. Recalls that all recovery policies will need a strong gender component; calls, as a matter of urgency, for the enforcement of policies and practices ensuring that more women enter the labour market in jobs with decent working conditions and social protection; calls for public investment in care services to reduce women’s unpaid domestic and care work; insists that labour market policies must address the lack of parental time for care and nurture;

43. Stresses that women must be more involved in social dialogue and decision-making processes; reiterates the fact that education for girls and women and gender empowerment are essential;

44. Urges governments to tackle critical human rights issues faced by the elderly, especially in times of economic downturn, such as long-term unemployment, age-related employment discrimination, income insecurity and unaffordable healthcare; calls on governments to put in place innovative new mechanisms for flexible workforce participation, such as entitling older people to social pensions while working part-time, retraining programmes or fiscal measures aimed at stimulating the employment of the elderly;

45. Calls for the transaction costs for remittances to be reduced and for it to be made easier, for example, for migrants to open a bank account in host countries;

46. Calls on governments to ensure that the fight against trafficking in human beings remains high on their agenda during times of economic and financial crisis; urges governments to fully implement legislation to prosecute traffickers and smugglers, expand support and legal assistance to victims of human trafficking, and develop closer international cooperation;

47. Welcomes the discussions within the UN High-Level Panel on the Post-2015 Development Agenda with the participation of the European Commissioner for Development; considers that the post-2015 framework should prioritise the universal implementation of human rights, take into consideration the impact of the financial and economic crisis, notably on the poorest and the most vulnerable, and honour poverty reduction commitments; urges all involved parties to consider setting quantifiable targets and indicators, as well as qualitative and outcome-based indicators;

48. Emphasises that there is a need for further research and analysis on the impact of the financial and economic crisis on various regions, including in the EU and in its relations with third countries, and a need to improve the monitoring of early signals of global and regional crises; stresses that disaggregated data should be more prominent in research and policy planning in order to better capture and address the problems facing the poorest and most vulnerable members of society; calls on the Commission and the Member States to provide financial support for the UN innovation laboratory ‘Global Pulse’, launched by the UN Secretary General in 2009, with the aim of collecting and analysing the data required for a better understanding of the impact of the financial and economic crisis on vulnerable sections of the population and providing appropriate policy responses;

49. Instructs its President to forward this resolution to the Council, the Commission, the European External Action Service (EEAS), the EU Special Representative for Human Rights, the governments and parliaments of the Member States and the Office of the UN High Commissioner for Human Rights.

P7_TA(2013)0183

2012 comprehensive monitoring report on Croatia

(2016/C 045/07)

The European Parliament,

— having regard to the draft Treaty concerning the Accession of the Republic of Croatia to the European Union, the Protocol and the Final Act,
— having regard to the Commission's Comprehensive Monitoring Report of 10 October 2012 on Croatia's state of preparedness for EU membership (SWD(2012)0338),

— having regard to the Commission's final Monitoring Report on Croatia's accession preparations of 26 March 2013 (COM(2013)0171),

— having regard to the Commission's regular reports on Croatia's progress towards accession covering the period 2005-2011,

— having regard to the Presidency Conclusions of the Thessaloniki European Council of 19—20 June 2003 on the Western Balkan countries and on enlargement,

— having regard to all its previous resolutions and reports on Croatia's progress and the enlargement process, in particular those of 1 December 2011 on the accession to the European Union of the Republic of Croatia (1), of 1 December 2011 on the application of Croatia to become a member of the European Union (2) and of 22 November 2012 on enlargement: policies, criteria and the EU's strategic interests (3),

— having regard to all previous recommendations of the EU-Croatia Joint Parliamentary Committee,

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

A. whereas Croatia is set to accede to the EU on 1 July 2013;

B. whereas some EU Member States have not yet completed ratification of the Accession Treaty;

C. whereas Croatia is on track to meet the outstanding requirements as regards the final preparations for EU membership;

D. whereas reform efforts must be sustained beyond accession in order for Croatian citizens to benefit fully from EU membership;

E. whereas Croatia's accession process testifies to the credibility of the EU's enlargement policy and its transformative effects on applicant states;

F. whereas Croatian membership will make the EU stronger and more secure, enrich its culture and heritage, and serve as a powerful reminder to other aspirant countries that conscientious implementation of commitments yields tangible and durable benefits to their citizens;

G. whereas Croatia is expected, and uniquely positioned, to play a constructive role in its neighbourhood, above all by promoting further EU enlargement, democratic consolidation, regional cooperation and reconciliation between the peoples of the Western Balkans, while doing its utmost to ensure that bilateral issues do not obstruct any of these processes;

1. Looks forward to welcoming Croatia as the 28th Member State of the EU on 1 July 2013, following the legally binding vote of the European Parliament on 1 December 2011 which gave consent to the accession of Croatia, and in accordance with the date set by the European Council in the Accession Treaty; expresses its confidence in the strength and maturity of Croatia's democracy and social market economy, its adherence to European values, and capacity to fulfil the obligations of membership;

2. Notes that Croatia is on track to meet the outstanding requirements as regards the final preparations for membership;

3. Notes that Croatia has completed the ten priority actions identified in the Commission's Comprehensive Monitoring Report;

4. Welcomes the significant progress achieved by Croatia in completing tasks singled out in the Commission's Comprehensive Monitoring Report and calls on the Government and the Parliament to resolve all outstanding issues by 1 July 2013 and to advance with all other necessary reforms; encourages Croatia to respect and fulfil all its commitments from the accession negotiations, in order to be fully prepared as a new Member State, as this is in the interests of Croatia

(1) Texts adopted, P7_TA(2011)0538.
(2) Texts adopted, P7_TA(2011)0539.
and the EU; stresses that this process should be carried out in a transparent and inclusive manner, involving the Croatian Parliament and civil society to the largest extent possible;

5. Invites those EU Member States that have not yet completed their respective ratification procedures for the Accession Treaty to proceed in a timely manner;

6. Reiterates its view that accession should not be construed as the end of a process, but rather as a step along the path towards economic, administrative and judicial modernisation, and as an opportunity whose benefits can only be fully realised through continuous policy action; invites Croatia to continue to make efficient use of IPA (Instrument for Pre-accession Assistance) funds in preparation for EU membership and the utilisation of structural funds and the cohesion fund;

7. Invites Croatian political and social actors to explore innovative ways of sustaining the impetus and consensus for reforms in the post-accession period, and of holding policy-makers accountable for the implementation of commitments undertaken in the Accession Treaty; stresses, in this respect, the indispensable role of effective parliamentary oversight and that of civil society;

8. Reaffirms the centrality of an independent judiciary, professional and accountable public administration, and the rule of law in strengthening democracy and supporting investment and economic activity; invites Croatia to continue improving the independence, accountability, impartiality, professionalism and efficiency of its judicial system and the members of its judiciary, inter alia by reducing the number of backlog cases by implementing the new system of asset declarations for judges, and by further improving the track record of the new system of disciplinary proceedings; urges Croatia to implement the new Judicial Reform Strategy for 2013-2018;

9. Notes that Croatia has put in place a satisfactory institutional and legal framework for combating corruption; calls on the Croatian authorities to further step up their fight against corruption, fraud and mismanagement of funds; points out that anti-corruption measures must continue to be strictly enforced; further invites the authorities to establish a track record of conflict of interest, corruption and organised crime cases and to improve implementation of the legal framework for the seizure and confiscation of assets;

10. Calls on the Croatian authorities to make full use of the existing anti-corruption instruments to ensure unbiased and successful prosecutions and court rulings, including in high-profile cases, in order to consolidate citizens’ trust in the rule of law and public institutions; stresses the need for sustainable measures in the fight against corruption and organised crime and to reform the judiciary primarily for the benefit of Croatian citizens; emphasises that independent investigative journalism should be encouraged, as it is vital in exposing corruption and organised crime;

11. Calls on Croatia to continue implementing the new, robust legislation on access to information, thereby consolidating the prevention framework against corruption; notes that the newly created Conflict of Interest Commission is now operational, and calls on the Croatian authorities to fully implement the legislative package on public procurement and on the financing of political parties and electoral campaigns;

12. Calls on the Croatian authorities to remain vigilant in ensuring that fundamental rights are fully respected, while combating all forms of discrimination and acts of intolerance against national minorities, the Roma community, migrants, LGBT people and other minority groups and vulnerable groups; calls furthermore on Croatia to foster an environment that will ensure that members of the aforementioned minorities (e.g. LGBT people) can freely express their views and beliefs in line with the principles of the EU Charter on Fundamental Rights;

13. Encourages the authorities to promote freedom of expression, including freedom and pluralism of the media; acknowledges that the new law on the public broadcaster was adopted in July 2012; encourages the authorities to continue with efforts to ensure that the public service broadcaster is free from political and economic pressure and to increase its transparency;

14. Observes that Croatia is preparing adequately for the future management and implementation of operations financed by the EU Structural and Cohesion Funds; calls on Croatia to create a project pipeline for the European Regional Development Fund (ERDF); encourages the Government to further strengthen the administrative capacities of the institutions responsible, including at regional and local levels, in line with the recommendations of the 2012 report by the European Court of Auditors; urges the Government to do its utmost to minimise the risk of corruption, fraud and irregularities in both the allocation and use of EU funds;
15. Reminds the Member States, in the context of the negotiations on the MFF, of the EU’s commitments to Croatia and its citizens as regards future assistance in economic and regional development;

16. Encourages Croatia to carry out further structural reforms to stimulate economic growth and revive the labour market; calls upon Croatia to continue to keep the banking sector stable and to continue the policy of fiscal consolidation in order to boost competitiveness; welcomes Croatia’s participation in the European Semester from January 2013; supports efforts to ensure timely and effective use of EU funds as well as to improve Croatia’s transport infrastructure and its links with the EU Member States and the countries of the region; invites the Government to fully implement the legislative framework on small businesses, inter alia by appropriate policy actions, by improving their access to finance and by supporting the internationalisation of SMEs;

17. Is of the view that special emphasis should be laid on the social and environmental dimensions of economic modernisation; encourages Croatia to continue to strengthen social dialogue and uphold social and labour union rights; calls on the Croatian authorities to ensure transparency regarding environmental assessments of large-scale investment projects; urges the Croatian authorities to give priority to protection of the environment, especially in the field of spatial planning;

18. Is concerned that the proposed law on strategic investments is not in line with European standards; calls on the Croatian Government and Parliament to revise it with a view to better protecting fundamental rights, notably property rights, and the environment;

19. Calls on the Member States not to restrict Union citizens’ fundamental rights more than absolutely necessary with respect to the transitional measures provided for in Article 18 of the Act of Accession; calls on the Member States, in particular, to make use of the transitional measures restricting the free movement of persons exclusively on the basis of factual information and only in cases of serious labour market disturbance; points out that restricting access to their labour markets during transitional periods after previous rounds of enlargement has proved detrimental to the welfare of those Member States enacting the restrictions;

20. Notes the progress in the construction of the border crossing points at the Neum corridor;

21. Invites the Croatian authorities to take further action, including on legislative alignment, interinstitutional cooperation and border management, to prepare for Croatia to enter the Schengen area in due course;

22. Calls on Croatia to continue to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) and to intensify domestic efforts to investigate and prosecute war crimes, in line with the adopted strategy on impunity; makes a strong appeal to Croatia and Serbia to cooperate in good faith on the prosecution of war crimes in order to achieve justice and true reconciliation in the region;

23. Calls on the Croatian authorities to continue to pay special attention to the rights and social conditions of returning refugees and displaced persons, in line with the goals of the Sarajevo Declaration Process; continues to support the RECOM (Regional Commission for Truth and Reconciliation) initiative to search for ways to acknowledge suffering and respect the right to truth and justice for all victims of war crimes;

24. Encourages Croatia to play an active role in the process of stabilisation and European integration of the Western Balkan countries; believes that Croatia’s experience and expertise, accumulated in the course of its transformation and accession, are of significant value to other applicant and aspirant states; encourages Croatia to share its experiences with other candidate and potential candidate countries and to strengthen regional cooperation; is of the view that Croatia’s promotion of European values and further enlargement is built on good neighbourly relations and the pursuit of reconciliation;

25. Appeals to Croatia and its neighbours to engage actively in the resolution of outstanding bilateral issues in accordance with international commitments and the principles of good neighbourly relations and regional cooperation; welcomes, in this regard, the steps taken by the Government of Croatia and the Government of Serbia to improve relations, and looks forward to an intensification of their cooperation; welcomes the signing of a Memorandum of Understanding between Slovenia and Croatia on finding a solution to the Ljubljanska Banka case in a constructive manner; welcomes the ratification of the Accession Treaty by the Parliament of Slovenia; recalls that issues of a bilateral nature must not be used to impede the integration processes of current or future applicant countries; in this context, urges all Member States to ratify Croatia’s Accession Treaty on time;
26. Encourages Croatia to continue to play a constructive role in regional cooperation; calls on the Croatian authorities to fully implement the declaration on promoting European values in Southeast Europe endorsed by the Croatian Parliament on 21 October 2011; invites all countries in the region to adopt and implement similar positions; urges the Commission to assist all countries in the region in this respect; calls on the Commission to learn from past experience in the enlargement process, including the enlargement process with Croatia, by helping countries in the region resolve their bilateral disputes in a manner that does not interfere with the accession process through establishing facilitation and arbitration mechanisms within the existing EU institutional framework that countries in the region can draw on if they so wish;

27. Acknowledges the activities and the constructive contribution of the Croatian observers in the European Parliament; welcomes the outcome of the elections for the Croatian Members of the European Parliament held on 14 April 2013, but regrets the low turnout; looks forward to welcoming MEPs from Croatia as of Croatia's accession to the EU on 1 July 2013;

28. Appreciates the work of the Commission in steering Croatia's accession process; asks the Commission to take stock of the exercise and draw policy lessons for future applicant states, such as use of the comprehensive monitoring regime in the period between the completion of negotiations and accession; calls on the Commission to evaluate the involvement of civil society and parliament throughout the accession process in order to draw lessons for current and future negotiations; asks the Commission, in this specific context, to draw up proposals to better involve civil society and parliaments in the candidate countries in the accession process;

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

P7_TA(2013)0184

2012 progress report on Turkey


(2016/C 045/08)

The European Parliament,

— having regard to the Commission’s 2012 Progress Report on Turkey (SWD(2012)0336),

— having regard to the communication from the Commission to the European Parliament and the Council entitled ‘Enlargement Strategy and Main Challenges 2012-2013’ (COM(2012)0600),

— having regard to its previous resolutions, in particular those of 9 March 2011 on Turkey’s 2010 progress report (1), 29 March 2012 on Turkey’s 2011 progress report (2), 22 May 2012 on a 2020 perspective for women in Turkey (3), and 22 November 2012 on Enlargement: policies, criteria and the EU's strategic interests (4),

— having regard to the Negotiating Framework for Turkey of 3 October 2005,

— having regard to Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey (5) (‘the Accession Partnership’), as well as to the previous Council decisions on the Accession Partnership of 2001, 2003 and 2006,

(1) OJ C 199 E, 7.7.2012, p. 98.
having regard to the Council conclusions of 14 December 2010, 5 December 2011 and 11 December 2012,

— having regard to the Charter of Fundamental Rights of the European Union,

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

A. whereas accession negotiations with Turkey were opened on 3 October 2005 after the Council had approved the Negotiating Framework, and whereas the opening of such negotiations is the starting point for a long-lasting and open-ended process based on fair and rigorous conditionality and the commitment to reform;

B. whereas Turkey has committed itself to reforms, good neighbourly relations and progressive alignment with the EU, and whereas these efforts should be viewed as an opportunity for Turkey itself to continue to modernise and to consolidate and further improve its democratic institutions, the rule of law and the observance of human rights and fundamental freedoms;

C. whereas the EU should remain the benchmark for reforms in Turkey;

D. whereas full compliance with the Copenhagen criteria and EU integration capacity, in accordance with the conclusions of the December 2006 European Council meeting, remain the basis for accession to the EU, which is a community based on shared values, sincere cooperation and mutual solidarity among all its Member States;

E. whereas the positive agenda was launched in May 2012 to support and complement the negotiations, without replacing them, through enhanced cooperation in a number of areas of joint interest;

F. whereas in its conclusions of 11 December 2012 the Council endorsed the Commission’s new approach of placing the rule of law at the heart of enlargement policy and confirmed the centrality in the negotiating process of Chapter 23 (judiciary and fundamental rights) and Chapter 24 (justice, freedom and security), which should be tackled early in the negotiations in order to allow clear benchmarks and maximum time to establish the necessary legislation, institutions and solid track records of implementation;

G. whereas in its 2012 Enlargement Strategy the Commission concluded that, in terms of its economy, strategic location and important regional role, Turkey is a key country for the European Union and that the accession process remains the most suitable framework for promoting EU-related reforms in Turkey; whereas the Commission expressed concern regarding Turkey’s lack of progress on the fulfilment of the political criteria;

H. whereas Turkey, for the seventh consecutive year, has still not implemented the provisions stemming from the EC-Turkey Association Agreement and the Additional Protocol thereto;

I. whereas negotiating chapters for which technical preparations have been concluded should be opened without delay according to established procedures and in line with the Negotiating Framework;

J. whereas there is an economic interdependence between the European Union and Turkey, with trade between the EU and Turkey totalling EUR 120 billion in 2011;

K. whereas the EU is Turkey’s largest trading partner and Turkey is the EU’s sixth-largest trading partner; whereas foreign direct investment (FDI) by EU Member States in Turkey accounts for 75% of total FDI inflow;

L. whereas the Commission has assessed that, in the area of economic policy, Turkey’s overall level of preparedness is advanced and that its capacity for economic policy formulation and coordination is adequate;

M. whereas Turkey has the potential to play a pivotal role in diversifying energy resources and routes for oil, gas and electricity transiting from neighbouring countries to the EU; whereas in creating a sustainable low-carbon economy, there is potential for both Turkey and the EU to benefit from Turkey’s rich renewable energy resources;
N. whereas EU dialogue and cooperation with Turkey on stability, democracy and security, with particular reference to the broader Middle East, are of strategic importance; whereas Turkey has strongly and repeatedly condemned the Syrian regime's violence against its civilians and is providing vital humanitarian assistance to Syrians fleeing from the violence taking place across the border;

O. whereas Turkey and Armenia need to proceed to a normalisation of their relations by ratifying, without preconditions, the protocols agreed on and by opening their common border;

P. whereas the casus belli threat declared by the Turkish Grand National Assembly (TGNA) against Greece in 1995 should be withdrawn; whereas it is important that Turkey and Greece conduct a new round of talks to improve their relations;

**Constructive dialogue and common understanding**

1. Believes that renewed mutual engagement in the context of the negotiation process is needed in order to maintain a constructive relationship; stresses the importance of creating the conditions for a constructive dialogue and the foundations of a common understanding; notes that this should be based on common values of democracy, the rule of law and respect for human rights; commends the Commission and Turkey for the implementation of the positive agenda, which proves how, in a context of mutual engagement and clear objectives, Turkey and the EU could advance their dialogue, achieve common understanding, and produce positive change and necessary reforms;

2. Stresses Turkey's strategic role, politically and geographically, for the EU's foreign and neighbourhood policies; recognises Turkey's role as a neighbour and an important regional player, and calls for further reinforcement of the existing political dialogue between the EU and Turkey on foreign policy choices and objectives; regrets that the alignment of Turkey with CFSP declarations continued to be low in 2012; encourages Turkey to develop its foreign policy in the framework of dialogue and coordination with the EU; calls on Turkey and the EU to cooperate more closely on strengthening the forces of peace and democracy in the southern neighbourhood, a region of critical importance both for the EU and for Turkey;

3. Expresses support for dialogue and re-established relationships between Turkey and Israel;

4. Welcomes the Council decision to invite the Commission to take steps towards visa liberalisation in parallel with the signing of the readmission agreement; urges Turkey to sign and implement the readmission agreement without further delay and to ensure that, until this agreement enters into force, existing bilateral agreements are fully implemented; recalls that Turkey is one of the key transit countries for irregular migration to the EU; acknowledges the steps undertaken by Turkey to prevent irregular migration, and underlines the important need for Turkey to intensify cooperation with the EU on migration management, the fight against human trafficking, and border controls; stresses, once again, the importance of facilitating access to the EU for business people, academics, students and representatives of civil society from Turkey; supports the efforts of the Commission and the Member States to implement the visa code, to harmonise and simplify visa requirements and to create visa facilitating centres in Turkey; reminds the Member States of their obligations under the association agreement, in line with the ruling of the European Court of Justice of 19 February 2009 in the Soysal case (1);

5. Welcomes the recent adoption of the draft law on foreigners and international protection and expects this legislation to address existing concerns about the continued arbitrary refusal of access to the asylum procedure and the practice of repatriation of refugees, asylum-seekers and other people who may be in need of protection; underlines the importance of aligning with international standards the detention regulations that were found to be unlawful by the European Court of Human Rights (ECtHR) in the case of Abdolkhani and Karamina vs Turkey;

**Fulfilling the Copenhagen criteria**

6. Commends the Turkish Constitution Conciliation Committee for its commitment to drafting a new Constitution and for the inclusive process of consulting civil society in a manner that reflects the diversity of Turkish society; expresses concern at the apparently slow progress made by the Committee so far; encourages the Committee to continue its work and

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(1) Case 228/06 Mehmet Soysal and Ibrahim Savatli v Bundesrepublik Deutschland [2009] ECR I-01031.
to tackle — in an inclusive, representative and collegial way, and in line with the criteria and values of the EU — key issues such as (a) ensuring the separation of powers and an adequate system of checks and balances; (b) clarifying relations between the state, society and religion; (c) introducing an inclusive system of governance that secures the human rights and fundamental freedoms of all citizens; and (d) formulating an inclusive concept of citizenship; calls on all political parties, and on the actors concerned, to take a constructive approach in the negotiation of the new Constitution; is of the opinion that the involvement of, and dialogue with, the Venice Commission would produce positive results and support the constitutional process;

7. Stresses the need for further progress in implementing the 2010 constitutional amendments, in particular the adoption of laws on the protection of personal data and military justice, and of laws introducing affirmative-action measures to promote gender equality; notes that the presence and the powers of the Turkish Minister of Justice and his Undersecretary in the High Council of the Judges and Prosecutors (HCoJP) give cause for considerable concern regarding the independence of the judiciary; welcomes the entry into force of legislation providing for the right of individuals to petition the Constitutional Court, as foreseen by the 2010 constitutional amendments;

8. Reaffirms the fundamental role that the TGNA plays as the centre of Turkey's democratic system, and stresses the importance of securing the support and commitment of all political parties for the reform process, in particular as regards the valuable legal framework to protect and enhance the fundamental rights of all communities and citizens and to lower the 10 % threshold for representation in the TGNA; commends the work of the Turkish Human Rights Inquiry Committee, and asks for a more central role for the EU Harmonisation Committee in promoting the alignment of new legislation with the Union's acquis or with European standards during the legislative process;

9. Stresses that the reform of the Turkish judiciary system is central to the efforts to bring about democratic consolidation in Turkey and an indispensable prerequisite for Turkey's modernisation, and that such reform must lead to a modern, efficient, fully independent and impartial judicial system guaranteeing due process of law for all citizens; welcomes the third judicial reform package as a step towards a comprehensive reform process in the area of the judiciary and fundamental rights; stresses, however, the crucial importance of continuing the reform process by (a) addressing the excessively broad definition of criminal offences and, in particular, what constitutes an act of terrorism under the Penal Code or the Anti-Terror Law, with the urgent need to introduce a clear distinction between, on the one hand, the promotion of terrorism and the incitement to violence and, on the other hand, the expression of non-violent ideas, in full compliance with ECtHR case law, in order to safeguard freedom of expression, freedom of assembly, including student protests, and freedom of association; (b) addressing the issue of excessively long pre-trial detention periods; (c) addressing the need to allow full access to the prosecution file for defence lawyers; (d) setting criteria to promote the quality and consistency of evidence; and (e) reviewing the role and scope of special courts; welcomes, in this regard, the adoption of the fourth reform package by the TGNA and looks forward to its speedy implementation;

10. Underlines the importance of providing effective protection for human-rights defenders; draws particular attention to the trial of Pinar Selek, which has lasted almost 15 years and, despite three acquittal decisions, resulted in a life sentence pronounced on 24 January 2013 by Istanbul Heavy Penal Court No 12; takes the view that this trial is an example of the shortcomings of Turkey's justice system;

11. Welcomes the changes to the code of criminal procedure and to the law on the execution of punitive and security measures to allow the use in court of languages other than Turkish, and looks forward to the rapid implementation of the new rules; welcomes the entry into force on 19 January 2013 of the law on payment of compensation for long trial durations and late, partial or non-execution of court verdicts, and expresses the hope that the domestic remedy foreseen will decrease the number of pending cases against Turkey at the ECtHR;

12. Is concerned about the ongoing trials and the long pre-trial detention periods affecting activists, lawyers, journalists and opposition parliamentarians, noting that this constitutes interference in legal political activities and with the right to political association and participation; welcomes the abolition of the special courts established by the Government of Turkey in 2005 as adopted by the TGNA, but regrets the fact that the closure will not affect ongoing prosecutions;

13. Notes that, in a culture of tolerance, minority rights should be fully recognised; expects that due process of law will be followed in the appeal made by the Prosecutor for a dismissal of the January 2012 Court decision on the Hrant Dink murder case based in part on the argument that the murder was committed by an organisation;
14. Calls on the Government of Turkey, with a view to increasing the efficiency of judicial proceedings and addressing the ongoing backlog of cases, to bring its regional courts of appeal, which were legally due to be operational by June 2007, into operation as soon as possible and to focus on training judges and prosecutors for this purpose;

15. Notes that Parliament’s ad hoc delegation for the observation of trials of journalists in Turkey will continue to monitor the trials of journalists and will follow judicial reforms in Turkey that address freedom of expression and of the media;

16. Encourages Turkey to adopt the Human Rights Action Plan, prepared by the Turkish Ministry of Justice in cooperation with the Council of Europe and based on the case law of the ECtHR, in order to address issues raised in judgments of the ECtHR where Turkey was found to violate the provisions of the European Convention on Human Rights (ECHR), and calls for its implementation; supports the Ministry of Justice and the HCoJP in providing judges and prosecutors with human rights training; welcomes the establishment by the HCoJP of new assessment criteria for judges and prosecutors which will reward respect for the provisions of the ECHR and judgments of the ECtHR;

17. Calls on Turkey to reaffirm its commitment to the fight against impunity, to expedite efforts to accede to the Rome Statute of the International Criminal Court (ICC) and to align its national legislation fully with all obligations under the Rome Statute, including by incorporating provisions to cooperate promptly and fully with the ICC;

18. Recalls that freedom of expression and media pluralism, including on the internet, are core European values and that a truly democratic society requires genuine freedom of expression, including the right of dissent; highlights the special role of public-service media in strengthening democracy and calls on the authorities to ensure their independence, sustainability and compliance with European Union standards; underlines, once again, the importance of abolishing legislation providing for disproportionately high administrative tax fines on the media, leading, in some cases, to their closure or to self-censorship; and the urgent need to reform the internet law; stresses the importance of tackling restrictions on fundamental freedoms in the broader context of the rule of law; in terms of both the wording and the application of the law; is concerned, in particular, that the penal code and anti-terror law are used to prosecute non-violent statements when they are perceived as supporting the aims of a terrorist organisation; stresses the need to amend Articles 26 and 28 of the Turkish Constitution, which limit freedom of expression on the basis of national security, public order and national unity; reiterates, therefore, its previous calls to the Government of Turkey to finalise the review of the legal framework on freedom of expression and to bring it, without delay, into line with ECtHR case law;

19. Takes note of the concern of the OSCE Representative on Freedom of the Media regarding the high numbers of trials of journalists and of journalists in prison, and calls on the Government of Turkey to ensure that trials are carried out in a transparent manner and with proper conditions and procedural rights for the defendants;

20. Is concerned that the Turkish act on the establishment of radio and television enterprises and their broadcasts contains restrictions which do not comply with the EU Audiovisual Media Services Directive;

21. Notes with concern that most media are owned by and concentrated in large conglomerates with a wide range of business interests; reiterates its call for the adoption of a new media law addressing, inter alia, the issues of independence, ownership and administrative control;

22. Encourages Turkey, with a view to completely eradicating torture and ill-treatment by the security forces, to set up the National Prevention Mechanism called for in the Optional Protocol to the Convention against Torture, ratified in 2011;

23. Calls on Turkey to place constitutional restrictions only on those political parties that advocate the use of violence as a means of overthrowing the constitutional order, in line with the Venice Commission recommendations;

24. Fully supports the Commission’s new approach of opening the chapters on the judiciary and fundamental rights, and on justice and home affairs, early in the negotiation process and closing them as the very last ones; stresses that official benchmarks would provide a clear roadmap and give a boost to the reform process; calls on the Council, therefore, to make renewed efforts for the opening of Chapters 23 and 24;
25. Welcomes the Turkish law on the Ombudsman and the appointment of a first Head Ombudsman, who is to ensure the credibility of the institution through his decisions; stresses that the Head Ombudsman should promote public confidence in transparency and accountability in public services; recalls that the Head Ombudsman, and the members of the board of the Ombudsman, should be elected from among candidates who are non-partisan and impartial; calls on the board of the Ombudsman to ensure that the regulation on the internal decision-making process guarantees the independence and impartiality of the institution;

26. Encourages Turkey to continue the process of civilian oversight over the security forces; calls for an amendment of the law on provincial administrations to give civilian authorities broader oversight of military operations and the gendarmerie’s law-enforcement activities; stresses the importance of setting up an independent law-enforcement complaints agency to investigate complaints of human rights abuses, ill-treatment and possible wrongdoing by Turkish law-enforcement agencies; takes the view that the legal provisions on the composition and powers of the Supreme Military Council need to be reformed;

27. Notes that in the ‘Sledgehammer’ trial a first-instance court sentenced 324 suspects to 13 to 20 years after lengthy pre-trial detention periods; stresses that investigations of alleged coup plans, such as the ‘Ergenekon’ and ‘Sledgehammer’ cases, and the investigation of the Kurdish organisation Koma Civakên Kurdistan (KCK), must demonstrate the strength and the proper, independent, impartial and transparent functioning of Turkey’s democratic institutions and judiciary, as well as their firm, unconditional commitment to respect for fundamental rights; is concerned about the allegations regarding the use of inconsistent evidence against the defendants in such cases; regrets the fact that these cases have been overshadowed by concerns about their excessively wide scope and the shortcomings of the proceedings, and is concerned about the adverse effects on society;

28. Welcomes the law setting up the Turkish National Human Rights Institution (TNHRI); calls for its implementation without delay, in order to promote and monitor the effective implementation of international human rights standards; stresses the importance of using all EU instruments available in the field of human rights promotion to actively support the setting-up and proper functioning of the TNHRI and the empowerment of civil society organisations;

29. Stresses the importance of active and independent civil society organisations (CSOs) for democracy; underlines the importance of dialogue with CSOs and stresses their crucial role in contributing to enhanced regional cooperation on social and political matters; is therefore worried that CSOs continue to face fines, closure proceedings and administrative obstacles to their operations, and that consultation of CSOs remains the exception rather than the rule; welcomes the Turkish Government’s improved cooperation with NGOs, but calls for their broader consultation in policy-making, including the formulation of policies and legislation, and in monitoring the activities of the authorities;

30. Stresses that more progress is needed in the areas of labour and trade union rights; calls on Turkey to continue working on new legislation in this area to ensure that it is in line with the EU acquis and ILO conventions, especially as regards the right to strike and the right to bargain collectively; stresses the importance of opening Chapter 19 on social policy and employment;

31. Welcomes the Law on protection of the family and prevention of violence against women; commends the National Action Plan to combat Violence against Women (2012-2015) and stresses the need to enforce it effectively nationwide; calls on the Ministry for Family and Social Policies to continue its efforts to increase the number and quality of shelters for women and minors in danger; stresses the importance of providing women who have been victims of violence with concrete alternatives and self-sustainment prospects; commends Turkey’s efforts, at all levels, to fight against ‘honour killings’, domestic violence and the phenomenon of forced marriages and child brides, and underlines the importance of a zero-tolerance attitude towards violence against women, and the importance of continuously stepping up prevention measures; is concerned, however, by the fact that, despite such efforts, violence against women is still a regular occurrence, and asks that those who fail to protect and assist victims be identified and prosecuted; stresses the importance of tackling poverty amongst women and of increasing the social inclusion of women; calls on the Ministry to continue actively to promote women’s rights, education — including by bridging the gender gap in secondary education — and participation in the labour market (which remains low), in politics and at senior level in the public as well as private sector, if necessary by introducing reserved quotas and by reviewing certain specific laws regulating employment in Turkey; encourages the Government of Turkey to revise the law on political parties and the law on elections in order to make the inclusion of
women a priority for political parties; notes that Turkey's 2023 employment target for women is 35%, while in the EU 2020 strategy the target is 75%; encourages Turkey to strive to achieve an ambitious employment target for women:

32. Expresses concern that the draft law on antidiscrimination does not address discrimination based on sexual orientation and identity; stresses the urgent need for comprehensive anti-discrimination legislation and the establishment of an anti-discrimination and equality board to protect individuals against discrimination based on ethnicity, religion, gender, sexual orientation, sexual identity, age or disability; expresses concern at the frequent attacks on transgender persons and the lack of protection provided to lesbian, gay, bisexual and transgender (LGBT) persons against acts of violence; calls on Turkey to combat homophobia and to adopt an action plan to promote full equality of rights, including labour rights, and full acceptance of LGBT persons; underlines the need for hate-crime legislation that includes heavier sentences for crimes based on any form of discrimination;

33. Urges the Turkish authorities to take strong and effective measures to combat expressions of anti-Semitism, thus setting an example for the region;

34. Welcomes the continued implementation of legislation amending the 2008 law on foundations and broadening the scope of the restoration of the property rights of non-Muslim communities; calls on the relevant authorities to assist the Syriac community in resolving the difficulties they face in dealing with property and land registration matters; calls for a solution for the large number of properties of the Latin Catholic Church that remain confiscated by the state; notes that progress has been particularly slow in extending the rights of the Alevi minority; recalls the urgent need to continue vital and substantial reform in the area of freedom of thought, conscience and religion, in particular by enabling religious communities to obtain legal personality, by eliminating all restrictions on the training, appointment and succession of clergy, by recognising Alevi places of worship and by complying with the relevant judgments of the ECtHR and the recommendations of the Venice Commission; calls on Turkey to ensure that the Saint Gabriel Monastery is not deprived of its lands and that it is protected in its entirety; believes that a broader composition of the Directorate General for Religious Affairs, so as to include representatives of religious minorities, would prove beneficial, as it would promote an inclusive concept of society; calls on Turkey to remove the reference to religion from national identity cards and to guarantee that religious education respects the religious diversity and plurality of Turkish society;

35. Recalls that education plays a pivotal role in the process of building an inclusive and diverse society based on respect for religious communities and minorities; urges the Government of Turkey to pay special attention to educational materials in schools, which should reflect the ethnic and religious plurality, and the plurality of beliefs, of Turkish society, eliminate discrimination and prejudice and promote full acceptance of all religious communities and minorities, and stresses the need for unbiased learning materials;

36. Welcomes the direct political dialogue that the Government of Turkey has recently opened with Abdullah Ocalan; deems that a perspective for negotiations has been opened which could lead to a historic agreement that would settle the Kurdish conflict in a peaceful and democratic way; encourages the conflict parties, therefore, to transform these talks into structured negotiations as soon as possible; underlines the constructive role that all political parties, media and civil society in Turkey must play if the peace process is to succeed, and praises the cross-party and civil-society support for this initiative; notes that Turkey has continued to demonstrate resilience to the terrorist attacks by the Kurdistan Workers' Party (PKK); considers that true and sincere political dialogue is necessary, and calls on Turkey to invest renewed efforts in working towards a political solution to the Kurdish issue; asks all political forces to ensure an appropriate political platform for, and to debate in a constructive way, the Kurdish issue, and to facilitate a real opening to the claims for basic rights in the constitutional process that reflects the pluralism in Turkey and in which all citizens can find themselves and their rights fully recognised; asks all political forces to work in alliance towards the goal of reinforced political dialogue and a process of further political, cultural and socio-economic inclusion and participation of citizens of Kurdish origin, in order to guarantee their rights to freedom of expression, association and assembly, and to promote the peaceful inclusion of citizens of Kurdish origin in Turkish society; welcomes the new legislation that opens the possibility for people's native language to be used in trials and the positive discussion on the use of Kurdish in education; recalls that a political solution can be built only on a truly democratic debate on the Kurdish issue, and expresses concern at the large number of cases launched against writers and journalists writing on the Kurdish issue and the arrest of several Kurdish politicians, mayors and members of municipal
37. Welcomes the initiatives to reopen the Greek orphanage of Büyükada as an international cultural centre, and underlines the importance of lifting all obstacles to a speedy reopening of the Halki Seminary; welcomes and expects the speedy implementation of the declaration by the Government of Turkey regarding the reopening of a Greek minority school on the island of Gökçeada (Imbros), which constitutes a positive step towards the preservation of the bicultural character of the Turkish islands of Gökçeada (Imbros) and Bozcaada (Tenedos), in line with Resolution 1625 (2008) of the Parliamentary Assembly of the Council of Europe; notes, however, that further steps are needed to address the problems encountered by members of the Greek minority, particularly with regard to their property rights;

38. Strongly condemns the terrorist attack on the US Embassy in Ankara on 1 February 2013, and presents its condolences to the family of the deceased Turkish citizen; recalls that, while further measures to counter terrorist actions should be taken in order to ensure the security of the state and its people, they should not come at the expense of human and citizens’ rights;

39. Calls on the Turkish authorities to ensure that the circumstances of the massacre of Uludere, in Sırnak Province, on 28 December 2011 are fully clarified and that those responsible are brought to justice;

40. Welcomes the incentives package seeking to increase investment and economic development in the least developed regions of Turkey, including the south-east of the country, and the continuation of the South East Anatolia project; takes note of the verdict of the Higher Administrative Court (Danistay) on the annulment of the permit to construct the Ilisu Dam, based on environmental impact studies and applicable law; calls on the Government of Turkey to preserve this archaeological and environmental heritage by prioritising smaller, ecologically and socially sustainable projects;

41. Reiterates the need to strengthen cohesion among Turkish regions and between rural and urban areas in order to open up opportunities for the population at large and to promote economic and social inclusion; highlights the particular role of education and the need to tackle persistent and substantial regional disparities in the quality of education and enrolment rates; calls for steps conducive to the opening of Chapter 22 on regional policy;

42. Welcomes the establishment of an Ombudsperson for children’s rights and the adoption of Turkey’s first strategy on the rights of the child; expresses concern at the disproportionately high poverty rate among children and child labour rate, particularly in rural areas; stresses the need for a comprehensive strategy to combat child poverty and child labour, especially in seasonal agricultural work, and to continue to promote access to education for boys and girls alike; is concerned that the number of active juvenile justice courts has decreased, and urges Turkey to provide alternatives to detention for minors; calls on the Government of Turkey to continue to improve the conditions of the detention centres for minors; recalls the importance of independent monitoring and protection mechanisms to protect rights and prevent abuse;

43. Welcomes the improvement in the overall business environment in Turkey, especially through the entry into force of the new Turkish Commercial Code and the consistent support for small and medium enterprises (SME) provided by the SME Development Organisation (KOSGEB); calls for greater partnership between Turkish and EU businesses;

44. Reminds Turkey that tens of thousands of EU citizens and residents who have been victimised by the fraud committed by the ‘Green-Funds’ still await redress, and calls on the authorities to take all necessary measures to accelerate the process;

Building good neighbourly relations

45. Notes the continuing intensified efforts by Turkey and Greece to improve their bilateral relations, including through bilateral meetings; considers it regrettable, however, that the casus belli threat declared by the Turkish Grand National Assembly against Greece has not yet been withdrawn; reiterates that Turkey must commit itself unequivocally to good neighbourly relations and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice; urges the Government of Turkey to end the repeated violation of Greek airspace and Turkish military aircraft flights over Greek islands;
46. Takes the view that Turkey missed an important opportunity to start a process of engagement and normalisation of relations with Cyprus during the latter's Presidency of the Council of the European Union; recalls that the EU is based on the principles of sincere cooperation and mutual solidarity amongst all its Member States and respect for the institutional framework; stresses that progress towards the normalisation of Turkey's relations with the Republic of Cyprus is urgently needed in order to give new momentum to the EU-Turkey accession negotiations;

47. Regrets that Turkey refused to convene the 70th Joint Parliamentary Committee meeting during the second half of 2012 as planned, thus missing another opportunity to enhance the inter-parliamentary dialogue between the EU and Turkey;

48. Emphasises that the United Nations Convention on the Law of the Sea (UNCLOS) has been signed by the EU, the 27 Member States and all other candidate countries and that it is part of the acquis communautaire; calls, therefore, on the Government of Turkey to sign and ratify the convention without further delay; recalls the full legitimacy of the Republic of Cyprus's exclusive economic zone, in accordance with UNCLOS;

49. Expresses once again its strong support for the reunification of Cyprus, based on a fair and viable settlement for both communities; underlines the urgent need for an agreement between the two communities on how to proceed with the substantive settlement negotiations, so that the negotiating process, under the auspices of the UN Secretary-General, can soon regain momentum; calls on Turkey to begin withdrawing its forces from Cyprus and to transfer the sealed-off area of Famagusta to the UN in accordance with UNSC Resolution 550 (1984); calls on the Republic of Cyprus to open the port of Famagusta, under EU customs supervision, in order to promote a positive climate for the successful solution of the ongoing reunification negotiations, and to allow Turkish Cypriots to trade directly in a legal manner that is acceptable to all;

50. Takes the view that the Committee on Missing Persons is one of the most sensitive and important projects in Cyprus, and recognises that its work affects equally the lives of thousands of people on both sides of the island; encourages Turkey and all parties concerned to intensify further their support for the Committee on Missing Persons in Cyprus; takes the view that dialogue and a common understanding on issues such as full access to all relevant archives and military zones are required; calls for special consideration for the work done by the Committee on Missing Persons;

51. Calls on Turkey to refrain, in accordance with the principles of international law, from any new settlement of Turkish citizens in Cyprus, as this would continue to change the demographic balance and reduce the allegiance of its citizens on the island to a future common state based on its common past;

52. Stresses the importance of a coherent and comprehensive security approach in the Eastern Mediterranean, and calls on Turkey to allow political dialogue between the EU and NATO by lifting its veto on EU-NATO cooperation including Cyprus, and consequently calls on the Republic of Cyprus to lift its veto on Turkey's participation in the European Defence Agency;

53. Urges Turkey and Armenia to proceed to a normalisation of their relations by ratifying, without preconditions, the protocols on the establishment of diplomatic relations, by opening the border and by actively improving their relations, with particular reference to cross-border cooperation and economic integration;

**Advancing EU-Turkey cooperation**

54. Deplores Turkey’s refusal to fulfil its obligation of full, non-discriminatory implementation of the Additional Protocol to the EC-Turkey Association Agreement towards all Member States; recalls that this refusal continues to have a profound effect on the negotiation process;

55. Reiterates its condemnation, in the strongest terms, of the terrorist violence committed by the PKK, which is on the EU list of terrorist organisations, and by all other terrorist organisations; expresses its full solidarity with Turkey in this regard and with the families of the many victims of terrorism; calls on the Member States, in close coordination with the EU counter-terrorism coordinator and Europol, to intensify cooperation with Turkey in the fight against terrorism and organised crime as a source of financing of terrorism; calls on Turkey to adopt a data protection law so that a cooperation agreement can be concluded with Europol, and judicial cooperation with Eurojust and the EU Member States can be further developed; takes the view that the assignment of a Turkish police liaison officer to Europol would help improve bilateral cooperation; welcomes the adoption of legislation on the financing of terrorism in line with the Financial Action Task Force (FATF) recommendations;
56. Supports Turkey's commitment to democratic forces in Syria and the provision of humanitarian assistance to the increasing number of refugees from Syria who have fled the country; recognises the fact that the repercussions of the rapidly deteriorating situation in Syria on the security and stability of the region are multiplying; asks the Commission, the Member States and the international community to continue to support Turkey's efforts to cope with the growing humanitarian dimension of the Syrian crisis; underlines the importance of a common understanding between the EU and Turkey on how to deliver the available humanitarian assistance to the displaced Syrians currently on Turkish territory or waiting at its borders; underlines that beyond humanitarian assistance, the EU and Turkey should actively seek to develop a joint strategic vision to achieve reinforced leverage to end the tragic crisis in Syria;

57. Welcomes the decision to enhance cooperation between the EU and Turkey on a number of important energy issues, and calls on Turkey to commit to this cooperation; believes that, in view of Turkey's strategic role and considerable renewable energy resources, initial consideration should be given to the value of opening negotiations on Chapter 15 on energy with a view to furthering the EU-Turkey strategic dialogue on energy; underlines the need for more enhanced cooperation on the strategy for the EU energy corridors towards the EU; considers that both the enhanced EU-Turkey energy cooperation and eventual negotiations on Chapter 15 should also encourage the development of renewable energy potential and cross-border electricity transmission infrastructure;

58. Considers that Turkey is an important partner in the Black Sea region, which is of strategic importance to the EU; encourages Turkey to further support, and actively contribute to, the implementation of EU policies and programmes in this region;

59. Calls on the Commission to continue its support for civil society organisations and people-to-people activities through adequate funding of the Civil Society Dialogue, the EIDHR and Lifelong Learning programmes, including culture- and media-related activities;

60. Instructs its President to forward this resolution to the Council, the Commission, the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission, the Secretary-General of the Council of Europe, the President of the European Court of Human Rights, the governments and parliaments of the Member States and the Government and Parliament of the Republic of Turkey.

2012 progress report on Montenegro


The European Parliament,

— having regard to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, of 29 March 2010 (1),

— having regard to the conclusions of the European Council of 19—20 June 2003 and to the annex thereto entitled 'The Thessaloniki Agenda for the Western Balkans: moving towards European integration',

— having regard to the communication from the Commission to the European Parliament and the Council of 9 November 2010 on the Commission's opinion on Montenegro's application for membership of the European Union (COM(2010) 0670),

— having regard to the report from the Commission to the European Parliament and the Council of 22 May 2012 on Montenegro’s Progress in the Implementation of Reforms (COM(2012)0222), and to the Council conclusions of 26 June 2012 deciding to open accession negotiations with Montenegro on 29 June 2012,


— having regard to the declaration and recommendations of the 4th and 5th Meeting of the European Union — Montenegro Stabilisation and Association Parliamentary Committee (SAPC) of 3—4 April 2012 and 28—29 November 2012,

— having regard to the first meeting of the EU-Montenegro Civil Society Joint Consultative Committee (JCC) of 2 October 2012,

— having regard to the recommendation of the Committee of Ministers of the Council of Europe on the application of the European Charter for Regional and Minority Languages by Montenegro, adopted by the Committee of Ministers on 12 September 2012 (1),

— having regard to the election observation report by the Ad hoc Committee of the Bureau of the Council of Europe of 29 November 2012,

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

A. whereas the country’s political leadership has received a fresh mandate at the elections to pursue the objectives of the accession negotiations;

B. whereas significant progress has been achieved by Montenegro on the path to EU membership;

C. whereas some shortcomings in the accession process continue to persist and need to be addressed, especially the fight against organised crime and corruption at high level;

D. whereas the accession process should remain the driving force for continued reforms; whereas civil society has an irreplaceable role in the process of reform and EU integration;

E. whereas Montenegro is the first country in which a new EU negotiating approach is applied with the strengthened focus on democratic governance, fundamental freedoms, the rule of law, the judiciary, the fight against corruption and organised crime;

F. whereas the EU has put the rule of law at the core of the enlargement process;

G. whereas Montenegro continues to play an important role in regional stability;

General considerations

1. Welcomes the decision of the Council to open accession negotiations with Montenegro on 29 June 2012; notes that this decision is a major step in the country’s accession process and a clear reconfirmation of the EU’s attachment to the European future of the Western Balkans; underlines the progress achieved by Montenegro as noted in the Commission 2012 Progress Report;

2. Welcomes the peaceful, free and fair conduct of the early parliamentary elections in line with international standards; notes that the electoral legislation is broadly in line with the recommendations of the Venice Commission and the OSCE/ODIHR; underlines that the legal framework must be fully in line with the OSCE/ODIHR recommendations that no citizens are subject to undue restrictions; calls on the authorities to further improve the compilation of voter lists and transparency regarding the oversight of campaign finance, and to ensure the due implementation of the legislation on party funding, including by eliminating all forms of abuse, especially of public resources for political purposes; calls, furthermore, for a proper review of complaints in order to further increase, in line with the OSCE/ODIHR recommendations, public confidence in the electoral process;

3. Welcomes the creation of the new government, and encourages all political forces to remain focused, through constructive dialogue and close cooperation with civil society, on the country’s EU integration agenda;

(1) CM/RecChL (2012)4.
4. Welcomes the opening of negotiations with Montenegro and takes the view that this also represents a positive signal for other countries in the region; encourages the authorities in Podgorica to keep up the reform processes; equally welcomes the EU’s new negotiating approach under which the crucial issues of Chapters 23 and 24 will be tackled early in the negotiations, thus reinforcing the focus on the rule of law, and allowing maximum time to establish the necessary legislation, institutions and solid track records of implementation; considers that new negotiating chapters should be opened as soon as possible, provided that the reform process is sustained and concrete results are delivered;

5. Notes with satisfaction that assistance provided by the Instrument for Pre-Accession Assistance (IPA) works well in Montenegro; encourages both the Montenegrin Government and the Commission to simplify the administration procedure for IPA funding, with the aim of making it more accessible to smaller and non-centralised civil organisations, trade unions and other beneficiaries;

**Political criteria**

6. Welcomes the fact that the Montenegrin Parliament’s oversight role has been further strengthened through the adoption of a law on parliamentary inquiry and amendments to the Parliament’s rules of procedure and to the law on data secrecy, as well as with the start of implementation of the law on parliamentary oversight of the security and defence sector; underlines the fact that ensuring civilian control over the military is a critical element of democratic reform; stresses the need to further reinforce law-making capacities and consultations with civil society; calls on the Montenegrin Parliament to continue improving its oversight role especially with regard to the fight against organised crime and corruption; calls for a more active involvement of the Parliament in the accession negotiations through strategic and political discussions, policy analysis and legislative review in different parliamentary committees to gain a meaningful oversight over the negotiations; calls for stronger parliamentary oversight of the implementation of adopted legislation and resolutions;

7. Urges the Montenegrin Parliament to adopt constitutional provisions to reinforce the legal independence, integrity and accountability of the judiciary and to enhance judicial independence and the professional autonomy of the Judicial and Prosecution Council; takes the view that further efforts are needed to ensure merit-based appointments and career development;

8. Welcomes measures to enhance judicial efficiency, including a reduction in the backlog of cases, but remains concerned by the length of court procedures and poor infrastructure at many courts; calls on authorities to introduce clear criteria for the promotion and professional assessment of judges and prosecutors; calls for more transparency regarding due legal process and judicial verdicts;

9. Is concerned by the lack of alternatives to detention for children in conflict with the law; calls on the authorities to promote measures to reinforce the capacities of professionals working with children in contact with the justice system;

10. Calls for further measures to create a professional, effective, merit-based and impartial public administration which, in practice, should represent a service for citizens; stresses that this should be done in a financially sustainable manner and with adequate verification mechanisms; welcomes the comprehensive reform of the public sector aimed at rationalisation and modernisation, and calls for its implementation;

11. Calls for strengthening of the links between policy-makers and civil society; welcomes the inclusion of NGOs in the working groups dealing with the accession negotiations in order to ensure the accountability and transparency of the accession process; considers it important that they are equal members of the working groups; welcomes the Government’s new e-petitions platform to enhance participatory democracy in policy-making and e-governance; encourages Montenegro to consider establishing a ‘National Committee’, composed of parliamentarians and civil society representatives, to act as a consultative forum throughout the negotiation period; underlines the responsibility of both the Government and Parliament to inform citizens and civil society in a timely manner on the developments in the negotiation process;

12. Underlines the fact that Montenegro has ratified the eight core labour rights conventions of the International Labour Organisation (ILO) and the revised European Social Charter; points out the important role of social dialogue, and encourages the Montenegrin Government to step up ambitions in the Social Council and to further strengthen it; underlines the importance of improving the transparency and effectiveness of the Social Council; encourages the Montenegrin authorities to amend the Labour Law in order to bring it into line with the EU acquis;
13. Is worried that the performance of the labour market remains weak and that unemployment has continued to increase and is at 20%; welcomes the national strategy for employment and human resource development for the period 2012-2015; encourages the Montenegrin authorities to swiftly implement the strategy, strengthen the capacity of the Public Employment Service and increase the efforts to address low activity, employment rates and the mismatch between the available skills and needs;

14. Regrets the fact that corruption remains common; encourages the Government to implement anti-corruption measures and measures in relation to the conflict of interest, including the new Law on Political Party Financing, in a consistent manner; considers it essential to build up a track record in terms of investigations and convictions, in particular in high-level corruption cases, to further strengthen preventive tools and awareness-raising campaigns and to protect citizens’ reporting on corruption cases; stresses the need to reinforce inter-agency cooperation, enhance related administrative capacities of the supervisory institutions and implement the respective recommendations of the Group of States against Corruption (GRECO) in order to increase the transparency in the funding of political parties and election campaigns; calls for concrete results to be achieved in the investigation of high-level corruption cases, including a re-assessment of controversial privatisation cases;

15. Calls on the Government to reinforce the legal framework and strengthen the capacities of law-enforcement bodies in combating organised crime; calls for extending domestic, regional and international cooperation, particularly in the field of financial investigations; commends the measures to prevent and combat human trafficking, but calls for effective investigations and prosecution, as well as for measures to strengthen the capacities of law enforcement and judicial authorities dealing with human trafficking and to reinforce the identification and protection of victims, especially children and women;

16. Calls on the Montenegrin Government and Parliament to develop and adopt, prior to the presidential elections in 2013, a new law on financing the election campaign for the President of Montenegro that is in accordance with the new Law on Political Party Finance and with international best practices of other countries, in order to prevent any misuse of public funds;

17. Calls on the Montenegrin Parliament to adopt a code of conduct for the prevention of conflict of interest, and to publish information on financial interests of members;

18. Notes that the media environment is diverse and divided along political lines; urges the competent authorities to ensure and promote media pluralism and freedom of expression by means of a media free from political or any other interference, given that the safeguarding of media freedom is a core EU principle; recalls the importance of fostering responsible media and editorial independence;

19. Welcomes progress in decriminalising defamation and libel; considers it important to duly investigate and prosecute all threats and attacks against journalists and threats to press freedom; is concerned that police investigations regarding a number of violent attacks against Montenegrin media representatives and facilities have not yet resulted in any final verdict; stresses the need to bring justice to the victims; invites the authorities to ensure the independence, self-sustainability, monitoring capacity and functioning of regulatory bodies based on EU standards;

20. Calls on the Montenegrin Parliament to ensure the transparency of Montenegrin institutions, and, in particular, to reveal information that could disclose corruption and organised crime, through adequate implementation of the new Law on Free Access to Information, in accordance with the standards of the European Court on Human Rights and with best international practices;

21. Welcomes progress in the protection and inclusion of all minorities and persons with disabilities; acknowledges, however, that the inclusion of, in particular, the Roma, Ashkali and Egyptians needs to be improved, especially through the implementation of the relevant policy documents; calls on the authorities to take further measures to combat discrimination and to raise awareness of the problem, to improve the living conditions, access to social security, health, education, housing and employment services of the groups in question, to ensure their proper participation in public services, with special regard to the Roma, Ashkali and Egyptian population, including access to inclusive education for all children, and to protect their cultural heritage and identity; condemns physical and verbal attacks against members of the lesbian, gay, bisexual and transgender (LGBT) community and calls on the authorities to do the utmost to prevent such attacks; underlines the responsibility of the Government and of all political parties to take proactive steps to create a climate of tolerance and inclusion;
22. Welcomes the Government’s commitment to combating discrimination on grounds of sexual orientation and gender identity, including by organising the international conference ‘Together against Discrimination’, which brought together high-level governmental entities from the region to discuss the socio-legal situation of LGBT people in March 2012; welcomes the creation of a shelter for LGBT people and hopes that its financing can be secured; calls on the Government to work together with NGOs to prevent further attacks and discrimination; looks forward to closer cooperation in this field; calls on the Montenegrin Government to publicly support plans for a Pride in Podgorica festival in 2013 and to ensure the safety of its participants;

23. Notes that only limited progress has been made with regard to women’s rights and gender equality; stresses the problem that women remain underrepresented in the Montenegrin Parliament and in other top decision-making positions, on the labour market, and that their employment rights, including equal pay, are often ignored; encourages the authorities to strengthen governmental and other bodies responsible for gender equality with sufficient human and financial resources;

24. Notes that domestic violence against women still prevails in the society, and encourages the authorities to step up efforts to implement the legislative framework to address this issue and to raise awareness about it; encourages the authorities to express concern over child poverty and the fact that some three out of four poor children live in distant rural areas without access to basic services; calls for improved services for children and families at risk, and for reforms to strengthen the relevant social welfare sectors;

Economic criteria

25. Commends Montenegro for being at the vanguard of structural reforms in the Western Balkans and for maintaining macroeconomic and fiscal stability, despite the economic crisis; notes, however, the rise in public debt; encourages the Government to continue carrying out structural reforms, rationalise spending, increase labour market flexibility, tackle raising unemployment, foster quality job creation, boost competitiveness in order to become a fully functioning market economy, and support small and medium-sized enterprises (SMEs); calls on the Commission to help Montenegro develop a smart, sustainable and inclusive growth agenda, in line with the Europe 2020 strategy;

26. Calls on the Montenegrin authorities to maintain the balance between economic development and environmental protection; calls on the Government to ensure that privatisation of the national electricity company is conducted in a transparent manner and that the agreed investments are carried out; also recalls the need to specifically bring the development of tourism into line with environmental protection; calls for long-term planning with regard to tourism along the coastline and for the creation of strong mechanisms to prevent the destruction of the environment and corruption in the field of spatial planning and construction;

27. Encourages the authorities in Podgorica to implement the Strategy for Introduction of Business Clusters, adopted in July 2012, which could improve the competitiveness of the Montenegrin economy by strengthening SMEs and increasing export potential and employment opportunities;

28. Is concerned about the size of the informal economy, which is a problem that needs to be addressed in order to attract investment, support enterprises and protect employees in an efficient manner;

Ability to assume the obligations of membership

29. Calls on the Government to enhance the institutional and administrative capacities of state institutions dealing with key areas of the acquis, and to strengthen interinstitutional cooperation and coordination, especially with a view to speeding up the preparations for decentralised management of the IPA components in preparation for the Structural Funds and the Cohesion Fund; calls for further improvement in the efforts to establish a professional, effective, merit-based and impartial public administration;

30. Encourages the authorities to take further measures to align national legislation with, and implement, the environment and climate acquis and to strengthen relevant administrative capacities and interinstitutional cooperation;

31. Underlines the need to focus on the sustainable production of electric energy, reconciling the needs of economic development with those of conserving the environment; welcomes some progress in the area of renewable energies; calls for further measures to enhance energy efficiency and ensure security of energy supply;

32. Encourages further efforts in areas such as the free movement of workers, the free movement of capital, company law, food safety, veterinary and phytosanitary policy, taxation, enterprise and industrial policy, and financial and budgetary provisions;
Regional cooperation and bilateral issues

33. Underlines the importance of good neighbourly relations and welcomes Montenegro’s constructive role in regional cooperation, especially its active participation in numerous regional initiatives in South East Europe; commends Montenegro for maintaining good bilateral relations with all neighbouring countries; regrets, however, that the delimitation of borders with almost all neighbouring countries remains pending; calls for efforts to resolve all remaining open issues in a good neighbourly spirit, and highlights the need to resolve bilateral issues prior to accession; reiterates its call on the Commission and the Council to start developing, in accordance with the EU Treaties, a generally applicable arbitration mechanism aimed at solving bilateral issues between enlargement countries and Member States;

34. Welcomes the continued cooperation of Montenegro within the framework of the Sarajevo Declaration Process with regard to the issue of refugees and displaced persons, notably the agreed Regional Housing Programme supported by the April 2012 International Donors Conference in Sarajevo; underlines the need for sustained efforts towards the resolution of issues pending in this process;

35. Welcomes the signing by Bosnia and Herzegovina, Croatia, Montenegro and Serbia of a ministerial declaration and agreement on a Regional Housing Programme and the financing pledged in support of this programme;

36. Invites Montenegro to align its position on the International Criminal Court with the EU Common Position on the integrity of the Rome Statute;

37. Welcomes the ratification and entry into force of the agreement between the EU and Montenegro establishing a framework for the participation of Montenegro in European Union crisis management operations;

38. Instructs its President to forward this resolution to the Council, the Commission and the Government and Parliament of Montenegro.

P7_TA(2013)0186

2012 progress report on Serbia


(2016/C 045/10)

The European Parliament,

— having regard to the European Council conclusions of 2 March 2012,

— having regard to the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States and the Republic of Serbia, to which the European Parliament gave its consent on 19 January 2011 and which is in the final stage of ratification by Member States, the Interim Agreement on trade and trade-related matters between the European Community and the Republic of Serbia, which entered into force on 1 February 2010, and the regulation of the European Parliament and of the Council concerning certain procedures for applying the EC/Serbia Stabilisation and Association Agreement: procedures for applying the Agreement and the Interim Agreement,


— having regard to the General Affairs Council conclusions of 28 February 2012 and the European Council conclusions of 1 March 2012,

— having regard to the Council conclusions of 25 October 2010 inviting the Commission to prepare its opinion on Serbia’s application for membership of the European Union, to the Council conclusions of 5 December 2011 and the conclusions of the European Council of 9 December 2011 setting conditions for the opening of accession negotiations with Serbia, as well as to the Council Conclusions of 11 December 2012 as endorsed by the European Council of 13—14 December 2012,

— having regard to the Commission opinion of 12 October 2011 on Serbia’s application for membership of the European Union (SEC(2011)1208) and to the Commission communication of 12 October 2011 entitled ‘Enlargement Strategy and Main Challenges 2011-2012’ (COM(2011)0666),

— having regard to the Commission’s 2012 Progress Report on Serbia of 10 October 2012 (SWD(2012)0333),

— having regard to the communication from the Commission to the European Parliament and the Council of 10 October 2012 on ‘Enlargement strategy and Main Challenges 2012-2013’ (COM(2012)0600),

— having regard to UN Security Council Resolution 1244 (1999), to the ICJ Advisory Opinion of 22 July 2010 on the question of the accordance with international law of the unilateral declaration of independence in respect of Kosovo, and to the UN General Assembly Resolution of 9 September 2010, which acknowledged the content of the opinion and welcomed the readiness of the EU to facilitate the dialogue between Belgrade and Pristina (1),

— having regard to the joint statement of the 6th EU-Serbia Inter-Parliamentary Meeting of 27—28 September 2012,

— having regard to the EU-Serbia readmission agreement of 8 November 2007 (2) and to Council Regulation (EC) No 1244/2009 of 30 November 2009 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (3),


— having regard to the final report of 19 September 2012 of the OSCE/ODIHR Limited Election Observation Mission which observed the Serbian parliamentary and presidential elections held on 6 and 20 May 2012,

— having regard to the annual report of 1 August 2012 of the President of the ICTY, presented to the UN General Assembly on 15 October 2012,

— having regard to its previous resolutions,

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

A. whereas the European Council of 1 March 2012 granted Serbia EU candidate country status, reconfirming its clear European perspective in line with the EU’s commitments to the whole Western Balkans region;

B. whereas in the Presidency Conclusions issued following the Thessaloniki European Council of 19 and 20 June 2003 an unequivocal commitment was made to all the Western Balkan states that they may join the European Union once they meet the established criteria; whereas this commitment was reiterated in the renewed consensus on enlargement approved by the European Council on 14 and 15 December 2006 and in the Council conclusions of 25 October 2010, as well as by the EU/Western Balkans ministerial meeting of 2 June 2010;

(1) A/RES/64/298.
C. whereas Serbia has taken numerous steps towards the normalization of relations with Kosovo, and has made efforts to sufficiently fulfil the political criteria and conditions of the Stabilisation and Association Process;

D. whereas only one EU Member State has yet to ratify the EU-Serbia Stabilisation and Association Process;

E. whereas Serbia, like every country aspiring to EU membership, has to be judged on its own merits in terms of fulfilling, implementing and complying with the same set of criteria;

F. whereas Serbia is in a position to become an important player in guaranteeing security and stability in the region, and should maintain and enhance a constructive approach towards regional cooperation and good-neighbourly relations, since this is essential for the process of European integration;

G. whereas bilateral issues should be addressed as early as possible in the accession process, in a constructive and neighbourly spirit and preferably before the opening of accession negotiations, taking account of the EU's overall interests and values; whereas such issues should not represent or be used as an obstacle in the accession process;

H. whereas the new Serbian government has affirmed its commitment to continue to pursue European integration; whereas building up a solid track record in the adoption and implementation of reforms is necessary in this context;

I. whereas the EU has placed the rule of law at the core of its enlargement policy;

1. Welcomes the Council's call on the Commission to present a report as soon as Serbia has achieved the necessary degree of compliance with the membership criteria and key priorities, in order to open accession negotiations without further delay; strongly believes that the start of EU accession negotiations in June 2013 is an achievable objective; urges Serbia to continue with the democratic, systemic and socio-economic reforms that will allow it to take on and implement effectively the obligations of membership;

2. Welcomes the conduct of the parliamentary, local and early presidential elections held in May 2012, characterised, according to the OSCE/ODIHR, by respect for fundamental rights and freedoms; invites the government to take up the recommendations contained in the OSCE/ODIHR final report in order to enhance the transparency of the election process;

3. Welcomes the commitment of the new government to a continued EU integration course, and highlights the need to deliver reforms; encourages the new government to engage wholeheartedly in the adoption of reforms, particularly the key ones related to the judiciary, anti-corruption, media freedom, protection of all minorities, sustainable management of natural resources, structural economic reform and improvement of the business environment;

4. Stresses that the opening of accession negotiations with Serbia will be possible as soon as the key priorities are satisfactorily met and provided the reform processes continue, particularly regarding the rule of law; emphasises that this will demonstrate both the EU’s commitment to the enlargement process and the Western Balkans countries’ EU perspective; welcomes the progress made by Serbia towards meeting the Copenhagen political criteria, as recognised by the Commission in its 2012 progress report, and recalls that further progress in the European integration process is dependent on continuing the reform process, and in particular on guaranteeing democracy and the functioning of democratic institutions, upholding the rule of law, ensuring respect for human rights and the equal and committed protection of all minorities throughout Serbia according to European standards, maintaining good-neighbourly relations and regional cooperation, including peaceful resolution of bilateral issues, as well as on improving the functioning of the market economy;

5. Emphasises that Serbian accession to the EU is of crucial importance for the quality of the economic and social development in the country;

6. Underlines the importance of the EU-Serbia Stabilisation and Association Agreement (SAA), which defines the mutual rights and obligations of both parties up to the moment when Serbia joins the EU; notes that Serbia has built up a positive track record in implementing its obligations under the SAA and the Interim Agreement; calls on the one Member State which has not done so to complete swiftly the ratification process of the Stabilization and Association Agreement, so as to enable its entry into force as soon as possible in order to enhance and give further impetus to EU-Serbia relations;
7. Welcomes the progress made by Serbia towards meeting the political Copenhagen criteria, as recognised in the Commission’s 2012 progress report; recalls that further progress in the European integration process is directly dependent on pursuing an irreversible path of reform and meeting the Council’s set conditions; stresses that implementation is key;

8. Notes with regret that the 9th round of the high-level Belgrade-Pristina Dialogue ended without a comprehensive agreement on the scope of authority of the community of Serbian municipalities; calls on both parties to continue and intensify talks in order to find a mutually acceptable and sustainable solution to all outstanding issues as soon as possible; underlines the fact that normalisation of relations is in the best interest of Serbia and Kosovo and is a key step to unblocking the European integration process; calls for full implementation of the agreements reached so far by both parties; welcomes the meetings between the Serbian and Kosovo Prime Ministers, Ivica Dačić and Hashim Thaçi, as crucial steps towards a genuine reconciliation between Serbians and Kosovars and normalisation of relations between Serbia and Kosovo; commends the proactive role and leadership of High Representative/Vice-President Catherine Ashton in facilitating the dialogue between Serbia and Kosovo; looks forward to progress in other areas, such as telecommunications and energy, and urges both sides to actively engage in efforts to resolve the issue of missing persons; welcomes the instruction of the Serbian government on the implementation of the agreement on inclusive regional cooperation, the decision to appoint a liaison officer to each of the Pristina and Belgrade EU offices, as well as the signature of the IBM agreement and the first steps of its implementation; calls on Belgrade to continue to cooperate closely with EULEX in the rule of law area, and to step up the joint efforts in the fight against organised crime; encourages Serbia to cooperate fully with and assist the EULEX Special Investigative Task Force (SITF) in its work;

9. Emphasises the need to ensure the involvement of Serbia’s and Kosovo’s parliaments and civil societies in the dialogue process; stresses that the outcomes of the dialogue need to be communicated in a transparent and coherent manner to the public of both Serbia and Kosovo; looks forward to progress in other areas, such as telecommunications and energy, and for all agreements reached to be published not only in English but also in Serbian and Albanian;

10. Reiterates that notions of partitioning concerning Kosovo or any other country of the Western Balkans run counter to the spirit of European integration; calls for the dismantling of the parallel institutions maintained by the Serbian state in northern Kosovo, and in particular for the withdrawal of security services and judicial organs; underlines the importance of ensuring socio-economic development in the region; reiterates that economic support needs to be fully transparent, in particular the financing of schools and hospitals in northern Kosovo; stresses that both the Serbian and the Kosovar authorities need to continue working on ensuring the protection of all minorities and their inclusion in the wider society;

11. Welcomes Serbia’s cooperation with the ICTY, which has resulted in all war crimes suspects being handed over to the Hague Tribunal for trial; encourages further cooperation with the Tribunal; endorses the repeated calls by the ICTY chief prosecutor for the thorough investigation and prosecution of the persons engaged in the support networks which enabled fugitives to remain at large for so long, particularly in the military and civilian security services; notes that domestic war crimes prosecutions have proceeded steadily, but draws attention to the need to deal more vigorously with the issue of missing persons; furthermore calls on the authorities to ensure the credibility and professionalism of the Witness Protection Programme (WPP) and to provide it with adequate resources so that the judiciary can effectively continue its proceedings on war crimes; draws attention to the fact that a number of former police officers voluntarily opted out of the WPP because of its considerable shortcomings;

12. Calls on the Serbian authorities and political leaders to refrain from statements and actions that undermine the authority and integrity of the court, and on Serbia to keep its promise and remain consistently dedicated to regional cooperation and reconciliation in the Western Balkans, despite the manifest disappointment of Serbian public opinion after the recent acquittals in the Gotovina, Markac and Haradinaj cases; welcomes the signing of the protocol on cooperation in the prosecution of perpetrators of war crimes, crimes against humanity and genocide between Serbia and Bosnia and Herzegovina;

13. Stresses that more efforts need to be made by the authorities to obtain justice for survivors of conflict-related sexual violence in Serbia and elsewhere in the Western Balkans;

14. Welcomes the government’s commitment to fight against corruption and organised crime, as being crucial for Serbia’s EU integration process; stresses the importance of strengthening independent institutions in the fight against corruption, in particular the Anti-Corruption Agency and Anti-Corruption Prosecutor, and improving inter-agency
coordination; calls on the authorities to finalise the National Anti-Corruption Strategy 2012-2016 and corresponding Action Plan and to ensure that the Anti-Corruption Agency plays an important role in their implementation as an independent body; emphasises that political will is crucial for establishing a solid track record of investigation and conviction for high-profile corruption cases, including the 24 controversial privatisations, and hopes that the special and proactive role of the First Deputy Prime Minister in this area will yield results;

15. Notes that Serbia is developing a new strategy for judicial reform, and supports the efforts being made to devise a new court system in order to improve the efficiency and independence of the whole judicial system; welcomes the government’s commitment to tackling shortcomings in the reform of the judiciary, particularly by ensuring that the legal framework leaves no room for undue political influence and addressing the issues of parliament’s power to appoint judges and prosecutors and the direct political participation of officials in the work of the High Judicial and State Prosecutorial Councils; underlines the importance of adopting clear and transparent evaluation criteria for appointed judges and prosecutors that will ensure their independence and professionalism; furthermore stresses the need to implement measures, in line with the recommendations of the Venice Commission, to address the growing backlog of cases; notes that the Justice Ministry still has responsibility for capital expenditure and that this could further limit the independence of the judiciary; calls on the government to focus on the quality of reform rather than its speed, using the available technical expertise from abroad; stresses also the need for initial and continued professional training of judges and prosecutors, following the extensive changes to the law;

16. Reiterates the need for the continued and comprehensive training of prosecutors and police with a view to their conduct of complex investigations, especially those of a financial nature; stresses that the key to the fight against systemic corruption lies in severing the bonds between political parties, private interests and public enterprises; draws particular attention to the need to make party financing transparent and bring it into line with EU standards; calls on the authorities to fully implement the law on party financing; maintains that the principle of the presumption of innocence must at no point be endangered in the fight against corruption; stresses that whistleblowing is essential for the detection of corruption; calls, therefore, on the government to enact and implement whistleblower protection rules and to actively encourage people to denounce corruption at all levels; recalls that both authorities and media bear the responsibility to inform the public about ongoing corruption investigations in a credible manner, since this is a necessary condition for successful and professional operations by the judiciary and the police;

17. Calls for stronger political commitment to the reform of the public administration, particularly in ensuring the completion of the legislative framework and its full alignment with international standards;

18. Notes the efforts of the new government to address the concerns expressed by the European Parliament regarding the call for immediate revision of Article 359 of the Criminal Code, but expresses concern that the same provisions have been included in Article 234 of the same code; emphasises that the provisions of the new Article 234 of the Criminal Code must not be applied either to owners of private domestic or foreign companies or to responsible persons occupying posts in foreign companies outside Serbia, and calls on the authorities to cease all criminal proceedings against such persons. This should be applied also in reclassification on a case-by-case basis. The cases of the unjustly frozen assets should be solved as soon as possible because they aggravate the state of the Serbian economy;

19. Is concerned about the legal and political uncertainty regarding the autonomy of Vojvodina and the rising political tensions between the central and the provincial authorities following the intention of the Vojvodina Assembly to pass a declaration on the province’s autonomy; calls on the Serbian Government to restore the status quo ante and abjure centralising measures and to start immediate negotiations with the government of the Autonomous Province in order to find solutions which respect the principles of rule of law and subsidiarity; reminds the parties that according to the Constitution the law on financing of the Autonomous Province should have been adopted by the end of 2008; thus encourages the Government to draft such a law and submit it to the Parliament without further delay, since this is indispensable for the functioning of democracy and the rule of law in Serbia;

20. Calls once again for a review of the cases of unjustified freezing of assets and of inappropriately increased and retroactively applied taxes imposed on individuals and private companies; calls on the Ministry of Justice and the Constitutional Court to put an immediate stop to the selective application of the ‘law of one-time tax on extra profit and extra property acquired by taking advantage of special benefits’, as well as of all the provisions of the other tax laws which permit the imposition of unacceptably high fines that lead to bankruptcy, before the final judgment in tax proceedings; calls on the Serbian authorities to provide fair compensation for affected private persons and companies;
21. Expresses its concern over contradictory legislative initiatives such as the changes to the law governing the National Bank introduced in August 2012 which undermined the independence and autonomy of that institution in the face of undue influence by the government; stresses that the Copenhagen political criteria include the independence of state institutions; welcomes the subsequent amendments adopted in November 2012 to the changes to the above law, in line with the Commission's recommendations and aimed at ensuring greater continuity of the National Bank and reducing the impact of each change of government on its governance;

22. Reiterates its call on the authorities to continue their efforts to eliminate the legacy of the former Communist secret services, as a step in the democratisation of Serbia; recalls the importance of further security sector reform and increasing parliamentary oversight and control over the security services, as well as of opening up the National Archives, and in particular allowing access to the files of the former intelligence service, the UDBA; encourages the authorities to facilitate access to those archives that concern other ex-Yugoslav republics, and to return them to the respective governments if they so request;

23. Welcomes the gradual increase in civilian control of the security services; notes, however, that the overall legislative framework is not coherent and should be brought further in line with European standards; is concerned at the trend towards increased unauthorised surveillance; calls on the authorities to adopt comprehensive and modern legislation with the aim of clearly defining mechanisms for civilian control of the security services, both civil and military; notes that the current ambiguity of the legal framework defining the authority of the security services leaves room for undue political influence and undermines the general efforts to establish a genuine rule of law in the country;

24. Is concerned at the repeated allegations of police brutality and abuse of office, particularly in the towns of Kragujevac, Vranje and Leskovac; recalls that the independence and professionalism of state institutions are part of the Copenhagen criteria; calls on the authorities, in this respect, to take all necessary measures to restore public trust in the police and prosecute all perpetrators of alleged incidents;

25. Stresses the need to develop independent supervision and capacity for the early detection of wrongdoing and conflicts of interest in the areas of public procurement, management of public enterprises, privatisation procedures and public expenditure, which are currently particularly vulnerable to corruption; expresses its concern at the procedural shortcomings in the setting-up of the Commission for the Protection of Bidder's Rights; stresses that the highest standards of integrity should be required of the independent regulators dealing with public procurement, since this is identified as one of the main sources of corruption in the country;

26. Welcomes Serbia's efforts in fighting match-fixing in sport and the fact that this practice has been criminalised in an amendment to the Criminal Code;

27. Notes with satisfaction that the Instrument for Pre-Accession Assistance (IPA) works well in Serbia; stresses the importance of the IPA funds allocated in December 2012 by the Commission to support Serbia's efforts to implement its EU reform agenda; emphasises that this funding is to be used to increase the efficiency of the judicial system, develop asylum capacities, and fight organised crime, including trafficking in people and corruption; encourages both the government and the EU to simplify the administrative procedures for IPA funding with the aim of making it more accessible for smaller and non-centralised beneficiaries; stresses the need to maintain an adequate level of pre-accession support in the forthcoming review of the EU's financial framework;

28. Recommends amending the Law on Restitution in order to remove all procedural obstacles and legal impediments concerning restitution in kind;

29. Notes that corruption and organised crime are widespread in the region, and calls for a regional strategy and enhanced cooperation between all the countries for purposes of tackling these grave issues more effectively;

30. Considers that an early launch of accession negotiations would, for Chapters 23 and 24, benefit the fight against corruption and organised crime and the consolidation of the rule of law; in this respect, encourages the authorities to deliver concrete results in the justice field alongside progress in the fight against corruption and organised crime, and to establish a credible track record of high-profile corruption cases;

31. Recalls that a vigorous, professional and independent media constitute an essential element of a democratic system; calls on the authorities to speed up the implementation of the Media Strategy adopted in October 2011 and its accompanying action plans; is deeply concerned about the continued violence and threats against journalists, particularly those investigating corruption and organised crime; underlines the utmost importance of solving the cases of murdered journalists from the 1990s and 2000s, as evidence of the new government's commitment to ensure the rule of law and
freedom of the media; is concerned about the attempts to control and interfere in the media sector, and calls on the authorities to ensure its independence from political pressure in order to provide journalists with a safe environment where they can conduct their work effectively and without self-censorship; underlines the need to take steps against concentration of media ownership and lack of media transparency, as well as to ensure equal access to the advertising market — hitherto dominated by a handful of economic and political actors — including the release of public funds for purposes of advertising and promotion; calls on journalists to respect the Code of Ethics; notes that the level of internet access remains low, recognises the importance of the internet for media freedom, and urges the authorities to maximise their efforts in this field; notes that media reporting during the election campaign lacked the necessary analytical element, which points to the need to clarify the issue of media ownership; welcomes the fact that the Strategy respects the constitutional rights regarding minority language media, and stresses that the right to operate regional public radio and television should also apply within Vojvodina;

32. Welcomes the role played by independent regulatory bodies in improving the efficiency and transparency of the country's institutions; urges the authorities to work towards the highest possible standards in ensuring the coherence of the legal system and the even-handed implementation of all legal provisions; commends, in particular, the work of the Ombudsman and Commissioner for Information of Public Importance and Personal Data Protection; urges the authorities to provide the State Audit Institution, the Commission for the Protection of Competition, the Public Procurement Office and the Commission for the Protection of Bidders' Rights with adequate financial, administrative and office capacities enabling them to carry out their duties; calls on the authorities to follow up on the findings of the Anti-Corruption Council, which have been instrumental in making the public aware of high-profile corruption; urges the authorities to boost the follow-up of the recommendations of the independent regulatory bodies and to ensure the independence of the Republic Broadcasting Agency, as well as its secular character; reiterates that independent regulatory bodies are essential for the success of the fight against systemic corruption and are a central part of the checks-and-balance mechanism for effective oversight of the government;

33. Emphasises the importance of fight against all forms of discrimination affecting vulnerable groups, especially minorities, Roma, women, LGBT persons and persons with disabilities; calls on the authorities to take swift action to align the legislation on anti-discrimination with the acquis, particularly with regard to the exceptions granted to religious institutions, the obligation to provide reasonable accommodation to disabled employees, the definition of indirect discrimination and the role of NGOs in judicial proceedings; noted with regret that a track record of prosecutions and final convictions for offences related to discrimination has not been established; calls on political leaders to actively engage in campaigns promoting tolerance, especially with regard to Roma, women, persons with disabilities and the LGBT population; welcomes the positive actions undertaken by the Ombudsman and the Commissioner for Equality to promote these values in Serbian society;

34. Recognises women as important agents for change in Serbian society; notes the improvement in women's representation in the Serbian Parliament following the 2012 elections; welcomes the fact that 84 out of 250 parliamentary seats went to women; however, encourages the Serbian authorities to make further efforts to guarantee equal representation; stresses that women still face discrimination on the labour market and in other sectors of society, and that they are not yet fully represented in the political life of the country, including governmental positions; is concerned that although both legislation and implementation bodies are in place as regards both anti-discrimination and gender equality, no progress could be reported on equality of opportunity between women and men; notes that effective implementation of the existing legislation and further strengthening of administrative capacity remain major challenges, and urges the Serbian authorities to step up their efforts to this end;

35. Welcomes Serbia's signing of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; highlights the importance of rapid implementation and adequate enforcement of the convention, given that violence against women still remains an area of concern;

36. Calls on the authorities to focus on policies for reducing unemployment and poverty among and discrimination against persons with disabilities;

37. Is concerned about the threat posed by violent hooligan groups to the rule of law and public security in Serbia, especially after the government announced that it was incapable of controlling these groups when cancelling the Belgrade Pride in October 2012; calls on the Serbian Government to immediately ensure concerted action by all relevant government and security institutions so that these groups cease to be a threat and any form of violence or criminal activity perpetrated by their members leads to their prosecution;
38. Encourages the Serbian authorities to guarantee the security of women human rights defenders (WHRD); is concerned that hate speech, threats and physical attacks, not least against LGBT rights activists and activists raising the importance of facing the past, still exist in 2012:

39. Stresses the importance of systematically punishing hate speech and the need for the government to condemn hate speech when it is committed by public officials;

40. Condemns the government’s decision to ban the Belgrade Pride Parade which was supposed to take place on 6 October 2012; calls on the Serbian authorities to draw up and implement an action plan to increase knowledge and understanding of LGBT rights, combat homophobia and improve security, in order to ensure that a Pride or other such initiative can freely, successfully and safely take place in 2013 and the years after; calls on the authorities to strengthen their commitment to freedom of assembly, in particular by effectively banning extreme right-wing organisations and informal sports fans’ organisations which are closely connected to organised crime; welcomes, in this connection, the Constitutional Court’s rulings banning two such organisations;

41. Welcomes the fact that the legislative framework with regard to national, ethnic and cultural minorities in Serbia is in place; stresses, however, that more efforts are needed to ensure its effective implementation throughout Serbia; calls on the authorities to address known shortcomings, particularly with regard to the fair representation of minorities in the public administration, judiciary and police; insists that more consistent and prompt measures are necessary to ensure unrestricted access to quality education in minority languages at state and provincial level, since this is necessary to preserve ethnic and cultural identity, and in particular to provide all necessary textbooks and other educational materials; calls on the authorities to ensure that all necessary budgetary subsidies are provided to Minority Councils; calls on the Commission to continue to closely monitor Serbia’s efforts in this area;

42. Notes with regret that the Republican Council for National Minorities has not been active since 2009; calls on the authorities to facilitate in good faith the formation of the Bosniak National Council, as well as the integration of the two Islamic Communities in the country; draws attention to the fact that Sandžak and South and South-East Serbia, where a significant number of minorities live, are economically underdeveloped regions which require further efforts by the authorities to combat high unemployment and social exclusion; reiterates the importance of implementation of the protocol on national minorities signed by the Romanian and Serbian governments in Brussels on 1 March 2012; calls on the Serbian authorities to improve the situation of all minorities, including Roma, Bosniak, Albanian and Bulgarian minorities, which are disproportionately affected by the economic downturn, and to ensure consistent application of the legal framework on the protection of minorities throughout Serbia, notably in the areas of education, language and cultural rights; regrets the recent incidents in Vojvodina involving attacks on ethnic minorities; calls, therefore, on the authorities, particularly the forces of law and order, to investigate all details of the cases concerned;

43. Notes that the 2011 census was published only with considerable delay, further notes that the count was largely boycotted by the Albanian-speaking population of southern Serbia, and calls on the Serbian authorities, particularly at the local level, to refrain from using the aforementioned boycott as a pretext for discrimination against Albanian-language speakers;

44. Underlines the need to improve the position of the Roma population; recognises that some progress has been made, such as the increase achieved in the enrolment rate of Roma children in the education system, as well as the measures taken to increase their social inclusion, such as support for registering ‘legally invisible’ persons; stresses, however, that more concentrated and targeted efforts are needed to improve the socio-economic status of Roma, among other means through the EU Framework for National Roma Integration Strategies; expresses concern at the continued phenomena of severe discrimination, social exclusion, forced eviction and high unemployment, particularly affecting Roma women; notes furthermore the need to fully harmonise anti-discrimination law with EU policy;

45. Welcomes the important steps taken to implement inclusive education, leading to a marked increase in the proportion of Roma children enrolled in primary school, with two out of three Roma children now completing primary school compared to just over one in four some years ago; remains concerned at the continuing low proportion of Roma children attending secondary school and the fact that 70% of Roma children are not attending school at all; calls on the Serbian Government to ensure that all Roma children and young people are given an equal chance or second chance to return to school; emphasises that equal access to quality early childhood education is of particular importance for children from deprived backgrounds and is paramount to breaking the intergenerational cycle of poverty and social exclusion; notes with concern that young children are being disproportionately affected by the economic crisis, as reflected in the dramatic increase in the proportion of children living in absolute poverty between 2008 and 2010; recalls that poverty in childhood
is closely and consistently associated with poorer physical health, impaired cognitive development, underachievement in school and social risks, entailing higher costs to the legal and social protection systems; calls on the Serbian Government to act to address child poverty and social exclusion;

46. Reiterates its call on the Serbian authorities to initiate further measures for crossborder cooperation with the neighbouring EU Member States, Bulgaria, Hungary and Romania, including in the framework of the EU Strategy for the Danube Region, in order to facilitate inter alia the economic development of border regions and areas populated by minorities; underlines, in this respect, the importance of opening a terminal for commercial trucks and goods at the border crossing at Ribarci-Oltomantsi;

47. Welcomes the progress made in reforms to the childcare system and the continued implementation of the 2011 Social Welfare Law; is concerned over the growing number of children in care, and in particular the slow decrease in the numbers of children with disabilities in institutions and of Roma children in special schools; expresses its concern, furthermore, over the rise in both juvenile violence and violence against children, and calls on the authorities to ensure full protection of the rights of vulnerable children, including Roma children, street children and children in poverty;

48. Reiterates the central importance of regional cooperation for the success of the Western Balkan countries' European integration process, insofar as it demonstrates the willingness and capacity of applicant countries to fulfil the obligations of an EU member state and participate constructively in the further development of European integration in the context of the EU institutions; welcomes the work carried out on reconciliation, and believes that Serbia should continue to play an active and constructive role in the region and go on searching for ways to acknowledge the suffering and respect the right to truth and justice of all war crimes victims, including support for the establishment of RECOM; recalls that true reconciliation between nations and peoples, the peaceful resolution of conflicts and the establishment of good neighbourly relations between European countries are essential to sustainable peace and stability and contribute substantially to a genuine European integration process; encourages the Serbian authorities to work closely with the countries of the former Yugoslavia for the resolution of all outstanding problems of legal succession;

49. Deeply regrets President Nikolić's statements of July 2012 in which he denied that genocide took place in Srebrenica, and urges him to reconsider his stance and rhetoric in order to make genuine and lasting reconciliation possible; reiterates that there must be no denial of any of the war crimes and human rights violations that occurred during the 1990s conflicts in the former Yugoslavia, and that this includes the genocide in Srebrenica, which was recognised as such in findings and rulings by the ICTY and ICJ;

50. Reaffirms its staunch support for visa liberalisation for the Western Balkan countries; calls on Serbia and the EU Member States most affected to tackle together the issue of bogus asylum applicants; recalling that this liberalisation represents the most visible and concrete achievement of the European integration process in the region, calls on them to do their utmost to strictly implement all the necessary criteria and measures for visa-free travel to the Schengen countries; stresses that putting the visa-free regime on ice would be a significantly setback for the accession process of the Western Balkan countries benefiting from it; notes that Serbia needs to further engage further with the EU Member States’ authorities in dealing with bogus asylum applicants, also through the adoption and implementation of reforms to improve the situation of minorities whose members have in many cases abused the visa-free regimes and asylum policies of some Member States; calls on the Member States that are most affected by the inflow of false asylum seekers to adopt appropriate mechanisms for dealing with these cases, above all by classifying the Western Balkan countries as ‘countries of safe origin’; furthermore, calls on the Member States to assist Serbia in its efforts to fight organised crime in connection with the trafficking of false asylum seekers; notes, moreover, that Serbia is increasingly becoming a recipient country of asylum seekers, needing therefore more efficient management of asylum requests; stresses that it is necessary to duly inform citizens about the limitations of the visa-free regime in order to prevent any kind of abuse of freedom of travel and visa liberalisation policy; notes that this liberalisation is one of the biggest achievements in Serbia's recent progress towards EU, and that any suspension would certainly have negative social, economic and political implications;

51. Stresses the central role of active and independent civil society organisations (CSOs) and of the Serbian parliament for the strengthening and consolidation of democratic political processes in the country; underlines the importance of dialogue with the CSOs, and stresses the crucial role of civil society actors in contributing to the promotion of dialogue and enhanced regional cooperation;
52. Welcomes closer cooperation of the government with NGOs, but calls for them to be more broadly consulted in policymaking, including the formulation of policies and legislation and the monitoring of the authorities’ activities; calls on the Serbian Government to engage with CSOs, non-state actors and social partners at all stages of the accession process and to provide the necessary information in the country as a proof of its commitment to the principle of including civil society in policymaking, since this is essential to ensure the accountability and openness of the process;

53. Congratulates the Serbian Government on its pursuit of the weapons destruction programme; notes that the success of this programme is a relevant factor in overcoming the legacy of violence in Serbian society inherited from the 1990s belligerency;

54. Welcomes the official visit by Prime Minister Ivica Dačić to Bosnia and Herzegovina and the official support for the territorial integrity and sovereignty of that country; is of the opinion that Serbia’s direct relations with the authorities of the Republika Srpska must be in line with this stated support and should not undermine the integrity, sovereignty, competences and effective functioning of the institutions of the state of Bosnia and Herzegovina; furthermore, urges the Serbian authorities to actively support all necessary constitutional changes that would enable the Bosnian state-level institutions to carry out challenging reforms as part of the European integration process;

55. Welcomes the idea of starting negotiations for the signature of a treaty of good neighbourly relations with Bulgaria, and hopes this will lead to a more positive development in the regional context;

56. Encourages political leaders in Croatia and Serbia to make efforts to improve their mutual relations; in this respect, supports all initiatives leading to the enhancement of cooperation and reconciliation between the two countries; stresses the importance of good neighbourhood relations in the process of European integration, and urges the authorities of both countries to make further efforts to resolve the issue of missing persons; calls on both governments to resolve pending border issues and to actively support the return of refugees;

57. Welcomes the improvements in relations between Montenegro and Serbia; calls for closer coordination between the respective governments on EU-related reforms, in particular when addressing common challenges to the rule of law; encourages both governments to step up their efforts to find a solution for the remaining border issues;

58. Welcomes the agreement reached between Serbia and the former Yugoslav Republic of Macedonia on the free movement of citizens in addition to the agreements already signed by Serbia; takes note of and welcomes the offer of President Nikolić to mediate a solution to the long-standing dispute between the Orthodox churches in the two countries, on a basis of full respect for the principle of separation of church and state; asks both governments to open more checkpoints in order to facilitate fast border-crossing for the local population in the border regions;

59. Welcomes the progress made as regards the Sarajevo process, and the active involvement of Serbia in advancing it; welcomes the outcome of the international donors’ conference held in Sarajevo in April 2012, at which Bosnia and Herzegovina, Croatia, Montenegro and Serbia agreed on a join Regional Housing Programme; strongly supports this programme, and encourages cooperation between the countries in finding solutions for refugees and displaced persons in the region; calls on all parties to implement the programme with no undue delay;

60. Urges Serbia to respect the territorial integrity of Kosovo and to resolve all bilateral issues in dialogue with Pristina in a good European spirit of neighbourhood and mutual understanding;

61. Notes the tough economic policy challenges that need to be addressed; stresses the need to improve the business environment as a response to high unemployment and the resurgence of inflation; notes that new austerity measures cannot be effective on their own and must be combined with a policy for growth;

62. Encourages Serbia to pay additional attention to further improving the business environment, in particular concerning privatisation procedures and public procurement;

63. Welcomes the presentation of the Renewable Energy Action plan, which aims to institute concrete measures through which Serbia hopes to realise its commitment made in the framework of the Energy Community Treaty to the effect that renewables should account for 27% of its total energy consumption by 2020;

64. Reiterates the importance of historical reconciliation concerning the atrocities of 1941-1948, and underlines the importance of the commitment made by both the Hungarian and Serbian Presidents to pay the relevant due tribute;
65. Regards the two-year functioning of the Joint Serbian-Hungarian Historians’ Committee as a positive step in the process of mutual understanding and reconciliation in the context of historical traumas, and urges the authorities to consider extending the model to all of Serbia’s neighbours;

66. Welcomes the agreement reached between Serbia’s and Croatia’s Ministers of Foreign Affairs on forming a joint mixed commission that will address outstanding issues between the two countries, including the genocide charges the two countries have raised against each other; considers this an important step forward, for the whole region, on the path to EU integration; calls on the Council, in this regard, to step up and strengthen EU-funded, joint cross-border projects with a view to further developing good neighbourly relations and enhancing regional cooperation;

67. Calls on the Serbian Government, which will take over the presidency of the Energy Community in January 2013, to take all necessary steps to bring the Energy Strategy adopted by the Ministerial Council of the Energy Community in Budva on 18 October 2012 into line with the EU’s environmental standards and climate goals, ensuring at the same time that all relevant stakeholders, including civil society organisations, are included in the consultation process;

68. Asks the Commission to extend the Energy Roadmap 2050 to include the countries of the Energy Community, since those countries, like the EU, are striving towards a fully integrated internal market for electricity and gas, and are applying the EU energy acquis;

69. Calls for the promotion of economic policies that ensure sustainable growth, environmental protection and job creation; calls for further efforts to facilitate the operations of SMEs, as a means of both raising incomes and reducing the current high rates of unemployment, particularly among young people, as well as increasing access to finance; recalls that the existence of state and private monopolies severely hampers the transition towards an open market economy, and calls on the government to take measures to abolish them;

70. Draws attention to the considerable rise in the public debt and the high unemployment rate; encourages the government to proceed with measures aimed at reducing the budget deficit and to draw up an employment strategy focusing on the most affected social categories and on youth;

71. Stresses that the global financial crisis has negative effects on society, and especially on vulnerable groups; calls, therefore, on the authorities to make every effort to minimise the adverse effects — poverty, unemployment, social exclusion — but also to address and combat their root causes;

72. Emphasises that Serbia has ratified the major labour rights conventions of the International Labour Organisation (ILO) as well as the revised European Social Charter; draws attention to the fact that labour and trade union rights still remain limited, despite constitutional guarantees, and calls on Serbia to further enhance those rights; is concerned that the social dialogue remains weak and that consultation of the social partners is irregular; calls for further steps to be taken to strengthen the Economic and Social Council so that it can play an active role in strengthening the social dialogue and a more active consultative role in lawmaking;

73. Notes with regret the lack of progress in relation to labour and trade unions rights; calls on the authorities to swiftly proceed with creating the conditions for a genuine social dialogue which has not taken place so far, to simplify the procedures for registering a trade union, and to promote the recognition of already registered unions; draws attention to the shortcomings in the Law on Labour, which has not been brought into line with the acquis, as well as to the law on strikes, which does not comply with EU and ILO standards; points out, furthermore, that favouritism and nepotism remain significant problems in Serbia; underlines the importance of merit-based recruitment and promotion, especially in the public sector, and stresses that dismissal of employees on grounds of their political opinion or affiliation is unacceptable;

74. Welcomes the work done so far by the Agency for Restitution; calls on the authorities to ensure that all necessary administrative and financial resources are provided to the agency so that it can carry out its work independently; encourages restitution in kind wherever it is deemed possible; underlines the need to tackle the systemic acquisition of public property by private interests by compiling a full list of public and state property and by bringing the Law on land and construction into line with European standards; draws attention to the fact that urban land has been particularly subject to acquisition through inadequate legal procedures and has been targeted for money-laundering by organised crime and private interests;

75. Welcomes the adoption of the new regulation on the European Capital of Culture project, which allows for participation of EU candidate countries in the 2020-2030 period; supports the initiative of the Belgrade city authorities to launch the Belgrade European Capital of Culture 2020 campaign, and encourages related projects aimed at bringing Belgrade and Serbia culturally closer to the EU, in particular with regard to interethnic coexistence, multicultural understanding and interreligious dialogue;
76. Stresses the importance of developing public transport with regard, in particular, to upgrading or creating rail links within the framework of a sustainable transport system; regrets that little progress has been achieved either in this field or that of combined transport;

77. Urges the Serbian authorities, in particular, to simplify and speed up the administrative procedures for issuing construction permits, licensing and establishing network connections for renewable energy projects;

78. Points out that significant efforts are required in the field of the environment, and in particular in the areas of water management, nature protection and air quality; emphasises that no substantial progress can be achieved without sufficiently strengthening administrative capacity, and calls on the Serbian Government to take the necessary measures in this respect;

79. Regrets the decision of the Serbian Government to raise the maximum permitted level of aflatoxin in milk from 0.05 to 0.5 micrograms per kilogram in order to cope with the recent milk crisis; urges the Serbian authorities to tackle, in due time, the root causes that brought about this increased level of aflatoxin in milk and subsequently to lower the maximum permitted level in line with EU standards;

80. Instructs its President to forward this resolution to the Council, the Commission and the Government and Parliament of Serbia.

P7_TA(2013)0187

European integration process of Kosovo

European Parliament resolution of 18 April 2013 on the European integration process of Kosovo (2012/2867 (RSP))

(2016/C 045/11)

The European Parliament,

— having regard to the European Court of Auditors' Special Report No 18/2012 on European Union Assistance to Kosovo related to the rule of law, published on 30 October 2012,

— having regard to the Council decision of 22 October 2012 authorising the Commission to open negotiations on a framework agreement with Kosovo on participation in Union programmes,

— having regard to the Commission communication of 10 October 2012 on a Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo (COM(2012)0602),


— having regard to the end of the mandate of the International Civilian Representative in September 2012 and the phasing-out of the International Civilian Office by the end of 2012,

— having regard to the reports of the Secretary-General of the United Nations on the ongoing activities of the United Nations Interim Administration Mission in Kosovo and developments related thereto, the latest one of 8 November 2012 covering the period from 16 July to 15 October 2012,

— having regard to the ratification on 7 September 2012 by the Kosovo Assembly of the agreement with the EU on the extension of the mandate of EULEX until June 2014,


— having regard to the conclusions of the General Affairs Council meetings of 7 December 2009, 14 December 2010 and 5 December 2011, which stress and reaffirm, respectively, that Kosovo, without prejudice to Member States' position on its status, should also benefit from the prospect of eventual visa liberalisation once all conditions are met, and welcoming the launch of a visa dialogue in January 2012 and the presentation of the visa liberalisation roadmap in June 2012,
— having regard to the Structured Dialogue on the Rule of Law launched on 30 May 2012,

— having regard to the National Council for European Integration, attached to the President’s office and serving as the high-level coordinating body responsible for building a consensus on the European agenda through an inclusive and cross-party approach, which was inaugurated in March 2012,

— having regard to the Council conclusions of 28 February 2012 on Enlargement and the Stabilisation and Association Process,

— having regard to UN Security Council Resolution 1244(1999), to the International Court of Justice (ICJ) Advisory Opinion of 22 July 2010 on the accordance with international law of the unilateral declaration of independence in respect of Kosovo, and to the UN General Assembly resolution of 9 September 2010 (1), which acknowledged the content of the ICJ opinion and welcomed the EU’s readiness to facilitate dialogue between Belgrade and Pristina,


— having regard to the joint statements of the EP-Kosovo interparliamentary meetings of 28—29 May 2008, 6—7 April 2009, 22—23 June 2010 and 20 May 2011,

— having regard to its previous resolutions,

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

A. whereas the end of supervised independence marks an important step for Kosovo and reinforces the Kosovo authorities’ responsibility to bring forward and implement reforms on the path to European integration;

B. whereas 98 of the 193 member states of the United Nations, including 22 of the EU’s 27 Member States, recognise Kosovo’s independence;

C. whereas all EU Member States support the European perspective of Kosovo, in line with EU commitments to the whole Western Balkans region and without prejudice to Member States’ position on the status of Kosovo;

D. whereas the resumption of high-level Belgrade-Pristina dialogue is an important step towards the normalisation of relations between the two parties, provided that they engage effectively and constructively in result-oriented negotiations;

E. whereas good neighbourly relations are essential for security and stability in the region;

F. whereas there have been important developments in EU-Kosovo relations, including the publication of the Commission’s feasibility study and the launch of the visa dialogue and of the Structured Dialogue on the Rule of Law;

G. whereas the European perspective of Kosovo is a powerful incentive for the implementation of the necessary reforms;

H. whereas the persistent weakness of the rule of law is delaying the building of democracy and harming the economy, undermining long-term development;

I. whereas one of the key priorities of the EULEX mission is the fight against corruption and organised crime and the investigation and prosecution of war crimes;

1. Welcomes the outcome of the Commission’s feasibility study, which found that a stabilisation and association agreement can be concluded in a situation where Member States maintain different views on Kosovo’s status, provided that Kosovo fulfills a number of basic conditions; encourages Kosovo to invest more efforts in meeting the short-term priorities identified in that study;

(1) A/RES/64/298.
2. Stress that the signing of a stabilisation and association agreement is an important step towards Kosovo’s future integration into European structures and, ultimately, membership of the Union; is convinced that such an agreement will create new opportunities that will strengthen neighbourly cooperation and the regional integration of Kosovo;

3. Encourages, nevertheless, the remaining five Member States to proceed with recognising Kosovo and invites them to do their utmost to facilitate economic, social and political relations between their citizens and those of Kosovo;

4. Takes note of the end of supervised independence on 10 September 2012, following the judgment of 2 July 2012 by the International Steering Group that the Comprehensive Proposal for the Kosovo Status Settlement had been substantially implemented; welcomes the conclusion of the mandate of the International Civilian Representative and the work carried out by the EU Special Representative/Head of the EU Office so far;

5. Welcomes the new high-level Belgrade-Pristina Dialogue initiated and facilitated by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, as it has given new impetus to the dialogue between the two parties; calls for full implementation of all the agreements reached so far, particularly on integrated border management and the implementation of control points at the common border between the parties as determined in the agreement; welcomes the appointment of a liaison officer from Kosovo in Belgrade as an important step in this direction;

6. Notes with regret that the 9th round of the high-level Belgrade-Pristina Dialogue ended without a comprehensive agreement on the scope of authority of the community of Serbian municipalities; calls on both parties to continue and intensify talks in order to find a mutually acceptable and sustainable solution to all outstanding issues as soon as possible; underlines that a normalisation of relations is in the best interests of Serbia and Kosovo and is a key step towards unblocking the European integration process;

7. Emphasises the need for significant transparency in communicating the outcomes of the Belgrade-Pristina dialogue and involving the parliaments and civil societies concerned; stresses, in this regard, the need for the Kosovo and Serbian negotiators to build public trust and consult citizens;

8. Reiterates that ideas of partitioning Kosovo or any other country of the Western Balkans run counter to the spirit of European integration; reiterates its support for the territorial integrity of Kosovo and for commonly agreed solutions to outstanding disputes; calls on all parties concerned to engage constructively in the EU-facilitated dialogue and to refrain from any action which may spark tensions in the region;

9. Underlines the need for local responsibility and ownership of the reconciliation process; considers that the Kosovo authorities should take further steps to reach out to the Serbian minority, particularly in the north, so as to ensure broad integration within society while also ensuring that the constitutional principle granting Kosovo Serbs the right to access all official services in their own language is fully implemented; takes the view, at the same time, that cooperation between all Kosovo Serbs should be enhanced and that the Commission should support related projects and promote people-to-people contact; encourages all Kosovo Serbs and their political representatives to use all the possibilities afforded to them by the Kosovar constitution to play a constructive role in politics and society; considers the opening of the administrative office in northern Mitrovica to be a positive step; notes, however, that many civil society activists in northern Mitrovica are experiencing less freedom to do their work, facing a strengthening of mainstream nationalistic sentiment over the past year;

10. Calls for full transparency in the financing of schools and hospitals in north Kosovo, in accordance with the provisions of the Ahtisaari plan;

11. Deplores the vandalising of two Serbian cemeteries and urges the Kosovo authorities to bring to justice those responsible for such heinous acts;

12. Calls on the Kosovo authorities and EULEX to take steps to prepare a roadmap and implement the decentralisation process fully in order to improve the functioning of local authorities in accordance with the Kosovo constitution, including in the north;

13. Welcomes the decision of the board of the Regional Cooperation Council accepting Kosovo as a member of this organisation; considers this to be an important step forward for the country on its path towards regional and European integration;
14. Welcomes the review and extension of the EULEX mandate and the appointment of Bernd Borchardt as head of mission; considers that the European Court of Auditors’ report on EU assistance related to the rule of law in Kosovo raises very important concerns, especially as regards the efficiency of such assistance, high-level corruption, organised crime and the lack of clearly identified objectives; endorses the analysis and recommendations set out in that report and calls on all the actors involved to implement them, thus improving the effectiveness of EU assistance;

15. Underlines the importance of the success of EULEX for both the sustainable development of Kosovo and the consolidation of its institutions and stability; further underlines the importance of Kosovo strengthening its close cooperation with EULEX and supporting EULEX’s work in all areas of its mandate; emphasises that EULEX should urgently address the need for transparency and accountability in its work and calls for an efficient and transparent system within EULEX structures to ensure that complaints by citizens and representatives of civil society are taken into account; encourages EULEX to communicate better its accomplishments to Kosovo citizens, to work to increase trust in the mission and to be alert to citizens’ expectations;

16. Underlines the necessity of effective internal management, coordination and cooperation within EULEX; calls on EULEX to renew and strengthen its efforts to improve the rule of law in Kosovo, and to focus the exercise of its executive powers on the repression of high-level corruption and organised crime; stresses the responsibility of EULEX as regards its executive powers and its mandate to monitor, mentor and advise; calls on the Member States in particular to ensure that EULEX is staffed appropriately, in terms of quality, time-span and gender balance, and that the composition of staff reflects the necessities on the ground;

17. Supports the Special Investigative Task Force established following the December 2010 report of the Council of Europe Parliamentary Assembly; considers that thorough investigation of all the allegations set out in that report is in Kosovo’s interests; calls on the Kosovo authorities and on the authorities of neighbouring countries to cooperate fully and to support the Special Investigative Task Force;

18. Stresses the need for better cooperation and better coordination of assistance between the Member States, EU institutions and other international donors in order to avoid any overlapping of activities and ensure efficient resource management; welcomes Kosovo’s membership of the European Bank for Reconstruction and Development (EBRD) as of December 2012;

19. Encourages the Kosovo authorities to step up their efforts to combat the high level of unemployment and poverty in the country through further economic reforms and an improved investment climate;

20. Welcomes the launch of the visa dialogue and the handover of the visa roadmap in June 2012; urges swift and strict implementation of the roadmap; calls on the Council and the Commission to inform Parliament regularly of the progress made in this field;

21. Calls on the Kosovo authorities to meet the four short-term priorities which are criteria for the launch of stabilisation and association agreement negotiations, in the fields of the rule of law, minorities, administrative capacity and trade, and to enhance their administrative capacity for negotiations, specifically by continuing to restructure the Ministry of Trade;

22. Urges the Kosovo authorities to step up their commitment and demonstrate their political will to strengthen the rule of law, in particular by providing evidence of the fight against organised crime and corruption; notes with interest the launch of the Structured Dialogue on the Rule of Law as a high-level forum for monitoring progress in relation to the rule of law; urges the Kosovo authorities to end the practice of granting pardons to large numbers of convicted criminals on the occasion of the celebrations marking the anniversary of Kosovo’s declaration of independence, and to apply stricter criteria in granting such pardons, always observing the separation of powers;

23. Urges the Kosovo authorities to improve the independence, effectiveness, accountability and impartiality of the judiciary and to respect its independence, in both their actions and their public statements, including in connection with the investigation or arrest of public figures, and to respect EULEX’s mandate and exercise of its executive powers;

24. Is concerned about the lack of significant progress in the fight against corruption and organised crime; calls on the Kosovo authorities to demonstrate real political will and courage to fight high-level corruption and to demonstrate more transparency and better governance, inter alia by coordinating Kosovo’s police forces and judicial authorities; reiterates its concern about the high level of organised crime in the north of Kosovo, notes the government’s adoption of an anti-corruption strategy and considers that Kosovo needs to adopt and implement this strategy with serious commitment; expresses concern about the lack of full participation in Europol and Interpol owing to the lack of recognition of Kosovo’s
statehood and calls on the Member States to facilitate better cooperation between EULEX and Europol and Interpol and to seek possibilities for including Kosovo in both Europol and Interpol, at least as an observer;

25. Notes, in this connection, that the European Court of Auditors’ report lists several instances in which the Kosovo authorities have declined to follow the advice and recommendations of EU institutions or EU-financed experts in the field, in particular in relation to the fight against corruption; notes that the organised crime present in Kosovo poses a considerable threat, and is facilitated by impunity, frequent political interference with the judiciary and law enforcement authorities, and high-level corruption;

26. Notes that corruption and organised crime are widespread in the region and also represent an obstacle to Kosovo’s democratic, social and economic development; calls, in this connection, for a regional strategy and for enhanced cooperation between all the countries in the region in order to tackle these scourges more effectively, in particular the trafficking and exploitation of women and minors for the purpose of sexual exploitation or forced begging; welcomes the successful work carried out in this field by the ‘Ohrid cooperation’ between the governments in Pristina, Skopje, Podgorica and Tirana;

27. Expresses concern about Kosovo’s limited framework for witness protection, which is particularly important in high-profile cases; underlines the importance of a fully functioning witness protection programme; calls on the Kosovo authorities to strengthen the effectiveness and credibility of the witness protection system, and on EULEX to increase its support for these efforts; urges the Member States to accept more cases of witness relocation and underlines the need to continue to seek ways to acknowledge the suffering and respect the right to truth and justice of all victims of war crimes, including support for the establishment of the RECOM regional truth commission;

28. Considers it regrettable that, as a result of the 1999 war in Kosovo, 1,869 people are still missing; notes that this issue requires a prompt response, as uncovering the truth and enabling victims’ families to mourn their loved ones are vital preconditions for reconciliation between the communities and for a peaceful future in the region; stresses the need for better cooperation between missing persons committees and urges the authorities of all the countries concerned to make available the archives of the secret police and the military;

29. Remains concerned by the continued trend of human trafficking through, and originating from, Kosovo, especially child trafficking for the purpose of sexual exploitation; calls on Kosovo to step up its efforts to fight human trafficking, including by increasing the capacities of its law enforcement and judicial authorities;

30. Calls on all parties to finalise the electoral reform in order to establish a well-functioning electoral framework in line with international standards, in particular those of the Council of Europe, with the particular aim of reducing the room for election fraud and strengthening the political accountability of the legislature; is concerned about the shortcomings in the investigation and prosecution of electoral fraud connected with the December 2010 parliamentary elections, as highlighted in the OSCE report on the subject; calls on the responsible authorities to take into consideration the recommendations of the OSCE report; calls on EULEX to consider exercising its executive powers in this field, if its assessment is that the Kosovo judicial system is unable to remedy such shortcomings;

31. Welcomes the significant improvements in Kosovo’s regulatory framework, including progressive legislation and policies on returns and repatriation, community rights, use of languages, anti-discrimination, gender equality and young people;

32. Emphasises that despite these improvements, challenges remain in respect of human and community rights protection, non-discrimination on grounds of sexual orientation, and participation of women and young people in decision-making; stresses that women, young people and communities continue to be under-represented at both the central and local levels;

33. Firmly condemns the recent threats made against human rights activist Nazlie Balaj, a member of the Kosova Women’s Network, in response to her public defence of including an amendment to the Law on the status of martyrs, invalids and veterans, members of the Kosovo Liberation Army, civilian victims and their families which would enable people who suffered sexual violence during the war to be given equal status as veterans, and calls on the Kosovo authorities to investigate this incident and to ensure the protection of all human rights defenders;

34. Calls on both central- and local-level institutions to implement legislation relating to human rights effectively and to contribute to the further development of a multi-ethnic society;
35. Welcomes the work of the Ombudsperson and considers the budgetary independence of his or her office to be a matter of urgency;

36. Emphasises the need for the Kosovo Assembly to strengthen its independence, expertise and capacity for oversight of the budget, the executive and the security sector, by improving its scrutiny of legislation and its monitoring of the implementation and impact of policies and laws;

37. Underlines the importance of implementing the necessary reform of public administration and increasing the number of women and of people belonging to minorities at all levels of administration;

38. Welcomes the fact that Kosovo's legal framework provides for women's rights and that gender equality is well enshrined in the legal system, and welcomes the progress made in this area; is concerned, however, about the high dropout rates among girls and the under-representation of women on the labour market, including in key sectors of society; urges the government and parliament to be more proactive and effective in implementing the relevant laws, including those against domestic violence and trafficking, in order to advance visibly on women's rights and gender equality in Kosovo; calls on the Kosovo authorities to be more active in encouraging women's political and societal participation, promoting their participation, and strengthening their position, on the labour market and mainstreaming gender equality;

39. Stresses the central role of active and independent civil society organisations (CSOs) in strengthening and consolidating democratic political processes and building an integrated society in the country; recognises the important work carried out by CSOs and women's organisations; underlines the importance of dialogue with CSOs;

40. Underlines the central role of civil society organisations in building an integrated society, strengthening and consolidating democratic political processes in Kosovo and promoting dialogue and good neighbourly relations in the region, thus contributing to enhanced regional cooperation on social and political aspects; welcomes the government's improved cooperation with NGOs, but calls for broader consultation of NGOs in policymaking and in the context of monitoring the authorities' activities; calls, moreover, for their role in the stabilisation and association process to be enhanced;

41. Stresses the need to encourage active citizenship through, inter alia, strengthening civil society and truly ensuring freedom of speech;

42. Recognises that although the freedom to join trade unions is guaranteed by law, there is still need for improvements as regards basic labour and trade union rights; encourages Kosovo to strengthen social dialogue within the decision-making process, policy design and capacity-building for the social partners;

43. Stresses that EULEX should step up its assistance to the Kosovo police with regard to training in de-escalating critical and sensitive situations before and during demonstrations; highlights that more efforts also need to be made by the authorities, assisted by EULEX, to obtain justice for survivors of conflict-related sexual violence in Kosovo and elsewhere in the Western Balkans;

44. Is concerned that discrimination is still a serious problem; underlines the importance of guaranteeing the equality of all people regardless of their ethnic origin, gender, age, religion, sexual orientation or disability; stresses the need for a comprehensive anti-discrimination strategy addressing all grounds of discrimination, and for the full implementation of the Law on Anti-Discrimination; underlines the importance of raising awareness of what constitutes discrimination and what the legal remedies are;

45. Calls on the authorities to give effect to the constitutional principle of non-discrimination on grounds of sexual orientation, to increase the knowledge of law enforcement officials about LGBT rights and to fight homophobia and transphobia; deplores, in this connection, the violent attack carried out in Pristina on 14 December 2012 by a group of people, including radical Islamists, on the premises where media outlet Kosovo 2.0 was to launch the latest issue of its magazine, the subject of which was sex, including LGBT issues; calls on the Kosovo police and the Ministry of the Interior to investigate the violent acts and threats perpetrated against the people involved, and to bring the perpetrators to justice; urges the authorities to make every effort to ensure that human rights are fully respected, including freedom of thought, speech and assembly;
46. Highlights the importance of independent and free media; welcomes, in this connection, the amendments to the Criminal Code concerning the criminal liability of chief editors, publishers, printers and manufacturers, and the protection of journalistic sources, which entered into force on 1 January 2013;

47. Takes note of the OSCE's third community rights assessment report of July 2012, which points out that although a comprehensive and sophisticated legislative framework is in place, much remains to be achieved in order to provide real and meaningful protection of communities' rights in Kosovo;

48. Welcomes the adoption of relevant legislation for the protection and promotion of communities and of the religious and cultural heritage, and the successful taking-over of responsibility by Kosovo for the security of most cultural and religious sites of the Serbian Orthodox Church; particularly welcomes, in this connection, the creation of a special unit within the Kosovo police that will be exclusively dedicated to this task; calls for further implementation of the relevant legislation, particularly the Law on Communities; deplores the Kosovo authorities' refusal to let Serbian President Tomislav Nikolic visit Kosovo and attend the Orthodox Christmas celebration in Gracanica; welcomes, in this respect, the meeting between Serbian President Nikolic and Kosovo President Jahjaga that took place in Brussels on 6 February 2013 in an open and constructive atmosphere under the auspices of Vice-President/High Representative Catherine Ashton, in the context of the efforts to normalise relations between the two sides;

49. Deplores the Serbian authorities' refusal to allow Kosovo's Deputy Prime Minister, Mimoza Kusari-Lila, to cross the border and visit the Presevo Valley; deplores the long hours that Kosovo citizens have to wait in order to cross into Serbia;

50. Stresses the importance of upgrading Kosovo's relations and representation within international cultural and heritage institutions with a view to improving the protection of religious and cultural sites and monuments, and of upgrading its representation in European and international sports organisations with a view to enabling Kosovar athletes to take part in all international sports events, including European and world championships and the Olympics;

51. Welcomes the establishment of Municipal Offices for Communities and Returns in most municipalities, but considers it regrettable that, notwithstanding the progress made, the return of refugees and internally displaced persons continues to be a challenge, particularly on account of security incidents; encourages the Kosovo authorities to make further efforts in this field, at both the central and local levels, giving particular attention to Serbian, Roma, Ashkali and Egyptian returnees;

52. Welcomes the final closure of the lead-contaminated Osterode camp in north Mitrovica and the resettlement of the remaining families, including many Roma, Ashkali and Egyptian families, to newly constructed houses and one social apartment block, which are part of an EU-funded project; considers this to be an important step towards the full reintegration and inclusion of refugees and minorities in Kosovo society; urges the Kosovo authorities to start immediate clean-up operations in the contaminated area, and the Commission to provide the necessary technical and financial assistance; invites Kosovo to devote greater resources to the adoption and implementation of EU environmental standards;

53. Welcomes the launch of the mid-term review of the Roma, Ashkali and Egyptians (RAE) strategy and action plan; calls for more effective implementation and monitoring of the RAE integration strategy through further capacity-building and improved interinstitutional coordination; emphasises the need to implement fully the 'Forty Actions' to promote the social inclusion of Roma, Ashkali and Egyptian communities at both central and municipal level, in line with the objectives of the European Framework for National Roma Integration Strategies; calls on the Kosovo authorities to include a gender perspective in the integration strategy and action plan for Roma, Ashkali and Egyptian communities;

54. Is concerned that Roma, Ashkali and Egyptian children remain vulnerable and marginalised; calls on the authorities to give adequate attention to improving the living conditions of these communities, including their access to education;

55. Is concerned about the high rates of child poverty and mortality, the low level of cover afforded by Kosovo's social protection system and the high amount of out-of-pocket expenditure on healthcare, exposing vulnerable families to chronic poverty;

56. Stresses that children with disabilities continue to be deprived of basic education, with only 10 % being enrolled in primary education; calls on the government to ensure that people with disabilities and other vulnerable groups can access healthcare, education and social services without discrimination; welcomes the adoption of recommendations on early childhood development by the Assembly of Kosovo;
57. Welcomes the launch of a comprehensive mapping of child protection in Kosovo, and the progress made with regard to the adoption of a strong juvenile justice code aligning Kosovo with international and European standards; remains concerned, however, about the lack of specialised institutional infrastructure for young people in conflict with the law (victims and witnesses);

58. Welcomes Kosovo’s final 2011 census results as a first step in providing decision-makers with timely and accurate information for policymaking; recognises, however, the challenges remaining as regards the availability of statistically sound and internationally comparable data, which are essential for evidence-based policies and for monitoring Kosovo’s progress;

59. Calls on Kosovo to improve the business environment for small and medium-sized enterprises by reducing the administrative burden and associated costs, increasing access to finance and providing particular support for start-ups;

60. Underlines the importance of assigning Kosovo an international telephone area code of its own, for both economic and political reasons; considers the present situation unsustainable and confusing, and calls on the competent international organisations to resolve the issue as quickly as possible, and on Serbia to give up its veto on the matter;

61. Calls on Kosovo to work on developing renewable energy and diversifying energy sources with a view to closing down Kosovo A and rehabilitating Kosovo B in accordance with its obligations under the Energy Community Treaty; underlines the necessity of devoting more of the financial aid provided by the EU and the EBRD to energy saving, energy efficiency and renewable energy projects; regrets that the EBRD is planning to support new lignite capacity (Kosova e Re) in its draft country strategy, and calls on the Commission to take action to contest plans such as this that run counter to EU climate commitments;

62. Takes note of plans for new road infrastructure to improve connections between Pristina and bordering countries; notes that procurement practices in Kosovo remain inadequate, and underlines the need to ensure that procurement processes for such large projects are truly open, competitive and transparent; further notes that such infrastructure projects should be undertaken in accordance with the criteria set out in the current International Monetary Fund programme; stresses the importance of developing public transport, with particular regard to upgrading or creating new railway links as part of a sustainable transport system; suggests building up a cross-border system of high-speed railways between all countries in the Western Balkans, linked to the EU’s Trans-European Network;

63. Instructs its President to forward this resolution to the Council, the Commission, the European External Action Service and the Government and National Assembly of Kosovo.
— having regard to its resolution of 15 December 2011 on the Scoreboard for the surveillance of macroeconomic imbalances: envisaged initial design (1),

— having regard to the Commission Staff Working Document of 14 November 2012 entitled ‘Completing the Scoreboard for the MIP: Financial Sector Indicator’ (SWD(2012)0389),

— having regard to the report from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank on the Alert Mechanism Report 2013 (COM(2012)0751),

— having regard to the ‘Views of the European Systemic Risk Board (ESRB) on the Envisaged Scoreboard Indicators Relevant for Financial Market Stability’ of 9 December 2011,

— having regard to the letter of 19 December 2011 from the Commission to the President of the European Parliament forwarding to Parliament relevant information and documents on the adjusted scoreboard for the MIP,

— having regard to the question to the Commission on completing the scoreboard for the Macroeconomic Imbalance Procedure (MIP) (O-000039/2013 — B7-0117/2013),

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas the MIP is a policy tool introduced with the 6-pack and constitutes an important pillar of the economic governance of the euro area, aimed at preventing and correcting macroeconomic imbalances in Member States, with specific attention to those macroeconomic imbalances with potential spillover effects on other Member States;

B. whereas the scoreboard established in line with Article 4 of the MIP Regulation consisted initially of ten indicators covering a wide range of surveillance issues under the MIP;

C. whereas in November 2012 the Commission added an indicator, namely the growth rate of financial sector liabilities, communicating this to Parliament in its letter of 19 November 2012 and publishing relevant analysis in the Alert Mechanism Report (AMR) on 28 November 2012;

D. whereas recital 12 of the MIP Regulation states that the Commission ‘should present suggestions for comments to the competent committees of the European Parliament and of the Council on plans to establish and adjust the indicators and thresholds’;

1. Strongly deplores the Commission’s failure to respect the cooperative spirit of the MIP Regulation when it updated the Scoreboard for the surveillance of macroeconomic imbalances;

2. Further strongly deplores the fact that Parliament received the relevant communication only days before the Commission published the scoreboard in November 2012;

3. Asks the Commission to notify Parliament and the Council well in advance on whether it intends to further update the scoreboard before 2015;

4. Notes with deep regret a lack of equal treatment of the co-legislators in this process, as the Commission reportedly consulted the relevant working group of the Council;

5. Stresses that its resolution of 15 December 2011 on the scoreboard, in which Parliament requests an indicator for the financial sector to be added, cannot be considered to reflect a satisfactory consultation of Parliament as envisioned in recital 12 of the MIP Regulation, as that resolution was adopted the year before and was not a response to a proposal from the Commission; further points out that the detailed choice and design of the indicator implied a high degree of discretion, as evidenced by the Commission Staff Working Document of 14 November 2012;

6. Notes the ESRB’s statement of views of 9 December 2011 containing its reservations as regards a financial indicator, in which it states that the scoreboard ‘should include short-term liabilities (the sum of liabilities maturing within one year) for the unconsolidated financial sector, net of bank deposits, as a share of total liabilities’ and that ‘this indicator should be preferred to indicators based on flow-of funds equity measures, such as leverage or gearing ratios, because since equity is

(1) Texts adopted, P7_TA(2011)0583.
estimated at market values it is very sensitive to movements of the stock market; reminds the Commission that Article 4(5) of the MIP Regulation stipulates that 'the work of the ESRB shall be taken into due consideration in the drafting of indicators relevant to financial market stability';

7. Will no longer tolerate the fact that the necessary culture change of full recognition of the role of Parliament in economic governance is still ongoing within the Commission's services; underlines the need for the Commission to unequivocally respect Parliament’s role as co-legislator in multilateral surveillance, as provided for inter alia in Articles 121(6) and 136 TFEU, and to treat Parliament on an equal footing with the Council in all Union acts in this domain; reminds the Commission that consulting Parliament on modifications to the scoreboard is also part of best practice in terms of interinstitutional courtesy;

8. Reminds the Commission of its obligation to be responsible to Parliament, as laid down in Article 17(8) TEU;

9. Instructs its President to forward this resolution to the Council, the Commission and the ECB.

P7_TA(2013)0189

Vietnam, in particular freedom of expression

European Parliament resolution of 18 April 2013 on Vietnam, in particular freedom of expression (2013/2599 (RSP))

(2016/C 045/13)

The European Parliament,

— having regard to the Partnership and Cooperation Agreement between the EU and Vietnam signed on 27 June 2012 and to the EU-Vietnam human rights dialogue held twice a year between the EU and the government of Vietnam,

— having regard to the International Covenant on Civil and Political Rights to which Vietnam acceded in 1982,

— having regard to the Universal Periodic Review Outcome on Vietnam by the UN Human Rights Council of 24 September 2009,

— having regard to report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the 14th Session of the Human Rights Council in April 2010,

— having regard to the Statement by the Spokesperson of EU High Representative Catherine Ashton on the sentencing of bloggers in Vietnam of 24 September 2012,

— having regard to its resolution of 11 December 2012 on a Digital Freedom Strategy in EU Foreign Policy (1),

— having regard to its previous resolutions on Vietnam,

— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas three prominent journalists — Nguyen Van Hai/Dieu Cay, Ta Phong Tan and Pan Thanh Hai — were sentenced to prison on 24 September 2012; whereas, following an appeal, their sentences were confirmed as 12, 10 and 3 years respectively, followed by several years of house arrest, for posting articles on the website of the Vietnamese Club of Free Journalists;

B. whereas, according to recent reports by international human rights organisations, 32 cyber dissidents have been handed heavy prison sentences or are awaiting trial in Vietnam; 14 pro-democracy activists have been sentenced to a total of over 100 years in prison for exercising their right to freedom of expression; a group of 22 peaceful environmental activists have been given prison terms ranging from 10 years to life imprisonment; a journalist working for the state-run press was fired after writing a post on his personal blog criticising the Secretary-General of the Communist Party; and cyber dissidents, including Le Cong Cau and Huynh Ngoc Tuan, are frequently harassed and assaulted by the police;

C. whereas several prisoners of conscience have been sentenced under vaguely worded 'national security' provisions that make no distinction between acts of violence and the peaceful expression of dissenting opinions or beliefs, such as 'propaganda against the Socialist Republic of Vietnam' (Article 88 of the Criminal Code), 'activities aimed at overthrowing the people's power' (Article 79), 'sowing divisions between religious and non-religious people' (Article 87) and 'abusing democratic freedoms to encroach on the interests of the state' (Article 258); whereas Ordinance 44 of 2002 authorising detention without trial is increasingly used to detain dissidents;

D. whereas bloggers and human rights defenders increasingly turn to the internet to voice their political opinions, expose corruption, and draw attention to land-grabbing and other official abuses of power;

E. whereas the Vietnamese authorities systematically suppress freedom of expression and peaceful assembly and persecute those who question government policies, expose cases of official corruption or call for alternatives to the one-party rule;

F. whereas Vietnam is drafting the 'Decree on the Management, Provision, Use of Internet Services and Information Content Online', a new decree on internet management that would legalise content-filtering, censorship and sanctions by the government against vaguely defined 'prohibited acts' and which would oblige internet companies and providers, including foreign ones, to cooperate with the government in the surveillance and tracking of cyber dissidents; whereas digital freedoms are increasingly under threat;

G. whereas in 2009, during the UN Human Rights Council's Universal Periodic Review (UPR) of Vietnam's human rights record, Vietnam accepted a number of recommendations on freedom of expression, including the recommendation to 'fully guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of the International Covenant on Civil and Political Rights'; whereas Vietnam has still not implemented those recommendations;

H. whereas land confiscation by government officials, use of excessive force in response to public protests over evictions, arbitrary arrests of activists and heavy sentences for protesters are ongoing, while the issues of land rights and land use are unclear;

I. whereas freedom of religion and belief is repressed and the Catholic Church and non-recognised religions, such as the Unified Buddhist Church of Vietnam, the Protestant churches and others continue to suffer from severe religious persecution;

J. whereas Vietnam has started extensive public consultations with a view to drafting a new Constitution, but those who expressed their opinions have faced sanctions and pressure;


1. Expresses its deep concern about the conviction and harsh sentencing of journalists and bloggers in Vietnam; condemns the continuing violations of human rights, including political intimidation, harassment, assaults, arbitrary arrests, heavy prison sentences and unfair trials, in Vietnam perpetrated against political activists, journalists, bloggers, dissidents and human rights defenders, both on- and offline, in clear violation of Vietnam's international human rights obligations;

2. Urges the authorities to immediately and unconditionally release all bloggers, online journalists and human rights defenders; calls upon the government to cease all forms of repression against those who exercise their rights to freedom of expression, freedom of belief and freedom of assembly in accordance with international human rights standards;

3. Calls on the Vietnamese government to amend or repeal legislation that restricts the right to freedom of expression and freedom of the press in order to provide a forum for dialogue and democratic debate; calls also on the government to modify the draft 'Decree on the Management, Provision, Use of Internet Services and Information Content Online' to ensure that it protects the right to freedom of expression online;

4. Urges the Vietnamese government to cease forced evictions, to secure freedom of expression for those who denounce abuses on land issues, and to guarantee those who have been forcibly evicted access to legal remedies and adequate compensation in conformity with international standards and obligations under international human rights law;
5. Calls on the authorities to comply with Vietnam's international obligations by putting an end to religious persecution and removing legal hindrances to independent religious organisations freely conducting peaceful religious activities, which entails the recognition of all religious communities, the free practice of religion and the restitution of assets arbitrarily seized by the state from the Unified Buddhist Church of Vietnam, the Catholic Church and any other religious community;

6. Expresses deep concern about the detention conditions of prisoners of conscience stemming from ill-treatment and lack of medical care; requests that the authorities guarantee their physical and psychological integrity, ensure unrestricted access to legal counsel and offer appropriate medical assistance to those in need;

7. Reiterates that the human rights dialogue between the EU and Vietnam should lead to concrete progress on human rights and democratisation; calls, in this respect, on the European Union to consistently raise concerns about human rights violations in Vietnam at the highest levels and to intensify pressure on the Vietnamese authorities to lift internet and blogging controls and prohibitions on privately owned media, allow groups and individuals to promote human rights and express their opinions and dissent publicly, take steps to abolish the death penalty, repeal or amend national security laws used to criminalise peaceful dissent, and release peaceful prisoners of conscience;

8. Reminds all parties that Article 1 of the Partnership and Cooperation Agreement (PCA) states that: ‘Respect for human rights and democratic principles is the basis for the cooperation between the Parties and for the provisions of this Agreement and is constitutes an essential element of the Agreement; asks the High Representative to assess the compatibility of the Vietnamese government’s policies with the conditions included in the PCA;

9. Encourages Vietnam to move towards ratification of the Rome Statute of the International Criminal Court (ICC) and Convention against Torture (CAT); calls on the government to put in place an independent national human rights commission;

10. Requests that the ASEAN Intergovernmental Commission on Human Rights examine the situation concerning the state of human rights in Vietnam with a special focus on the freedom of expression, and that it make recommendations to the country;

11. Welcomes the fact that the Government of Vietnam has issued a call for public input into its first constitutional reform since 1992 and that the deadline has now been extended until September 2013, but regrets that the public consultation has led to sanctions and pressure against those who legitimately express their opinions; hopes that the new Constitution addresses the issues of civil and political rights and religious freedoms as a priority; welcomes in this respect the opening of a dialogue with human rights organisations; expresses its hope that this can lead to important reforms on labour, education and human rights over a longer term; recommends that an invitation be addressed to the UN Special Rapporteur on Freedom of Expression and Opinion to visit the country and that the authorities fully implement any recommendations;

12. 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 of the Member States, the government and parliament of Vietnam, the governments of ASEAN Member States, the United Nations High Commissioner for Human Rights and the Secretary-General of the United Nations.
The European Parliament,

— having regard to its previous resolutions on Kazakhstan, including those of 15 March 2012 on Kazakhstan (1), 15 December 2011 on the state of implementation of the EU Strategy for Central Asia (2), and 17 September 2009 on the case of Yevgeny Zhovtis in Kazakhstan (3),

— having regard to its resolution of 22 November 2012 containing the European Parliament's recommendations to the Council, the Commission and the European External Action Service on the negotiations for an EU-Kazakhstan enhanced partnership and cooperation agreement (4),

— having regard to the statement of 9 October 2012 by the spokesperson of High Representative Catherine Ashton on the trial of Vladimir Kozlov in Kazakhstan and to the High Representative's statement of 17 January 2012 on parliamentary elections in Kazakhstan,

— having regard to the legal opinion of the International Commission of Jurists of 13 February 2013 on the disciplinary proceedings against lawyers in Kazakhstan,

— having regard to the statement of 25 January 2012 by the OSCE Representative on Freedom of the Media on the media situation in Kazakhstan,

— having regard to the statement of 1 February 2012 by the Director of the OSCE’s Office for Democratic Institutions and Human Rights on the clampdown on the Kazakh opposition,

— having regard to the statement of 20 March 2013 by the International Partnership for Human Rights (IPHR) entitled 'Overview of Human Rights concerns in Kazakhstan',

— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas on 21 December 2012, following a lawsuit introduced on 20 November 2012 by Kazakhstan’s Prosecutor-General, the Almaty District Court banned the unregistered opposition party 'Alga!' on charges of extremism; whereas the ban makes Aliya Turusbekova, the wife of Vladimir Kozlov, personally liable;

B. whereas on 25 December 2012 a number of opposition media outlets, including eight Kazakh newspapers and 23 web news portals, were banned on charges of extremism, being described by the prosecutor as ‘one unified media outlet Respublika’; whereas this decision was confirmed by the Court of Appeal on 22 February 2013, with the effect that the journalists affected were banned from exercising their profession;

C. whereas Kazakhstan is an important international actor and is of the utmost importance for the political and socio-economic development, as well as the security situation, of the whole region; whereas it has played a positive role in Central Asia, making efforts to develop good neighbourly relations with bordering countries, resume regional cooperation and resolve all bilateral issues by peaceful means; whereas the EU has a vital interest in stepping up political, economic and security cooperation with that region via a strong and open EU-Kazakhstan relationship;

(2) Texts adopted, P7_TA(2011)0388.
D. whereas Kazakhstan has long limited key civil and political rights, such as freedom of assembly, expression and religion; whereas over the last two years there has been a decline in respect for fundamental freedoms while, in the wake of the Zhanaozen violence in December 2011, 2012 saw an overt crackdown on government critics;

E. whereas during recent months several opposition leaders, human rights defenders, journalists and civil-society actors have been subjected to harassment and criminal prosecution, leading in several cases to prison sentences;

F. whereas on 13 March 2013 the Court of Cassation refused to grant appeal in the case of Vladimir Kozlov, who was sentenced to seven and a half years in prison and confiscation of property on charges of ‘inciting social discord’, ‘calling for the forcible overthrow of the constitutional order’ and ‘creating and leading an organised group with the aim of committing crimes’; whereas Kozlov is currently filing an appeal to the Supreme Court as the last instance for appeal in his case;

G. whereas on 7 December 2012 the human rights defender Vadim Kuramshin was sentenced to 12 years in prison for blackmailing the district attorney’s assistant; whereas this sentence was confirmed by the Appeal Court on 14 February 2013; whereas Mr Kurashim’s re-arrest took place on his return from the OSCE conference in September in Warsaw and came after his release following a previous trial in August 2012;

H. whereas the Kazakh Government is considering starting work on a new National Human Rights Action plan for 2013-2020;

I. whereas the Kazakh authorities have established a working group under the Prosecutor- General to reform the Criminal Code; whereas on 15 and 16 March 2013 a round table on the ‘Reform of the Criminal Code of Kazakhstan based on the principles of rule of law’ was held, with the participation of a delegation of the Venice Commission to advise on the reform; whereas the European Parliament has urged the Kazakh authorities to bring the country’s criminal law into line with international standards, including the reform of Article 164 on ‘inciting social discord’;

J. whereas the Kazakh authorities have repeatedly used the charge of ‘inciting social discord,’ a vague and over-broad charge that can be used to criminalise legitimate exercise of the rights of freedom of expression and association as protected under international human rights law;

K. whereas Kazakhstan’s three-year term as a member of the UNHRC (United Nations Human Rights’ Council) began on 1 January 2013;

L. whereas Kazakhstan, as a member of the OSCE, of which it held the chairmanship in 2010, has committed itself to respecting and implementing the fundamental principles of that organisation;

M. whereas defamation remains criminalised, while the law of 10 July 2009 on the Introduction of Changes and Additions to the Legislation on Informational-Communicative Networks equates internet resources (websites, chatrooms, blogs, discussion forums) with mass media outlets and therefore makes those resources and their owners liable for the same range of offences;

N. whereas at the end of November 2012, HR/VP Ashton travelled to Central Asia and visited Kazakhstan while the legal bans on the opposition and the media outlets were being imposed; whereas she did not issue any statement on the matter during her visit but subsequently in December 2012;

O. whereas in July 2012 the UN High Commissioner for Human Rights, Navi Pillay, following her two-day visit to Kazakhstan, called on the authorities to authorise an independent international investigation into the events of Zhanaozen, their causes and their aftermath;

1. Stresses the importance of relations between the EU and Kazakhstan and of strengthening economic and political cooperation in all areas; highlights the great interest the EU has in a sustainable relationship with Kazakhstan in terms of political and economic cooperation;

2. Strongly criticises the court decision to ban opposition parties on charges of extremism, including the unregistered party 'Alga!', as well as to ban key independent media actors, given that this violates the principles of freedom of expression and assembly and raises major concerns with regard to future repression of independent media and the opposition;
3. Calls on the authorities to respect the principles and commitments of the OSCE standards on freedom of expression, assembly and association; encourages Kazakhstan to view criticisms not as a threat but as a constructive tool with which to improve policies and inclusiveness;

4. Stresses that Aliya Turusbekova cannot be held responsible for actions of third persons;

5. Calls on the EU and the Member States to seek guarantees that protect journalists, opposition activists and human rights defenders and their families, and in particular those visiting the EU institutions to discuss human rights issues, against any kind of subsequent personal threats, pressures or prosecution;

6. Reiterates its concern over the detentions of opposition leaders, journalists and lawyers on the basis of trials which fall short of international standards, and reaffirms its call for the release of all persons convicted on the basis of vague criminal charges which could be considered to be politically motivated, including among others Vladimir Kozlov, Vadim Kurashim and Roza Tuletava; expresses its concern with regard to the fairness of trials, and reiterates its call for the guaranteeing of transparency and international standards in trials, an end to convictions on the basis of the above vague criminal charges, and the upholding of the independence of the judiciary;

7. Calls on the Kazakh authorities to guarantee detention conditions that conform to international standards and to allow adequate medical treatment for all prisoners, including the opposition leader Vladimir Kozlov; calls for the full implementation of improvements included in the recent reform of the prison system and for further improvement to meet international standards;

8. Strongly emphasises that the legitimate fight against terrorism and extremism should not be used as an excuse to ban opposition activity, hinder freedom of expression or hamper the independency of the judiciary;

9. Stresses that Kazakhstan is an increasingly important international partner in the region, be it with regard to cooperation with NATO, support for the E3+3 talks with Iran, or the establishment of an international fuel bank in Kazakhstan; welcomes Kazakhstan's ambition to engage actively as a mediator/facilitator in international security issues concerning the wider region; urges the Kazakh authorities to honour the international commitments they have signed up to, including those relating to the rule of law and the independency of the judiciary;

10. Calls on Kazakhstan to create a climate where opposition activists, journalists and lawyers can freely exercise their activities, including via necessary legal reforms; stresses the EU's commitment to supporting Kazakhstan in this effort;

11. Calls on Kazakhstan to review its legislation on religion and to ease restrictions on the registration and practice of religion;

12. Stresses the importance of respecting and promoting the right of workers to form independent labour unions, conduct strikes, and collectively bargain with employers, in accordance with Kazakhstan's obligations under international human rights law;

13. Welcomes the dialogue with the delegation of the Venice Commission on the new Code of Criminal Procedure, and encourages further collaboration with the Venice Commission with a view to deriving maximum benefit from its experience; stresses that the reform should aim at strengthening the independence of the judiciary and the rule of law and fulfilling international standards; reaffirms its call for the reform of Article 164 on 'inciting social discord', and calls on the EEAS to undertake close monitoring of the reform and the content of the new law;

14. Reaffirms its call on the Kazakh authorities to follow through with enforcement of the existing Human Rights Action Plan, drawing on the recommendations of the Venice Commission and making use of EU technical assistance under the Rule of Law initiative; encourages and supports Kazakhstan in its efforts to develop a new Human Rights Action Plan for 2013-2020; invites the Kazakh authorities to collaborate with NGOs;

15. Welcomes the regular EU-Kazakhstan human rights dialogues; underlines the importance of human rights dialogues between the EU and the Kazakh authorities, and welcomes the constructive approach being shown on the Kazakh side; calls for a strengthening of the dialogues conducive to the establishment of a forum where issues can be openly addressed; stresses that these dialogues should be effective and results-oriented, and should involve civil-society actors where possible;
16. Welcomes the international student exchange programmes introduced by the Kazakh Government; underlines the fundamental impact these stays abroad have in terms of the democratic education of Kazakh students; welcomes the support offered by the Kazakh authorities to these students on their return;

17. Calls on the EU, and in particular the EEAS, to closely monitor developments in Kazakhstan, raise concerns with the Kazakh authorities where necessary, offer assistance, and report regularly to Parliament; also calls on the EU delegation in Astana to play a more proactive role in monitoring the situation, including the observation of trials and prison visits;

18. Instructs its President to forward this resolution to the Council, the European External Action Service, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the Organisation for Security and Cooperation in Europe, the UN Human Rights Council, and the Government and Parliament of Kazakhstan.
RECOMMENDATIONS

EUROPEAN PARLIAMENT

P7_TA(2013)0180

UN principle of the ‘Responsibility to Protect’

European Parliament recommendation to the Council of 18 April 2013 on the UN principle of the ‘Responsibility to Protect’ (‘R2P’) (2012/2143(INI))

(2016/C 045/15)

The European Parliament,

— having regard to the values, objectives, principles and policies of the European Union as, inter alia, enshrined in articles 2, 3 and 21 of the Treaty on European Union,

— having regard to the Charter of the United Nations,

— having regard to the Universal Declaration of Human Rights,

— having regard to the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948,

— having regard to the Rome Statute of the International Criminal Court (ICC),

— having regard to the United Nations General Assembly (UNGA) Resolution A/RES/63/308 of 7 October 2009 on the responsibility to protect,

— having regard to the United Nations Security Council (UNSC) Resolution 1674 of April 2006 and UNSC Resolution 1894 of November 2009 on ‘Protection of civilians in armed conflict’ (1),

— having regard to UNSC Resolutions 1325 (2000) and 1820 (2008) on women, peace and security, to UNSC Resolution 1888 (2009) on sexual violence against women and children in situations of armed conflict, to UNSC Resolution 1889 (2009) aiming to strengthen the implementation and monitoring of UNSC Resolution 1325 (2000), and to UNSC Resolution 1960 (2010), which created a mechanism for compiling data on, and listing perpetrators of, sexual violence in armed conflict,

— having regard to the UNSC Resolution 1970 of 26 February 2011 on Libya referencing the R2P and authorising several non-coercive measures to prevent the escalation of atrocities, and to the UNSC Resolution 1973 of 17 March 2011 on the situation in Libya, which authorised Member States to take all necessary measures to protect civilians and civilian-populated areas, and contained for the first time in history an explicit reference to the R2P’s first pillar, followed by similar references in UNSC Resolution 1975 on Côte d’Ivoire, UNSC Resolution 1996 on the Sudan and UNSC Resolution 2014 on Yemen,

— having regard to the Paragraphs 138 and 139 of the UN 2005 World Summit Outcome (2),

(1) S/RES/1674.
(2) A/RES/60/1.
— having regard to the report ‘The Responsibility to Protect’ (2001) by the International Commission on Intervention and State Sovereignty (ICISS), the report ‘A more secure world: our shared responsibility’ (1) (2004) by the High-Level Panel on Threats, Challenges and Change, and the report ‘In larger freedom: towards development, security and human rights for all’ (2) (2005) by the UN Secretary-General,

— having regard to the reports of the UN Secretary-General, specifically those on ‘Implementing the Responsibility to Protect’ of 2009 (3), ‘Early warning, assessment and the responsibility to protect’ of 2010 (4), ‘The role of regional and subregional arrangements in implementing the responsibility to protect’ of 2011 (5) and ‘Responsibility to protect: timely and decisive response’ of 2012 (6),

— having regard to the UN Secretary-General’s Internal Review Panel on UN Action in Sri Lanka of November 2012, enquiring into the failure of the international community to protect civilians from large-scale violations of humanitarian and human rights laws and making recommendations regarding future UN action to respond effectively to similar situations involving mass atrocity crimes,

— having regard to the report by the UN Secretary-General on ‘Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution’ of 25 July 2012,

— having regard to the Brazilian initiative submitted to the UN on 9 September 2011 entitled ‘Responsibility while protecting: elements for the development and promotion of a concept’,

— having regard to the EU Programme for the Prevention of Violent Conflicts (Gothenburg Programme) of 2001 and the annual reports on its implementation,

— having regard to the EU’s priorities for the 65th UN General Assembly of 25 May 2010 (7),

— having regard to the 2012 Nobel Peace Prize, which not only honours the EU’s historical contribution to a peaceful Europe and world but also enhances expectations as to its future engagement for a more peaceful world order based on the rules of international law,

— having regard to the European Consensus on Development (8) and the European Consensus on Humanitarian Aid (9),

— having regard to its recommendations to the Council, of 8 June 2011 on the 66th session of the UNGA (10) and of 13 June 2012 on the 67th session of the UNGA (11),

— having regard to its resolution of 16 February 2012 on the 19th Session of the UN Human Rights Council (12),

— having regard to its resolution of 11 May 2011 on ‘the EU as a global actor: its role in multilateral organisations’ (13),

— having regard to its resolution of 19 February 2009 on the European Security Strategy and ESDP (14),

— having regard to Rules 121(3) and 97 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A7-0130/2013),

A/63/677.
A/64/864.
A/66/874-S/2012/578.
10170/2010.
OJ C 76 E, 25.3.2010, p. 61.
A. whereas the UN 2005 World Summit Outcome provides, for the first time, a common definition of the principle of R2P; whereas the principle of R2P, embedded in paragraphs 138 and 139 of the UN 2005 World Summit Outcome, represents an important step forward towards a more peaceful world by establishing the obligation of states to protect their populations against genocide, war crimes, ethnic cleansing and crimes against humanity, as well as the obligation of the international community to help states assume this responsibility and to react should they fail to protect their citizens against these four specified crimes and violations;

B. whereas the principle of R2P is based on three pillars, namely: (i) the state bears the primary responsibility to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing; (ii) the international community must assist states in fulfilling their protection obligations; (iii) when a state manifestly fails to protect its population or is in fact a perpetrator of these crimes, the international community has a responsibility to take collective action;

C. whereas, according to the work done on R2P preceding the agreement on the World Summit Outcome Document in 2005 and specifically in the 2001 report on R2P of the International Commission on Intervention and State Sovereignty (ICISS), the principle of R2P has been further defined to encompass the components of the responsibility to prevent (R2prevent), the responsibility to react (R2react) and the responsibility to rebuild (R2rebuild), as introduced in the ICISS report;

D. whereas the development of the concept of R2P is welcome since it clarifies and strengthens the existing obligations of states to ensure the protection of civilians; whereas this concept, born from the international community’s failures in Rwanda in 1994, is critical for the survival of the community of nations;

E. whereas in the cases in question legitimate force should only ever be used in a prudent, proportionate and limited manner;

F. whereas the development of the principle of R2P is an important step towards anticipating, preventing and responding to genocide, war crimes, ethnic cleansing and crimes against humanity and upholding fundamental principles of international law, in particular international humanitarian, refugee and human rights law; whereas the principles should be applied as consistently and uniformly as possible, to which effect it is crucially important that early warning and assessment should be conducted fairly, prudently and professionally and that the use of force should remain the measure of last resort;

G. whereas more than a decade after the emergence of the concept of R2P and eight years after its endorsement by the international community at the UN World Summit in 2005, recent events have again brought to the fore the importance and the challenges of ensuring timely and decisive responses to the four core crimes covered by the concept, as well as the need to further operationalise the principle in order to implement it effectively and prevent mass atrocities;

H. whereas the development of the principle of R2P — particularly its prevention component — can advance global efforts towards a more peaceful world, since many mass atrocity crimes occur during periods of violent conflict and this makes it necessary to create effective capacities for structural and operational conflict prevention, thus minimising the need for the use of force as the last resort;

I. whereas using all tools available under Chapters VI, VII and VIII of the Charter, ranging from non-coercive responses to collective action, is of fundamental importance for the further development and the legitimacy of the principle of R2P;

J. whereas the most effective form of preventing conflict, violence and human suffering is to promote respect for human rights and fundamental freedoms, enforcement of the rule of law, good governance, human security, economic development, poverty eradication, inclusiveness, socio-economic rights, gender equality, and democratic values and practices, as well as the reduction of economic inequalities;

K. whereas the military intervention of 2011 in Libya pointed up the need to clarify the role of regional and subregional organisations when applying R2P; whereas such organisations can be both legitimisers and operational agents for the implementation of R2P, but often lack capacities and resources;
whereas human rights are of the utmost importance in international relations;

whereas there is a need for a shift in the manner in which we approach R2P, which should involve integrating it into all our models of development cooperation, aid and crisis management, as well as building on programmes that already embrace R2P;

whereas a more consistent implementation of R2P’s prevention component (R2prevent), including mediation measures and preventive diplomacy at an early stage, could prevent or reduce the potential for conflicts and violence and help avoid their escalation, thus potentially helping prevent international intervention under R2P’s reaction component (R2react); whereas two-track diplomacy is an important instrument in preventive diplomacy which builds upon the human dimension of reconciliation efforts;

whereas R2P is primarily a preventive doctrine and military intervention should be the last resort in R2P situations; whereas R2P, wherever possible, is to be carried out first and foremost through diplomatic and long-term developmental activities that focus on capacity-building in the fields of human rights, good governance, the rule of law, the reduction of poverty and emphasis on education and health, conflict prevention through education and the expansion of trade, effective arms control and prevention of illicit arms trading, and the strengthening of early warning systems; whereas, furthermore, there are many non-military coercive alternatives, such as preventive diplomacy, sanctions, accountability mechanisms and mediation; whereas the EU must continue to play a leadership role in the field of conflict prevention;

whereas cooperation with regional organisations is an important dimension of R2P work; whereas it is therefore necessary to call for the reinforcement of regional capacities in terms of prevention and the identification of effective policies for preventing the above-mentioned four crimes; whereas the forthcoming EU-Africa summit in 2014 will provide a good opportunity to express our support for AU leadership and promote African ownership of R2P;

whereas the UN Guidelines for Effective Mediation identify the dilemma that arrest warrants issued by the ICC, sanctions regimes and national and international counter-terrorism policies also affect the manner in which some conflict parties may be engaged in a mediation process; whereas the definition in international law of crimes which demand an immediate reaction by the international community has made considerable progress since the establishment of the ICC, although an independent assessment mechanism of when these definitions are met is still, crucially, missing; whereas the implementation of the Rome Statute would enhance the efficiency of the ICC regime; whereas the Rome Statute has not been ratified by all states of the international community;

whereas the ICC and R2P are interlinked, since both aim to prevent genocide, crimes against humanity and war crimes; whereas, on the one hand, R2P bolsters the ICC’s mission to fight impunity by advocating that states honour their judicial responsibility, while, on the other hand, it also reinforces the complementarity principle of the ICC, under which the main responsibility to prosecute lies with states;

whereas the ICC plays a fundamental role not only in crime prevention but also in the reconstruction of countries and in mediation processes;

whereas the EU has always been an active promoter of R2P on the international stage; whereas it needs to strengthen its role as a global political actor, upholding human rights and humanitarian law and also reflecting that political support in its own policies;

whereas EU Member States have also endorsed the R2P principle; whereas only a few of them have incorporated the concept into their national texts;

whereas recent experiences relating to specific crises such as those in Sri Lanka, Côte d’Ivoire, Libya and Syria have demonstrated the persistent challenges involved in arriving at a common understanding of how to ensure the timely and effective implementation of the R2P principle, while also generating the common political will and effective capacity to prevent or stop genocide, war crimes, ethnic cleansing and crimes against humanity, whether committed by national and local authorities or non-state actors, and the consequent multiple civilian casualties;
W. whereas in situations where R2P is applied it is of the utmost importance to maintain the distinction of mandates between military and humanitarian actors, in order to safeguard the perception of the neutrality and impartiality of all humanitarian actors and avoid putting at risk the effective delivery of aid and of medical or any other kind of assistance, access to beneficiaries, or the personal safety of field-based humanitarian personnel;

X. whereas the proposal initiated by Brazil on 'Responsibility while Protecting' is a welcome contribution to the necessary development of the criteria to be followed when implementing an R2P mandate, including the proportionality of the scope and duration of any intervention, a thorough balance of consequences, ex ante clarity of the political objectives, and transparency in the intervention's reasoning; whereas the monitoring and review mechanisms of adopted mandates should be strengthened, including through the UN Secretary-General's Special Advisors on the Prevention of Genocide and on R2P, and the UN High Commissioner for Human Rights, and should be conducted 'fairly, prudently and professionally, without political interference or double standards' (1);

Y. whereas the definition in international law of crimes which demand an immediate reaction by the international community has made considerable progress since the creation of the ICC, although independent assessment mechanisms for when those definitions should apply are still, crucially, missing;

Z. whereas the UN High Commissioner for Human Rights plays an important role in awareness-raising on ongoing cases of mass atrocity crimes; whereas the UN Human Rights Council is playing an increasingly important role in implementing R2P, including by authorising fact-finding missions and commissions of inquiry to gather and assess information relating to the four specified crimes and violations, and by its increasing readiness to refer to R2P in crisis situations such as in Libya and Syria;

AA. whereas a narrow but deep approach to implementing R2P should restrict its application to the four mass atrocity crimes and violations specified;

AB. whereas the principle of R2P should not be applied in the context of humanitarian emergencies and natural disasters; whereas humanitarian action should not be used as an excuse for political action, and whereas humanitarian space needs to be respected by all actors involved;

AC. whereas comprehensive assistance has to be offered for post-conflict situations; whereas more efforts are needed to affirm accountability for serious violations of human rights, as well as international humanitarian law and the fight against impunity;

1. Addresses the following recommendations to the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission (HR/VP), the EEAS, the Commission, the Member States and the Council:

(a) to reconfirm the EU's commitment to R2P by adopting an interinstitutional 'Consensus on R2P', including a common understanding of the implications of R2P for the EU's external action and the role its actions and instruments can play in situations of concern, to be prepared jointly by the Council, the EEAS, the Commission and Parliament having also taken into account the views of stakeholders, including those of civil society actors and NGOs;

(b) to include a chapter in the HR/VP's annual report to Parliament on the CFSP concerning the EU's actions on conflict prevention and mitigation in applying the R2P principle; to analyse in this chapter the usefulness of the relevant instruments and administrative structures in implementing R2P, including identifying necessary revisions; to prepare this chapter in cooperation with the EU Special Representative for Human Rights and taking account of the various positions adopted by Parliament on specific issues relating to conflict prevention or human rights protection; and to debate the findings with Parliament;

c) to integrate the R2P principle in the EU's development assistance; to further professionalise and strengthen the Union's preventive diplomacy, mediation, crisis prevention and response capacities, with special reference to information gathering and exchange as well as early warning systems; to improve the coordination between the various Commission, Council and EEAS structures regarding all aspects of R2P, and to inform Parliament on a regular basis of the initiatives taken in support of R2P;

d) to ensure sufficient policy planning, operational concepts and capability development goals within the Common Security and Defence Policy (CSDP) to enable the Union to fully implement R2P in close international cooperation within the UN and regional organisations;

e) to further develop the EU's conflict prevention and mitigation capacities, including the standby capacities of legal experts, police officers and regional analysts and the creation of an autonomous European Institute of Peace intended to provide the EU with advice on and capacities for mediation, two-track diplomacy and exchange of best practices on peace and de-escalation; to strengthen the preventive elements of the EU's external instruments, in particular of the Instrument for Stability;

f) to strengthen linkages between early warning, policy planning and high-level decision-making in the EEAS and the Council;

g) to include a systematic assessment of the risk factors of genocide, war crimes, ethnic cleansing and crimes against humanity in regional and country strategy papers, and to include their prevention in dialogues with third countries that are at risk of those crimes and violations;

h) to develop cooperation with and training of the staff of the EU delegations and Member States' embassies, as well as of civilian and military missions, in the fields of international human rights, humanitarian law and criminal law, including their capacity to detect potential situations involving the four specified crimes and violations, inter alia by regular exchanges with local civil society; to ensure that EU Special Representatives uphold R2P whenever necessary and broaden the mandate of the EU Special Representative on Human Rights to include R2P issues; to identify an EU Focal Point for R2P in the EEAS in the context of the existing structures and resources, to be tasked notably with raising awareness of the implications of R2P and ensuring timely information flows between all concerned actors on situations of concern, while also encouraging the establishment of national focal points for R2P in the Member States; to further professionalise and strengthen preventive diplomacy and mediation;

i) to launch and promote an internal debate within the EU on the reform of the UN Security Council, which is the only internationally legitimate body that can sanction R2P interventions without the consent of the target state;

j) to involve and train representatives of civil society and NGOs, who could play a role in informal or 'track II' diplomacy with a view to promoting exchanges of good practice in this field;

k) to strengthen cooperation with regional and subregional organisations, including by improving their prevention, capacity-building and response measures in relation to R2P;
(l) to ensure speedy ratification by all EU Member States of the amendments to the ICC Statutes defining the crime of aggression, since the Court can play a central role in the prevention of mass atrocity crimes, as well as in efforts to ensure accountability;

(m) to insist on respect for the ICC clause in agreements with third countries. and to consider reviewing agreement with countries failing to comply with ICC arrest warrants;

(n) to espouse a dual track-approach, i.e. promoting the universal acceptance of R2P while at the same time encouraging states to support and assist the ICC;

2. Encourages the HR/VP and the Council:

(a) to contribute actively to the debate on the R2P principle, building on existing international human rights law and the Geneva Conventions with a view to strengthening the international community's focus on R2P's prevention component and the universal application of non-coercive tools, and to develop a concrete action plan to that end which also includes considerations on the responsibility/need to rebuild;

(b) to promote the R2P principle at the UN, and to work towards ensuring its universality, as an essential part of a collective security model based on multilateralism and the primacy of the UN and linked to the strengthening of the ICC; to recall that R2P also implies the responsibility to fight impunity;

(c) to support the efforts of the UN Secretary-General to reinvigorate and enhance the understanding of the implications of the R2P principle, and to cooperate with other UN members who wish to improve the capacities of the international community to prevent and respond to mass atrocity crimes covered by the R2P principle;

(d) to call on the UNSC to take up the Brazilian proposal ‘Responsibility while Protecting’ in order to ensure the most efficient application of the R2P principle that causes the least harm possible, and contribute to the necessary development of the criteria to be followed when acting to implement in particular the third pillar of R2P, including the proportionality of the scope and duration of any intervention, a thorough balance of consequences, ex ante clarity of the political objectives and transparency in the intervention's reasoning; given that the development of such criteria may provide guarantees which could persuade countries currently reticent about the R2P doctrine of its applicability, to strengthen the monitoring and review mechanisms of adopted mandates, including through the UN Secretary-General's Special Advisors on the Prevention of Genocide and on R2P, and the UN High Commissioner for Human Rights, and to conduct these mechanisms 'fairly, prudently and professionally, without political interference or double standards' (1);

(e) to draw lessons, in cooperation with the Member States and our international partners, from the experience of R2P in Libya in 2011 and from the current inability to take action in Syria;

(f) to propose to the five permanent members of the UN Security Council the adoption of a voluntary code of conduct which would limit the use of the right of veto in cases of genocide, war crimes, ethnic cleansing or crimes against humanity;

(g) to engage with the EU's regional partners in order to spell out more clearly the role of regional and subregional organisations in applying R2P;

(h) to work towards establishing R2P as a new norm of international law, within the scope agreed to by the UN's member states at the 2005 World Summit;

(i) to advise the Security Council that enshrining R2P, which is now an emerging standard, as a standard of international law would not limit its decision-making capacity;

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(j) to help strengthen the framework and capacities at UN level for mediation, two-track diplomacy, exchange of best practice on the peaceful resolution of emerging conflicts, and de-escalation and early warning systems, such as those of the Mediation Support Unit of the Department of Political Affairs; to strengthen the Office of the Special Advisor on the Prevention of Genocide and the Special Advisor on the Responsibility to Protect; to engage the Human Rights Council in the debate on R2P;

(k) to ensure, in cooperation with the EU Member States having a seat on the UN Security Council and all international partners, the full consistency of possible further developments of the R2P concept with international humanitarian law (IHL), and to advocate and monitor full compliance with IHL in future cases where R2P is applied;

(l) to address the issue of a single EU seat on the UN Security Council and of a communalised budget for CFSP missions under UN mandate;

(m) to integrate women, including women leaders and women’s groups much more in all conflict prevention and mitigation, as well as in resolution efforts in accordance with UNSC Resolutions 1325 and 1820;

(n) to work with the UN towards the establishment of a clear link between the implementation of R2P and the fight against impunity for the most serious crimes covered by this concept;

3. Calls on the HR/VP:

(a) to present to the European Parliament’s Committee on Foreign Affairs a concrete plan of action within six months of the adoption of the present Recommendation, on the follow-up of the Parliament’s proposals, notably outlining the steps towards achieving a ‘Consensus on R2P’;

4. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the HR/VP, the EEAS and the Member States.
II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN PARLIAMENT

P7_TA(2013)0106

Request for waiver of the parliamentary immunity of Hans-Peter Martin

European Parliament decision of 16 April 2013 on the request for waiver of the immunity of Hans-Peter Martin
(2012/2326(IMM))
(2016/C 045/16)

The European Parliament,

— having regard to the request for waiver of the immunity of Hans-Peter Martin, forwarded on 27 June 2012 by the
Permanent Representative of Austria to the European Union in connection with a case pending before the Vienna Public
Prosecutor’s Office, and announced in plenary on 12 December 2012,

— having heard Hans-Peter Martin on 20 February 2013, in accordance with Rule 7(3) of its Rules of Procedure,

— having regard to Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and to 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 the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and
21 October 2008, 19 March 2010 and 6 September 2011 (1),

— having regard to its decision of 13 September 2011 on the request for waiver of the immunity of Hans-Peter Martin (2),

— having regard to the provisions of Article 57 of the Austrian Constitution,

— having regard to Rules 6(2) and 7 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0106/2013),

A. whereas Parliament decided on 13 September 2011 to waive the immunity of Hans-Peter Martin, Member of the
European Parliament, following a request from the Vienna Public Prosecutor’s Office, forwarded on 29 April 2011 and
announced in the plenary sitting of 12 May 2011, in connection with alleged offences relating to misappropriation of
party funding, covered by Section 2(b) of the Law on Political Parties;

(1) Judgment of 12 May 1964 in Case 101/63, Wagner v Forthmann and Krir (ECR 1964, p. 195); judgment of 10 July 1986 in Case
149/85, Wybot v Faure and others (ECR 1986, p. 2403); judgment of 15 October 2008 in Case T-345/05, Mote v Parliament
(ECR 2008, p. II-2849); judgment of 21 October 2008 in Joined Cases C-200/07 and C-201/07, Marr a v De Gregorio and Clemente
(ECR 2008, p. I-7929); judgment of 19 March 2010 in Case T-42/06, Gollnisch v Parliament (ECR 2010, p. II-1135); judgment of
(2) OJ C 51 E, 22.2.2013, p. 150.
Tuesday 16 April 2013

B. whereas the Vienna Public Prosecutor’s Office has now requested an extended waiver of Hans-Peter Martin’s immunity, in order to be able to carry out preliminary investigations against him on the grounds of additional accusations that have been made, in particular concerning an alleged case of fraud;

C. whereas the extended waiver of Hans-Peter Martin’s immunity concerns in particular the alleged offence of aggravated fraud under Sections 146 and 147(3) of the Austrian Criminal Code;

D. whereas under Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy in the territory of their own state the immunities accorded to members of their parliament;

E. whereas, under Article 57(2) of the Austrian Federal Constitutional Law, Members of the National Council (Nationalrat) may only be arrested on the grounds of a criminal offence with the consent of the National Council — except where they are caught in the act of committing a crime — and whereas searches of the houses of members of the National Council likewise require the consent of the National Council; whereas, further to Article 57(3) of the Austrian Federal Constitutional Law, no official action on account of a punishable offence may be taken against members of the National Council without the National Council’s consent unless that offence is manifestly not connected with the political activity of the member in question and whereas, under that provision, the authority concerned must seek a decision from the National Council as to whether such a connection exists, where this is so requested by the member in question or one third of the members of the appropriate standing committee;

F. whereas Article 9 of the Protocol on the Privileges and Immunities of the European Union and Article 57 of the Austrian Bundesverfassungsgesetz (Federal Constitutional Law) do not preclude the waiver of Hans-Peter Martin’s immunity;

G. whereas it is therefore advisable that parliamentary immunity be waived in the case in question;

1. Decides to waive the immunity of Hans-Peter Martin;

2. Instructs its President to forward this decision and the report of its competent committee immediately to the appropriate authorities of Austria and to Hans-Peter Martin.

P7_TA(2013)0107

Request for waiver of the parliamentary immunity of Jürgen Creutzmann

European Parliament decision of 16 April 2013 on the request for waiver of the immunity of Jürgen Creutzmann (2013/2016(IMM))

(2016/C 045/17)

The European Parliament,

— having regard to the request for waiver of the immunity of Jürgen Creutzmann, forwarded on 15 January 2013 by the German Federal Ministry of Justice, in connection with a case pending before the Chief Public Prosecutor of Frankenthal (Germany), and announced in plenary on 17 January 2013,

— having heard Jürgen Creutzmann in accordance with Rule 7(3) of its Rules of Procedure,

— having regard to Article 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 the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010 and 6 September 2011 (1),

— having regard to Article 46 of the German Basic Law (Grundgesetz),
— having regard to Rules 6(2) and 7 of its Rules of Procedure,
— having regard to the report of the Committee on Legal Affairs (A7-0107/2013),

A. whereas the Chief Public Prosecutor of Frankenthal (Germany) has requested the waiver of the parliamentary immunity of Jürgen Creutzmann, Member of the European Parliament, in connection with launching investigative proceedings concerning an alleged offence;

B. whereas the request by the Chief Public Prosecutor relates to proceedings concerning an alleged offence of causing bodily harm by negligence under Section 229 of the German Criminal Code;

C. whereas, according to Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members shall enjoy, in the territory of their own State, the immunities accorded to members of their Parliament;

D. whereas, under Article 46(2) of the German Basic Law (Grundgesetz), a Member may not be called to account for a punishable offence without the permission of Parliament unless apprehended while committing the offence or in the course of the following day;

E. whereas, consequently, Parliament must thus waive the parliamentary immunity of Jürgen Creutzmann if the proceedings against him are to go ahead;

F. whereas Article 9 of the Protocol on the Privileges and Immunities of the European Union and Article 46(2) of the German Grundgesetz do not preclude the waiver of the immunity of Jürgen Creutzmann;

G. whereas it is therefore advisable that parliamentary immunity be waived in the case in question;

1. Decides to waive the immunity of Jürgen Creutzmann;

2. Instructs its President to forward this decision and the report of its competent committee immediately to the appropriate authorities of the Federal Republic of Germany and to Jürgen Creutzmann.

P7_TA(2013)0108

Request for the waiver of the parliamentary immunity of Ewald Stadler

European Parliament decision of 16 April 2013 on the request for waiver of the immunity of Ewald Stadler (2012/2239(IMM))

(2016/C 045/18)

The European Parliament,

— having regard to the request of 9 July 2012 from the Vienna Public Prosecutor’s Office for waiver of the immunity of Ewald Stadler in connection with an investigation procedure, as announced in the plenary sitting of 10 September 2012,

— having heard Ewald Stadler on 20 February 2013 in accordance with Rule 7(3) of its Rules of Procedure,

— having regard to Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and to 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 57 of the Austrian Bundesverfassungsgesetz (Federal Constitutional Law),

— having regard to the judgments of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010 and 6 September 2011 of the Court of Justice of the European Union (1),

— having regard to Rules 6(2) and 7 of its Rules of Procedure,
— having regard to the report of the Committee on Legal Affairs (A7-0120/2013),

A. whereas the Vienna Public Prosecutor’s Office has requested the waiver of the immunity of Ewald Stadler, Member of the European Parliament, in order to enable the Austrian authorities to conduct the necessary investigations and to take legal action against Ewald Stadler;

B. whereas the waiver of Ewald Stadler’s immunity concerns alleged offences of attempted aggravated coercion under Sections 15, 105(1) and 106(1)(1) of the Austrian Criminal Code, and the offence of perjury under Section 288(1) of the Criminal Code;

C. whereas under Article 9 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy in the territory of their own state the immunities accorded to members of their parliament;

D. whereas, under Article 57(2) of the Austrian Federal Constitutional Law, members of the National Council (Nationalrat) may only be arrested on the grounds of a criminal offence with the consent of the National Council — except where they are caught in the act of committing a crime — and whereas searches of the houses of members of the National Council likewise require the consent of the National Council; whereas, further to Article 57(3) of the Austrian Federal Constitutional Law, no official action on account of a punishable offence may be taken against members of the National Council without the National Council’s consent unless that offence is manifestly not connected with the political activity of the member in question and whereas, under that provision, the authority concerned must seek a decision from the National Council as to whether such a connection exists, where this is so requested by the member in question or one third of the members of the appropriate standing committee;

E. whereas Ewald Stadler’s immunity must be waived if the investigations against him are to proceed;

F. whereas Ewald Stadler has been a Member of the European Parliament since 7 December 2011;

G. whereas the Vienna Public Prosecutor’s Office has been carrying out investigations against Ewald Stadler since March 2010;

H. whereas Article 9 of the Protocol on the Privileges and Immunities of the European Union and Article 57 of the Austrian Bundesverfassungsgesetz (Federal Constitutional Law) do not preclude the waiver of Ewald Stadler’s immunity;

I. whereas it is therefore advisable that parliamentary immunity be waived in the case in question;

1. Decides to waive the immunity of Ewald Stadler;
2. Instructs its President to forward this decision and the report of its competent committee immediately to the appropriate authorities of the Austrian Republic and to Ewald Stadler.

P7_TA(2013)0121

Tied vote on intervention in legal proceedings (interpretation of Rule 159(3))

European Parliament decision of 16 April 2013 concerning circumstances in which there is a tied vote on intervention in legal proceedings (interpretation of Rule 159(3))

(2016/C 045/19)

The European Parliament,
— having regard to the letter of 20 March 2013 from the Chair of the Committee on Constitutional Affairs,
— having regard to Rule 211 of its Rules of Procedure,
1. Decides to append the following interpretation to Rule 159(3):
Rule 159(3) is to be interpreted as meaning that, where there is a tied vote on a draft recommendation under Rule 128(4) not to intervene in proceedings before the Court of Justice of the European Union, such a tie does not signify the adoption of a recommendation that Parliament should intervene in those proceedings. In such a case, the committee responsible is to be deemed not to have expressed any recommendation.

2. Instructs its President to forward this decision to the Council and the Commission, for information.
EUROPEAN PARLIAMENT

P7_TA(2013)0103

European Network and Information Security Agency (ENISA) ***I


(Ordinary legislative procedure: first reading)

(2016/C 045/20)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2010)0521),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0302/2010),

— 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 17 February 2011 (1),

— having regard to the undertaking given by the Council representative by letter of 8 February 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 Rules 55 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy, the opinions of the Committee on Budgets and of the Committee on Civil Liberties, Justice and Home Affairs (A7-0056/2013),

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;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2010)0275


(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Regulation (EU) No 526/2013.)

(1) OJ C 107, 6.4.2011, p. 58.
Incidental catches of cetaceans


(Ordinary legislative procedure: first reading)

(2016/C 045/21)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0447),

— having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0213/2012),

— having regard to the opinion of the European Economic and Social Committee of 14 November 2012 (1),

— having regard to Article 294(3) 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 Fisheries (A7-0042/2013),

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;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2012)0216


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 43(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure (1),

Whereas:

(1) Council Regulation (EC) No 812/2004 (2) confers powers upon the Commission in order to implement some of the provisions of that Regulation.

(1) Not yet published in the Official Journal.
As a consequence of the entry into force of the Lisbon Treaty, the Commission powers conferred for the implementation of Regulation (EC) No 812/2004 need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union.

In order to apply certain provisions of Regulation (EC) No 812/2004 ensure that certain provisions can be amended efficiently to reflect technical and scientific progress, 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 technical specifications and conditions of use of acoustic deterrent devices. [Am. 1]

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for the adoption of delegated acts, 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.

In order to ensure uniform conditions for the implementation of the provisions of Regulation (EC) No 812/2004 concerning rules on the procedure and format for reporting obligations for Member States, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (\(^1\)).

In view of the requirement for Member States to take the necessary measures to establish a system of strict protection for cetaceans, in view of the shortcomings of Regulation (EC) No 812/2004 and its implementation, pointed out by the Commission in its Communication on cetacean incidental catches in fisheries (\(^2\) and by ICES in its related 2010 scientific advice, and in view of the lack of integration of Council Directive 92/43/EEC (\(^3\)) (‘the Habitats Directive’), the Commission should, before the end of 2015, submit a legislative proposal for a coherent, overarching legislative framework for ensuring the effective protection of cetaceans from all threats. [Am. 2]

Regulation (EC) No 812/2004 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 812/2004 is amended as follows:

(1) In Article 3, paragraph 1 is replaced by the following:

‘1. Acoustic deterrent devices used in application of Article 2(1) shall comply with technical specifications and conditions of use. The conditions and specifications are defined in Annex II. The Commission shall be empowered to amend Annex II by means of delegated acts adopted in accordance with Article 8a, in order to adapt that Annex to technical and scientific progress.’

(1a) In Article 7, the following paragraph is added:

‘3. The Commission shall, before the end of 2015, review the effectiveness of the measures laid down in this Regulation and submit a legislative proposal for a coherent, overarching legislative framework for ensuring the effective protection of cetaceans.’ [Am. 3];

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\(^1\) OJ L 55, 28.2.2011, p. 13.


Article 8 is replaced by the following:

'Article 8

Implementation

Detailed rules on the procedure and format for reporting, as set out in Article 6, may be established by means of implementing acts adopted in accordance with the examination procedure referred to in Article 8b(2).'

The following articles are inserted:

'Article 8a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power to adopt delegated acts referred to in Article 3(1) shall be conferred on the Commission for an indeterminate period of time three years from … (*) The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-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. [Am. 4]

3. The delegation of power referred to in Article 3(1) may be revoked at any time by the European Parliament or 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 any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, 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 two months at the initiative of the European Parliament or the Council.

Article 8b

Committee procedure


2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

(*) Date of entry into force of this Regulation.
(**) OJ L 55, 28.2.2011, p. 13.'

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament

The President

For the Council

The President
EU-Mauritius Fisheries Partnership Agreement

European Parliament legislative resolution of 16 April 2013 on the draft Council decision on the conclusion of the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius and of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement (13501/2012 — C7-0007/2013 — 2012/0215(NLE))

(Consent)

The European Parliament,
— having regard to the draft Council decision (13501/2012),
— having regard to the draft Fisheries Partnership Agreement between the European Union and the Republic of Mauritius and the draft Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement (13503/2012),
— having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7–0007/2013),
— having regard to Rules 81 and 90(7) of its Rules of Procedure,
— having regard to the recommendation of the Committee on Fisheries and to the opinion of the committee on Budgets (A7-0127/2013),

1. Consents to the conclusion of the Agreement and of the Protocol;

2. Calls on the Commission to forward to Parliament the minutes and the conclusions of the meetings of the Joint Committee provided for in Article 9 of the Agreement, as well as the multiannual sectoral programme provided for in Article 3 of the Protocol and the corresponding annual evaluations; calls on the Commission to facilitate the participation of representatives of Parliament as observers in the meetings of the Joint Committee; calls on the Commission to submit to Parliament and to the Council, within the last year of application of the Protocol and before the opening of negotiations for its renewal, a full evaluation report on its implementation, without imposing unnecessary restrictions on access to this document;

3. Calls on the Council and the Commission, acting within the limits of their respective powers, to keep Parliament immediately and fully informed at all stages of the procedures related to the new Protocol and its renewal, pursuant to Article 13(2) of the Treaty on European Union and Article 218(10) of the Treaty on the Functioning of the European Union;

4. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and the Republic of Mauritius.

European Globalisation Adjustment Fund: application EGF/2011/023 IT/Antonio Merloni SpA

The European Parliament,

— having regard to the Commission proposal to the Parliament and the Council (COM(2013)0090 — C7-0046/2013),

— 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 (1) (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 letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0111/2013),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers made redundant as a result of major structural changes in world trade patterns and to assist their reintegration into the labour market;

B. whereas the scope of the European Globalisation Adjustment Fund (EGF) was broadened for applications submitted from 1 May 2009 to 30 December 2011 to include support for workers made redundant as a direct result of the global financial and economic crisis;

C. whereas the Union’s financial assistance to workers made redundant should be dynamic 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 IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;

D. whereas Italy submitted application EGF/2011/023 IT/Antonio Merloni for a financial contribution from the EGF, following redundancies in Antonio Merloni SpA in Italy requesting assistance for 1 517 redundancies, all targeted for EFG co-funded measures, during the four-month reference period from 23 August 2011 to 23 December 2011;

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation;

1. Agrees with the Commission that the conditions set out in Article 2(a) of the EGF Regulation are met and that, therefore, Italy is entitled to a financial contribution under that Regulation;

2. Notes with regret that the Italian authorities submitted the application for EGF financial contribution on 29 December 2011 and that its assessment was made available by the Commission on 20 February 2013; regrets the lengthy evaluation period of 14 months; calls on the Commission to conclude the evaluation phase and finally present proposals for decisions on the four remaining cases submitted in 2011;

3. Notes that the production plants of Antonio Merloni SpA, a producer of domestic appliances, were located in the Italian regions of Marche and Umbria, in particular the provinces of Ancona and Perugia; observes that in 2002, Antonio Merloni SpA, the fifth largest manufacturer of appliances in the Union changed its sales strategy and started selling its products directly through its own brands in 2006; notes that as a result of the global economic crisis, the company experienced financial difficulties, which were further exacerbated by the sudden tightening of conditions for accessing financial credit; notes that the downturn in production, which had been following the downward trend at a European level, combined with financial constraints, resulted in the winding-up of the business activities of Antonio Merloni SpA; notes that a total of 2 217 workers were made redundant, of whom 700 were employed by QA Group SpA; notes that this application, therefore, covers the 1 517 workers who are unemployed as a result of the closure of Antonio Merloni SpA;

4. Notes that Antonio Merloni SpA was declared insolvent already in October 2008 and the sale of its assets and the take over of 700 workers were concluded only in December 2011; notes that the Italian authorities launched their original request for EGF assistance previously in 2009; notes, however, that the application had to be re-launched in late 2011 given that the workers were formally dismissed only when the assets had been sold and administrative proceedings concluded;

5. Recalls that the EGF has already supported workers dismissed in the sector of manufacturing of domestic appliances (case EGF/2009/010 LT/Snaige) (1);

6. Emphasises the fact that in the pre-crisis years, the provinces of Ancona and Perugia had an unemployment rate lower than the national average; notes that in 2009, unemployment increased by 40% compared with the previous year while in 2010, the unemployment rate remained stable in Perugia and decreased in Ancona, mainly due to a fall in the activity rate, rather than an increase in employment; observes that in 2009, the regional GDP decreased by about 3% and the turnover of industry contracted by 14.6% in Marche and by 16.4% in Umbria, compared with the previous year; notes that this contraction resulted in an increase in the hours of Cassa Integrazione Guadagni (2) in manufacturing sectors by 368% in Marche and by 444% in Umbria; observes that the 1 517 redundancies of Antonio Merloni SpA covered by this application have further aggravated the situation;

7. Welcomes the fact that in order to provide workers with speedy assistance, the Italian authorities decided to initiate the implementation of the measures on 29 March 2012, well ahead of the final decision on granting the EGF support for the proposed coordinated package; deplores, however, that the EGF could only intervene almost three and a half years after the company had been declared insolvent;

8. Notes that the coordinated package of personalised services to be co-funded includes measures for the reintegration of 1 517 workers into employment such as occupational guidance, job-search assistance, entrepreneurship promotion, vocational training and skills upgrade, guidance for workers over 50 years old, job-search allowances, hiring benefits, contributions to commuting expenses and contributions to the expenses for a change of residence;

9. Welcomes the fact that the social partners were consulted on the design of the measures of the coordinated EGF package and that these measures were made part of social plan ‘Accordo di Programma’ signed by the Ministry of Economic Development and the concerned regions and that the implementation of the EGF support will be monitored by a coordination group;

10. Recalls the importance of improving the employability of all workers by means of adapted training and the recognition of skills and competences gained throughout a worker's professional career and the equal access to EGF independently of their type of employment contract and employment relationship; expects the training on offer in the coordinated package to be adapted not only to the level and needs of the dismissed workers but also to the actual business environment;

11. Asks the Commission to further detail in future proposals the types of training to be provided through a voucher, in which sectors the workers are likely to find employment and whether the training on offer is aligned to the future economic prospects and labour market needs in the regions concerned by the dismissals; welcomes, however, the strict link between the voucher and each worker's agreed pathway of reintegration;

12. Calls on the Italian authorities to use the EGF support to its full potential and to encourage the maximum number of workers to participate in the measures; recalls that early EGF interventions in Italy suffered from relatively low rate of budget implementation mainly due to low participation rates;

13. Welcomes, in the coordinated package of personalised services, the module ‘Guidance for over-50s’ intended for older employees, which make 12% of the targeted labour force;

14. Welcomes the fact that the contribution to expenses of residence shall only be paid as a one-off contribution upon presentation of proof of the expenditure incurred;

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(2) CIG is a scheme under Italian law, consisting of a financial benefit paid by the Istituto Nazionale della Previdenza Sociale-INPS (National Institute of the Social Security) in favor of workers suspended from undertaking the work performance or working reduced hours.
15. Takes note that EUR 5 684 000 of the total cost of the package of services amounting to EUR 7 451 972 is devoted to various financial incentives and allowances, including the facilitation of dismissed workers mobility; recommends that a proportionate amount should be dedicated to training-related measures in future mobilisations.

16. Points out that the biggest part of the costs of personalised services is to be committed to ‘job search allowance’ (EUR 2 000 per worker for the days of participation in EGF measures), which is an equivalent of the Italian subsistence allowance ‘CIGS’ for the sake of simplification; reiterates, therefore, that the EGF support should primarily be allocated to training programs instead of contributing directly to financial allowances which are the responsibility of Member States by virtue of national law; recommends that in future cases of the mobilisation of that Fund, such measures should be discouraged.

17. Notes the relatively high ‘Hiring benefit’ (EUR 5 000 per worker); welcomes the fact that such measures will only be disbursed to employers guaranteeing permanent contracts for targeted workers and expects the Commission to deliver the relevant detailed information regarding the contract conditions for these workers.

18. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports in order to ensure full respect of the existing regulations and that no duplication of Union-funded services can occur.

19. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates the improved procedure put in place by the Commission, following Parliament’s request for the accelerated release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be integrated in the new Regulation on the EGF (2014–2020) and that greater efficiency, transparency and visibility of the EGF will be achieved.

20. Emphasises the importance of good and swift cooperation between the Commission and Member States when preparing applications under the forthcoming new EGF regulation;

21. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared towards helping workers who have been made redundant as a result of globalisation and the economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market;

22. Stresses that in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual workers made redundant into employment; stresses, furthermore, that EGF assistance can co-finance only active labour market measures which lead to durable, long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements nor measures restructuring companies or sectors;

23. Welcomes the fact that following requests from Parliament, the 2013 budget shows payment appropriations of EUR 50 000 000 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 that, therefore, it deserves a dedicated allocation, which will avoid as far as possible transfers from other budget lines, as has happened in the past, which could be detrimental to the achievement of the policy objectives of the EGF;

24. Regrets the decision of the Council to block the extension of the ‘crisis derogation’, allowing to provide financial assistance to workers made redundant as a result of the current economic crisis, in addition to those losing their jobs because of changes in global trade patterns and allowing for an increase in the rate of Union co-financing to 65 % of programme costs for applications submitted after the 30 December 2011 deadline; calls on the Council to reintroduce this measure without delay;

25. Approves the decision annexed to this resolution;

26. 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;

27. 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 (application EGF/2011/023 IT/Antonio Merloni SpA from Italy)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/278/EU.)

P7_TA(2013)0110

European Globalisation Adjustment Fund: application EGF/2011/016 IT/Agile


(2016/C 045/24)

The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0120 — C7-0060/2013),

— 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 (1) (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 letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0133/2013),

A. whereas the Union has set up legislative and budgetary instruments to provide additional support to workers who are suffering as a result of major structural changes in world trade patterns and to assist their reintegration into the labour market;

B. whereas the scope of the European Globalisation Adjustment Fund (EGF) was broadened for applications submitted from 1 May 2009 to 30 December 2011 to include support for workers made redundant as a direct result of the global financial and economic crisis;

C. whereas the Union’s financial assistance to workers made redundant should be dynamic 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 IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;

D. whereas Italy submitted application EGF/2011/016 IT/Agile for a financial contribution from the EGF, following 1,257 redundancies in Agile S.r.l. with 856 workers targeted for EFG co-funded measures, during the reference period from 22 September 2011 to 22 December 2011;

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation;

1. Agrees with the Commission that the conditions set out in Article 2(a) of the EGF Regulation are met and that Italy is therefore entitled to a financial contribution under that Regulation;

2. Notes with regret that the Italian authorities submitted the application for EGF financial contribution on 30 December 2011 and that its assessment was made available by the Commission on 7 March 2013; regrets the lengthy evaluation period of 15 months; calls on the Commission to conclude the evaluation phase and to finally present proposals for decisions on the remaining cases submitted in 2011;

3. Notes that the 1,257 redundancies in Agile S.r.l., an enterprise operating in the Information and Communications Technology (ICT) sector in Italy, were caused by the deeper than expected downturn of the IT sector and the tightening of credit that followed the economic and financial crisis, putting an extra burden on the enterprise which could not work out a profitable solution and entered into insolvency proceedings in 2010;

4. Recalls that the Commission has already recognised that ICT sectors had been hit by the crisis in the past as the EGF has supported workers dismissed in the sector of ICT in Holland (case EGF/2010/012 Noord Holland) (1);

5. Emphasises the fact that the Agile redundancies are spread out over most of the whole of Italy and that the territories concerned are 12 out of the 20 Italian regions: Piemonte, Lombardia, Veneto, Emilia-Romagna, Tuscany, Umbria, Lazio, Campania, Puglia, Basilica, Calabria and Sicily;

6. That during the three years 2008 to 2010, the unemployment rate in Italy increased from 6,8% to 8,5% and that in eight of the 12 regions concerned, there was an increase above the national average ranging from 1,9% to 2,6%; emphasises the fact that the Agile redundancies will further exacerbate the current fragile employment situation, in particular in the Southern regions where the outlook of economic recovery is less optimistic;

7. Welcomes the fact that, in order to provide workers with speedy assistance, the Italian authorities decided to initiate the implementation of the personalised measures on 15 March 2012, well ahead of the final decision on granting the EGF support for the proposed coordinated package;

8. Calls on the Italian authorities to use the EGF support to its full potential and encourage the maximum number of workers to participate in the measures; recalls that early EGF interventions in Italy suffered from relatively low rate of budget implementation mainly due to low participation rates;

9. Notes that the coordinated package of personalised services to be co-funded includes measures for the reintegration of 856 workers into employment by means of career advice and skills assessment, outplacement and job-search assistance, vocational training and skills upgrades, postgraduate education, entrepreneurship promotion and contribution to business start-up, hiring benefits, mentoring after reintegration into work, job-search allowances and contributions towards special expenses such as contributions for carers of dependent persons, contributions to commuting expenses and contributions to the expense of moving their residence to take up a new job;

10. Welcomes in the coordinated package of personalised services the module 'Mentoring after reintegration into work', which is aimed at ensuring that the return of the workers on the labour market is sustainable;

11. Welcomes the fact that the contribution to expenses of residence shall only be paid as a one-off contribution upon presentation of proof of the expenditure incurred;

12. Welcomes the contributions towards special expenses for carers foreseen to enable the reconciliation of workers with dependent persons (children, elderly or disabled persons) to take care of these persons, to allow the workers participating in the programme to reconcile training and job search with family obligations;

13. Welcomes the fact that the social partners, and in particular the involvement of trade unions at local level, were consulted on the design of the measures of the coordinated EGF package and that a policy of equality between women and men, as well as the principle non-discrimination, will be applied during the various stages of the implementation of and in access to the EGF;

14. Recalls the importance of improving the employability of all workers by means of adapted training and the recognition of skills and competences gained throughout a worker’s professional career; expects the training on offer in the coordinated package to be adapted not only to the needs of the dismissed workers but also to the actual business environment;

15. Asks the Commission to further detail, in future proposals, the types of training to be provided, in which sectors the workers are likely to find employment and if the training on offer is aligned to the future economic prospects and labour market needs in the regions concerned by the dismissals, but welcomes the strict link between the voucher and each worker's agreed pathway of reintegration;

16. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on complementarity with actions funded by the Structural Funds; stresses that the Italian authorities have confirmed that the eligible actions do not receive assistance from other Union financial instruments; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports in order to ensure full respect of the existing regulations and that no duplication of Union-funded services can occur;

17. Emphasises the importance of good and swift cooperation between the Commission and Member States when preparing applications under the forthcoming new EGF regulation in order to provide EGF support speedily;

18. Requests that the institutions involved make the necessary efforts to improve procedural arrangements in order to accelerate the mobilisation of the EGF; appreciates the improved procedure put in place by the Commission, following Parliament’s request for the accelerated release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be integrated in the new Regulation on the European Globalisation Adjustment Fund (2014–2020) and that greater efficiency, transparency and visibility of the EGF will be achieved;

19. Stresses that, in accordance with Article 6 of the EGF Regulation, it shall be ensured that the EGF supports the reintegration of individual redundant workers into stable employment; stresses, furthermore, that EGF assistance can co-finance only active labour market measures which lead to durable, long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements nor measures restructuring companies or sectors;

20. Approves the decision annexed to this resolution;

21. 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;

22. 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

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 (application EGF/2011/016 IT/Agile from Italy)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/277/EU.)
European Globalisation Adjustment Fund: application EGF/2011/010 AT/Austria Tabak


The European Parliament,

— having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0119 — C7-0059/2013),

— 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 (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 report of the Committee on Budgets (A7-0134/2013),

A. whereas the European Union with its European Globalisation Adjustment Fund (EGF) has set up a legislative and budgetary instruments to provide additional support to workers made redundant as a result of major structural changes in world trade patterns and to assist their reintegration into the labour market;

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to 30 December 2011 to include support for workers made redundant as a direct result of the global financial and economic crisis;

C. whereas the Union’s financial assistance to workers made redundant should be dynamic 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 IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;

D. whereas Austria submitted application EGF/2011/010 AT/Austria Tabak for a financial contribution from the EGF, following 320 redundancies in Austria Tabak GmbH and in 14 suppliers and downstream producers with 270 workers targeted for EGF co-funded measures, during the four-month reference period from 20 August 2011 to 19 December 2011;

E. whereas the application fulfils the eligibility criteria set up by the EGF Regulation;

1. Agrees with the Commission that the conditions set out in Article 2(c) of the EGF Regulation are met and that Austria is therefore entitled to a financial contribution under that Regulation;

2. Notes with regret that the Austrian authorities submitted the application for EGF financial contribution on 20 December 2011 and that its assessment was made available by the European Commission on 7 March 2013; regrets the lengthy evaluation period of 15 months; calls on the Commission to conclude the evaluation phase and finally present proposals for decisions on the remaining cases submitted in 2011;

3. Notes that the redundancies were caused by the closure of Austria Tabak’s last remaining production site in Hainburg in the Bruck an der Leitha district (Niederösterreich/Lower Austria) following a decision in May 2011 by their owners, Japan Tobacco International (JTI); notes that this cigarette factory has been wound down in stages from the 2nd half of 2011 up to mid-2012 making a total of 320 workers redundant;

(3) Geneva based JTI belongs to Japan Tobacco Inc., Japan and is one of the world’s largest tobacco corporations (in 2007: 10.8 % of the world market), after State-owned China National Tobacco Corporation (in 2007: 32 %), Philip Morris International (in 2007: 18.7 %), and British American Tobacco (in 2007: 17.1 %). JTI currently operates in 120 countries employing 25 000 people.
4. Emphasises the fact that the closure of Austria Tabak, the then second-largest employer in the Bruck an der Leitha district, with many small businesses linked to the enterprise, has put the district in a particularly difficult situation; notes that in September 2011, the number of job vacancies had almost halved (-47%), compared to the same month in the previous year, whereas for Niederösterreich (NUTS II level) and at national level, this decline was much lower (-4% and —7%, respectively); furthermore, refers to statistical data showing that already from 2006 to 2010, this region has had the highest unemployment figures among the seven NUTS III regions of Niederösterreich (1), so moving away to other areas is therefore not an easy option for the dismissed workers, and the fact that many of them had relatively low-paid jobs makes a new start even more difficult;

5. Recalls that at NUTS II level, the Land of Niederösterreich was also affected by other mass redundancies, for which EGF applications were submitted to the Commission: 704 redundancies in the metal sector in 2009 (2) and 1 274 redundancies related to the road transport sector in 2010 (3);

6. Welcomes the fact that in order to provide workers with speedy assistance, the Austrian authorities decided to initiate the implementation of the personalised measures on 15 November 2011, well ahead of the final decision on granting the EGF support for the proposed coordinated package;

7. Notes that the coordinated package of personalised services to be co-funded includes measures for the reintegration of 270 workers into employment such as career advice, job search assistance, job mentoring, various types of training and qualification measures, including vocational training in higher technical and vocational schools, apprenticeships/internships in enterprises, practical on-the-job training, intensive support for workers aged over 50 as well as training and subsistence allowances during the training and active job search;

8. Welcomes the fact that the social partners were consulted on the design of the measures of the coordinated EGF package and that a policy of equality of women and men as well as the principle of non-discrimination have been applied and will be applied during the various stages of the implementation of the EGF and access to the EGF;

9. Welcomes the fact that the EGF supported measures will be provided to workers by means of a labour foundation established as a part of the social plan which was agreed with the social partners; recalls that labour foundations are institutions set up by sectoral social partners in order to accompany workers in industrial change with training measures to enhance their employability; recalls, further, that this model of providing active labour market measures was very successful in the past regarding the reintegration of workers into the labour market and the use of the EGF funds for this purpose;

10. Calls on the Austrian authorities to use the EGF support to its full potential and encourage the maximum number of workers to participate in the measures;

11. Welcomes the proposed coordinated package of personalised services and the detailed descriptions of the measures presented in the Commission proposal; welcomes the fact that the training on offer is combined with the future economic prospects and the future skills and qualification needs in the region;

12. Recalls the importance of improving the employability of all workers by means of adapted training and the recognition of skills and competences gained throughout a worker's professional career; expects the training on offer in the coordinated package to be adapted not only to the needs of the dismissed workers but also to the actual business environment;

13. Draws the attention to the subsistence allowance for workers on training and on job search which is said to amount EUR 1 000 per worker per month (calculated for 13 months, unemployment benefit will be interrupted during that period) which will be combined with training allowance of EUR 200 per worker per month; recalls that the EGF should in the future be primarily allocated to training and job search as well as occupational orientation programs and its financial contribution to allowances should always be of additional nature and in parallel to what is available to dismissed workers by virtue of national law or collective agreements;

(1) Statistik Austria: Statistisches Jahrbuch 2012.
14. Regrets that EUR 4 266 000 of the total cost of the package amounting to EUR 5 864 615 is devoted to various financial allowances, a similar proportion to previous cases; recommends that a proportionate amount should be dedicated to training-related measures in future mobilisations;

15. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports in order to ensure full respect of the existing regulations and that no duplication of Union-funded services can occur;

16. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates the improved procedure put in place by the Commission, following Parliament’s request for the accelerated release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be integrated in the new Regulation on the EGF (2014–2020) and that greater efficiency, transparency and visibility of the EGF will be achieved;

17. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared towards helping workers who have been made redundant as a result of globalisation and the economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market;

18. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual workers made redundant into employment; stresses, furthermore, that EGF assistance can co-finance only active labour market measures which lead to durable, long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements nor measures restructuring companies or sectors;

19. Welcomes the fact that following requests from Parliament, the 2013 budget shows payment appropriations of EUR 50 000 000 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 that, therefore, it deserves a dedicated allocation, which will avoid as far as possible transfers from other budget lines, as has happened in the past, which could be detrimental to the achievement of the policy objectives of the EGF;

20. Regrets the decision of the Council to block the extension of the ‘crisis derogation’, allowing to provide financial assistance to workers made redundant as a result of the current economic crisis, in addition to those losing their jobs because of changes in global trade patterns and allowing for an increase in the rate of Union co-financing to 65% of programme costs for applications submitted after the 30 December 2011 deadline; calls on the Council to reintroduce this measure without delay;

21. Approves the decision annexed to this resolution;

22. Instructs its President to sign the decision with the President of the Council and arrange for its publication in the Official Journal of the European Union;

23. 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 (application EGF/2011/010 AT/Austria Tabak from Austria)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/276/EU.)
EU/ACP countries’ Economic Partnership Agreements: exclusion of certain countries from trade preferences

European Parliament legislative resolution of 16 April 2013 on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Annex I to Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations (15519/1/2012 — C7-0006/2013 — 2011/0260(COD))

(Ordinary legislative procedure: second reading)

The European Parliament,

— having regard to the Council position at first reading (15519/1/2012 — C7-0006/2013),
— having regard to its position at first reading (1) on the Commission proposal to Parliament and the Council (COM(2011) 0598),
— having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
— having regard to Rule 66 of its Rules of Procedure,
— having regard to the recommendation for second reading of the Committee on International Trade (A7-0123/2013),

1. Adopts its position at second reading hereinafter set out;

2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Scheme for greenhouse gas emission allowance trading


(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0697),

— 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 (C7-0385/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to Article 2(2) of the Kyoto Protocol approved, on behalf of the European Community, by Council Decision 2002/358/EC (1),

— having regard to the opinion of the European Economic and Social Committee of 13 February 2013 (2),

— after consulting the Committee of the Regions,

— having regard to the undertaking given by the Council representative by letter of 20 March 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 and the opinion of the Committee on Transport and Tourism (A7-0060/2013),

1. Adopts its position at first reading hereinafter set out:

2. Takes note of the Commission statement annexed to this resolution;

3. 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;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2012)0328


(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Decision No 377/2013/EU.)

ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the Commission

The Commission recalls that, according to Article 3d of the Directive 2003/87/EC, revenues generated from the auctioning of aviation allowances should be used to tackle climate change in the EU and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the Community scheme. The proceeds of auctioning should also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.


(2) Not yet published in the Official Journal.
The Commission notes that Member States shall inform the Commission of actions taken pursuant to Article 3d of the Directive 2003/87/EC on the use of revenues generated from the auctioning of aviation allowances. Specific provisions on the content of this reporting are set out in Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (1). Further details will be set out in a Commission implementing act under Article 18 of that Regulation. Member States will make the reports public, and the Commission will publish aggregate Union information on these in an easily accessible form.

The Commission emphasizes that a global market-based mechanism putting an international price on carbon emissions from international aviation transport could, in addition to achieving its primary goal of emission reductions, help provide the necessary resources to support international climate change mitigation and adaptation measures.

P7_TA(2013)0114

Credit institutions and prudential supervision


(Ordinary legislative procedure: first reading)

(2016/C 045/28)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0453),

— having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0210/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Romanian Chamber of Deputies and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Central Bank of 25 January 2012 (1),

— having regard to the undertaking given by the Council representative by letter of 27 March 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 Economic and Monetary Affairs (A7-0170/2012),

1. Adopts its position at first reading hereinafter set out;

2. Approves the statement by Parliament annexed to this resolution;

3. 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;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2011)0203


(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/36/EU.)

ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the European Parliament

It is hereby declared that the agreement reached between the European Parliament and the Council concerning the new Capital Requirements Directive that would grant the rights to the Commission, upon a request from EBA in view of the application of Regulation (EU) No 1095/2010 or on its own initiative, to require Member States to provide more detailed information regarding the transposition and implementation of their national provisions and this Directive, shall not constitute a precedent for negotiations on legislative acts in other policy areas.

This specific solution is required due to particular circumstances relating to the European Supervisory Architecture. The issue of explanatory documents shall, as a general rule, continue to be handled in line with the Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission.

P7_TA(2013)0115

Prudential requirements for credit institutions and investment firms ***I


(Ordinary legislative procedure: first reading)

(2016/C 045/29)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0452),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0417/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, the Swedish Parliament and the United Kingdom House of Commons, asserting that the draft legislative act does not comply with the principle of subsidiarity,
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— having regard to the opinion of the European Central Bank of 25 January 2012 (1),
— having regard to the opinion of the European Economic and Social Committee of 18 January 2012 (2),
— having regard to the undertaking given by the Council representative by letter of 27 March 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 Economic and Monetary Affairs (A7-0171/2012),

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)0202


(As an agreement was reached between Parliament and Council, Parliament’s position corresponds to the final legislative act, Regulation (EU) No 575/2013.)

P7_TA(2013)0116

Groundhandling services at European Union airports ***I


(Ordinary legislative procedure: first reading)

(2016/C 045/30)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0824),
— 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 (C7-0457/2011),
— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
— having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Luxembourg Chamber of Deputies, asserting that the draft legislative act does not comply with the principle of subsidiarity,
— having regard to the opinion of the European Economic and Social Committee of 28 March 2012 (1),

— having regard to the opinion of the Committee of the Regions of 19 July 2012 (¹),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Employment and Social Affairs and the Committee on the Internal Market and Consumer Protection (A7-0364/2012),

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)0397


(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 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee (¹),

Having regard to the opinion of the Committee of the Regions (²),

Acting in accordance with the ordinary legislative procedure (³),

Whereas:


(2) Airports and groundhandling services are essential to the proper functioning and security of air transport and are a key function in the aviation chain. Groundhandling services cover all ground-based aviation-related activities carried out for individual airlines at airports. [Am. 244]

(3) The Declaration adopted at the Bruges Aviation Summit in October 2010 recognised the need to reform Union rules to foster the competitiveness of each link in the aviation transport chain (such as airports, carriers, and other service providers).

(4) The White Paper Roadmap to a Single European Transport Area (⁵) identifies the improvement of market access and the provision of quality services at airports as vital for the quality of life of citizens and as an essential action to achieve the Single European Transport Area.

⁵ COM(2011)0144.
Further gradual opening of the groundhandling market and the introduction of harmonised requirements for the provision of groundhandling services are likely to enhance the efficiency and overall quality of groundhandling services for airlines as well as for passengers and freight forwarders. This should improve the quality of overall airport operations.

In view of the new need for minimum, harmonised quality standards at airports to implement the gate-to-gate approach for the realisation of the Single European Sky and the need for further harmonisation to fully exploit the benefits of the gradual opening of the groundhandling market in terms of increased quality and efficiency of groundhandling services, Directive 96/67/EC should be replaced by a Regulation.

Free access to the groundhandling market is consistent with the efficient operation of Union airports, provided relevant safeguards are put in place. Free access to the groundhandling market should be introduced gradually and should be adapted to the requirements of the sector.

As free market access is the norm in Union transport policy, the complete liberalisation of the groundhandling market should be the ultimate goal. [Am. 245]

Gradual opening of the market under Directive 96/67/EC has already produced positive results in terms of improved efficiency and quality. It is therefore appropriate to proceed with further gradual opening.

Every airport user should be allowed to self-handle. At the same time it is necessary to maintain a clear and restrictive definition of self-handling in order to avoid abuse and negative impacts on the third-party handling market.

For certain categories of groundhandling services, access to the market may come up against safety, security, capacity and space availability constraints. It should therefore be possible to limit the number of authorised suppliers of such groundhandling services. It should be possible for the extent of such limitations to differ between individual terminals within the same airport, provided that they are applied in a non-discriminatory manner, do not distort competition and comply with this Regulation, and that the minimum number of suppliers at each terminal remains the same. [Am. 246]

In certain cases the safety, security, capacity and space availability constraints can be such as to justify further temporary restrictions on market access or on self-handling, provided that those restrictions are relevant, objective, transparent and non-discriminatory. In such cases, Member States should be entitled to request exemptions from the provisions of this Regulation. [Am. 247]

The purpose of those exemptions should be to enable airport authorities to overcome or at least reduce those constraints. Such exemptions should be approved by the Commission.

If effective and fair competition is to be maintained where the number of suppliers of groundhandling services is limited, those suppliers need to be chosen in accordance with an open, transparent and non-discriminatory tender procedure. The details of such a procedure should be further specified.

All suppliers of groundhandling services, self-handling airport users and subcontractors operating at an airport should apply the relevant representative collective agreements and national laws of the Member State concerned so as to allow fair competition between suppliers of groundhandling services based on quality and efficiency. [Am. 248]

Airport users Given the necessity to take into account airport users’ needs, they should be consulted in the selection of suppliers of groundhandling services, since they have a major interest in the quality and price of groundhandling services. [Am. 249]

It is therefore necessary to arrange for the representation of airport users and their consultation, in particular when authorised suppliers of groundhandling services are selected.

In the context of the selection of suppliers of groundhandling services at an airport, it should be possible in certain circumstances and under specific conditions to extend a public-service obligation to other airports in the same geographical region of the Member State concerned.
Ambiguity exists. Clarification should be provided as to whether Member States may require the takeover of staff upon a change of provider for groundhandling services to which access is limited under Article 6(2). Discontinuity of staff can have a detrimental effect on the quality of groundhandling services. It is therefore appropriate to clarify the rules on the takeover of staff beyond the application of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (1) in such a way as to enable Member States to ensure adequate employment and working conditions. [Am. 250]

Enhancing the quality of groundhandling services should be the ultimate aim. This should be done without increasing the administrative burden for groundhandling companies. It is therefore important that companies should be allowed to decide on their own general business practices and their human resources policy. [Am. 251]

In order to ensure the proper and smooth functioning of air transport operations at airports, guarantee safety and security on airport premises, protect the environment and ensure compliance with the applicable social provisions and rules, the provision of groundhandling services should be subject to appropriate approval. Given that systems for approving the provision of groundhandling services currently exist in the majority of Member States but differ widely, a harmonised approval system should be introduced.

To make sure that all service suppliers and self-handling airport users meet at least the safety and security requirements and possess sufficient economic solidity, good repute, sufficient insurance coverage, and proper knowledge of groundhandling operations and the airport environment, and in order to establish a level playing field, the granting of approval should be subject to minimum requirements. Those minimum requirements should not in any way have a restrictive impact on the further opening of the market. [Am. 252 and 253]

Open access to the centralised infrastructure of the airport and a clear legal framework for the definition of the centralised infrastructure are essential for the efficient provision of groundhandling services. It should be possible, however, to collect a fee for the centralised infrastructure.

The fees should be non-discriminatory and the calculation thereof should be transparent. The fees should not exceed what is necessary in order to cover the costs of the provision of the centralised infrastructure, including a reasonable return on assets.

The managing body of the airport and/or any other managing body of the centralised infrastructure of that airport should be obliged regularly to consult airport users on the definition of the infrastructure and the level of fees. [Am. 254]

The managing body of the airport may also supply groundhandling services itself. As at the same time, through its decision, the managing body of the airport may exercise considerable influence on competition between suppliers of groundhandling services, airports should be required to keep strictly separate accounts for their groundhandling services in a legal entity separate from the legal entity for on the one hand and their infrastructure management on the other. [Am. 255]

In order to enable airports to fulfil their infrastructure management functions, to guarantee safety and security on airport premises and to ensure the resilience of groundhandling services also in crisis situations, the managing body of the airport should be responsible for the proper coordination of groundhandling activities at the airport. The managing body of the airport should report on the coordination of airport groundhandling activities to the Performance Review Body of Eurocontrol with a view to a consolidated optimisation.

Where the managing body of an airport supplies groundhandling services itself, or where it directly or indirectly controls a groundhandling services undertaking, due coordination of the groundhandling services should be monitored by the independent supervisory authority in order to guarantee equal treatment. [Am. 256]

The managing body of the airport, a public authority or any other body controlling the airport should also have the power to lay down the necessary rules for the proper functioning of the airport infrastructure.

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(1) OJ L 82, 22.3.2001, p. 16.
(26) It is necessary to define obligatory minimum quality standards to be met by suppliers of groundhandling services and self-handling airport users in order to ensure the overall quality of service and establish a level playing field among suppliers.

(26a) In order to guarantee an adequate level of safety at all airports, requirements in respect of minimum safety standards for groundhandling services should comply with the principles on safety and management systems laid down by the relevant Union law. [Am. 257]

(27) With a view to enhancing performance across the whole aviation chain and implementing the ‘gate-to-gate’ approach, the suppliers of groundhandling services and self-handling airport users should report to the Commission about their performance.

(28) In a labour-intensive sector such as groundhandling, continuous staff development and training have a strong impact on service quality. Minimum training requirements should therefore be set to ensure the quality and the safety of operations. A competent Union institution, acting in cooperation with the competent authorities of the Member States, airport operators and social partners, should set ambitious minimum standards to ensure the highest quality for education and training of employees in the groundhandling sector. Those standards should be regularly updated and developed in order to contribute to operations in terms of reliability, resilience, safety and security, and to create a level playing field among operators. As long as the required standards are not met at the airport concerned, the accreditation of the service providers concerned should be suspended, withdrawn or withheld until the appropriate standard has once again been attained. Additional airport-specific training should be provided, of a duration of not less than five days. [Am. 258]

(29) Subcontracting increases flexibility for suppliers of groundhandling services. Nevertheless, subcontracting and cascade subcontracting may also result in capacity constraints and have negative effects on safety and security. Subcontracting should therefore be limited and the rules governing subcontracting should be clarified.

(30) The rights recognised by this Regulation should apply to third-country suppliers of groundhandling services and third-country self-handling airport users only on the basis of strict reciprocity. Where there is no such reciprocity, the Commission should be enabled to decide that a Member State or Member States should suspend those rights with regard to such suppliers or users.

(31) Member States should retain the power to ensure an adequate level of social protection for that the staff of undertaking providing groundhandling services enjoy an adequate level of social protection, as well as decent working conditions, also in the case of subcontracting and in the context of service contracts. If competent authorities of a Member State find that gaps in protection exist or that rules are being infringed, it should be possible for the accreditation of the service providers concerned to be suspended, withdrawn or withheld, until the appropriate standard has once again been attained. [Am. 259]

(31a) Since disabled persons and persons with reduced mobility often experience unjustified discrimination in the handling of their problems and complaints and in the remedies provided, this Regulation should be applied in conformity with Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (1). [Am. 260]

(31b) Even though the rights of disabled persons and persons with reduced mobility when travelling by air are laid down by Regulation (EC) No 1107/2006, this Regulation encourages increased convergence between, on the one hand, the providers of assistance to disabled persons or persons with reduced mobility and, on the other hand, the handlers of aid equipment for travellers, including medical devices. [Am. 261]

(31c) In view of the progress that has been made in the area of passenger rights and in order to prevent discrimination against passengers with disabilities, the objectives of and solutions proposed by Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver’s seat (2) should be taken into account. [Am. 262]

(32) In order to ensure that harmonised insurance requirements apply for suppliers of groundhandling services and self-handling airport users, 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 insurance requirements for suppliers of

groundhandling services and self-handling airport users. In order to ensure that harmonised and properly updated obligations apply concerning the minimum quality standards for groundhandling services and concerning the reporting obligations for suppliers of groundhandling services and self-handling airport users, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of specifications for minimum quality standards for groundhandling services in respect of specifications for the content and dissemination of reporting obligations for suppliers of groundhandling services and self-handling airport users. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and involving the specific Sectoral Social Dialogue Committee set up under Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level (1). 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 the Council (Am. 263).

(32a) Given the specific conditions that apply to groundhandling services in respect of wheelchairs and other medical and assistance equipment used by disabled passengers or passengers with reduced mobility, and the extent to which such equipment is vital for the independence of such passengers, the insurance policies taken out by suppliers of groundhandling services should guarantee full compensation for losses incurred as a result of damage to or loss of such equipment. (Am. 264)

(32b) Given the importance of safety, professional qualifications and training, compliance with quality standards and, in particular, the operational performance of groundhandling staff, Member States should provide for the imposition of penalties for infringement of this Regulation. The penalties thus provided for should be effective, proportionate and dissuasive. (Am. 265)

(32c) The documentation supplied by airlines to passengers should clearly indicate the supplier of groundhandling services for the air route concerned. (Am. 266)

(32d) Suppliers of groundhandling services have a duty to provide information points for passengers whose baggage is lost or missing. (Am. 267)

(33) 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 Council. (Am. 263)

(34) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (2).

(35) The advisory procedure should be used for adopting implementing decisions on exemptions to the degree of opening of the market for groundhandling services for third parties and for self-handling airlines, given that those acts are of only limited scope.

(36) The advisory procedure should also be used for adopting implementing decisions on the extension by Member States of a public-service obligation to an island airport, given that those acts are of only limited scope.

(37) The examination procedure should be used for adopting implementing decisions on the total or partial suspension of the right of access to the groundhandling market within a Member States’ territory for suppliers of groundhandling services and airport users from a third country.

(38) Since the objective of this Regulation, namely more homogenous application of Union legislation with regard to groundhandling services, cannot be sufficiently achieved by the Member States due to the international character of air transport, 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.

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(39) The Ministerial Statement on Gibraltar Airport, agreed in Cordoba on 18 September 2006 during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Joint Declaration on Gibraltar Airport made in London on 2 December 1987, and full compliance with it will be deemed to constitute compliance with the 1987 declaration.

(40) Directive 96/67/EC should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Chapter I
Scope and definitions

Article 1
Scope

This Regulation shall apply to any airport located in the territory of a Member State subject to the Treaty and open to commercial traffic.

The application of this Regulation to the airport of Gibraltar is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland with regard to the dispute over sovereignty over the territory in which that airport is situated.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘airport’ means any area of land especially adapted for the landing, taking-off and manoeuvres of aircraft, including the ancillary installations which those operations may involve for the requirements of aircraft traffic and services, including the installations needed to assist commercial air services;

(b) ‘managing body of the airport’ means a body which, whether or not in conjunction with other activities, has as its objective under national law or regulation the administration and management of the airport infrastructures and the coordination and control of the activities of the different operators present in the airport concerned;

(c) ‘airport user’ means any natural or legal person responsible for the carriage of passengers, mail and/or freight by air to or from the airport concerned;

(d) ‘groundhandling’ means the services provided to airport users at airports as set out in the Annex I;

(e) ‘self-handling’ means a situation where an airport user directly provides for itself one or more categories of groundhandling services and concludes no contract of any description with a third party for the provision of such services. For the purposes of this Regulation, among themselves airport users are not to be deemed to be third parties where:

— one holds a majority holding in the other; or

— a single body has a majority holding in each;

— for integrators, self-handling shall extend to groundhandling services supplied for all aircraft dedicated to its transport network, whether the aircraft in question are owned or leased and whether operated by an air carrier owned by the integrator or by a third party. For the purposes of this section, the undertaking providing the groundhandling services need not be an airport user but must be affiliated to the integrator and must meet the minimum quality standards.

(f) ‘supplier of groundhandling services’ means any natural or legal person supplying third parties with one or more categories of groundhandling services;

(fa) ‘integrator’ means an undertaking offering a door-to-door contractually governed freight transport service, guaranteeing the transportation of freight and/or mail from origin to final destination and seamlessly integrating transportation, groundhandling, consignment sorting and delivery services;
(fb) ‘collective agreements’, if provided for by the legislation of a Member State, shall be deemed to be representative where they are substantively applicable to the groundhandling service and where their territorial applicability within a Member State extends to the airport at which the groundhandling services supplier operates;

(g) ‘centralised infrastructure’ means specific airport installations and/or facilities at an airport which cannot, for technical, environmental, cost or capacity reasons, be divided or duplicated and the availability of which is essential and necessary for the performance of subsequent groundhandling services at an airport;

(h) ‘subcontracting’ means the conclusion of a contract by a supplier of groundhandling services, in its capacity as the main contractor, or exceptionally by a self-handling airport user, with a third party termed ‘the subcontractor’, under which the subcontractor is required to perform one or more categories (or subcategories) of groundhandling services;

(ha) ‘subcontractor’ means an approved handler in accordance with Articles 16 and 17;

(i) ‘approval’ means an approval granted by the competent authority to an undertaking to provide groundhandling services as stated in the approval;


Chapter II
General preliminary requirements

Article 3
Managing body of the airport

1. Where an airport is managed and operated not by a single body but by several separate bodies, each of those bodies shall, for the purposes of this Regulation, be considered part of the managing body of the airport.

2. Where only a single managing body of the airport is set up for several airports, each of those airports shall be considered separately for the purposes of this Regulation.

Article 4
Airport Users’ Committee

1. Each of the airports concerned at the airport users’ request, every airport with annual traffic of not less than two million passenger movements or 50 000 tonnes of freight for at least the previous three years shall establish a committee (the ‘Airport Users’ Committee’) comprised of representatives of airport users or of organisations representing airport users as well as representatives of the airports and the staff. Involvement of the social partners in the Airport Users’ Committee shall be compulsory. [Am. 269]

2. All airport users shall have the right to participate in the work of the Airport Users’ Committee, or, if they so wish, to be represented on it by an organisation designated for that purpose. However, if they are represented by such an organisation, that organisation shall not provide groundhandling services at the airport concerned.

3. The Airport Users’ Committee shall establish in writing its own rules of procedure, including its own voting rules. The voting rules shall include specific provisions on how to avoid conflicts of interest in the Airport Users’ Committee resulting from the presence of airport users that provide groundhandling services at the airport concerned. In particular, where the Airport Users’ Committee is consulted in the course of the selection procedure laid down in Articles 8 and 9, airport users applying for an authorisation to provide one or more groundhandling services to third parties shall not be entitled to vote.

4. The weighting of votes within the Airport Users’ Committee shall be such that:

(a) irrespective of the annual volume of traffic carried by a single airport user at an airport, its voting power shall not exceed 49 % of the totality of the votes;

(¹) OJ L 70, 14.3.2009, p. 11.
(b) the voting power of self-handling airport users shall not exceed one third of the totality of the votes.

5. The managing body of the airport shall provide the secretariat of the Airport Users’ Committee.

If the managing body of the airport refuses to do so, or if the Airport Users’ Committee does not accept this, the managing body of the airport shall designate another entity, which the Airport Users’ Committee shall be required to accept. The secretariat of the Airport Users’ Committee shall maintain the list of airport users or their representatives that are part of the Airport Users’ Committee.

6. The secretariat of the Airport Users’ Committee shall keep minutes of each meeting of the Airport Users’ Committee. Those minutes shall faithfully reflect the views expressed and the results of voting during the meeting.

6a. Where this Regulation provides for the Airport Users’ Committee to be consulted, the managing body of the airport, or where relevant the tendering authority, shall notify the Airport Users’ Committee to that effect and provide it with the proposed decision and all necessary information no later than six weeks before a final decision is taken. In the event of disagreement between the managing body of the airport or, as the case may be, the tendering authority, and the Airport Users’ Committee, and without prejudice to Article 41, the managing body of the airport or, as the case may be, the tendering authority shall provide a statement of reasons for its final decision, taking into account the views expressed by the Airport Users’ Committee. [Am. 270]

Chapter III
Opening of the groundhandling market

Section 1
Self-handling

Article 5
Self-handling

All airport users shall be free to self-handle.

Section 2
Groundhandling for third parties

Article 6
Groundhandling for third parties

1. Suppliers of groundhandling services which are established within the Union or in a State which is a member of the European Free Trade Association shall have free access to the market for the provision of groundhandling services to third parties at any airport whose annual traffic has been not less than over two million passenger movements or 50 000 tonnes of freight for at least the previous three years.

2. For airports as referred to in paragraph 1, Member States may limit the number of suppliers authorised to provide the following categories of groundhandling services:

(a) baggage handling;
(b) ramp handling;
(c) fuel and oil handling;
(d) freight and mail handling as regards the physical handling of freight and mail, whether incoming, outgoing or being transferred, between the air terminal and the aircraft.

However, Member States shall not limit this number to fewer than two suppliers for each category of groundhandling services or, in the case of airports whose annual traffic has been not less than 5 million more than 15 million passengers or 100 000 200 000 tonnes of freight for at least the previous three years, to fewer than three suppliers for each category of groundhandling services.
2a. **The extent of the limitations referred to in paragraph 2 may differ between individual terminals within the same airport provided that they are applied in a non-discriminatory manner, do not distort competition and comply with this Regulation, and that the minimum number of suppliers at each terminal remains the same.**

3. At airports where the number of suppliers is limited to two or more suppliers in accordance with paragraph 2 of this Article, or points (a) and (c) of Article 14(1), at least one of the authorised suppliers shall not be directly or indirectly controlled by:

(a) the managing body of the airport,

(b) any airport user who has carried more than 25 % of the passengers or freight recorded at the airport during the year preceding that in which those suppliers were selected,

(c) a body directly or indirectly controlling, or controlled by, the managing body of the airport as referred to in point (a) or any such user referred to in point (b).

Control shall be constituted by rights, contracts or any other means, which either separately or in combination, and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on the supplier as interpreted by the Court of Justice of the European Union.

4. Where the number of authorised suppliers is restricted pursuant to paragraph 2, Member States **shall not prevent** an airport user, whatever part of the airport is allocated to him, from having, in respect of each category of groundhandling service subject to limitation, an effective choice, under the conditions laid down in paragraphs 2 and 3, between at least:

— two suppliers of groundhandling services, or

— three suppliers of groundhandling services for airports whose annual traffic has been not less than **5 million 15 million** passengers or **100 000 200 000** of freight for at least the previous three years.

5. Where an airport reaches one of the freight traffic thresholds laid down in this Article without reaching the corresponding passenger movement threshold, this Regulation **shall not apply** to categories of groundhandling services reserved exclusively for passengers or to infrastructure used exclusively for handling passengers.

Where an airport reaches one of the passenger traffic thresholds laid down in this Article without reaching the corresponding freight movement threshold, this Article shall not apply to categories of groundhandling services reserved exclusively for freight or to infrastructure reserved exclusively for handling freight.

6. Any airport whose annual traffic has been not less than two million passenger movements or 50 000 tonnes of freight for at least three consecutive years and whose annual traffic subsequently falls below the threshold of two million passenger movements or 50 000 tonnes of freight shall maintain its market open to third-party handling suppliers during at least the first three years following the year when it fell below the threshold.

7. Any airport whose annual traffic has been for three consecutive years not less than **5 million 15 million** passenger movements or **100 000 200 000** tonnes of freight and whose annual traffic falls below the threshold of **5 million 15 million** passenger movements or **100 000 200 000** tonnes of freight shall maintain its market open to third-party handling suppliers during at least the first three years following the year when it fell below the threshold. [Am. 271]

**Article 7**

Selection of suppliers

1. Suppliers authorised to provide groundhandling services at an airport where their number is limited under Article 6 or Article 14 shall be selected according to a transparent, open and non-discriminatory tender procedure. The tendering authority shall be empowered to require that suppliers of groundhandling services be obliged to offer one or more bundled categories of the groundhandling services referred to in Article 6(2). The managing body of the airport shall be authorised to make the corresponding application for bundling to the tendering authority. [Am. 272]

2. The tendering authority shall be:

(a) the managing body of the airport, provided it:

— does not provide similar groundhandling services; and
— has no direct or indirect control over any undertaking which provides such services; and

— has no involvement in any such undertaking;

(b) in all other cases, a competent authority independent of the managing body of the airport and with no direct or indirect business links with the airport’s activities. [Am. 273]

3. The Airport Users’ Committee and the managing body of the airport, if it is not the tendering authority, shall not have access to the applicants’ submissions at any stage of the selection procedure. The At the request of the Airport Users’ Committee or of the managing body of the airport shall not have access to, if it is not the tendering authority, the tendering authority shall provide a summary of the applicants’ submissions at any stage of the selection procedure, if it is not the tendering authority and shall ensure that that summary contains no confidential information. [Am. 274]

4. After informing the Commission, and subject to Union rules on State aid, the Member State concerned may include among the tender specifications a public service obligation to be met by suppliers of groundhandling services in respect of airports serving peripheral or developing regions which are part of its territory, where suppliers are not willing to provide groundhandling services without public support (i.e. exclusive rights or compensation payments) but where such airports are of vital importance as regards accessibility for the Member State concerned. This provision is without prejudice to the EU State Aid rules. [Am. 275]

5. The invitation to tender shall be launched and published in the Official Journal of the European Union. The Official Journal of the European Union shall create an appropriate heading for the groundhandling services tender procedure. [Am. 276]

6. The selection of the suppliers by the tendering authority shall be done in two stages:

(a) a qualification procedure to examine the suitability of the applicants; and

(b) an award procedure to select the authorised supplier(s).

6a. If an invitation to tender does not elicit a response from the requisite number of suppliers of groundhandling services referred to in Article 6(2), the competent authority shall issue a new invitation to tender within 48 months of the expiry of the previous one. [Am. 277]

Article 8
Qualification procedure

1. In the qualification procedure the tendering authority shall verify that the applicants meet a number of minimum criteria. The tendering authority shall establish those minimum criteria after consulting the Airport Users’ Committee and the managing body of the airport, if the latter is different from the tendering authority.

2. The minimum criteria shall include the following:

(a) the applicant has a valid approval issued in accordance with Chapter IV;

(b) the applicant demonstrates its ability and undertakes in writing to apply the relevant provisions and rules at the airport, including the applicable labour laws, applicable collective agreements, rules of conduct and quality requirements. The applicant and the subcontractors shall also undertake to apply the respective representative collective agreements. [Am. 278]

3. The tendering authority shall short-list the applicants meeting the criteria of the qualification procedure.

Article 9
Award procedure

1. The managing body of the airport shall draw up the tender documents as the basis for the award procedure, indicating clearly the minimum standards required at the airport, the representative flight schedule and the traffic forecast for the period for which the tender is organised. In the award procedure the tendering authority shall select a supplier from among the short-listed applicants and award the authorisation to that supplier after consulting the Airport Users’ Committee and the managing body of the airport, if the latter is different from the tendering authority.
2. The selection of the supplier for the award of the authorisation shall be based on a comparison of the applicants' submissions against a list of award criteria. The award criteria shall be relevant, objective, transparent and non-discriminatory. The tendering authority shall establish the award criteria after consulting in agreement with the Airport Users' Committee and the managing body of the airport, if the latter is different from the tendering authority.

2a. Applicants shall submit a detailed list of all the specific tasks that are, or may be, subject to subcontracting and which are not linked to the main activity.

3. The award criteria shall include the following:

(a) consistency and plausibility of the business plan as assessed for the first three years on the basis of model costs calculations;

(b) level of quality of operations as assessed on the basis of a representative flight schedule including, where relevant, efficient use of staff and equipment, last acceptance of baggage and cargo, delivery times for baggage and cargo and maximum turnaround times;

(c) adequateness of material resources in terms of the availability of equipment and environmental friendliness, fulfilment of relevant environmental requirements and good working order of equipment;

(d) adequateness of human resources in terms of workers' experience, and adequateness of training/qualification programmes and decent employment and working conditions, including in the context of a transfer of staff in accordance with Article 12, and a commitment to apply the respective representative collective agreement;

(e) quality of information and communication technology;

(f) quality of organisational planning;

(g) environmental performance successful completion of a recognised safety audit to ensure proper compliance with safety and security requirements.

4. The relative weighting of the award criteria shall appear in the invitation to tender and the relevant documents. A range of points with an appropriate maximum spread shall be applied to each award criterion. The tendering authority may set a minimum number of points that a successful applicant has to reach in order to meet certain specific award criteria. The setting of a minimum number of points shall be non-discriminatory and shall be clearly stated in the invitation to tender and the relevant documents. The tendering authority may not eliminate any of the award criteria, add others or subdivide those initially laid down in the invitation to tender.

5. The authorisation to provide groundhandling services at the airport concerned shall be awarded to the applicant achieving the highest number of points while also obtaining any minimum number of points required for certain award criteria.

6. Airport users that apply to provide third-party handling or which operate their own self-handling shall not be consulted in the award procedure.

7. The tendering authority shall ensure that the award decision and the reasons for that decision are made public.

Article 10
Selection period and termination of activity

1. Suppliers of groundhandling services shall be authorised for a minimum period of seven years and a maximum period of ten years except in the case of exemptions for the opening of self-handling and third-party groundhandling as provided for in Article 14(1). The exact period for which the suppliers are authorised and the date on which operations are to start shall be clearly indicated in the invitation to tender.

2. A supplier of groundhandling services shall begin to provide services within one month from the start date indicated in the invitation to tender. The tendering authority may, in duly justified cases, at the request of the supplier of groundhandling services and after consulting the Airport Users' Committee, prolong that period for a maximum of six five months. After expiry of this period, if six months from the start date indicated in the invitation to tender, the supplier has not started its activities and cannot demonstrate its willingness to do so, the tendering authority may decide that the authorisation will cease to be valid. In such cases, Member States may impose financial penalties on the supplier and instead grant authorisation to a supplier ranked second in terms of the number of points under Article 9(5).
3. The tendering authority shall anticipate the end of the authorisation period and shall ensure that any supplier selected after a new invitation to tender is authorised to start its operations the day following the last day of the period of authorisation of the previously selected supplier(s).

4. Where a supplier of groundhandling services ceases its activity before the end of the period for which it was authorised, it shall be replaced on the basis of the selection procedure described in Articles 7, 8 and 9 and in this Article. Any supplier ceasing its activity shall inform the relevant tendering authority of its intention to cease activity sufficiently in advance and at least six months in advance before it leaves the airport. Financial penalties may be imposed on the supplier if it does not inform the tendering authority sufficiently at least six months in advance, unless the supplier can demonstrate force majeure.

5. Where a supplier ceases its activity before the end of the period for which it was authorised and does not leave sufficient time to the tendering authority to select a new supplier before it leaves the airport, with the result that there is a temporary monopoly for certain groundhandling services at that airport, the Member State concerned shall authorise a supplier of groundhandling services, for a limited period of time not exceeding ten months, to provide groundhandling services at that airport without having recourse to the selection procedure laid down in Articles 7, 8 and 9 and in this Article.

If the Member State does not succeed in finding a supplier of groundhandling services for that limited period of time, the Member State shall regulate the prices of those groundhandling services for which a temporary monopoly exists until a further supplier starts to provide those groundhandling services at the airport.

6. The tendering authority shall inform the Airport Users' Committee and, if applicable, the managing body of the airport of decisions taken under Articles 7, 8 and 9 as well as under this Article.

7. Articles 7, 8 and 9 as well as the provisions of this Article shall not apply to the award of public contracts and concessions which are governed by different provisions of Union law.

Article 11

The managing body of the airport as supplier of groundhandling services

1. Where the number of suppliers of groundhandling services is limited in accordance with Article 6, the managing body of the airport may itself provide groundhandling services without being subject to the selection procedure laid down in Articles 7 to 10. Similarly, it may, without following that procedure, authorise an undertaking to provide groundhandling services at the airport concerned:

(a) if it controls that undertaking directly or indirectly;

(b) if the undertaking controls it directly or indirectly;

(ba) if the undertaking satisfies the criteria set out in Chapter IV.

2. Where a managing body of the airport supplying groundhandling services in accordance with paragraph 1 no longer meets the conditions of that paragraph, that supplier may continue to provide groundhandling services for a period of five three years without being subject to the selection procedure laid down in Articles 7 to 10. At the end of that five three-year period, the supplier shall inform the relevant tendering authority sufficiently in advance and at least six months before the expiry of the five-year period. Financial penalties may be imposed on the supplier if it does not inform the tendering authority sufficiently in advance unless the supplier can demonstrate force majeure. If the supplier ceases its activity before the end of the five three-year period, Article 10(4) and (5) shall apply.

Article 12

Safeguarding of employees' rights in the event of transfer of staff for services subject to market access restrictions

1. This Article applies only to groundhandling services for which the Member State concerned has limited the number of suppliers in accordance with Article 6 or Article 14. Member States shall examine in detail, against the background of this Regulation, whether a restriction of competition is indicated for further sectors.
2. Where, following the selection procedure laid down in Articles 7 to 10, a supplier of groundhandling services mentioned in paragraph 1 loses its authorisation to provide those services, or where a supplier of groundhandling service ceases to provide those services to an airport user, or where a self-handling airport user decides to cease self-handling, Member States may shall require supplier(s) of groundhandling services or self-handling airport users which subsequently provide those services to grant staff previously hired to provide those services the rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. The second sentence of Article 4(1) of Directive 2001/23/EC shall not apply to the cases referred to in the first sentence of this paragraph. Dismissal on economic, technical or organisational grounds shall not be permitted. [Am. 286]

2a. The rights referred to in paragraph 2 shall include the application of collective agreements of general validity. [Am. 287]

3. Member States shall limit the requirement in paragraph 2 to the employees of the previous supplier, including self-handling airport users, who are involved in the provision of groundhandling services that the previous supplier stops providing or for which the previous supplier lost authorisation, and who voluntarily accept to be taken on by the new supplier(s) or self-handling airport user(s). The costs of a redundancy plan for departing staff shall be borne by airlines in proportion to their traffic share handled by the previous supplier. [Am. 288]

4. Member States shall limit the requirement in paragraph (2) so that it is to be proportionate to the volume of activity effectively transferred to the other supplier(s). [Am. 289]

5. Where a Member State imposes a requirement as referred to in paragraph (2), Tender documents for the selection procedure laid down in Articles 7 to 10 shall list the staff concerned and give the relevant details of employees’ contractual rights and the conditions under which employees are deemed to be linked to the services in question. Staff and union representatives shall have access to those lists. [Am. 290]

6. Where a supplier of groundhandling services stops providing to an airport user groundhandling services which constitute a significant part of the groundhandling activities of this supplier in cases not covered by paragraph (2), or where a self-handling airport user decides to stop self-handling, Member States may require the supplier(s) of groundhandling services or self-handling airport user which subsequently provide these groundhandling services to grant staff previously hired to provide these services the rights to which they would have been entitled if there had been a transfer within the meaning of Council Directive 2001/23/EC. [Am. 291]

7. Member States shall limit the requirement in paragraph (6) to the employees of the previous supplier who are involved in the provision of groundhandling services that the previous supplier stops providing, and who voluntarily accept to be taken on by the new supplier(s) or self-handling airport user. [Am. 292]

8. Member States shall limit the requirement in paragraph (6) to the employees of the self-handling airport user who are involved in the provision of groundhandling services for which the self-handling airport user decides to stop self-handling, and who voluntarily accept to be taken on by the new supplier(s) or self-handling airport user. [Am. 293]

9. Member States shall limit the requirement in paragraph (6) so that it is to be proportionate to the volume of activity effectively transferred to the other supplier or self-handling airport user. [Am. 294]

10. Member States may entrust management and labour at the appropriate level with the task of defining, through negotiated agreement, the practical arrangements for the implementation of this Article.

10a. Member States shall ensure that wage dumping is prevented, not only as applied to the permanent groundhandling employees but also in the event of a transfer of staff, in order to guarantee adequate social standards and to improve the quality of groundhandling services. [Am. 295]

10b. The competent authorities of the Member States shall ensure that there is adequate social protection for the staff recruited to provide those services. [Am. 296]
10c. As a cushion against any harmful effects of liberalisation in the groundhandling sector, binding minimum service quality standards shall be defined and enforced by airport managing authorities in the interests of safe, reliable and efficient operations. [Am. 297]

11. Members State shall inform the Commission of any measures taken in accordance with this Article.

Article 13

Island airports

For the selection of suppliers of groundhandling services at an airport as provided for in Articles 7 to 10, a Member State may extend a public service obligation to other airports in that Member State, provided that:

(a) those airports are located on islands or remote mainland locations in the same geographical region; and [Am. 298]

(b) such airports each have a traffic volume of no less than 100,000 passenger movements per year; and

(c) such extension is approved by the Commission.

The decision on approving the extension constitutes an implementing act which shall be adopted in accordance with the advisory procedure referred to in Article 43(2). This provision is without prejudice to the Union rules on State aid.

In the case of airports located on islands, where it is not in the economic interests of undertakings or airlines to supply the services referred to in Article 6(2), airport managing bodies themselves may assume responsibility for supplying essential services in order to guarantee the smooth operation of the airport facilities. [Am. 299]

Section 3

Exemptions for self-handling and third-party groundhandling

Article 14

Exemptions

1. Where specific constraints of available space or capacity at an airport, arising in particular from congestion and area utilisation rate, make it is so constrained that it is impossible to open up the market and/or implement self-handling to the degree provided for in this Regulation, the Member State concerned may decide:

(a) to limit to no fewer than two the number of suppliers for one or more categories of groundhandling services other than those referred to in Article 6(2) in all or part of the airport, whereby Article 6(3) shall apply;

(b) to reserve to a single supplier one or more of the categories of groundhandling services referred to in Article 6(2) for airports whose annual traffic is not less than two million passengers or 50,000 tonnes of freight;

(c) to limit to one or two suppliers one or more of the categories of groundhandling services referred to in Article 6(2) for airports whose annual traffic is not less than 5 million more than 15 million passengers or 100,000 200,000 tonnes of freight, whereby in the case of a limitation to two suppliers Article 6(3) shall apply;

(d) to reserve self-handling as referred to in Article 5 to a limited number of airport users, provided that those users are chosen on the basis of relevant, objective, transparent and non-discriminatory criteria.

2. All exemptions under paragraph 1 shall:

(a) specify the category or categories of groundhandling services for which the exemption is granted and the specific constraints of available space or capacity which justify it;
(b) be accompanied by a plan of appropriate measures to overcome the constraints.

3. Exemptions shall not:

(a) give rise to distortions of competition between suppliers of groundhandling services and/or self-handling airport users;

(b) extend further than necessary.

4. Member States shall notify the Commission, at least six months before they enter into force, of any exemptions they intend to grant pursuant to paragraph 1 and of the grounds which justify them. **That justification shall include proof that the suppliers of groundhandling services in the airports concerned:**

(a) **meet adequately minimum quality standards in accordance with Article 32;**

(b) **are managed in a transparent way and receive no financial cross-subsidisation in accordance with Article 29;**

(c) **ensure adequate working and wage conditions based on collective agreements or national laws or other social standards of the Member State concerned.**

5. Upon receipt, the Commission shall publish a summary of the notified exemption decisions in the *Official Journal of the European Union* and shall invite interested parties to submit comments.

6. The Commission shall closely examine exemption decisions notified by Member States. To that end, the Commission shall make a detailed analysis of the situation and a study of the appropriate measures notified by the Member State concerned, in order to check that the alleged constraints exist and that it is impossible to open up the market and/or implement self-handling to the degree provided for in this Regulation.

7. Further to that examination and after consulting the Member State concerned, the Commission may approve the Member State's decision or oppose it if it deems that the alleged constraints have not been proven to exist or that they are not severe enough to justify the exemption. After consulting the Member State, concerned the Commission may also require that Member State to amend the extent of the exemption or restrict it to those parts of an airport where the alleged constraints have been proven to exist.

8. The decision of the Commission shall be taken no later than six months after complete notification by the Member State concerned and shall be published in the *Official Journal of the European Union*.

9. The implementing decisions referred to in paragraphs 7 and 8 of this Article shall be adopted in accordance with the advisory procedure referred to in Article 43(2).

10. Exemptions granted by Member States pursuant to paragraph 1 may not exceed a duration of three years except for exemptions granted under point (b) or point (c) of paragraph 1. Not later than six months before the end of that period the Member State concerned shall take a new decision on each request for exemption, which shall also be subject to the provisions of this Article.

11. Exemptions granted by Member States under point (b) or point (c) of paragraph 1 may not exceed a duration of two years. However, a Member State may, in accordance with the considerations referred to in paragraph 1, request that that period be extended by a single period of two years. The Commission shall decide on such a request. The implementing decision shall be adopted in accordance with the advisory procedure referred to in Article 43(2). [Am. 360]

**Article 15**

Consultations of the suppliers of groundhandling services and of airport users

The managing body of the airport shall organise a procedure for consultation on the application of this Regulation between itself, the Airport Users' Committee and the undertakings providing groundhandling services. That consultation shall cover, inter alia, the price of those groundhandling services for which an exemption has been granted pursuant to points (b) and (c) of Article 14(1) and the organisation of the provision of those services. A consultation meeting shall be held at least once a year. The managing body of the airport shall make a record of that meeting which shall be sent to the Commission at its request.
Chapter IV
Approval procedures

Article 16
Requirement to obtain appropriate approval recognised in all Member States

1. At airports whose annual traffic has been not less than 2 million passenger movements or 50 000 tonnes of freight for at least three consecutive years, no undertaking shall be permitted to provide groundhandling services, whether as a supplier of groundhandling services, as a sub-contractor or as a self-handling user, unless it has been granted the appropriate approval, where Member States make groundhandling activity conditional upon obtaining an approval of a competent authority (‘approving authority’) independent of any airport managing body. An undertaking meeting the requirements of this Chapter shall be entitled to receive an approval.

2. Each Member State shall designate a competent authority (‘an approving authority’) or, after informing the Commission, cooperate with the competent authority from another Member State, independent of any managing body of the airport to be in charge of issuing approvals to provide groundhandling services.

3. The approving authority shall not grant approvals or maintain them in force where any of the requirements of this Chapter are not complied with. [Am. 300]

Article 17
Conditions for granting an approval

1. Without prejudice to Article 16, an undertaking shall be granted an approval by the approving authority of a Member State provided that:

   (a) it is established and registered in a Member State;

   (b) its company structure allows the approving authority to implement the provisions of this Chapter;

   (c) it complies with the financial conditions laid down in Article 18;

   (d) it complies with the proof of good repute specified in Article 19 criteria for staff working conditions and training/qualifications programme in accordance with point (b) of Article 8(2) and point (d) of Article 9 and respects labour and social provisions in accordance with Article 12;

   (e) it complies with the qualification of staff requirement laid down in Article 20;

   (f) it complies with the requirements concerning an operations manual laid down in Article 21;

   (g) it complies with the insurance requirements laid down in Article 22.

2. Paragraph (1) (a), (c) and (d) shall not apply to self-handling airport users which do not provide groundhandling services to third parties. Airport users that have been issued an approval for self-handling shall not be authorised to provide third-party handling on the basis of this approval.

3. An undertaking applying for an approval or having obtained an approval shall respect the national provisions concerning social protection, environmental protection and airport security of all Member States in which it operates.

Article 18
Financial conditions for granting an approval

1. An undertaking applying for an approval shall not be in insolvency or in similar proceedings or bankruptcy.

2. The approving authority shall closely assess whether an undertaking applying for an approval can demonstrate that:

   (a) it can meet at any time its actual and potential obligations established under realistic assumptions, for a period of 24 months from the start of operations; and

   (b) it can meet its fixed and operational costs incurred by operations according to its business plan and established under realistic assumptions, for a period of three months from the start of operations, without taking into account any income from its operations.

3. For the purposes of the assessment referred to in paragraph 1, each applicant shall submit its audited accounts for the two previous financial years.
4. For the purposes of the assessment referred to in paragraph 2, each applicant shall submit a business plan for, at least, the first three years of operation. The business plan shall also detail the applicant’s financial links with any other commercial activities in which the applicant is engaged either directly or through related undertakings. The applicant shall also provide all relevant information, including in particular the following data:

(a) a projected balance sheet, including profit-and-loss account, for the following three years;
(b) projected cash-flow statements and liquidity plans for the first three years of operation;
(c) details of the financing of equipment purchase/leasing including, in the case of leasing, the terms and conditions of each contract, if relevant.

Article 19
Proof of good repute

4. An undertaking applying for an approval shall provide a proof of having paid its taxes and social security contributions in the most recent year, for the Member States where it carries out an activity or, in the case where it carries out no activity in the Union, for its country of origin.

2. The undertaking shall also provide proof that the persons who will continuously and effectively manage the operations of the undertaking are of good repute or that they have not been declared bankrupt. The approving authority shall accept as sufficient evidence in respect of nationals of Member States the production of documents issued by the competent authorities in the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence, and showing that those requirements are met.

3. Where the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence does not issue the documents referred to in paragraph (2), such documents shall be replaced by a declaration on oath or — in Member States where there is no provision for declaration on oath — by a solemn declaration made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary or qualified professional body of the Member State where the undertaking is established and registered or the Member State where the person has his/her permanent residence. Such authority, notary or qualified professional body shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

[Am. 301]

Article 20
Qualification of staff

An undertaking applying for an approval shall demonstrate that its employees have the qualifications, professional experience and length of service necessary for the performance of the activity in relation to which it applies or applied. Individual requirements concerning qualifications, professional experience and length of service shall be set and justified for each airport by the competent authorities of the Member State concerned, in cooperation with the airport operator and the social partners concerned. The competent authorities of the Member States shall monitor the application of those requirements. Moreover, general training standards for groundhandling staff shall be established at Union level by a competent Union institution, the competent authorities of the Member States, airport operators and social partners. When binding Union minimum standards are developed for education and training, Member States shall implement and monitor them in order to ensure the highest possible safety standards throughout the Union. [Am. 302]

Article 21
Manual of operations

An undertaking applying for an approval shall provide a manual of operations for the relevant activities which shall contain the following information:

(a) organisation chart, management personnel, description of responsibilities and duties, accountability;
(b) capacity to operate safely in an airport context;
(c) equipment policy;
(d) qualification requirements for personnel as well as corresponding training requirements and training plan;
(e) procedures to prevent work-related accidents and injuries; [Am. 303]
standard handling procedures, including coordination with airport users and airport managing bodies, coordination of activities and specific handling procedures related to specific customers;

(g) emergency response policy;

(h) security management procedures.

Article 22
Insurance requirements

1. Suppliers of groundhandling services and self-handling airport users in the Union shall be insured in respect of their groundhandling-specific liability for damage caused on the territory of a Member State and for which a right to compensation exists.

1a. The insurance referred to in paragraph 1 shall guarantee full compensation for losses incurred as a result of damage to, or loss of, medical or assistance equipment used by disabled passengers or passengers with reduced mobility. [Am. 304]

2. The Commission shall be empowered to specify further details concerning the insurance requirements and minimum amounts by means of a delegated act in accordance with Article 42. [Am. 305]

Article 23
Validity of an approval

1. An approval shall be valid for a period of five years. [Am. 306]

1a. The approval shall expire or be suspended in the event of failure to comply with Articles 34 and 40. Failure to comply with Articles 34 and 40 during the approval procedure shall lead to approval being withheld. [Am. 307]

2. An approval shall be valid for the categories and/or subcategories specified in the approval.

3. The supplier of groundhandling services shall at all times be able upon request to demonstrate to the competent approving authority that it meets all the requirements of this Chapter.

4. The approving authority shall monitor compliance with the requirements of this Chapter. It shall in any case review compliance with those requirements in the following cases:

(a) when a potential problem is suspected; or

(b) at the request of an approving authority of another Member State; or

(c) at the request of the Commission.

5. The approval shall be resubmitted for a new approval when a groundhandling undertaking:

(a) has not started operations within twelve months of the granting of an approval; or

(b) has ceased its operations for more than twelve months.

6. A groundhandling undertaking shall notify the approving authority:

(a) in advance of any substantial change in the scale of its activities;

(b) in the event that an insolvency procedure is initiated in respect of the undertaking.

Article 24
Revocation of approval

1. The approving authority may at any time revoke the approval if the supplier of groundhandling services or the self-handling airport user does not meet, for reasons of its own doing, the criteria laid down in this Chapter. The grounds for revocation shall be communicated to the supplier or the self-handling airport user concerned and to the approving authorities in the other Member States.
2. The approving authority shall revoke the approval if the supplier of groundhandling services knowingly or recklessly furnishes the approving authority with false information on an important point.

2a. Failure to comply with Articles 34 and 40 shall automatically lead to the withdrawal, suspension or withholding of the approval. [Am. 308]

Article 25
Decisions on approvals

1. The approving authority shall take a decision on an application as soon as possible, and not later than two months after all the necessary information has been submitted, taking into account all available evidence. The decision shall be communicated to the applicant and to the approving authorities in the other Member States. A refusal shall indicate the reasons therefor.

1a. The procedure for granting approvals shall be transparent and non-discriminatory and may not, in practice, go beyond the provisions of this Regulation in reducing market access or the freedom to self-handle. [Am. 309]

2. The approval may be withheld only if the supplier of groundhandling services or self-handling airport user does not meet, for reasons of his own doing, the criteria referred to in this Chapter and comply with Articles 34 and 40. [Am. 310]

3. The procedures for granting and revoking approvals shall be made public by the approving authority, which shall inform the Commission thereof.

Article 26
Mutual recognition of approvals

An approval issued in a Member State in accordance with this Chapter shall permit an operator to provide groundhandling services, whether as a supplier of groundhandling services or as a self-handling airport user, in all Member States subject to the conditions set in the approval and without prejudice to limitations on market access imposed pursuant to Articles 6 and 14.

Chapter V
Obligation for managing bodies of the airport and of the centralised infrastructure

Article 27
Access to centralised infrastructures and installations

1. This Article shall apply only to airports whose annual traffic has been not less than two million passenger movements or 50 000 tonnes of freight for at least the previous three years.

2. The managing body of the airport shall publish a list of the centralised infrastructures at the airport where this has not yet been done. [Am. 311]

3. The management of the centralised infrastructures may be reserved for the managing body of the airport or to another body, which may make it compulsory for suppliers of groundhandling services and self-handling airport users to use those infrastructures. Such infrastructures shall be managed in a transparent, objective and non-discriminatory manner.

4. The managing body of the airport, or where appropriate the public authority or any other body which controls the managing body of the airport, shall decide on an objective basis, and after consulting the Airport Users’ Committee and the undertakings providing groundhandling services at the airport, on infrastructures to be centralised. The managing body of the airport, or where appropriate the public authority or any other body which controls the managing body of the airport, shall ensure that any infrastructure or installation falling under the definition of ‘centralised infrastructure’ shall be designated as such and that the requirements set out in this Chapter are complied with as regards that infrastructure or installation.

5. Where the Airport Users’ Committee disagrees with the decision of the managing body of the airport to centralise, or not to centralise, an infrastructure, or with the scope of centralisation, it may ask the independent supervisory authority, the corresponding competent bodies of the Member State concerned or the authorities established in accordance with Articles 6(5) and 11(2) of Directive 2009/12/EC to decide examine the justification for the decision taken by the managing body of the airport, in order to see whether the infrastructure concerned is to be centralised or not and to what extent the justification is valid. [Am. 312]
6. Suppliers of groundhandling services and self-handling airport users shall have open access to airport infrastructures, centralised infrastructures and airport installations to the extent necessary to enable them to carry out their activities. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure or, where appropriate, the public authority or any other body which controls the managing body of the airport or, where relevant, the managing body of the centralised infrastructure may make such access subject to conditions that are relevant, objective, transparent and non-discriminatory.

7. The space available for groundhandling at an airport shall be divided among the various suppliers of groundhandling services and self-handling airport users, including new entrants, to the extent necessary for the exercise of their rights and to allow effective and fair competition, on the basis of relevant, objective, transparent and non-discriminatory rules and criteria. Where necessary, the managing body of the airport may recover and redistribute that space. [Am. 313]

8. If a decision on the scope of the centralised infrastructure is brought before the independent supervisory authority in accordance with paragraph 5 of this Article, the procedure laid down in Article 6(3), (4) or (5) of Directive 2009/12/EC shall apply. [Am. 314]

Article 28
Fees for centralised infrastructures and airport installations [Am. 315]

1. This Article shall apply only to airports whose annual traffic has been not less than two million passenger movements or 50 000 tonnes of freight at least the previous three years.

2. Where the use of the centralised infrastructures or airport installations is subject to a fee, the managing body of the airport or, where relevant, the managing body of the centralised infrastructure shall ensure that the level of the fee is set on the basis of relevant, objective, transparent and non-discriminatory criteria.

3. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure shall be entitled to recover its costs and to make a reasonable return on assets from the fees charged. The fees shall constitute consideration for infrastructure or for a service. [Am. 316]

4. Any fees as referred to in paragraph 1 shall be set at the level of the individual airport concerned after consulting the Airport Users’ Committee and the undertakings providing groundhandling services at the airport. The managing body of the airport or, where relevant, the managing body of the centralised infrastructure, shall annually provide the Airport Users’ Committee and the undertakings providing groundhandling services at the airport with information on the components serving as the basis for determining the fees, provided that all the abovementioned parties undertake to treat such information as strictly confidential at all times. The information shall include at least the following: [Am. 317]

(a) a list of the various services and infrastructure provided in return for the fees;

(b) the methodology used for setting the fees;

(c) the overall cost structure with regard to the facilities and services to which the fees relate;

(d) the revenue from the different fees and the total cost of the services covered by them and the return on assets; [Am. 318]

(e) any financing from public authorities for the facilities and services to which the fee relates;

(ea) forecasts of the situation at the airport as regards the groundhandling fees, traffic growth and proposed investments in infrastructure; [Am. 319]

(f) the predicted outcome of any major proposed investments in terms of their effects on airport capacity.

5. The managing body of the airport shall publish the levels of fees, including a detailed list of the services provided, so as to demonstrate that any fees collected for the provision of centralised infrastructures, essential services related to the provision of groundhandling services are exclusively used to recover all or part of the related costs. Where relevant, the managing body of the centralised infrastructure shall communicate the levels of fees, including a detailed list of the services provided, to the managing body of the airport. [Am. 320]
5a. Where the use of airport installations other than those defined as centralised infrastructure gives rise to the collection of a fee, the level of that fee shall be determined in accordance with relevant, objective, transparent and non-discriminatory criteria.

Member States shall remain free to allow the airport managing body of an airport network as defined in Directive 2009/12/EC to apply a common and transparent charging system. [Am. 321]

6. Where the Airport Users’ Committee disagrees with a fee set by the managing body of the airport or, where relevant, the managing body of the centralised infrastructure, it may ask the independent supervisory authority, the corresponding competent bodies of the Member State concerned or the authorities established in accordance with Articles 6(5) and 11(2) of Directive 2009/12/EC to decide on the level of the fee. [Am. 322]

7. If a decision disagreement on the levels of fees is brought before the independent supervisory authority in accordance with paragraph (6) of this Article, the procedure laid down in Article 6 of Directive 2009/12/EC shall apply. The decision on the level of fees shall not take effect until the independent supervisory authority has examined the matter. If the independent supervisory authority agrees with the decision of the infrastructure’s managing body on the level of groundhandling fees, then the fees may be recouped from the time the initial decision was made. [Am. 323]

Article 29
Legal separation

1. At airports whose annual traffic volume has been not less than 2 million five million passenger movements or 50 000 tonnes of freight for at least the previous three years, the managing body of the airport or the managing body of the centralised infrastructure shall, if it provides groundhandling services for third parties, establish a separate legal entity for the provision of these guarantee a strict separation of accounts between its groundhandling activities and any other activity it may undertake.

This entity The accounts of the entities providing groundhandling services shall be independent in terms of its legal form, its organisation and its decision-making separate, in particular from those of any entity concerned with the management of airport infrastructure where the managing body of the airport provides groundhandling services to third parties, and from any entity concerned with centralised infrastructure where the managing body of the centralised infrastructure provides groundhandling services to third parties.

2. At airports whose annual traffic volume has been not less than 2 million five million passenger movements or 50 000 tonnes of freight for at least the previous three years, the persons responsible for the management of the airport infrastructure or the management of the centralised infrastructure may not participate directly or indirectly in the company structures of the independent entity providing groundhandling services.

3. The legal entity The entities proving groundhandling services as referred to in paragraph 1 may not receive any financial cross-subsidisation from aeronautical activities related to the management of airport infrastructure in cases where the managing body of the airport provides groundhandling services, or from aeronautical activities related to the management of centralised infrastructure, in cases where the managing body of the centralised infrastructure provides groundhandling services which would allow the legal entity providing groundhandling services to reduce the prices it charges for its groundhandling services to third parties.

4. For the purpose of this Article ‘aeronautical activities’ of a managing body of the airport means any activity that the managing body of the airport carries out at its airport which is related to the provision of services or infrastructures to airport users, suppliers of groundhandling services in their activity of air transport, or air passengers using the airport, such as the levying of airport charges, allocation of infrastructures and installations, or security and safety measures at the airport. Non-aeronautical activities include real-estate activities or any activities in a sector other than air transport.

5. At the close of each financial year an independent auditor shall verify the situation examine the separate accounts and publicly declare confirm that such no financial cross-subsidisation from aeronautical activities within the meaning of paragraph 3 has occurred. Where the legal entity providing groundhandling services receives cross-subsidisation from non-aeronautical activities, the entity managing the airport infrastructure or the entity managing the centralised infrastructure shall demonstrate that this is compliant with paragraph 3. [Am. 324]
Chapter VI
Coordination of activities and quality

Article 30
Role of the managing body of the airport for the coordination of groundhandling services

1. The managing body of the airport shall be in charge of the proper coordination of groundhandling activities at its airport. As ground coordinator, the managing body of the airport shall in particular ensure that the operations of suppliers of groundhandling services and self-handling airport users and the provision of centralised infrastructure comply with the airport rules of conduct as defined in Article 31.

**The managing body of the airport shall be empowered to enforce those rules of conduct. The measures adopted shall be transparent, proportionate and non-discriminatory.**

If the managing body of the airport provides groundhandling services or directly or indirectly controls an undertaking which does so, the independent supervisory authority shall monitor the proper coordination of groundhandling services and the enforcement of the rules of conduct by the managing body.

2. In addition, at airports whose annual traffic has been not less than five million passengers or 100,000 tonnes of freight for at least three consecutive years:

(a) the operations of suppliers of groundhandling services and self-handling airport users and the provision of centralised infrastructure shall comply with minimum quality standards referred to in Article 32;

(b) the managing body of the airport shall ensure that a proper contingency plan is drawn up for the operations of suppliers of groundhandling services and self-handling airport users and that those operations are coordinated, where possible, through an airport Collaborative Decision-Making (CDM) and through a proper contingency plan.

3. The provisions of this Article are without prejudice to the Union’s competition rules.

4. The managing body of the airport shall provide an annual report on the application of the measures provided for in paragraph 2 to the Performance Review Body of Eurocontrol. The Performance Review Body shall provide a consolidated report to the Commission.

5. The managing body of the airport shall report to the national approving authority any problem with the suppliers of groundhandling services or self-handling airport users or the provision of centralised infrastructure at its airport. [Am. 325]

**Article 30a**
Presence of a contact person representing each air carrier

Each air carrier shall have a contact person, or be legally represented, at airports whose annual traffic volume is more than two million passengers. That contact person, who may be a groundhandling assistant, shall have the authority to enter into financial, operational and legal commitments on behalf of the air carrier at the airport concerned. [Am. 326]

Article 31
Rules of conduct

1. For the purposes of this Article, ‘rules of conduct’ comprises any rules laid down for the proper functioning of the airport by the managing body of the airport, a public authority or any other body which controls the airport.

2. **The Member State, the** managing body of the airport, a public authority or any other body which controls the airport may, after consulting the Airport Users’ Committee and the undertakings providing groundhandling services, lay down rules of conduct to ensure the proper functioning of the airport. [Am. 327]

3. The rules of conduct shall comply with the following principles:

(a) they shall be applied in a non-discriminatory manner to the various suppliers of groundhandling services and airport users;
(b) they shall relate to the intended objective;

c) they may not, in practice, reduce market access or the freedom to self-handle to a degree below that provided for in this Regulation. In particular in the case of infringement of Article 34 and 40, however, market access or the freedom to self-handle shall automatically be restricted. Failure to comply with Article 34 and 40 shall automatically lead to the withdrawal, suspension or withholding of the licence. [Am. 328]

(ca) The managing body of the airport, a competent authority or another body responsible for airport supervision shall be free to choose appropriate means and instruments for the imposition of penalties for infringements of the rules of conduct or failures to comply with instructions. Such appropriate means shall explicitly include contractual penalties. [Am. 329]

4. A Member State may, where appropriate on a proposal from the managing body of the airport, a Member State shall:

(a) impose a fine on, restrict or prohibit a supplier of groundhandling services or a self-handling airport user from supplying groundhandling services or self-handling if that supplier or user fails to comply with the rules of conduct. Member States shall take a decision pursuant to this paragraph within two months following receipt of a proposal from the airport’s managing body: [Am. 331]

(b) require suppliers of groundhandling services at an airport to participate in a fair and non-discriminatory manner in carrying out the public-service obligations laid down in national laws or rules, including the obligation to ensure continuous service.

Article 32
Minimum quality standards

1. For the purposes of this Article, ‘minimum quality standards’ means minimum quality level requirements for groundhandling services.

2. At airports whose annual traffic has been not less than five million passenger movements or 100 000 tonnes of freight for at least the previous three years, the managing body of the airport or, where appropriate, the public authority or any other body which controls the airport shall, after consulting the Airport Users’ Committee, set minimum quality standards for the performance of groundhandling services and centralised infrastructure. The minimum quality standards set by the managing body shall be immediately notified to the Commission and communicated to the competent public authority which may, where appropriate, call for those standards to be revised.

Such standards shall be consistent with the safety rules, arrangements and management systems of the airport operator and of affected air operators as referred to in Regulation (EC) No 216/2008 of the European Parliament and Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (1).

3. Suppliers of groundhandling services and the managing body of the airport or, where relevant, the managing body of the centralised infrastructure and self-handling airport users shall respect those minimum quality standards. In addition, airport users and suppliers of groundhandling services and the managing body of the centralised infrastructure shall respect the minimum quality standards in the contractual relations existing between them.

4. The minimum quality standards shall cover in particular the following fields: operational performance, staff training, adequate equipment, the provision of information and assistance to passengers, in particular as referred to in Regulations (EC) No 261/2004 (2) and (EC) No 1107/2006, CDM, safety, security, contingency measures and the environment compliance with environmental requirements.

5. The minimum quality standards shall be fair, transparent, non-discriminatory and without prejudice to applicable Union legislation, including Regulations (EC) No 261/2004 and (EC) No 1107/2006. They shall be consistent, proportionate and relevant in relation to the quality of airport operations. In this regard, due account shall be taken of the quality of customs, airport security and immigrations procedures.

6. The minimum quality standards shall comply with specifications set by the Commission. The Commission shall be empowered to adopt those specifications by means of delegated acts in accordance with Article 42 laid down in Annex Ia.

7. Prior to establishing these standards the airport managing body shall consult the Airport Users’ Committee and the suppliers of groundhandling services. The competent authority of the Member State concerned shall either directly or upon notification by the managing body of the airport impose appropriate penalties where the minimum quality standards are not adequately met. This shall be done in accordance with the following procedure:

— if suppliers of groundhandling services or self-handling airport users fail to meet the minimum quality standards, the managing body of the airport shall immediately inform them of the irregularities concerned and provide them with a list of the criteria that need to be met. It shall also inform the Airport Users’ Committee and the competent authority of the Member State of the failure to meet those standards;

— if, six months after that list of criteria is sent, the supplier of groundhandling services or self-handling airport user concerned does not fully meet the minimum quality standards, the managing body of the airport, after consulting the Airport Users’ Committee, may ask the Member State concerned to impose a fine on the supplier of groundhandling services or self-handling airport user, or to partly or fully prohibit it from providing services in the airport concerned or throughout the territory of the Member State concerned. The Commission and the public authority concerned shall be notified immediately of any action taken by a Member State in response to such a request from the managing body of an airport.

7a. The managing body of the airport shall determine the type and scope of activities covered by each of the criteria for minimum quality standards at its airport. The managing body of the airport shall consult the Airport Users’ Committee on the definition and scope of, and the method for assessing conformity with, those standards. Before those standards are introduced, all providers of groundhandling services and self-handling airport users shall receive training to ensure that they are able properly to assess compliance with the criteria for minimum quality standards.

7b. At least once a year, the managing body of the airport shall notify the Airport Users’ Committee of the extent to which suppliers of groundhandling services and self-handling airport users are complying with the minimum quality standards in force.

7c. Without prejudice to paragraphs 1 to 7, the airport management body shall focus on the question of safety when evaluating compliance by groundhandling services with minimum quality standards, and shall take suitable action in accordance with standard procedures if it considers that the safety of the airport is being compromised.

7d. All the minimum quality standards, including quantitative criteria if they are applicable, shall be made available to the public. Before any update of or change to the minimum quality standards, the managing body of the airport shall consult the Airport Users’ Committee and the suppliers of groundhandling services operating at the airport. [Am. 332]

Article 33

Reporting obligations on the performance of groundhandling services

1. At airports whose annual traffic has been not less than 5 million passenger movements or 100 000 tonnes of freight for at least three consecutive years, suppliers of groundhandling services and self-handling airport users shall report on their operational performance to the Commission.

2. The Commission shall be empowered to adopt detailed specifications regarding the content and dissemination of reporting obligations by means of a delegated act in accordance with Article 42. [Am.333]

Article 34

Training

1. Suppliers of groundhandling services and self-handling airport users shall ensure that all their employees involved in the provision of groundhandling services, including managing staff and supervisors, regularly attend specific occupational and recurrent training, harmonised at European level, to enable them to perform the tasks assigned to them and to prevent accidents and injuries. A competent Union institution or body, in cooperation with the competent authorities in the Member States, airport operators and social partners, shall set ambitious and binding minimum standards to ensure the
highest quality of education and training for employees in the groundhandling sector. Those standards shall be regularly updated and developed in order to contribute to the quality of operations in terms of reliability, resilience, safety and security, and to create a level playing field among operators. The competent authorities of the Member States shall monitor compliance with education and training standards, using appropriate means. Until the required standards are met at the respective airport, the accreditation of the service providers concerned shall be suspended, withdrawn or withheld. This procedure shall serve to maintain safety in European air traffic. Recurrent training may be ordered, at the expense of the supplier of groundhandling services concerned and self-handling airport users. \[Am. 334\]

2. Every employee involved in the provision of groundhandling services shall regularly attend at least two days a theoretical and practical course of basic training as well as a course of training relevant for the tasks assigned to the employee. The competent authorities of the Member States, in cooperation with the airport operators and social partners concerned, shall determine details for additional airport-specific training, as well as the frequency and minimum duration of such training. The passing of a practical test and a theoretical test shall serve to demonstrate that the relevant skills and knowledge have been acquired. The training costs shall be borne in full by the employers. Every employee shall attend the relevant training before taking up a new job or when a new task is assigned to the employee starting a newly assigned task. \[Am. 335\]

3. The specific content of the tests and courses and their proper conduct shall be harmonised at European level and regulated and monitored by the competent authorities of the Member States. Where relevant for the activity of groundhandling services in question, training and tests shall cover at least: \[Am. 336\]

(a) security, including security control, security of operations, security equipment and security threat management;

(b) dangerous goods;

(c) airside safety, including safety philosophy, safety regulations, hazards, human factors, airside markings and signage, emergency situations, foreign object damage (FOD) prevention, personal protection, accidents-incidents-near misses, and airside safety supervision;

(d) airside driver training, including general responsibilities and procedures (reduced visibility procedures), vehicle equipment, airport rules, and layout of traffic and manoeuvring areas;

(e) ground support equipment (GSE) operations and management, including GSE maintenance and GSE operations;

(f) load control, including general weight and balance proficiency and awareness, aircraft structural load limitations, unit load devices, bulk hold loading, load sheet, balances tables/charts, loading instructions report, loading messages, and load control of dangerous goods;

(g) functional training for passenger handling, with emphasis on passengers with special needs, in particular those with reduced mobility or with disabilities, including training on passenger boarding bridge training and passenger information and assistance in accordance with Regulations (EC) No 261/2004 and (EC) No 1107/2006; \[Am. 337\]

(h) functional training for baggage handling;

(i) aircraft handling and loading training;

(j) aircraft ground movement, including aircraft ground movement operations, operation of equipment, equipment-aircraft connect and disconnect procedures, aircraft ground movement hand signals, aircraft marshalling, and aircraft ground movement assistance;

(k) cargo and mail handling, including applicable prohibitions and restrictions on trade of goods;

(l) aircraft turnaround coordination training;

(m) environment, including control of spillages, discharge management and waste disposal;
(n) emergency measures, first aid training and contingency management; [Am. 338]

(o) reporting systems;

(p) outsourcing quality control;

(pa) measures to protect groundhandling staff against health hazards typically associated with their work. [Am. 339]

4. Every supplier of groundhandling services and self-handling airport user shall report annually to the managing body of the airport on compliance with its training obligation.

Article 35
Subcontracting

1. Without prejudice to paragraphs 2, 3 and 4, suppliers of groundhandling services may engage in subcontracting. Articles 34 and 40 shall apply in the same way to subcontractors. [Am. 340]

2. Self-handling airport users may subcontract groundhandling services only where they are temporarily unable to perform self-handling due to force majeure. [Am. 341]

3. Subcontractors may not subcontract groundhandling services.

4. A supplier of groundhandling services as referred to in Article 11(1) may not subcontract groundhandling services save where it is temporarily unable to provide those groundhandling services due to force majeure.

5. Suppliers of groundhandling services and self-handling airport users using one or more subcontractors a subcontractor for a category of service shall ensure that the subcontractor complies with the obligations incumbent on suppliers of groundhandling services under this Regulation. [Am. 342]

5a. Subcontracts shall be awarded only to operators that have demonstrated that they are qualified and reliable. [Am. 343]

5b. Suppliers of groundhandling services and self-handling airport users using one or more subcontractors shall remain financially liable for the subcontracting. [Am. 344]

5c. The contracting entity may restrict the number of subcontractors when this is required on the grounds of space or capacity. [Am. 345]

6. Suppliers of groundhandling services and self-handling airport users using one or more subcontractors a subcontractor for a category of service shall inform the managing body of the airport of the name and activities of the subcontractor concerned. [Am. 346]

7. Where a supplier of groundhandling services applies for an authorisation to provide groundhandling services under the selection procedure laid down in Article 7, it shall indicate the number, activities and names of the subcontractors it intends to use.

Chapter VII
International relations

Article 36
Relations with third countries

1. A Member State may wholly or partially suspend the obligations arising from this Regulation in respect of suppliers of groundhandling services and airport users from a third country as referred to in this paragraph, in accordance with Union law [Am. 348] and without prejudice to the international commitments of the Union, the
Commission may, in accordance with the examination procedure referred to in Article 43 (3), decide that a Member State or Member States shall take measures, including the complete or partial suspension of the right of access to the groundhandling market within its territory in respect of suppliers of groundhandling services and self-handling airport users from that third country, with a view to remedying the discriminatory behaviour of the third country concerned, whenever it appears that a third country, with respect to access to the groundhandling or self-handling market:

(a) does not, de jure or de facto, grant suppliers of groundhandling services and self-handling airport users from a Member State treatment comparable to that granted by that Member State to suppliers of groundhandling services and self-handling airport users from that third country at its airports; or

(b) de jure or de facto, grants suppliers of groundhandling services and self-handling airport users from a Member State less favourable treatment than that which it accords to its own suppliers of groundhandling services and self-handling airport users; or

(c) grants suppliers of groundhandling services and self-handling airport users from other third countries more favourable treatment than that which it accords to suppliers of groundhandling services and self-handling airport users from a Member State.

2. A supplier of groundhandling services or self-handling airport user from a third country shall be deemed to be a legal or natural person set up in accordance with the laws of that third country and having its registered office, central administration or principal place of business in the territory of that third country.

3. The Union and/or the Member States shall ensure, with regard to market access rights in third countries, that no discrimination occurs between Union airport users providing third-party groundhandling services and other Union suppliers of groundhandling services.

Chapter VIII
Reporting and monitoring obligations

Article 37
Reporting obligations for the Member States

1. Member States shall, before 1 July of each year, forward to the Commission the list of airports subject to at least one of the limitations on access to the groundhandling market laid down in Article 6(2) or Article 14.

2. Member States shall, before 1 July of each year, provide the Commission with the list of suppliers of groundhandling services and self-handling airport users approved by the Member State in accordance with Chapter IV.

Article 38
Publication of lists of airports

By the end of each year, the Commission shall publish in the Official Journal of the European Union the following information:

(a) list of Union airports whose annual traffic has been not less than five million passenger movements or 100 000 tonnes of freight for at least the previous three years;

(b) list of Union airports whose annual traffic has been not less than two million passenger movements or 50 000 tonnes of freight for at least the previous three years;

(c) list of Union airports open to commercial traffic;

(d) list of airports subject to limitations in accordance with Articles 6(2) or 14;

(e) list of suppliers of groundhandling services and self-handling airport users approved in accordance with Chapter IV.
Article 39
Evaluation and information report

1. The Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation not later than five years after the date of application of this Regulation. The report shall in particular assess any significant impact on the quality of groundhandling services as well as employment and working conditions. The report shall include examine the following set of indicators and criteria for a sample of airports: [Am. 349]

(a) average number of suppliers of groundhandling services at Union airports, for the 11 categories of services;

(b) number of self-handling airport users at each Union airport, for the 11 categories of services;

(c) number of airports where the number of suppliers of groundhandling services is limited, and value of the limitation(s);

(d) number of companies having an approval from a Member State and operating in another Member State;

(e) opinion of stakeholders on the approval system (approval criteria, implementation issues, price, administrative process, etc.); [Am. 350]

(f) number of suppliers of groundhandling services and self-handling airport users operating in the Union (total);

(g) price and management system for centralised infrastructures at each airport;

(h) market share of the managing body of the airport in the groundhandling business at each airport, for the 11 categories of services;

(i) market share of airport users providing third-party handling at each airport, for all categories of services;

(j) safety accidents and incidents involving groundhandling services; [Am. 351]

(k) opinion of stakeholders on the quality of groundhandling services at airports in terms of staff competence, environment, security, and coordination of activities (CDM, contingency measures, training in the airport context, subcontracting);

(l) minimum quality standards for groundhandling undertakings at each Union airport for the 11 categories of services listed in Annex I: examination of the connection between delays caused by groundhandling services and minimum quality standards; [Am. 352]

(m) the state of training features and further training with reference to the fields listed in points (a) to (pa) of Article 34 (3); examination of the connection between delays caused by groundhandling services and the state of training and further training; [Am. 353]

(n) transfer of staff and its impact on the protection of employees, particularly the number of staff transferred, and the number of staff who accepted voluntary redundancy, where there has been a change of supplier of groundhandling services; the development of wages in the case of transferred workers and the number of cases brought before employment tribunals in connection with transfers; [Am. 354]

(o) employment and working conditions in the groundhandling sector, particularly trends in wages and salaries by comparison with trends in the prices charged for handling and by comparison with changes in the productivity of groundhandling services at the airport as a whole and those supplied by individual groundhandling service providers. [Am. 355]
2. The Commission and the Member States shall cooperate in the collection of information for the report referred to in paragraph 1.

3. On the basis of that report the Commission, in close cooperation with the European Parliament, may decide whether a revision of this Regulation is necessary. [Am. 356]

Chapter IX
Social protection

Article 40
Social protection

Without prejudice to the application of this Regulation, and subject to the other provisions of Union law, Member States may take the necessary measures to ensure protection of rights of workers. They shall ensure legally that the staff of undertakings providing third party groundhandling or self-handling services enjoy an adequate level of social security, as well as decent working conditions, also in the case of subcontracting and in the context of service contracts. If competent authorities of a Member State find that the required standards are not met at a given airport, the accreditation of the service providers or self-handling services concerned shall be suspended, withdrawn or withheld, until the appropriate standard has once again been attained. [Am. 361]

Chapter X
Appeals against decisions or individual measures

Article 41
Rights of appeal

1. Member States or, where appropriate, managing bodies of airports shall ensure that any party with a legitimate interest has the right to appeal against decisions or individual measures taken pursuant to Articles 6(2), 7 to 10, 13, 23, 24, 27, 28, 31 or 32.

2. An appeal may be brought before a national court or a public authority other than the managing body of the airport and, where appropriate, independent of the public authority controlling the managing body of the airport. Where specified in this Regulation, the appeal shall be brought before the independent supervisory authority.

Chapter XI
Provisions on implementing and delegated powers

Article 42
Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 22, 32, and 33 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.

3. The delegation of powers referred to in Articles 22, 32, and 33 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 22, Article 32 or Article 33 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, 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 two months at the initiative of the European Parliament or of the Council.

Article 43
Committee procedure

1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Chapter XII
Final provisions

Article 44
Repeal

Directive 96/67/EC is repealed with effect from the date of application of this Regulation.

References to the repealed Directive shall be construed as references to this Regulation.

Article 45
Transitional provisions

1. Suppliers selected in accordance with Article 11 of Directive 96/67/EC before the date of application of this Regulation shall continue to be authorised under the conditions laid down in Directive 96/67/EC until the initially planned selection period has expired.

2. At airports where only two suppliers were selected per category of services pursuant to Article 6(2) of Directive 96/67/EC and where a minimum of three suppliers are to be selected pursuant to Article 6(2) of this Regulation, a selection procedure in accordance with Articles 7 to 13 of this Regulation shall be organised so that the third supplier is selected and able to start operations not later than one year three years after the date of application of this Regulation. [Am. 357]

3. Approvals issued in accordance with Article 14 of Directive 96/67/EC shall continue to be valid until their expiry, and in any event not longer than two years after the date of application of this Regulation.

4. Where an undertaking is issued an approval in accordance with this Regulation, it shall within two months request the cancellation of any of its approvals issued in accordance with Article 14 of Directive 96/67/EC. However, if an approval issued in accordance with Article 14 of Directive 96/67/EC is due to expire within two months following the issuance of the new approval in accordance with this Regulation, the undertaking shall not be obliged to request the cancellation thereof.

5. Article 26 of this Regulation does not apply to approvals issued in accordance with Article 14 of Directive 96/67/EC.
Art icle 46
Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall apply from … (*)

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

LIST OF CATEGORIES OF GROUNDHANDLING SERVICES

1. Ground administration and supervision comprise the following subcategories:
   1.1. representation and liaison services with local authorities or any other entity, disbursements on behalf of the airport user and provision of office space for its representatives;
   1.2. load control, messaging and telecommunications;
   1.3. handling, storage and administration of unit load devices;
   1.4. any other supervision services before, during or after the flight and any other administrative service requested by the airport user.

2. Passenger handling comprises the provision of any kind of information and assistance — including within the framework of the relevant Union legislation on passenger rights — to arriving, departing, transferring or transiting passengers, including checking tickets and travel documents, registering baggage, establishing that the baggage belongs to the passenger concerned, for example by means of electronic verification, and carrying it to the sorting area. [Am. 358]

3. Baggage handling comprises handling baggage in the sorting area, sorting it, preparing it for departure, loading it onto and unloading it from the devices designed to move it from the aircraft to the sorting area and vice versa, and transporting baggage from the sorting area to the reclaim area.

4. Freight and mail handling comprises the following subcategories:
   4.1. for freight: physical handling of export, transfer and import freight, handling of related documents and customs procedures and implementation of any security procedure agreed between the parties or required by the circumstances;
   4.2. for mail: physical handling of incoming and outgoing mail, handling of related documents and implementation of any security procedure agreed between the parties or required by the circumstances.

5. Ramp handling comprises the following subcategories:
   5.1. marshalling the aircraft on the ground at arrival and departure;
   5.2. the provision of assistance for aircraft packing and provision of suitable devices;
   5.3. communication between the aircraft and the airside supplier of services;

(*) 18 months 36 months after the date of adoption. [Am. 357]
5.4. the loading and unloading of the aircraft, including the provision and operation of suitable means, as well as the transportation of crew and passengers between the aircraft and the terminal, and baggage transportation between the aircraft and the terminal, and the loading and unloading of wheelchairs and other mobility equipment and assistance devices for persons with reduced mobility; [Am. 359]

5.5. the provision and operation of appropriate units for engine starting;

5.6. moving the aircraft at arrival and departure, as well as the provision and operation of suitable devices;

5.7. the transportation, loading onto and unloading from the aircraft of food and beverages.

6. Aircraft services comprise the following subcategories:

6.1. the external and internal cleaning of the aircraft, and the toilet and water services;

6.2. the cooling and heating of the cabin, the removal of snow and ice, and the de-icing of the aircraft;

6.3. the rearrangement of the cabin with suitable cabin equipment and the storage of that equipment.

7. Fuel and oil handling comprises the following subcategories:

7.1. the organisation and execution of fuelling and defuelling operations, including the storage of fuel, also if adjacent to the airport, and control of the quality and quantity of fuel deliveries;

7.2. the replenishing of oil and other fluids.

8. Aircraft maintenance comprises the following subcategories:

8.1. routine services performed before flight;

8.2. non-routine services requested by the airport user;

8.3. the provision and administration of spare parts and suitable equipment;

8.4. requests for, or reservation of, a suitable parking and/or hangar space.

9. Flight operations and crew administration comprise the following subcategories:

9.1. preparation of the flight at the departure airport or at any other point;

9.2. in-flight assistance, including re-dispatching if needed;

9.3. post-flight activities;

9.4. crew administration.

10. Surface transportation comprises the following subcategories:

10.1. the organisation and execution of crew, passenger, baggage, freight and mail transportation between different terminals of the same airport, but excluding such transportation between the aircraft and any other point within the perimeter of the same airport;

10.2. any special transportation requested by the airport user.

11. Catering services comprise the following subcategories:

11.1. liaison with suppliers and administrative management;

11.2. storage of food and beverages and of the equipment needed for their preparation;
11.3. cleaning of that equipment;
11.4. preparation and delivery of equipment and of bar and food supplies.

ANNEX Ia

LIST OF MINIMUM QUALITY STANDARDS

The minimum quality standards defined by the managing body of the airport or other body referred to in Article 32 comprise:

1. Minimum quality standards for operational activities:
   (a) passenger handling:
      — maximum waiting time for baggage check-in. A maximum waiting time may be set for the airport as a whole or for an individual terminal;
      — maximum time for transferring passengers between connecting flights;
   (b) baggage handling:
      — maximum time for delivery of the first item of baggage. A maximum waiting time may be set for the airport as a whole or for an individual terminal;
      — maximum time for delivery of the last item of baggage. A maximum waiting time may be set for the airport as a whole or for an individual terminal;
      — maximum time for delivery of baggage during transfer between connecting flights A maximum waiting time may be set for the airport as a whole or for an individual terminal;
   (c) freight and mail handling:
      — maximum time for delivery of freight and mail. A maximum waiting time may be set for the airport as a whole or for an individual terminal;
      — maximum time for delivery of freight and mail during transfer between connecting flights A maximum waiting time may be set for the airport as a whole or for an individual terminal;
   (d) winter operations:
      — maximum time for de-icing an aircraft;
      — minimum stock of de-icing fluid;
   (e) ramp handling:
      — maximum time for passenger boarding/disembarkation;
   (f) ramps cleared of foreign object debris (FOD).

2. Minimum quality standards for training:
   — regular participation in training courses organised by the airport concerning activities in restricted areas of the airport, security and safety, crisis management and environmental protection.

3. Minimum quality standards for passenger information and assistance:
   — displaying real-time information concerning baggage delivery times;
   — displaying real-time information concerning delayed and cancelled flights;
   — minimum number of staff members able to provide information at the gate;
minimum number of staff members able to accept complaints or information about lost baggage.

4. Minimum quality standards for equipment:
   - number and availability of assistance vehicles for passengers/baggage/aircraft.

5. Minimum quality standards relating to the CDM system:
   - participation in the airport’s CDM system.

6. Minimum quality standards relating to safety:
   - possession of a safety management system and an obligation to coordinate that system with the airport’s safety system;
   - accident and incident reporting.

7. Minimum quality standards relating to security:
   - possession of a security management system in accordance with Regulation (EC) No 300/2008 of the European Parliament and the Council of 11 March 2008 on common rules in the field of civil aviation security (1) and an obligation to coordinate that system with the airport’s security system.

8. Minimum quality standards relating to contingency planning:
   - possession of a contingency plan (including action to be taken in the event of heavy snowfall) and an obligation to coordinate that system with the airport’s plan.

9. Environment:
   - reporting of incidents that affect the environment (e.g. leaks);
   - gases emitted by the vehicles used.

[Am. 332]
— having regard to the report of the Committee on Fisheries (A7-0051/2013),

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;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments

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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 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee (1),

Acting in accordance with the ordinary legislative procedure (2),

Whereas:

(1) As the Skagerrak is the only waters, shared by Member States and third countries, not regulated by a fisheries agreement, where quotas apply and where third countries have put in place an obligation to land all catches, it is reasonable to provide for a specific set of rules in relation to control and technical measures for the Skagerrak that differ from the general rules applicable within the Union. [Am. 1]

(2) As a result of the Fisheries Consultations for 2012 held on 2 December 2011 between the Union and Norway, certain technical and control measures applicable to the Skagerrak should be amended with a view to improving the exploitation patterns and, where possible, to align Union and Norwegian regulations.

(2a) It would place too great a burden on the fisheries sector if any changes to the current rules were applied during an existing quota year. Such changes should therefore be applied from the beginning of the next complete quota year. The rules introduced by this Regulation should consequently apply from 1 January 2014. [Am. 2]

(3) Changes to the technical measures in place in the Skagerrak are needed to reduce the level of unwanted catches and discards as they negatively affect the sustainable exploitation of marine biological resources.

(1) OJ C 11, 15.1.2013, p. 87.
An obligation to land all catches of stocks subject to catch limits needs to be established, except for species or fisheries where there is scientific evidence of high survival rates of discarded fish or where the burden to fishermen of having to extract the unwanted species from the catch for separate treatment is unreasonably high.

The system of landing all catches requires substantial changes to the present fisheries and the management of the fisheries concerned. Therefore, the obligation to land should be introduced progressively.

For the protection of juvenile fish, the functioning of the fisheries market and to ensure that no unjust profit can be gained from catching fish under a minimum conservation reference size, the handling of such catches should be limited to fish meal, pet food or other non-human consumption products, or to charitable purposes.

In order to progressively eliminate discards the selectivity of the fishing gears should be improved by introducing gear modifications, including increasing the general minimum mesh size requirement for demersal fisheries but with derogations to allow the use of gears, including selection devices having the same selectivity in these fisheries. [Am. 4]

For the best possible effect and proper monitoring and control of the new technical measures to be set out, it is necessary to restrict the use of fishing gears in the Skagerrak.

In order to address the conflict of applicable legislation in the Skagerrak and its neighbouring areas and to ensure that the rules establishing the technical measures in the Skagerrak are complied with, it is also necessary to establish certain measures to govern issues when on a given fishing trip fishing vessels combine their fishing activities in the Skagerrak with fishing in areas where the new technical measures adopted for the Skagerrak are not to be applied.

With a view to ensuring compliance with the measures laid down in this Regulation, specific control measures should be adopted in addition to those provided for in Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (1).

Recognising that the Skagerrak is a rather small fishing area where mainly smaller vessels carry out short fishing trips, the use of prior notification as requested by Article 17 of Regulation (EC) No 1224/2009 should be extended to cover all vessels with an overall length of 10 m or more and the prior notifications should be submitted two hours in advance to adapt to the fisheries.

For the proper monitoring of fishing activities with special regard to verifying that the obligation to land all catches of stocks subject to catch limitations is complied with at sea, it is necessary to operate that the Member States put in place a Remote Electronic Monitoring (REM) system on vessels operating in the Skagerrak. The REM system should be based on automated control; data should be handled in conformity with rules on data protection and be made available to research. The efficiency of the control measures will also be assessed in consultation with the relevant stakeholders and the Commission, the Working Group on Monitoring, Control and Surveillance, as referred to in the Agreed Record of conclusions of fisheries consultations between the European Union and Norway of 3 December 2010 (‘Agreed Record’), two years after this regulation has entered into force. Based on the information that is collected, the Commission should evaluate whether a wide-ranging control system, harmonising the individual regimes, is feasible. [Am. 5]

To ensure that the new technical measures are complied with, Member States concerned should define control and inspection measures for the Skagerrak and incorporate those measures into their respective national control action programmes.

It is necessary to provide for rules for vessels transiting the Skagerrak in order to ensure that the new technical measures are respected.

Provisions should be made for the periodical assessment by the Commission of the adequacy and effectiveness of the technical measures. It is appropriate that such assessment is based on reports of the Member States concerned.

In order to facilitate more selective fishing in the context of an obligation to land all catches, it is appropriate to exempt the vessels operating in the Skagerrak from the effort regime set out in Chapter III of Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks (1).

It is required to provide a level of flexibility for fishermen to adapt to the new regime in the Skagerrak. Accordingly, the permitted flexibility in the year-to-year quota uptake established in Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (2) should not be deemed as overfishing.

In order to adapt to technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of further defining the exception allowing the release of fish of a stock in some cases when it is beneficial to the sustainable recovery of the stock, as well as in respect of amending Annex I as regards the timeline and the stocks subject to the obligation to land all catches and in respect of amending Annex II as regards minimum conservation reference sizes. 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. [Am. 6]

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. [Am. 6]

In order to ensure uniform conditions and a timely response to the reality of fisheries and available scientific information, implementing powers should be conferred on the Commission as regards provisions of a technical nature, the determination of selectivity levels of gears and the minimum requirements of the REM. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers (3).

The prohibition of retention on board of certain species at certain times in the Skagerrak and the scope of this Regulation make certain amendments to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (4) and Regulation (EC) No 1342/2008 necessary.

Regulations (EC) No 850/98 and (EC) No 1342/2008 should, therefore, be amended accordingly.

HAVE ADOPTED THIS REGULATION:

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject matter and scope

1. This Regulation establishes new technical and control measures in those areas of the Skagerrak that fall within the jurisdiction of a Member State. [Am. 7]

(2) OJ L 115, 9.5.1996, p. 3.
2. This Regulation shall apply to all fishing vessels operating in those areas of the Skagerrak that fall within the jurisdiction of a Member State. [Am. 8]

Article 2

Definitions

For the purposes of this Regulation, in addition to the definitions laid down in Articles 2 and 3 of Regulation (EC) No 850/98 and in Article 3 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (1), the following definitions shall apply: [Am. 9]

(a) Pots and creels mean small traps designed to catch crustaceans or fish in the form of cages or baskets made with various materials that are set on the seabed either singly or in rows; connected by ropes (buoy-lines) to buoys on the surface showing their position and having one or more openings or entrances.

(b) Minimum conservation reference size means the size for a given species, based on its size at maturity, below which the sale of catches shall be restricted to reduction to fish meal, pet food or other non-human consumption products only. [Am. 10]

(c) Mesh size of any trawl, Danish seine or similar to wed net means the stretched mesh size opening of any codend or extension piece found on board a fishing vessel. [Am. 11]

(d) Codend means a codend sensu stricto.

(e) Extension piece means a lengthening piece as defined in the Annex to Commission Regulation (EEC) No 3440/84 of 6 December 1984 on the attachment of devices to trawls, Danish seines and similar nets (2).

(f) Demersal trawl means gear which is actively towed by one or more fishing vessels across the seabed and consisting of a net having a cone- or pyramid-shaped body (as trawl body) closed at the back by a codend which is horizontally opened by otter boards in contact with the bottom or in the case of two vessels by the distance between the vessels.

(g) Danish seine means encircling and towed gear, operated from one or more vessels by means of two long ropes (seine ropes) designed to herd the fish towards the opening of the seine. The gear, made up of net which is similar to a bottom trawl in design and size, comprises two long wings, a body and a codend.

(h) Beam trawl means gear with a trawl net open horizontally by a steel or wooden tube, the beam, and netting with ground chains, chain mats or tickler chains, actively towed on the bottom by the vessel engine. [Am. 12]

(i) Pelagic trawl means gear which is towed by one or more fishing vessels in midwater and consisting of a net with large meshes in the front section which herd the catch towards the net aft sections which are constructed in small mesh, for which the fishing depth is controlled by means of a net sounder and the horizontal opening is controlled by otter boards which normally do not touch the seabed.

(j) Pelagic and industrial species means herring, mackerel, sprat, blue whiting, Norway pout, sandeel or horse mackerel.

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Remote Electronic Monitoring (REM) means a system which monitors fishing activities and is operated by the authorities of a Member State. [Am. 13]

Collection and Transfer Equipment (CTE) means a system that collects data and transmits them to the REM and that includes closed circuit TV (CCTV), a global positioning system (GPS), sensors and transmitting equipment. [Am. 14]

CHAPTER II
TECHNICAL CONSERVATION MEASURES

Article 2a
Obligation to minimise catches of unwanted species and juveniles

1. Anyone carrying out fishing activities in the Skagerrak shall, to the extent possible, avoid catches of unwanted species and catches below the minimum conservation reference size set out in Annex II, inter alia by selecting fishing gear and where and when the fishing effort takes place.

2. The Member States concerned shall take all necessary measures to minimise catches of unwanted species and catches below the minimum conservation reference size set out in Annex II, including by making available more selective gear, as referred to in Article 6. [Am. 15]

Article 2b
Obligation to register and report all catches

1. Anyone carrying out fishing activities in the Skagerrak shall register all catches in the logbook, distinguishing between:

(a) fish from stocks mentioned in Annex I;

(b) catches below the minimum conservation reference size from such stocks; and

(c) fish from other stocks.

2. All catches registered according to paragraph 1 shall be reported to the Commission or to the authorities of the flag Member State. [Am. 16]

Article 3
Obligation to land all catches

1. By way of derogation from Article 19(1) of Regulation (EC) No 850/98, all catches of the fish stocks listed in Annex I shall be brought and retained on board the fishing vessels and landed in accordance with the timeline set out in that Annex, except if the discarded fish of such stocks have high survival rate or where the burden to fishermen of having to extract the unwanted species from the catch for separate treatment is unreasonably high.

1a. Notwithstanding the obligation to register all catches in accordance with Article 2b, the obligation to land all catches pursuant to paragraph 1 of this Article shall not apply to a species in a specific fishery where it has been established pursuant to paragraph 4 of this Article that it has a high survival rate, provided that it can be separated from the main catch.

2. Notwithstanding paragraph 1, and by way of derogation from Article 19(1) of Regulation (EC) No 850/98, when fishing with gears having a mesh size equal to or less than 32 mm all catches of stocks, including stocks to which the obligation to land does not apply not listed in Annex I, shall be brought and retained on board the fishing vessels and landed.

3. Paragraph 1 shall not apply to fishing with pots or creels.

4. The Commission shall be empowered to adopt delegated acts amending Annex I on the basis of advances in scientific information or where the burden to fishermen proves to be disproportionate to the benefits and the experience of applying this Regulation; however, no species shall be added to Annex I before the first review pursuant to Article 15 has been completed. The Commission shall also be empowered to adopt delegated acts, specifying when catch may be
released according to paragraph 1a. Before adopting such delegated acts, the Commission shall ensure proper coordination with all parties involved in fisheries in the Skagerrak, with a view to ensuring that the same rules apply to the whole of the Skagerrak.

Those delegated acts shall be adopted in accordance with Article 16. [Am. 17]

### Article 4
Special conditions for quota management

1. All catches of stocks referred to in Article 3 made by Union fishing vessels shall be counted against the quotas applicable to the flag Member State for the stock or group of stocks in question, irrespective of the place of landing.

2. Member States shall ensure that quota is available for fishing vessels operating in the Skagerrak for any stocks subject to the obligation to land that they may catch, taking account of the likely catch composition of the vessels.

3. Member States shall ensure that fishing vessels flying their flag retaining on board fish for which the Member State has no quota shall cease fishing immediately and return to port. [Am. 18]

### Article 5
Handling of juvenile fish

1. Where a minimum conservation reference size is set for a stock subject to Article 3, the sale of catches of that stock below the minimum conservation reference size shall be restricted to reduction to fish meal, pet food or other non-human consumption products only, or for charitable purposes. If such catches need to be stored on land prior to their disposal, they shall be stored separately from catches that are above the minimum conservation size. [Am. 19]

2. The minimum conservation reference sizes for stocks in the Skagerrak are listed in Annex II.

3. The Commission shall be empowered to adopt delegated acts to amend Annex II on the basis of advances of scientific information in order to ensure, after consultations with all parties involved in fisheries in the Skagerrak, that minimum conservation reference sizes are in line with the size at maturity of the species concerned, and review mesh sizes accordingly. When adopting such delegated acts, the Commission shall strive to establish joint minimum conservation reference sizes with Norway in order to create a level-playing field. [Am. 20]

Those delegated acts shall be adopted in accordance with Article 16.

### Article 6
Specifications of fishing gears

1. The carrying on board or the use of any demersal trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm is prohibited.

2. By way of derogation from paragraph 1:

   (a) Gears having the same selectivity characteristics as the ones set out in paragraph 1 confirmed by experimental fishing trips or assessment from the Scientific, Technical and Economic Committee for Fisheries (STECF) may be used.

   (b) Trawls with minimum mesh sizes of equal to or less than 32 mm may be used provided in fisheries for pelagic and industrial species; however, if the catch on board contains more at any time during the fishing trip consists of less than 80% of one or more pelagic or industrial species, the fishing vessel shall return to port. [Am. 21]

3. The Commission shall be empowered to adopt implementing acts to decide on the gears, including the selection devices attached to those gears, which may be used as having the characteristics of equivalent selectivity to the gears set out in paragraph 1.

Those implementing acts shall be adopted in accordance with Article 17.
Article 7
Restrictions on the use of gear

1. Fishing vessels operating in the Skagerrak shall only use one fishing gear during any given fishing trip.

2. By way of derogation from paragraph 1, fishing vessels may use any combination of fishing gears specified in Article 6(1) and Article 6(2)(a).

3. Vessels referred to in paragraphs 1 may retain on board more than one gear provided that they shall stow the unused nets in accordance with Article 47 of Regulation (EC) No 1224/2009.

Article 8
Fishing trips carried out in the Skagerrak and other areas

1. By way of derogation from Articles 4, 15, 19(1), 35, 36, 37 of Regulation (EC) No 850/98, this Chapter shall also apply to areas other than the Skagerrak for the whole fishing trip of a vessel.

2. Paragraph 1 shall apply to other areas only where that vessel fishes in the Skagerrak and in the other area at any time during the same fishing trip.

CHAPTER III
CONTROL MEASURES

Article 9
Relationship with other Regulations

The control measures provided for in this Chapter shall apply in addition to those provided for in Council Regulation (EC) No 1005/2008 (1), Council Regulation (EC) No 1006/2008 (2) and Regulation (EC) No 1224/2009 and save where otherwise provided for in the Articles of this Chapter.

Article 10
Prior notification

1. By way of derogation from Article 17 of Regulation (EC) No 1224/2009, masters of Union fishing vessels retaining on board fish stocks subject to Article 3 of this Regulation shall notify the competent authorities of their flag Member State of the information listed in Article 17(1) of Regulation (EC) No 1224/2009 two hours before entering into port.

2. By way of derogation from Article 1 of Commission Regulation (EC) No 1010/2009 (3), masters of third country fishing vessels retaining on board fish stocks subject to Article 3 of this Regulation shall notify the competent authorities of the Member State whose port they wish to use of the information listed in Article 6(1) of Regulation (EC) No 1005/2008 two hours before entering into port.

Article 11
Remote Electronic Monitoring

1. Member States shall operate a Remote Electronic Monitoring (REM) system for monitoring of fishing activities of the fishing vessels flying their flag and operating in the Skagerrak.

2. A fishing vessel of 12 metres length overall or more carrying out fishing activities in that part of the Skagerrak that is within Union waters shall have installed on board a fully functioning REM system that consists of a sufficient number of closed circuit TV (CCTV) cameras on board, a global positioning system (GPS), and sensors to be and transmitting equipment (CTE) before it is allowed to leave port.

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3. Paragraph 2 shall be applied in accordance with the following timeline:

(a) as from 1 January 2014 to 1 January 2015 to Union fishing vessels of 15 metres’ length overall or more;

(b) as from 1 July 2015 to 1 July 2016 to Union fishing vessels of 12 metres’ length overall or more.

4. The Commission shall be empowered to adopt implementing acts on the following aspects of the REM: reliability of the system, system specifications, data to be recorded and processed, monitoring the use of the REM, or any other elements necessary for the functionality of the system. Data recorded by the CCTV cameras shall be automated using image recognition software and shall be treated in conformity with the applicable data protection rules and principles.

5. The European Maritime and Fisheries Fund shall provide support for the installation of closed circuit TV (CCTV) cameras, the global positioning system (GPS) and sensors and transmitting equipment (CTE).

6. The Commission may adopt implementing acts concerning the following aspects of the REM: the reliability of the system, the system specifications, the data to be recorded and processed, the monitoring of the use of the REM, or any other elements necessary for the functionality of the system.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

[Am. 22]

Article 12
Control and inspection plan

1. Member States shall establish control and inspection measures in accordance with Annex III to ensure compliance with the conditions referred to in this Regulation within six months from the entry into force of this Regulation.

2. The control and inspection measures shall be included in the national control action programme as provided for in Article 46 of Regulation (EC) No 1224/2009 that is applicable to the multiannual plan for cod stocks laid down in Regulation (EC) No 1342/2008.

Article 13
Transit

Fishing vessels transiting the Skagerrak with fish retained on board caught in areas other than the Skagerrak shall lash and stow the nets in accordance with Article 47 of Regulation (EC) No 1224/2009.

CHAPTER IV
REVIEW

Article 14
Member States reporting

Member States concerned shall report to the Commission on the implementation of this Regulation in the third year after the entry into force of this Regulation by … (*) and then every third year thereafter. The first report shall focus specifically on the measures taken by the Member States to minimise catches of unwanted species and catches below the minimum conservation reference size according to Annex II. [Am. 23]

Article 15
Evaluation of the plan

The Commission shall, on the basis of the reports from Member States referred to in Article 14 and in conjunction with scientific advice on the basis of advice from STECF, the International Council for the Exploration of the Sea (ICES) and

(*) Two years after the entry into force of this Regulation.
the North Sea Regional Advisory Council, evaluate the impact of the measures on the stocks and fisheries concerned in the year following that in which it receives the reports. The first evaluation shall focus on whether the measures in this Regulation have sufficiently contributed to the sustainable conservation of the stocks, on whether additional measures to minimise catches of unwanted species and catches below the minimum conservation reference size according to Annex II are necessary and on the socioeconomic impact on the fisheries sector. [Am. 24]

CHAPTER V
PROCEDURAL PROVISIONS

Article 16

Exercise of delegated powers

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The powers to adopt delegated acts as referred to in Articles 3(4) and Article 5(3) shall be conferred on the Commission for an indeterminate period of time three years from … (*). The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-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. [Am. 23]

3. The delegation of power referred to in Article 3(4) and Article 5(3) may be revoked at any time by the European Parliament or 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 any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(4) and Article 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.

Article 17

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 30 of Regulation (EC) No 2371/2002. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VI
AMENDMENTS

Article 18

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

1. The word ‘Skagerrak’ is deleted from point (ii) of Article 4(4)(a), from Article 35 and from the heading of Annex IV.

2. Article 38 is deleted.

(* Date of entry into force of this Regulation.)
3. The heading of Annex X.B is replaced by the following:

'B. CONDITIONS FOR USE OF CERTAIN COMBINATIONS OF MESH SIZE IN KATTEGAT'

Article 19
Amendments to Regulation (EC) No 1342/2008

Regulation (EC) No 1342/2008 is amended as follows:
1. In Article 11(1), the following subparagraph is added:

'The fishing effort regime referred to in the first subparagraph shall not apply to the Skagerrak from 1 January 2013 to 1 January 2014.' [Am. 26]

2. In Article 12(5), the following subparagraph is added:

'Where the Skagerrak is excluded from the fishing effort regime pursuant to the second subparagraph of Article 11(1), the fishing effort that can be associated with the Skagerrak, and which contributed to establishment of the baseline effort, shall no longer be taken into account for the purpose of establishing the maximum allowable fishing effort.'

CHAPTER VII
DEROGATIONS

Article 20
Derogation from Regulation (EC) No 847/96

1. By way of derogation from

(a) Article 3(3) of Regulation (EC) No 847/96, when more than 75 % of a quota for a stock subject to Article 3 of this Regulation has been utilized before 31 October of the year of its application, the Member State to which such a quota has been allocated may request the Commission's permission to land additional quantities of fish of the same stock to be deducted from the quota of that stock in the following year, indicating the additional quantity required (borrowing), and

(b) Article 4(2) of Regulation (EC) No 847/96, a Member State to which a relevant quota has been allocated may ask the Commission, before 31 October of the year of application of the quota, to withhold a part of its quota with a view of transferring it to the following year (banking).

The quantities referred to in paragraphs (a) and (b) shall not exceed

(i) in 2013, 20 % of the appropriate quota,

(ii) in 2014, 20 % of the appropriate quota and

(iii) from 2015, 10 % of the appropriate quota. [Am. 27]

2. The additional quantity borrowed in accordance with paragraph 1 shall not be considered as exceeding permitted landings for the purposes of the deductions set out in Article 105 of Regulation (EC) No 1224/2009.

CHAPTER VIII
FINAL PROVISIONS

Article 21

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

This Regulation shall apply from 1 January 2014

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ,

For the European Parliament

The President

For the Council

The President
### ANNEX I

List of species to be progressively included in the obligation to land

<table>
<thead>
<tr>
<th>Name</th>
<th>Scientific name</th>
<th>Start date of application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cod</td>
<td>Gadus morhua</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Haddock</td>
<td>Melanogrammus aeglefinus</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Herring</td>
<td>Clupea harengus</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Mackerel</td>
<td>Scomber scombrus</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Northern Prawn</td>
<td>Pandalus borealis</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Saithe</td>
<td>Pollachius virens</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Sprat</td>
<td>Sprattus sprattus</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Whiting</td>
<td>Merlangius merlangus</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Hake</td>
<td>Merlucius merlucius</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Ling</td>
<td>Molva molva</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Monkfish</td>
<td>Lophius piscatorius.</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Pollack</td>
<td>Pollachius pollachius</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Grenadier</td>
<td>Coryphaenoides rupestris</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Blue Ling</td>
<td>Molva dypterygia</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Tusk</td>
<td>Brosme brosme</td>
<td>1 January 2013</td>
</tr>
</tbody>
</table>

[Am. 28]
<table>
<thead>
<tr>
<th>Name</th>
<th>Scientific name</th>
<th>Start date of application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaice</td>
<td>Pleuronectes platessa</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Witch</td>
<td>Glyptocephalus cynoglossus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Long rough dab</td>
<td>Hippoglossoides platessoides</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Blue Whiting</td>
<td>Micromesistius poutassou</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Norway pout</td>
<td>Trisopterus esmarkii</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Argentine</td>
<td>Argentina spp.</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Sole</td>
<td>Solea solea</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Nephrops</td>
<td>Nephrops norvegicus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Brill</td>
<td>Scophthalmus rhombus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Dab</td>
<td>Limanda limanda</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Turbot</td>
<td>Scophthalmus maximus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Lemon Sole</td>
<td>Microstomus kitt</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Sandeel</td>
<td>Ammodytidae</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Horse Mackerel</td>
<td>Trachurus trachurus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Rays (other than those listed in the fishing opportunities regulations as having to be released)</td>
<td>Raja spp.</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Flounder</td>
<td>Platichthys flesus</td>
<td>1 January 2015 1 January 2016</td>
</tr>
<tr>
<td>Name</td>
<td>Scientific name</td>
<td>Start date of application</td>
</tr>
<tr>
<td>----------------------</td>
<td>------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Catfish/Wolfish</td>
<td>Anarhichas lupus</td>
<td>1 January 2015 - 1 January 2016</td>
</tr>
<tr>
<td>Greater Forkbeard</td>
<td>Phycis blennoides</td>
<td>1 January 2015 - 1 January 2016</td>
</tr>
<tr>
<td>Lumpsucker</td>
<td>Cyclopterus lumpus</td>
<td>1 January 2015 - 1 January 2016</td>
</tr>
<tr>
<td>Redfish spp</td>
<td>Sebastes spp.</td>
<td>1 January 2015 - 1 January 2016</td>
</tr>
</tbody>
</table>

[Am. 29]

ANNEX II

Minimum conservation reference size

<table>
<thead>
<tr>
<th>Species</th>
<th>Minimum conservation reference size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cod (Gadus Morhua)</td>
<td>30 cm</td>
</tr>
<tr>
<td>Haddock (Melanogrammus aeglefinus)</td>
<td>27 cm</td>
</tr>
<tr>
<td>Whiting (Merlangus merlangus)</td>
<td>23 cm</td>
</tr>
<tr>
<td>Saithe (Polachius virensis)</td>
<td>30 cm</td>
</tr>
<tr>
<td>Herring (Clupea harengus)</td>
<td>18 cm</td>
</tr>
<tr>
<td>Mackerel (Scomber spp.)</td>
<td>20 cm</td>
</tr>
<tr>
<td>Hake (Merluccius merluccius)</td>
<td>30 cm</td>
</tr>
<tr>
<td>Ling (Molva molva)</td>
<td>63 cm</td>
</tr>
<tr>
<td>Blue ling (Molva dipterygia)</td>
<td>70 cm</td>
</tr>
<tr>
<td>Pollack (Pollachius pollachius)</td>
<td>30 cm</td>
</tr>
<tr>
<td>Plaice (Pleuronectes platesus)</td>
<td>27 cm</td>
</tr>
<tr>
<td>Sole (Solea spp.)</td>
<td>24 cm</td>
</tr>
<tr>
<td>Horse mackerel (Trachurus spp.)</td>
<td>15 cm</td>
</tr>
</tbody>
</table>
ANNEX III

Control and inspection measures

1. For the purposes of control and inspection to verify the level of compliance with Articles 3 and 5, the national control and inspection measures shall include reference at least to the following:
   (a) requirements of full catch sampling at sea and in port;
   (b) analysis of all data listed in Article 109(2)(a) and (b) of Regulation (EC) No 1224/2009;
   (c) use of sensors attached to the gears;
   (d) use of remote electronic monitoring (REM) that consists of closed circuit TV (CCTV), GPS and sensors to collect and transfer data in the prescribed order to the relevant REM;
   (e) the reference fleet for the main fisheries in the Skagerrak, either by the use of REM or observers;
   (f) a scientific sampling program on discards covering all the main fisheries in the Skagerrak.

2. For the purposes of control and inspection to verify the level of compliance with Articles 6, 7 and 8, the national control and inspection measures shall include reference at least to the following:
   (a) the allocated human and technical means, and if deemed necessary, the CTE to collect and transfer data in the prescribed order to the relevant REM;
   (b) the inspection strategy, including the level of inspections at sea and land and the level of surveillance.

3. Baselines for inspection
   The Member States concerned shall assign the highest risk level to fisheries carried out in the Skagerrak, except if carried out with fishing vessels equipped with CTE or fisheries with pots and creel, in their risk management system established in accordance with Article 5(3) of Regulation (EC) No 1224/2009. A separate risk factor shall be established for vessels fishing in the Skagerrak and other Union waters during the same fishing trip except for vessels equipped with CTE or fisheries with pots and creel and they shall also be assigned to the highest risk level. Fisheries carried out with fishing vessels equipped with CTE or fisheries with pots and creel may be assigned the highest risk level, but only after a vessel- or fisheries-specific assessment.

4. Equality of control measures
   Member States shall ensure that the burden of the control measures is reasonably equal to the control needed. In this regard, it shall specifically be taken into account whether the vessel is equipped with a CTE system.
International Recovery of Child Support and Other Forms of Family Maintenance *


(Consultation)

The European Parliament,

— having regard to the proposal for a Council decision (COM(2013)0035),

— having regard to the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance,

— having regard to Article 81(3) and Article 218(6), second subparagraph, point (b), of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0045/2013),

— having regard to Rules 55 and 90(7) of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0091/2013),

1. Approves the amendment of Annexes II and III to Council Decision 2011/432/EU as proposed by the Commission;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States, as well as to the Hague Conference on Private International Law.

Estimates of revenue and expenditure for 2014 — Section I — Parliament

European Parliament resolution of 17 April 2013 on Parliament’s estimates of revenue and expenditure for the financial year 2014 (2013/2018(BUD))

The European Parliament,

— having regard to Article 314 of the Treaty on the Functioning of the European Union,

— having regard to Regulation (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (1), and in particular Article 36 thereof,

— 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 (2),

having regard to its resolution of 6 February 2013 on the guidelines for the 2014 budget procedure — Sections I, II, IV, V, VI, VII, VIII, IX and X (1),

— having regard to the Secretary-General's report to the Bureau on drawing up Parliament's preliminary draft estimates for the financial year 2014,

— having regard to the preliminary draft estimates drawn up by the Bureau on 11 March 2013 pursuant to Rules 23(7) and 79(1) of Parliament's Rules of Procedure,

— having regard to the draft estimates drawn up by the Committee on Budgets pursuant to Rule 79(2) of Parliament's Rules of Procedure,

— having regard to Rule 79 of its Rules of Procedure,

— having regard to the report of the Committee on Budgets (A7-0112/2013),

A. whereas if an agreement on the regulation laying down the Multiannual Financial Framework (MFF) is not reached by the end of this year, Article 312(4) of the Treaty on the Functioning of the European Union foresees the application of the ceilings of the last year of the current MFF and Article 30 of the current Interinstitutional Agreement on budgetary discipline and sound financial management foresees a prolongation of the 2013 ceilings, adjusted with a 2% fixed deflator a year, until a new MFF is adopted;

B. whereas the budget of the European Parliament does not only contain administrative expenditure but also expenditure for pensions;

C. whereas in the context of continuing economic and financial difficulties, as reflected in the austerity measures taken by many Member States in response to the debt crisis, Parliament should continue to exercise a high degree of budgetary responsibility, control and self-restraint; whereas, at the same time, Parliament must strike a delicate balance between budgetary rigour and structural savings, on one hand, and a concerted drive for efficiency on the other hand;

D. whereas certain investments strengthen the institutional role of Parliament and improve the sustainability of the budget in the long-term, they should be considered, despite tight margins for manoeuvre;

E. whereas it is particularly important that the Committee on Budgets and the Bureau continue enhanced cooperation throughout the annual budget procedure under Rules 23 and 79 of Parliament's Rules of Procedure;

F. whereas the prerogatives of the plenary in adopting the estimates and the final budget will be fully maintained in accordance with the Treaty and the Rules of Procedure;

G. whereas pre-conciliation and conciliation meetings between delegations of the Bureau and of the Committee on Budgets took place on 5 March and 13 March 2013;

General framework and overall budget

1. Welcomes the cooperation between the Bureau and the Committee on Budgets during the current budget procedure and the agreement reached in the conciliation meeting of 13 March 2013:

2. Recalls that the level of the preliminary draft estimates for the 2014 budget, as suggested by the Secretary-General in his report to the Bureau, amounts to EUR 1 813 144 206; takes into account the rate of increase of 3.58% compared with the 2013 budget; stresses that this proposed increase consists of legal obligations, specifically an increase of 2.20%, stems from the exceptional one-year additional expenses of electing a new Parliament and becoming a truly independent democratic institution by applying its own Statutes for Members and their assistants, and an increase of 1.30% deriving from other legal obligations; welcomes the plans of the Joint Bureau and Committee on Budgets Working Group to investigate structural reforms in Parliament's budget and expects this work to present options for savings in the 2014 budget by September 2013, without jeopardising legislative excellence or the quality of working conditions;

3. Emphasises the fact that the financial implications of the European elections and the turnover of Members and their assistants during the changeover between legislative terms are of an exceptional nature and recognises the efforts already made to accommodate those one-off costs within the budget; regrets that those additional costs must be borne in one single

(1) Texts adopted of that date, P7_TA(2013)0048.
budget year and asks the Secretary General to identify a way of ensuring that those costs are spread over the lifetime of the parliamentary term in future; believes, however, that further efforts must be made to implement further changes, savings and structural reforms, including using the possibilities of the Financial Regulation, with the ambition of keeping the budget increase closer to the rate of inflation;

4. Notes that in 2014, all costs relating to the accession of Croatia will need to be met over a full financial year; notes that estimated direct costs may total EUR 13.6 million, including support for the integration of Croatia into the Union;

5. Appreciates the fact that all other expenditure is reduced in total by 0.15 %, according to preliminary draft estimates, compared with the 2013 budget; welcomes the fact that reductions were made possible by structural savings introduced in the past, the different nature of parliamentary activity in an election year and the freezing of expenditure items, where possible;

6. Welcomes the efforts made by the Bureau to present realistic preliminary draft estimates; appreciates that the rate of increase in the 2014 budget, as proposed by preliminary draft estimates, is particularly low when compared with the corresponding period under the previous MFF (2007-2013) when the rate was lower only in the 2012 and 2013 financial years; notes that the 2014 rate would be the lowest by some margin (1.38 %) if the additional expenditure linked to the election of a new Parliament was to be factored out;

7. Stresses that pursuant to the agreement reached by the Bureau and the Committee on Budgets at the Conciliation meeting of 13 March 2013, the overall level of the draft estimates for 2014 is set at EUR 1 808 144 206 (corresponding to a rate of net increase of 3.29 % over the 2013 budget), of which some 2.20 % accounts for compulsory expenditure linked to the election of a new Parliament, 1.30 % accounts for other legal obligations, 0.78 % accounts for the accession of Croatia while inflation accounts for some 1.9 % (1) of the increase, resulting in the real decrease of Parliament's budget of 2.89 % from the 2013 level; calls, however, for further savings and redeployments via structural reforms to be sought during the Parliament's reading in autumn 2013 in the course of the 2014 budgetary procedure and in the following years; recalls, in that regard, the measures identified by the Joint Bureau and Committee on Budgets Working Group to be further explored in order to generate substantial organisational savings, such as the scope for inter-institutional cooperation arrangements between Parliament, the European Economic and Social Committee and the Committee of the Regions;

8. Welcomes the two-step procedure in spring and autumn in the 2014 budget of Parliament pursuant to the agreement reached in the conciliation meeting on 13 March 2013 between the Bureau and the Committee on Budgets; supports the first step, which consists of reductions and savings on the preliminary draft estimates for the financial year 2014 in the following areas and for the following amounts: ‘energy consumption’ (EUR - 0.5 million, Item 2024), ‘Official Journal’ (EUR - 1 million, Item 3240), ‘parliamentary assistance’ (EUR - 1 million, Article 422), ‘European Parliament carbon offsetting scheme’ (EUR - 0.25 million, Article 239), ‘fitting-out of premises’ (EUR - 1.25 million, Item 2007) and ‘contingency reserve’ (EUR - 1 million, Chapter 101);

9. Proposes to analyse the possibility of moving the article ‘Pensions’ (article 103) and the transitional allowances for Members out of the sub-ceiling of administrative expenditure during the 2014 annual budgetary procedure;

10. Takes into consideration the initial conclusions of the Joint Bureau and Committee on Budgets Working Group on the Parliament budget to pursue structural and organisational reforms that aim to achieve greater efficiencies without endangering legislative excellence and the quality of working conditions; notes, in that regard, that the provision of independent scientific advice and the capacity to exercise scrutiny should be improved to strengthen Parliament’s work as an institution vested with legislative and democratic scrutiny powers; welcomes the fact that the Joint Working Group is looking for further potential savings and efficiencies, and expects it to present its first findings in time for the preparation of Parliament’s 2014 budget reading according to the two-step procedure agreed in the Conciliation;

11. Points to the significant savings that could be achieved if Parliament were to have a single seat; recalls its resolution of 23 October 2012 in the interests of achieving a positive outcome of the MFF 2014-2020 approval procedure (2), in which Parliament urged the budgetary authority to raise this issue in the negotiations on the next MFF 2014-2020;

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(1) According to Eurostat, the inflation forecast for the Union in 2013 is 1.9 %.
**Specific issues**

12. Recalls that structural reforms such as reforms in travel policy and management, a reduced length and number of missions, the increased use of video-conferencing and reorganisation of translation and interpretation services, some of which have been in place since 2011, are estimated to allow annual savings of approximately EUR 29 million.

13. Welcomes the proposed decreases compared with the 2013 budget in the areas of translation (-56 %) and interpreting costs (-23 %), lease payments (-60 %), web TV (-38 %) and fitting-out of premises (-31 %) and asks for detailed information proving the feasibility of those proposed cuts; reiterates that savings proposed in the translation and interpretation services cannot jeopardise the principle of multilingualism and insists that the Members' equal access to the linguistic services are ensured and that the right working conditions of the services concerned are upheld.

14. Notes that a significant cut in expenditure related to Parliament television (Europarl TV) is already anticipated; asks for a detailed analysis of the consumer base in order to verify the effective benefit of this service; invites Parliament to realise partnerships with national broadcasting networks in order to share expenses.

15. Welcomes plans for the communication campaign highlighting the major directions of Parliament's work in the current legislative term associated with the European elections as a part of the overall information and communication budget; requests further details about planned election-related expenditure.

16. Notes that the process of the internalisation of the security services as part of the new global security concept will be carried on; welcomes the fact that the recruitment of the additional contract staff members will be budget-neutral since it will be offset by a reduction in appropriations for the outsourcing of security services.

17. Considers that the Joint Bureau and Committee on Budgets Working Group on the Parliament budget could, on the basis of work it began in 2012, continue to play an important role in identifying possible structural savings and reflecting on and presenting to the Committee on Budgets ideas for further savings, more effectiveness and more efficiency; encourages the continuation of its work through the thorough examination of possible efficiencies, synergies and savings which could create space for investment into institutional development for 2014 and beyond.

18. Requests a report on savings achieved during the implementation of the 2013 budget, in line with the call for further savings expressed in its position of 23 October 2012 on the 2013 draft general budget — all sections (1); expects such a report to be communicated to the Committee on Budgets in time to take it into account for the 2014 budgetary procedure.

19. Emphasises the fact that institutional self-restraint has, considering the level of relevant inflation rates, resulted in a reduction of Parliament's budget in real terms; recalls that visible expressions of self-restraint include the fact that staff mission allowances have not been indexed since 2007 and the freeze on all Members' allowances at the 2011 level until the end of the current parliamentary term; welcomes, moreover, the plan to freeze all Members' allowances until the end of 2014; requests, after the adoption of the revised Staff Regulations, a roadmap for its implementation to be presented to the Committee on Budgets.

20. Recalls the structural savings made in all travel-related budget lines in 2013; stresses that in terms of travel arrangements, Members cannot be discriminated on the basis of their home country.

21. Believes that in the current climate of austerity, long-term investments such as Parliament’s building projects need to be handled prudently and transparently; insists on strict cost management, project planning and supervision; reiterates its call for a transparent decision-making process in the field of buildings policy, based on early information; recalls Parliament’s request in its resolution of 16 February 2012 on the guidelines for the 2013 budget procedure (2) for precise information on the progress in buildings projects and its financial implication to be provided every six months and the Parliament’s statement that no new unforeseen building projects should be undertaken until the end of the current legislature.

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(2) Texts adopted, P7_TA(2012)0050.
22. Is aware that the KAD project is a significant undertaking for Parliament which aims to rationalise Parliament's administration in Luxembourg to obtain synergies; recognises the efforts to communicate the state-of-play of the KAD building to the Committee on Budgets and requests that this communication continues throughout the duration of the project; notes that adaptations and downsizing have been achieved, following the requests of the Committee on Budgets, and therefore welcomes the fact that, following the second Call for Tender, the KAD project will most likely remain under and, in any case, not exceed the predetermined financial framework; notes that due to construction of the KAD building, the total payments per year in future would be lower than rent expenses of comparable property;

23. Takes note of the fact that the opening of the European House of History is foreseen for 2015; appreciates the updated information on the state-of-play of the project from the Secretary-General and the Bureau; reinforces its view that the final cost outturn must not exceed the figures set out in its business plan; expects an update on the possible co-financing agreement with the Commission;

24. Adopts the estimates for the financial year 2014;

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

P7_TA(2013)0175

Common system of value added tax as regards the treatment of vouchers *


(Special legislative procedure — consultation)

(2016/C 045/34)

The European Parliament,

having regard to the Commission proposal to the Council (COM(2012)0206),

— having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0127/2012),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0058/2013),

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, the Commission and the national parliaments.
Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax lays down rules on the time and place of supply of goods and services, the taxable amount, the chargeability of value added tax (VAT) and the entitlement to deduction. Those rules are, however, not sufficiently clear or comprehensive to ensure consistency in the tax treatment of transactions involving vouchers to an extent which has undesirable consequences for the proper functioning of the internal market.

Amendment

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax lays down rules on the time and place of supply of goods and services, the taxable amount, the chargeability of value added tax (VAT) and the entitlement to deduction. Those rules are, however, not sufficiently clear or comprehensive to ensure consistency in the tax treatment of transactions involving vouchers to an extent which has undesirable consequences for the proper functioning of the internal market. In order to eradicate opportunities for tax evasion and tax fraud, to increase VAT collection from vouchers and hence increase public revenue, it is necessary to reinforce the scope, neutrality and transparency with regard to tax treatment of transactions involving vouchers.

Amendment 2
Proposal for a directive
Recital 2

Text proposed by the Commission

(2) To ensure certain and uniform treatment and to avoid inconsistencies, distortion of competition, double or non-taxation and to reduce the risk of tax avoidance, there is a need for specific rules applying to the VAT treatment of vouchers.

Amendment

(2) To ensure a well-functioning, effective and barrier-free internal market as well as certain and uniform treatment and thus to avoid inconsistencies, distortion of competition, double or non-taxation, ambiguity with regard to tax liability and to reduce the risk of tax avoidance and tax evasion, there is a need for specific rules applying to the VAT treatment of vouchers.

Amendment 3
Proposal for a directive
Recital 4

Text proposed by the Commission

(4) The VAT treatment of the transactions associated with vouchers is dependent upon the specific characteristics of the voucher. It is therefore necessary to distinguish between various types of vouchers and the distinctions need to be set out in Union legislation.

Amendment

(4) The VAT treatment of the transactions associated with vouchers is dependent upon the specific characteristics of the voucher. It is therefore necessary to distinguish between various types of vouchers and the distinct definitions need to be clarified in Union law.
Amendment 4
Proposal for a directive
Recital 5

Text proposed by the Commission

(5) A right to receive goods or services or to receive a discount is inherent in the nature of a voucher. This right may be assigned from one person to another before the voucher is eventually redeemed. To avoid the risk of double taxation, were the service represented by such a right to be taxed, it is necessary to establish that the assignment of this right and the redemption of goods or services should be regarded as one single transaction.

Amendment

(5) A voucher entitles the holder to receive goods or services or to receive a discount. This right may be assigned from one person to another before the voucher is eventually redeemed. To avoid the risk of double taxation, were the service represented by such a right to be taxed, it is necessary to establish that the assignment of this right and the redemption of goods or services should be regarded as one single transaction.

Amendment 5
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Vouchers are frequently distributed through an agent or pass through a distribution chain based on the purchase and the subsequent resale. In order to preserve neutrality, it is essential that the amount of VAT to be paid on the goods or services supplied in return for a voucher, remains intact. To assure this, the value of multi-purpose vouchers should be fixed upon issue.

Amendment

(8) Vouchers are frequently distributed through an agent or pass through a distribution chain based on the purchase and the subsequent resale. In order to preserve neutrality, it is essential that the amount of VAT to be paid on the goods or services supplied in return for a voucher, remains intact. To assure this, the nominal value of multi-purpose vouchers should be fixed upon issue.

Amendment 6
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) It is necessary to clarify the tax treatment of the transactions linked to the distribution of multi-purpose vouchers. Where such vouchers are purchased below value to be resold at a higher price, the service of distribution should be taxed based on the margin made by the taxable person.

Amendment

(10) It is necessary to clarify the tax treatment of the transactions linked to the distribution of multi-purpose vouchers. Where such vouchers are purchased below nominal value to be resold at a higher price, the service of distribution should be taxed based on the margin made by the taxable person.
Amendment 7
Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Vouchers may involve the supply of goods or services across borders. Should the chargeability differ between Member States, this could result in double taxation or non-taxation. To prevent such situation, no derogation from the rule by which VAT is chargeable when the goods or the services are supplied should be allowed.

Amendment

(11) Vouchers may involve the supply of goods or services across borders. Should the chargeability differ between Member States, this could result in double taxation or non-taxation. To prevent such situation and to clarify in which Member State tax has to be paid, no derogation from the rule by which VAT is chargeable when the goods or the services are supplied should be allowed.

Amendment 8
Proposal for a directive

Recital 15

Text proposed by the Commission

(15) In so far as the goods or services supplied upon redemption of a voucher are taxed, the taxable person is entitled to deduct the VAT incurred on expenditure in relation to the issue of the voucher. It should be clarified that this cost of VAT is deductible even if those goods or services are supplied by someone other than the issuer of the voucher.

Amendment

(15) In so far as the goods or services supplied upon redemption of a voucher are taxed, the taxable person is entitled to deduct the VAT incurred on expenditure in relation to the issue of the voucher, in accordance with Union law. It should be clarified that this cost of VAT is deductible even if those goods or services are supplied by someone other than the issuer of the voucher.

Amendment 9
Proposal for a directive

Article 1 — point 3

Directive 2006/112/EC

Chapter 5 — Article 30a — paragraph 1 — introductory part (new)

Text proposed by the Commission

1. For the purposes of this Chapter the following definitions shall apply:

Amendment

1. ‘Voucher’ shall mean an instrument carrying a right to receive a supply of goods or services, or to receive a price discount or rebate with regard to a supply of goods or services and where there is a corresponding obligation to fulfil this right.

Amendment 10
Proposal for a directive

Article 1 — point 3

Directive 2006/112/EC

Chapter 5 — Article 30a — paragraph 1 — point 1

Text proposed by the Commission

1. ‘Voucher’ means an instrument carrying a right to receive a supply of goods or services, or to receive a price discount, or rebate with regard to a supply of goods or services and where there is a corresponding obligation to fulfil this right;
Amendment 11
Proposal for a directive
Article 1 — point 3
Directive 2006/112/EC
Chapter 5 — Article 30a — paragraph 1 — point 2

Text proposed by the Commission

'Single-purpose voucher' shall mean a voucher carrying a right to receive a supply of goods or services where the supplier's identity, the place of supply and the applicable VAT rate for these goods or services is known at the time of issue of the voucher.

(2)'single-purpose voucher' means a voucher carrying a right to receive a supply of goods or services where the supplier's identity, the place of supply and the applicable VAT rate for these goods or services is known at the time of issue of the voucher;

Amendment 12
Proposal for a directive
Article 1 — point 3
Directive 2006/112/EC
Chapter 5 — Article 30a — paragraph 1 — point 2 a (new)

Text proposed by the Commission

(2a)'place of supply' means the Member State in which the underlying supply of goods or services takes place;

Amendment 13
Proposal for a directive
Article 1 — point 3
Directive 2006/112/EC
Chapter 5 — Article 30a — paragraph 1 — point 3

Text proposed by the Commission

'Multi-purpose voucher' shall mean any voucher, other than a discount or rebate voucher, which does not constitute a single-purpose voucher.

(3)'multi-purpose voucher' means any voucher, other than a discount or rebate voucher, which does not constitute a single-purpose voucher and which entitles the holder to receive goods or services where neither those goods or services nor the place of supply of the Member State where they are to be taxed are sufficiently identified and, as a consequence, the VAT treatment of the voucher cannot be determined with certainty at the date of the sale or issuance;
Amendment 14
Proposal for a directive
Article 1 — point 3
Directive 2006/112/EC
Chapter 5 — Article 30a — paragraph 1 — point 4

Text proposed by the Commission

‘Discount voucher’ shall mean a voucher carrying a right to receive a price discount or rebate with regard to a supply of goods or services.

Amendment

(4) ‘discount voucher’ means a voucher carrying a right to receive a price discount or rebate with regard to a supply of goods or services which is expressed either as a percentage or as a fixed amount with a nominal value.

Amendment 15
Proposal for a directive
Article 1 — point 6
Directive 2006/112/EC
Chapter 5 — Article 74a — paragraph 1

Text proposed by the Commission

1. The taxable amount of the supply of goods or services redeemed against a multi-purpose voucher shall be equal to the nominal value of that voucher, or in the case of partial redemption, to that part of the nominal value which corresponds to the partial redemption of that voucher, less the amount of VAT related to the goods or services redeemed.

Amendment

1. The taxable amount of the supply of goods or services redeemed against a multi-purpose voucher shall be equal to the nominal value of that voucher in fact used to acquire those goods and services, or in the case of partial redemption, to that part of the nominal value which corresponds to the partial redemption of that voucher, less the amount of VAT related to the goods or services redeemed.

Amendment 16
Proposal for a directive
Article 2 — point 1

Text proposed by the Commission

1. Member States shall adopt and publish, by 1 January 2014 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.

Amendment

1. Member States shall adopt and publish the provisions necessary to comply with this Directive by 1 January 2014. They shall immediately communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2015.

Member States shall apply those provisions from 1 January 2015.

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.

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.
Amendment 17
Proposal for a directive
Article 2a (new)

Text proposed by the Commission

Amendment

Article 2a

By 1 January 2017, the Commission shall review the application of Directive 2006/112/EC and shall submit a report to the European Parliament and to the Council on its economic and fiscal impact. That report shall include an analysis of the impact of this Directive on the economies of the Member States.
The European Parliament,

— having regard to the draft Council decision (12282/2012),

— having regard to the Agreement between the European Union and Ukraine amending the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas (11044/2012),

— having regard to the request for consent submitted by the Council in accordance with Article 77(2), point (a) and Article 218(6), second subparagraph, point (a) of the Treaty on the Functioning of the European Union (C7-0200/2012),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0059/2013);

1. Consents to conclusion of the agreement;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Ukraine.

The European Parliament,

— having regard to the draft Council decision (12012/2012),

— having regard to the Agreement between the European Union and the Republic of Moldova amending the Agreement between the European Community and the Republic of Moldova on the facilitation of the issuance of visas (10871/2012 — C7-0201/2012 — 2012/0140(NLE))

(Consent)

(2016/C 045/35)
— having regard to the request for consent submitted by the Council in accordance with Article 77(2), point (a) and Article 218(6), second subparagraph, point (a) of the Treaty on the Functioning of the European Union (C7-0201/2012),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0128/2013),

1. Consents to conclusion of the agreement;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Moldova.

P7_TA(2013)0181

European statistics on demography ***I


(Ordinary legislative procedure: first reading)

(2016/C 045/37)

Amendment 1
Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) Pursuant to Article 175 of the Treaty on the Functioning of the European Union, the Commission submits every three years a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the progress made towards achieving economic, social and territorial cohesion. The preparation of these reports and the regular monitoring of demographic developments and of possible future demographic challenges in the EU regions, including different types of regions such as cross-border regions, metropolitan regions, rural regions, mountain and island regions, require annual regional data at NUTS 3 regional level. Since demographic ageing displays strong regional differences, Eurostat is requested to prepare regional projections on a regular basis in order to complement the demographic picture of the NUTS 2 regions in the European Union.

Amendment

(4) Pursuant to the second paragraph of Article 175 of the Treaty on the Functioning of the European Union, the Commission submits every three years a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the progress made towards achieving economic, social and territorial cohesion. The preparation of these reports and the regular monitoring of demographic developments and of possible future demographic challenges in the Union’s regions, including different types of regions such as cross-border regions, metropolitan regions, rural regions, mountain and island regions, require annual regional data at NUTS 3 regional level. Since demographic ageing displays strong regional differences, the Commission (Eurostat) is requested to prepare regional projections on a regular basis in order to complement the demographic picture of the NUTS 2 regions in the European Union.

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0050/2013).
Amendment 2
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The EU sustainable development strategy, launched by the European Council in Gothenburg in 2001 and renewed in June 2006, seeks the continuous improvement of the quality of life for current and future generations. The Eurostat monitoring report, which is published every two years, provides an objective statistical picture of progress, based on the EU set of sustainable development indicators.

Amendment

(7) The EU sustainable development strategy, launched by the European Council in Gothenburg in 2001 and renewed in June 2006, seeks the continuous improvement of the quality of life for current and future generations. The Commission (Eurostat) monitoring report, which is published every two years, provides an objective statistical picture of progress, based on the EU set of sustainable development indicators.

Amendment 3
Proposal for a regulation
Recital 8a (new)

Text proposed by the Commission

(8a) The strategic objective of the Beijing Platform for Action (1995) provides a reference framework for the generation and dissemination of gender-disaggregated data and information, for planning and policy evaluation reasons.

Amendment

(8a) The strategic objective of the Beijing Platform for Action (1995) provides a reference framework for the generation and dissemination of gender-disaggregated data and information, for planning and policy evaluation reasons.

Amendment 4
Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) Demographic statistics on population constitute an essential component for the estimation of total population in the framework of the European System of Accounts (ESA).

Amendment

(9) Demographic statistics on population constitute an essential component for the estimation of total population in the framework of the European System of Accounts (ESA). The updating and purging of data are important when establishing statistics at European level.
Amendment 5
Proposal for a regulation
Recital 11


Amendment


Amendment 6
Proposal for a regulation
Recital 13

(13) In the development, production and dissemination of European statistics, the national and European statistical authorities should take account of the principles set out in the European Statistics Code of Practice as reviewed and updated by the European Statistical System Committee on 28 September 2011.

Amendment

(13) In the development, production and dissemination of European statistics, the national and European statistical authorities, and, where applicable, other relevant national and regional authorities, should take account of the principles set out in the European Statistics Code of Practice as reviewed and updated by the European Statistical System Committee on 28 September 2011.

Amendment 7
Proposal for a regulation
Article 2 — point a

(a) ‘national’ means the same as in Article 2(f) of Regulation (EC) No 763/2008, where the territory is as defined in Regulation (EC) No 1059/2003 in the version applicable at the reference time;

Amendment

(a) ‘national’ refers to the territory of a Member State within the meaning of Regulation (EC) No 1059/2003 in the version applicable at the reference time;
Amendment 8
Proposal for a regulation
Article 2 — point b

Text proposed by the Commission

(b) ‘regional’ means the same as in Article 2(g) of Regulation (EC) No 763/2008; for countries that are not members of the European Union, it means the statistical regions at level 1, 2 or 3 as agreed between those countries and the Commission (Eurostat), according to the version applicable at the reference time;

Amendment

(b) ‘regional’ means NUTS level 1, NUTS level 2 or NUTS level 3 within the meaning of Regulation (EC) No 1059/2003 in the version applicable at the reference time; for countries that are not members of the European Union, it means the statistical regions at level 1, 2 or 3 as agreed between those countries and the Commission (Eurostat), according to the version applicable at the reference time;

Amendment 9
Proposal for a regulation
Article 2 — point c

Text proposed by the Commission

(c) ‘usually resident population’ means all persons having their usual residence in a Member State at the reference time;

Amendment

(c) ‘usually resident population’ means all persons having their usual residence in a Member State of the Union at the reference time;

Amendment 10
Proposal for a regulation
Article 2 — point d — introductory part

Text proposed by the Commission

(d) ‘usual residence’ means the same as in Article 2(d) first paragraph of Regulation (EC) No 763/2008. The following persons alone shall be considered to be usual residents of the geographical area in question:

Amendment

(d) ‘usual residence’ means the place where a person normally spends the daily period of rest, regardless of temporary absences. The following persons alone shall be considered to be usual residents of the geographical area in question:

Amendment 11
Proposal for a regulation
Article 2 — point d — subparagraph 1 a (new)

Text proposed by the Commission

Where the circumstances described in point (i) or point (ii) cannot be established, the ‘usual residence population’ shall be estimated from the legal or registered population, using scientifically based, well-documented, and publically available statistical estimation methods that are monitored by the Commission (Eurostat).
Amendment 12
Proposal for a regulation
Article 2 — point h

(h) ‘validated data’ means data that fulfil a set of quality criteria for data compilation, including all the checks made in terms of the quality of the data to be published or already published.

Amendment 13
Proposal for a regulation
Article 3 — paragraph 1

1. Member States shall provide the Commission (Eurostat) with statistical data on the population as referred to in Article 2 (c) and (d) at the reference time. Where the circumstances described in Article 2 (d)i. or (d)ii. cannot be established, Member States shall provide the Commission (Eurostat) with data on population at their place of legal or registered residence at the reference time; in this case, they shall undertake proportionate efforts to compute data which are the closest possible approximation to the population referred to in Article 2 (c) and (d).

2. Member States shall provide the Commission (Eurostat) with data on vital events at the reference time, regardless of the place where the events occurred. Member States shall use the same population definition as for the data referred to in paragraph 1.

(a) live births by sex, by month of occurrence, by live birth-order, by mother’s age, by mother’s year of birth, by mother’s country of birth, by mother’s country of citizenship and by mother’s region of residence;

(b) deaths by age, by sex, by year of birth, by region of residence, by country of birth, by country of citizenship and by month of occurrence.
### Amendment 15
Proposal for a regulation  
Article 3 — paragraph 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Member States shall use the same population definition for all national and regional levels as defined in Article 2 (a) and (b).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>3. Member States shall use the same definition of population for all levels, as given in Article 2 (a) and (b).</td>
</tr>
</tbody>
</table>

### Amendment 16
Proposal for a regulation  
Article 3 — paragraph 3 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>3a. Where regional authorities provide national authorities with statistical data, Member States shall forward such data to the Commission (Eurostat), in order to enable it to acquire a more detailed overview of the demographic situation in the Union.</td>
</tr>
</tbody>
</table>

### Amendment 17
Proposal for a regulation  
Article 3 — paragraph 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Uniform conditions related to the breakdown of data referred to in paragraphs 1 and 2, as well as to the frequency, deadlines and revisions of data, shall be adopted in accordance with the examination procedure referred to in Article 9(2).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. The Commission shall adopt implementing acts laying down uniform conditions for the breakdown of data referred to in paragraphs 1 and 2, as well as to the frequency, deadlines and revisions of data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9(2).</td>
</tr>
</tbody>
</table>

### Amendment 18
Proposal for a regulation  
Article 4

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the purposes of qualified majority voting in the Council, Member States shall provide the Commission (Eurostat) with data on the total population at national level at the reference time, as referred to in Article 2(c), within 8 months from the end of the reference year. For the purposes of this Article, Member States shall not provide data on population at their place of legal or registered residence at the reference time.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the purposes of qualified majority voting in Council, Member States shall provide the Commission (Eurostat) with data on the total population at national level at the reference time, as referred to in Article 2(c), within 8 months from the end of the reference year.</td>
</tr>
</tbody>
</table>
Amendment 19
Proposal for a regulation
Article 5 — paragraph 1

Text proposed by the Commission

1. The reference time for population data shall be the midnight of 31 December.

Amendment

1. The reference time for population data shall be the end of the reference period (midnight of 31 December).

Amendment 22
Proposal for a regulation
Article 8 — paragraph 5

Text proposed by the Commission

5. Member States shall ensure that the population data as required by Article 3 of this Regulation are consistent with those required by Article 3 of Regulation (EC) No 862/2007.

Amendment

5. Member States shall ensure that the population data as required by Article 3 of this Regulation are consistent with those required by Article 3(1)(c), of Regulation (EC) No 862/2007.

Amendment 23
Proposal for a regulation
Article 9a (new)

Text proposed by the Commission

Amendment

Article 9a

Review Clause

The Commission shall submit a report to the European Parliament and to the Council on the implementation of this Regulation by 31 December 2018, and every five years thereafter. In that report, the Commission shall evaluate the quality of the data transmitted by Member States and the impact on the specific purposes referred to in Article 4. The report shall, if appropriate, be accompanied by proposals designed to further improve the functioning of this Regulation.
Ship recycling


(Ordinary legislative procedure: first reading)

(2016/C 045/38)

Amendment 1
Proposal for a regulation

Title

Text proposed by the Commission

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on ship recycling


Amendment 2
Proposal for a regulation

Recital 1a (new)

Text proposed by the Commission

(1a) The predominant method of dismantling ships through the so-called ‘beaching’ method does not and cannot represent safe and sound recycling and should therefore no longer be tolerated.

(1) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0132/2013).
Amendment 3
Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Current ship recycling capacity in OECD countries which is legally accessible to ships flying the flag of a Member State is insufficient. Safe and sound recycling capacity which already exists in countries which are not members of the OECD is sufficient to treat all EU-flagged ships and is expected to expand further by 2015 as the results of actions taken by recycling countries to meet the requirements of the Hong Kong Convention.

Amendment

(3) Current ship recycling capacity in OECD countries, which is legally accessible to ships that constitute hazardous waste for export, is not sufficiently exploited. There is a controversy about the accessibility and capacity of ship recycling facilities in the United States. Irrespective of the situation in the United States in that regard, there is significant potential capacity in certain Member States and OECD countries, which could nearly suffice for recycling and treating ships flying the flag of a Member State (EU ships), if it was fully mobilised. Together with existing and potential safe and sound recycling capacity in countries which are not members of the OECD, there should be sufficient capacity to treat all EU ships.

Amendment 4
Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

(3a) The current situation of ship recycling is characterised by an extreme externalisation of the costs. Ship recycling facilities with little or inexistent standards for the protection of workers, human health and the environment offer the highest price for waste ships. As a result, the large majority of the global ship fleet sent for recycling is taken apart on the beaches of certain countries under humanly degrading and environmentally destructive conditions that are unacceptable. It is appropriate to create a financial mechanism, applicable to all ships calling at Union ports irrespective of the flag they are flying, to counterbalance this situation by contributing to render environmentally sound recycling and treatment of ships which constitute hazardous waste competitive vis-à-vis substandard operations.
Amendment 5
Proposal for a regulation

Recital 3 b (new)

Text proposed by the Commission

(3b) In view of the ‘polluter pays’ principle, the costs of environmentally sound recycling and treatment of ships should be covered by ships owners. In the interest of protecting human health and the environment, a financial mechanism should be established to generate resources that would contribute to making environmentally sound recycling and treatment of both EU ships and non-EU ships in EU listed facilities economically competitive. All ships calling at Union ports and anchorages should contribute to the costs of environmentally sound recycling and treatment of ships so as to counterbalance the economic incentive to go to sub-standard operations, and to provide a disincentive to out-flagging. Ships that deposit a financial guarantee as a guarantee that they will go to EU listed facilities for recycling and treatment should be exempted from the recycling levy. The recycling levy as well as the financial guarantee should be fair, non-discriminatory and transparent.
(4) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships ('the Hong Kong Convention') was adopted on 15 May 2009 under the auspices of the International Maritime Organization at the request of the Parties to the Basel Convention. The Hong Kong Convention will only enter into force 24 months after the date of ratification by at least 15 States representing a combined merchant fleet of at least 40 per cent of the gross tonnage of the world’s merchant shipping and whose combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than three per cent of the gross tonnage of the combined merchant shipping of the same States. The Member States should ratify the Convention at the earliest opportunity in order to hasten its entry into force. The Convention covers the use of hazardous materials in ships so as to facilitate safe and environmentally sound recycling without compromising ship safety and operational efficiency; it also covers, through guidelines, the operation of ship recycling facilities, and includes an enforcement mechanism for ship recycling.

The Hong Kong Convention does not apply to government-owned ships nor to vessels under 500 Gross Tonnage (GT), nor to vessels operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly. The Hong Kong Convention also does not cover the actual recycling of the steel recovered at the ship recycling facility or the operations of facilities managing waste materials downstream of the initial ship recycling facility. The Hong Kong Convention does not seek to prevent the export of ships that constitute hazardous waste to non-OECD countries — a practice currently prohibited under Regulation (EC) No 1013/2006. It is expected that it will take up to a decade before the Hong Kong Convention enters into force.
Amendment 7
Proposal for a regulation
Recital 5

(5) The Hong Kong Convention provides explicitly for its Parties to take more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimise any adverse effects on human health and the environment. The establishment of a European list of ship recycling facilities fulfilling the requirements set out in this Regulation would contribute to that objective as well as to better enforcement by facilitating the flag states’ control of ships going for recycling. Those requirements for ship recycling facilities should be based on the requirements of the Hong Kong Convention.

Amendment 8
Proposal for a regulation
Recital 7

(7) The ships not covered by the scopes of the Hong Kong Convention and this Regulation should continue to be recycled in accordance with the requirements of Regulation (EC) No 1013/2006 and of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives respectively.
Amendment 9
Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) It is necessary to clarify the respective scopes of this Regulation, Regulation (EC) No 1013/2006 and Directive 2008/98/EC in order to avoid the duplication of regulatory instruments that have the same objective.

Amendment

(8) It is necessary to clarify the scope respectively of this Regulation, Regulation (EC) No 1013/2006 and Directive 2008/98/EC in order to avoid applying different legal requirements in the same situation.

Amendment 10
Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

(8a) The application of this Regulation should respect the rights of transit countries under international law.

Amendment

Amendment 11
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

(9a) Member States should arrange for a swift ratification of the Hong Kong Convention with the aim of improving ship recycling practices and conditions.

Amendment

Amendment 12
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that these penalties are applied so as to prevent circumvention of ship recycling rules. The penalties, which may be of a civil or administrative nature, should be effective, proportionate and dissuasive.

Amendment

(11) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that these penalties are applied so as to prevent circumvention of ship recycling rules. The penalties, which may be of a criminal, civil or administrative nature, should be effective, proportionate and dissuasive.
(14) Since the objective to prevent, reduce or eliminate adverse effects on human health and the environment caused by the recycling, operation and maintenance of ships flying the flag of a Member State cannot be sufficiently achieved by the Member States due to the international character of shipping and ship recycling, 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.

The purpose of this Regulation is to prevent, reduce or eliminate adverse effects on human health and the environment caused by the recycling, operation and maintenance of ships flying the flag of a Member State.

The purpose of this Regulation is also to reduce disparities between operators in the Union, in OECD countries and in relevant third countries in terms of health and safety at the workplace and environmental standards.

This Regulation aims also at facilitating ratification of the Hong Kong Convention.
Amendment 16
Proposal for a regulation
Article 2 — paragraph 1 — point 1 b (new)

Text proposed by the Commission

Amendment

(1b) ‘non-EU Ship’ means a ship flying the flag of a third country;

Amendment 17
Proposal for a regulation
Article 2 — paragraph 1 — point 3 a (new)

Text proposed by the Commission

Amendment

(3a) ‘waste’ means waste as defined in Article 3(1) of Directive 2008/98/EC;

Amendment 18
Proposal for a regulation
Article 2 — paragraph 1 — point 3 b (new)

Text proposed by the Commission

Amendment

(3b) ‘hazardous waste’ means hazardous waste as defined in Article 3(2) of Directive 2008/98/EC;

Amendment 19
Proposal for a regulation
Article 2 — paragraph 1 — point 3 c (new)

Text proposed by the Commission

Amendment

(3c) ‘treatment’ means treatment as defined in Article 3(14) of Directive 2008/98/EC;

Amendment 20
Proposal for a regulation
Article 2 — paragraph 1 — point 3 d (new)

Text proposed by the Commission

Amendment

(3d) ‘environmentally sound management’ means environmentally sound management as defined in Article 2(8) of Regulation (EC) No 1013/2006;
Amendment 21
Proposal for a regulation
Article 2 — paragraph 1 — point 5

(5) 'ship recycling' means the activity of complete or partial dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and re-use, whilst taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials on site, but not their further processing or disposal in separate facilities; the meaning of the term 'recycling' in the context of this Regulation is therefore different from the definition given in Article 3(17) of Directive 2008/98/EC;

Amendment 22
Proposal for a regulation
Article 2 — paragraph 1 — point 6

(6) 'ship recycling facility' means a defined area that is a site, yard or facility located in a Member State or in a third country and used for the recycling of ships;

Amendment 23
Proposal for a regulation
Article 2 — paragraph 1 — point 7

7. 'recycling company' means, the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for the operation of ship recycling from the owner of the ship recycling facility;

(7) 'ship recycling company' means, the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for the operation of ship recycling from the owner of the ship recycling facility;

Amendment 24
Proposal for a regulation
Article 2 — paragraph 1 — point 9 a (new)

(9a) 'transit' means the movement of a ship to its destination of recycling in accordance with this Regulation through the territory of a country other than the country of dispatch or destination and which is entitled to oppose such a movement under international law.
Amendment 25
Proposal for a regulation
Article 2 — paragraph 1 — point 20a (new)

Text proposed by the Commission

Amendment

(20a) ‘abandoned ship’ means a ship which has been left unattended and derelict in an Union port by its last recorded owner.

Amendment 26
Proposal for a regulation
Article 3 — paragraph 1

Text proposed by the Commission

Amendment

1. This Regulation shall apply to ships entitled to fly the flag of a Member State or operating under its authority.

1. This Regulation shall apply to EU ships.

Article 5a, Article 5b, Article 11b and Article 23(1) and Article 29(1) of this Regulation shall also apply to non-EU ships calling at a port or anchorage of a Member State to engage in a ship/port interface.

Amendment 27
Proposal for a regulation
Article 3 — paragraph 2 — points c a (new) and c b (new)

Text proposed by the Commission

Amendment

(ca) ships that are not able to travel by their own means, irrespective of the flag they fly and thus constitute waste for the purposes of Regulation (EC) No 1013/2006, unless they have a valid contract for full repair;

(cb) ships that do not comply with the applicable provisions under Union and international law with regard to safety.

Amendment 28
Proposal for a regulation
Article 4 — title

Text proposed by the Commission

Amendment

Control of prohibited or restricted hazardous materials
Amendment 29
Proposal for a regulation
Article 4 — paragraph 3a (new)

Text proposed by the Commission

3a. The new application of anti-fouling systems containing organotin compounds as a biocide or any other anti-fouling system whose application or use is prohibited by the International Convention on the Control of Harmful Anti-fouling Systems on Ships shall be prohibited on ships.

Amendment 30
Proposal for a regulation
Article 5

Text proposed by the Commission

1. An inventory of hazardous materials shall be kept on board of each new ship.

2. An inventory of hazardous materials shall be established before a ship goes for recycling and kept on board.

3. Existing ships registered under the flag of a third country and applying to be registered under the flag of a Member State shall ensure that an inventory of hazardous materials is kept on board.

4. The inventory of hazardous materials shall:
   (a) be specific to each ship;
   (b) provide evidence that the ship complies with the prohibition or restrictions on installing or using hazardous materials in accordance with Article 4;

Inventory of hazardous materials

1. Member States shall ensure that an inventory of hazardous materials shall be established and kept available on board each new EU ship.

2. Member States shall ensure that for existing EU ships, an inventory of hazardous materials shall be established in accordance with the timelines indicated in paragraph 2a, or before a ship goes for recycling, whatever the earlier, and kept available on board.

2a. The following timelines shall apply for the establishment of an inventory:

— for ships more than 25 years old on … (*) ;
— for ships more than 20 years old on… (**) ;
— for ships more than 15 years old on … (***) ;
— for ships less than 15 years old on … (****).

4. The inventory of hazardous materials shall:
   (a) be specific to each ship;
   (b) provide evidence that the ship complies with the prohibition or restrictions on installing or using hazardous materials in accordance with Article 4;
(c) identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and \textit{approximate} quantities.

5. In addition to paragraph 4, for existing ships a plan shall be prepared describing the visual/sampling check by which the inventory of hazardous materials has been developed.

6. The inventory of hazardous materials shall consist of three parts:

(a) a list of hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and \textit{approximate} quantities (Part I);

(b) a list of the waste present on board the ship, including waste generated during the operation of the ship (Part II);

(c) a list of the stores present on board the ship once the decision to recycle it has been taken (Part III).

7. Part I of the inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting new installations containing any hazardous materials referred to in Annex I and relevant changes in the structure and equipment of the ship.

8. Prior to recycling, the inventory shall, in addition to the properly maintained and updated Part I, incorporate Part II for operationally generated wastes and Part III for stores, and be verified by the Member State whose flag the ship is flying.

(c) for new ships, identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and \textit{precise} quantities;

\textit{(ca)} for existing ships, identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and quantities as precisely as practicable;

\textit{(cb)} take into account the guidelines developed by the IMO.
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the list of items for the inventory of hazardous materials in Annex I.

(*) One year after the entry into force of this Regulation.
(**) Two years after the entry into force of this Regulation.
(***) Three years after the entry into force of this Regulation.
(****) Four years after the entry into force of this Regulation.

Amendment 120
Proposal for a regulation
Article 5a (new)

Amendment

Art icle 5a

Incentive-based system

In view of the current situation of ship recycling, characterised by an extreme externalisation of costs and unacceptable conditions involved in the dismantling of ships, the Commission shall, before the end of 2015, submit a legislative proposal for an incentive-based system that would facilitate safe and sound ship recycling.

Amendment 33
Proposal for a regulation
Article 6 — title

Amendment

Preparation for recycling: general requirements

General requirements for ship owners

Amendment 34
Proposal for a regulation
Article 6 — paragraph 1 — point a

Amendment

(a) prior to publication of the European List, are only recycled in ship recycling facilities that are located in the Union or in a country member of the OECD;

(a) prior to publication of the European List, are only recycled in ship recycling facilities that are duly authorised by the competent authorities in the Union or in a member country of the OECD;
Amendment 35
Proposal for a regulation
Article 7 — paragraph 1

Text proposed by the Commission
1. A ship-specific ship recycling plan shall be developed prior to any recycling of a ship.

Amendment
1. A ship-specific ship recycling plan shall be developed for any EU ship more than 20 years old or prior to any recycling of a ship, whatever the earlier, no later than … (*)

(*) 30 months after the entry into force of this Regulation

Amendment 36
Proposal for a regulation
Article 7 — paragraph 2 — point a

Text proposed by the Commission
(a) be developed by the ship recycling facility taking into account information provided by the shipowner in accordance with point (b) of Article 9(3);

Amendment
(a) prior to publication of the European List, be developed by a ship recycling facility that is located in the Union or in a member country of the OECD, taking into account information provided by the ship owner in accordance with point (b) of Article 9(3);

Amendment 37
Proposal for a regulation
Article 7 — paragraph 2 — point a a (new)

Text proposed by the Commission

Amendment

(aa) after publication of the European List, be developed by a ship recycling facility that is included in the European List, taking into account the information provided by the ship owner in accordance with point (b) of Article 9(3);

Amendment 38
Proposal for a regulation
Article 7 — paragraph 2 — point d

Text proposed by the Commission
(d) include information on the type and amount of hazardous materials and waste generated by the recycling of the specific ship, including those materials identified in the inventory of hazardous materials, and on how these hazardous materials and waste will be managed in the facility as well as in subsequent waste management facilities;

Amendment
(d) include information on the type and amount of hazardous materials and of waste generated by the recycling of the specific ship, including those materials and the waste identified in the inventory of hazardous materials, and on how those hazardous materials and that waste will be treated in the facility as well as in subsequent waste treatment facilities;
Amendment 39
Proposal for a regulation
Article 7 — paragraph 2 — point e a (new)

Text proposed by the Commission

Amendment
(lea) be updated within six months of a renewal survey or an additional survey.

Amendment 40
Proposal for a regulation
Article 7 — paragraph 2 a (new)

Text proposed by the Commission

Amendment
2a. Ship owners selling an EU ship more than 20 years old to a new owner that intends to fly the flag of a third country shall ensure that the contract with the new ship owner stipulates that the new owner, and any subsequent owners, take over the responsibility for developing a ship recycling plan in the event that they wish to call at Union ports or anchorages.

Amendment 42
Proposal for a regulation
Article 8 — paragraph 1

Text proposed by the Commission

Amendment
1. Surveys shall be carried out by officers of the administration or of a recognised organisation acting on behalf of the administration.

Amendment 43
Proposal for a regulation
Article 8 — paragraph 3

Text proposed by the Commission

Amendment
3. The initial survey of a new vessel shall be conducted before the ship is put in service. For existing vessels, an initial survey shall be conducted within five years of the entry into force of this Regulation. The officers carrying out that survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.
Amendment 44
Proposal for a regulation
Article 8 — paragraph 5

Text proposed by the Commission

5. The additional survey, either general or partial, may be conducted at the request of the shipowner after a change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements and material. The officers carrying out that survey shall ensure that any such change, replacement, or significant repair has been made in a manner that allows the ship to comply with the requirements of this Regulation, and they shall verify that Part I of the inventory of hazardous materials has been amended accordingly.

Amendment

5. The ship owner shall request an additional survey, either general or partial, after a significant change, replacement, or repair of the structure, equipment, systems, fittings, arrangements and material. The officers carrying out that survey shall ensure that any such significant change, replacement, or repair has been made in a manner that allows the ship to comply with the requirements of this Regulation, and they shall verify that Part I of the inventory of hazardous materials has been amended accordingly.

Amendment 45
Proposal for a regulation
Article 8 — paragraph 6 — subparagraph 2 — point a a (new)

Text proposed by the Commission

(aa) the ship has been pre-cleaned in accordance with point (c) of Article 6(1);

Amendment

7a. The officers carrying out the surveys may, at any time or at the duly substantiated request of port authorities which have serious concerns about the condition of a ship that has put into port, decide to carry out an unannounced inspection in order to determine whether the ship complies with this Regulation.

Amendment 46
Proposal for a regulation
Article 8 — paragraph 7 a (new)

Text proposed by the Commission

Amendment

2. The contract shall be effective at the latest from the time of the request for the final survey referred to in Article 8(1)(d) and until the recycling is completed.

Amendment 47
Proposal for a regulation
Article 9 — paragraph 2

Text proposed by the Commission

2. The contract shall be effective at the latest from the time of the request for the final survey referred to in Article 8(6) and until the recycling is completed.
Amendment 48
Proposal for a regulation
Article 9 — paragraph 3 — point b

Text proposed by the Commission
(b) to provide the ship recycling facility with all the ship-relevant information necessary for the development of the ship recycling plan required by Article 7;

Amendment
(b) to provide the ship recycling facility at least four months prior to the intended date for the ship recycling with all the ship-relevant information necessary for the development of the ship recycling plan required by Article 7, or in cases where the ship owner is not in possession of such information, to inform the ship recycling facility and collaborate with them to ensure that any lacunae are adequately resolved;

Amendment 49
Proposal for a regulation
Article 9 — paragraph 3 — point b a (new)

Text proposed by the Commission
(ba) to provide the ship recycling facility with a copy of the ready for recycling certificate issued in accordance with Article 10;

Amendment
(ba) to provide the ship recycling facility with a copy of the ready for recycling certificate issued in accordance with Article 10;

Amendment 50
Proposal for a regulation
Article 9 — paragraph 3 — point b b (new)

Text proposed by the Commission
(bb) to send a ship for ship recycling only when the ship recycling plan has been explicitly approved by the competent authority in accordance with point (b) of Article 7(2);

Amendment
(bb) to send a ship for ship recycling only when the ship recycling plan has been explicitly approved by the competent authority in accordance with point (b) of Article 7(2);

Amendment 51
Proposal for a regulation
Article 9 — paragraph 3 — point c

Text proposed by the Commission
(c) to take back the ship prior to the start of the recycling or after the start of the recycling, where technically feasible, in case the content of hazardous materials on board does not substantially correspond to the inventory of hazardous materials and does not allow for appropriate recycling of the ship;

Amendment
(c) to take back the ship prior to the start of the recycling or after the start of the recycling, where technically feasible, if the intended ship recycling is impractical or would undermine safety or protection of the environment due to a failure to describe the ship properly, whether in the inventory or elsewhere;
Amendment 52
Proposal for a regulation
Article 9 — paragraph 3 — point c (new)

Text proposed by the Commission

Amendment

(ca) to cover the actual extra costs in the event that the content of hazardous materials on board is significantly higher than indicated in the inventory of hazardous chemicals, but does not render the intended ship recycling impractical or undermine safety or protection of the environment.

Amendment 53
Proposal for a regulation
Article 9 — paragraph 4 — point a

Text proposed by the Commission

Amendment

(a) to develop, in collaboration with the shipowner, a ship-specific ship recycling plan in accordance with Article 7; within one month of reception of all relevant information pursuant to point (b) of paragraph 3.

Amendment 54
Proposal for a regulation
Article 9 — paragraph 4 — point c

Text proposed by the Commission

Amendment

(c) to prohibit the start of any recycling of the ship prior to submission of the report referred to in point (b); and prior to approval of the ship recycling plan by its competent authority.

Amendment 55
Proposal for a regulation
Article 9 — paragraph 4 — point d — introductory part

Text proposed by the Commission

Amendment

(d) when preparing to receive a ship for recycling, to notify in writing at least 14 days prior to the planned start of the recycling the relevant competent authorities of the intention to recycle the ship concerned;
Amendment 56
Proposal for a regulation
Article 9 — paragraph 4 a (new)

Text proposed by the Commission

4a. The ship owner shall provide a copy of the contract to the competent authority.

Amendment 57
Proposal for a regulation
Article 10 — paragraph 1

Text proposed by the Commission

1. After completion of an initial or renewal survey or of an additional survey conducted at the request of the shipowner, a Member State shall issue an inventory certificate in accordance with the form laid down in Annex IV. This certificate shall be supplemented by Part I of the inventory of hazardous materials.

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the inventory certificate laid down in Annex IV.

Amendment 58
Proposal for a regulation
Article 10 — paragraph 2

Text proposed by the Commission

2. After successful completion of a final survey in accordance with Article 8(6), the administration shall issue a ready for recycling certificate in accordance with the form laid down in Annex V. This certificate shall be supplemented by the inventory of hazardous materials and the ship recycling plan.

Amendment 59
Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Article 11a

Inspections
Text proposed by the Commission

Amendment

Member States shall apply control provisions for EU ships equivalent to those laid down in Directive 2009/16/EC, in accordance to their national legislation. A more detailed inspection shall be carried out, taking into account guidelines developed by the IMO, where an inspection reveals that a ship does not comply with the requirements set out in Article 4(1) to (3a), Articles 5 and 7, or does not carry a valid inventory certificate in accordance with Article 10(1), or whenever there are clear grounds for believing, after an inspection, that:

— the condition of the ship or its equipment does not comply with the requirements set out in Article 4(1) to (3a) or does not correspond substantially to the particulars of the certificate, and/or the inventory of hazardous materials, or

— there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials.

Amendment 60
Proposal for a regulation

Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11b

Provisions applicable to non-EU ships in addition to Article 5a, Article 5b, Article 23(1) and Article 29 (1)

1. Member States shall ensure that non-EU ships comply with the requirements set out in Article 4(1) to (3a), without prejudice to the requirements of other Union legislation which may require further measures. Member States shall prohibit the installation or use of the materials referred to in Article 4 (1) to (3a), on non-EU ships whilst in its ports, anchorages, shipyards, ship repair yards or offshore terminals.

2. New non-EU ships entering a port or an anchorage of a Member State shall keep available on board a valid inventory of hazardous materials.

3. Existing non-EU ships entering a port or an anchorage of a Member State shall keep available on board an inventory of hazardous materials in accordance with the timelines indicated in Article 5(2a). The inventory shall fulfil the requirements set out in Article 5(4) to (7).
Text proposed by the Commission

4. Non-EU ships entering a port or an anchorage of a Member State shall present a statement of compliance issued by the ship’s administration or recognised organisation acting on its behalf confirming that the ship complies with the provisions set out in paragraphs 1 to 3.

5. Non-EU ships that have been bought from an owner flying an EU flag when the ship was older than 20 years, where entering a port or an anchorage of a Member State, shall keep available on board a ship recycling plan in accordance with point (d) of Article 7(2).

6. A more detailed inspection shall be carried out where an inspection reveals that a non-EU ship does not comply with the requirements set out in paragraphs 1 to 5, or whenever there are clear grounds for believing, after an inspection, that:

— the condition of the ship or its equipment does not comply with the requirements of paragraph 1 or does not correspond substantially to the particulars of the certificate or the inventory of hazardous materials, or

— there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials.

7. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable to owners of non-EU ships that do not comply with the provisions in this Article.

Amendment 61
Proposal for a regulation
Article 12 — paragraph 2 — introductory part

In order to be included in the European list, a ship recycling facility shall comply with the following requirements:

Amendment
In order to be included in the European list, a ship recycling facility shall comply with the following requirements, taking into account relevant IMO, ILO and other international guidelines:

Amendment 62
Proposal for a regulation
Article 12 — paragraph 2 — point a a (new)

(aa) operate from permanent built structures (dry docks, quays or concrete slip-ways);
Amendment 63  
Proposal for a regulation  
Article 12 — paragraph 2 — point a b (new)

Text proposed by the Commission

(\(ab\)) have sufficient cranes available for lifting parts cut from a ship;

Amendment

Amendment 64  
Proposal for a regulation  
Article 12 — paragraph 2 — point b

Text proposed by the Commission

(b) establish management and monitoring systems, procedures and techniques which do not pose health risks to the workers concerned or to the population in the vicinity of the ship recycling facility and which will prevent, reduce, minimise and to the extent practicable eliminate adverse effects on the environment caused by ship recycling;

Amendment

(b) establish management and monitoring systems, procedures and techniques which ensure that no health risks are posed to the workers concerned or to the population in the vicinity of the ship recycling facility and which will prevent, reduce, minimise and to the extent practicable eliminate adverse effects on the environment caused by ship recycling;

Amendment 65  
Proposal for a regulation  
Article 12 — paragraph 2 — point d

Text proposed by the Commission

(d) develop and approve a ship recycling facility plan;

Amendment

(d) develop and adopt a ship recycling facility plan;

Amendment 66  
Proposal for a regulation  
Article 12 — paragraph 2 — point j

Text proposed by the Commission

(j) ensure access for emergency response equipment such as fire-fighting equipment and vehicles, ambulances and cranes to all areas of the ship recycling facility;

Amendment

(j) ensure rapid access for emergency response equipment such as fire-fighting equipment and vehicles, ambulances and cranes to the ship and all areas of the recycling facility once work has commenced to recycle the ship.
Amendment 67
Proposal for a regulation
Article 12 — paragraph 2 — point k

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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</thead>
<tbody>
<tr>
<td>(k) ensure the containment of all hazardous materials present on board of a ship during the recycling process so as to prevent any release of these hazardous materials into the environment and in particular in intertidal zones;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment</th>
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<tbody>
<tr>
<td>(k) ensure the containment of all hazardous materials present on board of a ship during the recycling process so as to prevent any release of these hazardous materials into the environment and in particular in intertidal zones, notably by cutting the bottom part in a permanent or floating dry dock;</td>
</tr>
</tbody>
</table>

Amendment 68
Proposal for a regulation
Article 12 — paragraph 2 — point m

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tbody>
<tr>
<td>(m) handle hazardous materials and waste only on impermeable floors with effective drainage systems;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(m) without prejudice to point (k), handle hazardous materials and waste only on impermeable floors with effective drainage systems;</td>
</tr>
</tbody>
</table>

Amendment 69
Proposal for a regulation
Article 12 — paragraph 2 — point m a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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</thead>
<tbody>
<tr>
<td>(ma) ensure that all wastes prepared for recycling are only transferred to recycling facilities authorised to deal with their recycling without endangering human health and in an environmentally sound manner;</td>
</tr>
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<tr>
<th>Amendment</th>
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<tbody>
<tr>
<td>(ma) ensure that all wastes prepared for recycling are only transferred to recycling facilities authorised to deal with their recycling without endangering human health and in an environmentally sound manner;</td>
</tr>
</tbody>
</table>

Amendment 70
Proposal for a regulation
Article 12 — paragraph 2 — point m b (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
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<tbody>
<tr>
<td>(mb) ensure appropriate storage for dismantled spare parts, including impermeable storage for oil-contaminated spare parts;</td>
</tr>
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<tr>
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<tbody>
<tr>
<td>(mb) ensure appropriate storage for dismantled spare parts, including impermeable storage for oil-contaminated spare parts;</td>
</tr>
</tbody>
</table>
Amendment 71
Proposal for a regulation
Article 12 — paragraph 2 — point mc (new)

Text proposed by the Commission

Amendment

(mc) ensure functioning equipment for the treatment of water, including rainwater, in compliance with health and environmental regulations;

Amendment 72
Proposal for a regulation
Article 12 — paragraph 2 — point md (new)

Text proposed by the Commission

Amendment

(md) ensure appropriate storage for explosive and/or inflammable materials and gas, including the prevention of fire hazards and excessive stockpiling;

Amendment 73
Proposal for a regulation
Article 12 — paragraph 2 — point me (new)

Text proposed by the Commission

Amendment

(me) ensure appropriate impermeable and sheltered storage and containment for solid and liquid PCB/PCT waste or material;

Amendment 74
Proposal for a regulation
Article 12 — paragraph 2 — point mf (new)

Text proposed by the Commission

Amendment

(mf) ensure that all PCB/PCT containing material is managed in accordance with the obligations and Guidelines of the Stockholm Convention on Persistent Organic Pollutants;
Amendment 75
Proposal for a regulation
Article 12 — paragraph 2 — point n

Text proposed by the Commission

(n) ensure that all wastes generated from the recycling activity are only transferred to waste management facilities authorised to deal with their treatment and disposal without endangering human health and in an environmentally sound manner.

Amendment

(n) ensure that all wastes generated from the recycling activity are only transferred to waste management facilities authorised to deal with their treatment and disposal without endangering human health and in an environmentally sound manner. Therefore draw up a register of secondary operators working at the main facility, including information on their waste management methods and capacities.

Amendment 76
Proposal for a regulation
Article 13 — paragraph 2 — point 1

Text proposed by the Commission

(1) identify the permit, license or authorization granted by its competent authorities to conduct ship recycling and specify the size limitations (maximum length, breadth and lightweight) of the ships it is authorized to recycle as well as any applicable limitations;

Amendment

(1) identify the permit, license or authorization granted by its competent authorities to conduct ship recycling and specify the size limitations (maximum length, breadth and lightweight) of the ships it is authorized to recycle as well as any applicable limitations and conditions;

Amendment 77
Proposal for a regulation
Article 13 — paragraph 2 — point 3 a (new)

Text proposed by the Commission

(3a) provide evidence that the ship recycling facility complies with all health and safety provisions under the laws of that country;

Amendment

Amendment 78
Proposal for a regulation
Article 13 — paragraph 2 — point 4 a (new)

Text proposed by the Commission

(4a) identify all subcontractors directly involved in the process of ship recycling and provide evidence of their permits;
Amendment 79
Proposal for a regulation
Article 13 — paragraph 2 — point 5 — point b — introductory part

Text proposed by the Commission

(b) which waste **management** process will be applied within the facility: *incineration, landfilling* or other waste treatment method and provide evidence that the applied process will be carried out without endangering human health, without harming the environment and, in particular:

Amendment

(b) which waste **treatment** process will be applied within the facility: *(e.g. landfilling, neutralization of acids, chemical destruction)* or other waste treatment method *for each of the materials listed in Annex I*, and provide evidence that the applied process will be carried out *in accordance with established best practices, global norms and laws*, without endangering human health, without harming the environment and, in particular:

Amendment 80
Proposal for a regulation
Article 13 — paragraph 2 — point 5 — point c — introductory part

Text proposed by the Commission

(c) which waste **management** process will be applied if the hazardous materials is destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:

Amendment

(c) which waste **treatment** process will be applied if the hazardous materials are destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:

Amendment 81
Proposal for a regulation
Article 13 — paragraph 2 — point 5 — point c — point ii

Text proposed by the Commission

(ii) evidence that the waste treatment facility is authorized to treat the hazardous material;

Amendment

(ii) evidence that the waste treatment facility is authorized by the relevant competent authority to treat the hazardous material;

Amendment 82
Proposal for a regulation
Article 13 — paragraph 2 — point 5 — point c a (new)

Text proposed by the Commission

**(ca)** have a system in place to document the actual quantities of hazardous materials removed from each ship compared to the inventory of hazardous materials and the respective treatment processes applied within the facility and outside the facility for those materials
Amendment 83
Proposal for a regulation
Article 13 — paragraph 2 — point 5a (new)

Text proposed by the Commission
(5a) have adequate insurance to cover health and safety liabilities and the costs of environmental remediation in compliance with relevant legislation of the Member State or third country where the facility is located.

Amendment 84
Proposal for a regulation
Article 13 — paragraph 2 — point 5b (new)

Text proposed by the Commission
(5b) conduct regular monitoring of water and sediments in the vicinity of the ship recycling facility to check for pollution.

Amendment 115
Proposal for a regulation
Article 14

Text proposed by the Commission
Authorization of ship recycling facilities located in a Member State

1. Competent authorities shall authorize ship recycling facilities located on their territory that comply with the requirements set out in Article 12 to conduct ship recycling. That authorization may be given to the respective ship recycling facilities for the maximum period of five years

2. Member States shall establish and update a list of the ship recycling facilities that they have authorised in accordance with paragraph 1.

3. The list referred to in paragraph 2 shall be notified to the Commission without delay and not later than one year from the date of the entry into force of this Regulation.

4. Where a ship recycling facility ceases to comply with the requirements set out in Article 12, the Member State shall withdraw the authorization given to the ship recycling facility concerned and shall inform the Commission thereof without delay.

5. Where a new ship recycling facility has been authorized in accordance with paragraph 1, the Member State shall inform the Commission thereof without delay.
Amendment 116
Proposal for a regulation
Article 15 — Title

Text proposed by the Commission

Ship recycling facilities located outside of the Union

Amendment

Inclusion of a ship recycling facility in the European List

Amendment 117
Proposal for a regulation
Article 15 — paragraph 1

Text proposed by the Commission

1. A recycling company located outside the Union wishing to recycle ships flying the flag of a Member State shall submit an application to the Commission for inclusion of its ship recycling facility in the European List.

Amendment

1. A recycling company owning a ship recycling facility and wishing to recycle EU or non-EU ships in accordance with the provisions of this Regulation shall submit an application to the Commission for inclusion of its ship recycling facility in the European List.

Amendment 87
Proposal for a regulation
Article 15 — paragraph 3

Text proposed by the Commission

3. By applying for inclusion in the European List, ship recycling facilities accept the possibility of being subject to a site inspection by the Commission or agents acting on its behalf prior or after their inclusion in the European list in order to verify their compliance with the requirements set out in Article 12.

Amendment

3. In order to be included in the European list, ship recycling facilities shall be audited by an international team of experts nominated by the Commission prior to their inclusion in the European list with a view to verifying their compliance with the requirements set out in Article 12, and once every two years thereafter. The ship recycling facility shall also agree that it may be subject to additional unannounced site inspections by an international team. The international team of experts shall cooperate with the competent authorities of the Member State or the third country where the facility is located in order to carry out such site inspections.

Amendment 118
Proposal for a regulation
Article 15 — paragraph 4

Text proposed by the Commission

4. Based on an assessment of the information and supporting evidence provided in accordance with paragraph 2, the Commission shall decide by means of an implementing act whether to include a ship recycling facility located outside of the Union in the European list. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27.

Amendment

4. Based on an assessment of the information and supporting evidence provided in accordance with paragraph 2, the Commission shall decide by means of an implementing act whether to include a ship recycling facility located in a Member State or outside of the Union in the European list. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27.
Amendment 119
Proposal for a regulation
Article 16 — paragraph 1

Text proposed by the Commission

1. The Commission shall establish by means of an implementing act in accordance with the examination procedure referred to in Article 27 a European List of the ship recycling facilities which:

(a) are located in the Union and have been notified by the Member States in accordance with Article 14(3);

(b) are located outside the Union and whose inclusion has been decided in accordance with Article 15(4).

Amendment

deleted

Amendment 88
Proposal for a regulation
Article 16 — paragraph 2

Text proposed by the Commission

2. The European list shall be published in the Official Journal of the European Union and on the website of the Commission at the latest thirty-six months after the day of entry into force of this Regulation.

Amendment

2. The European list shall be published in the Official Journal of the European Union and on the website of the Commission at the latest twenty-four months after … (*) . It shall be split into two sub-lists, including EU/OECD, and non OECD ship recycling facilities, respectively.

(*) Date of entry into force of this Regulation

Amendment 89
Proposal for a regulation
Article 16 — paragraph 2 a (new)

Text proposed by the Commission

2a. The European List shall include the following information about the ship recycling facility:

(a) the method of recycling;

(b) the type and size of ships that are suitable for recycling; and

(c) any limitation under which the facility operates, including as regards hazardous waste management.
Amendment 90
Proposal for a regulation
Article 16 — paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The European List shall indicate the date of inclusion of the ship recycling facility. An inclusion shall be valid for a maximum period of five years and shall be renewable.

Amendment 91
Proposal for a regulation
Article 16 — paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. In the event of any significant changes to the information provided to the Commission, ship recycling facilities included in the European list shall provide updated evidence without delay. In any event, three months prior to the expiry of each five year period of inclusion on the European list, the ship recycling company shall declare that:

(a) the evidence that it has provided is complete and up-to-date;

(b) the ship recycling facility continues and will continue to comply with the requirements of Article 12.

Amendment 92
Proposal for a regulation
Article 16 — paragraph 3 — point a

Text proposed by the Commission

Amendment

(a) to include a ship recycling facility in the European list in any of the following cases:

(i) where it has been authorized in accordance with Article 13;
(ii) where its inclusion in the European list has been decided in accordance with Article 15(4);
### Amendment 93

**Proposal for a regulation**

**Article 16 — paragraph 3 — point b — point 2**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) where the ship recycling facility <em>has been included in the list for more than five years and</em> has not provided evidence that it still complies with the requirements set out in Article 12.</td>
<td>(2) where the ship recycling facility, <em>three months prior to the expiry of the five-year inclusion</em>, has not provided evidence that it still complies with the requirements set out in Article 12:</td>
</tr>
</tbody>
</table>

### Amendment 94

**Proposal for a regulation**

**Article 16 — paragraph 3 — point b — point 2 a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2a) where the ship recycling facility is located in a State that applies prohibitions or discriminatory measures against any ships flying the flag of a Member State.</td>
<td></td>
</tr>
</tbody>
</table>

### Amendment 95

**Proposal for a regulation**

**Article 21 — point a**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) notify the administration in writing at least 14 days before the planned start of the recycling of the intention to recycle a ship in order to enable the administration to prepare for the survey and certification required by this Regulation;</td>
<td>(a) notify the administration, in writing at least <strong>three months</strong> before the planned start of the recycling of the intention to recycle a ship in order to enable the administration to prepare for the survey and certification required by this Regulation; <strong>it shall simultaneously notify its intention to recycle a ship to the administration of the country under whose jurisdiction it is at that time;</strong></td>
</tr>
</tbody>
</table>

### Amendment 96

**Proposal for a regulation**

**Article 21 — point b a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ba) transmit to the administration a list of the States through which the ship is intended to transit on its voyage to the ship recycling facility;</td>
<td></td>
</tr>
</tbody>
</table>
Amendment 97
Proposal for a regulation
Article 22 — paragraph 1 — point c

Text proposed by the Commission

(c) information regarding illegal recycling and follow-up actions undertaken by the Member State.

Amendment

(c) information regarding illegal recycling and follow-up actions undertaken by the Member State, including details of the penalties laid down pursuant to Article 23.

Amendment 98
Proposal for a regulation
Article 22 — paragraph 2

Text proposed by the Commission

2. Each Member State shall transmit the report by 31 December 2015 and every two years thereafter.

Amendment

2. Each Member State shall transmit the report by 31 December 2015 and every year thereafter.

Amendment 99
Proposal for a regulation
Article 22 — paragraph 3 a (new)

Text proposed by the Commission

3a. The Commission shall enter this information in an electronic database that is permanently accessible to the public.

Amendment 100
Proposal for a regulation
Article 23 — paragraph 1

Text proposed by the Commission

1. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable to ships that:

(d) do not have on board an inventory of hazardous materials required by Articles 5 and 28;

(e) were sent for recycling without complying with the general requirements for the preparation set out in Article 6;

Amendment

1. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable and effectively applied to the owners of EU ships and non-EU ships that:

(a) do not comply with the prohibitions of certain hazardous materials pursuant to Article 4 and Article 11b;

(b) do not have on board a valid inventory of hazardous materials pursuant to Article 5 and Article 11b;

(c) do not have on board a ship recycling plan pursuant to Article 7 and Article 11b;
(f) were sent for recycling without an inventory certificate required by Article 6;

(g) were sent for recycling without a ready for recycling certificate required by Article 6;

(h) were sent for recycling without a notification to the administration in writing as required by Article 21;

(i) were recycled in a manner which did not conform with the ship recycling plan required by Article 7.

Amendment 101
Proposal for a regulation
Article 23 — paragraph 1 a (new)

1a. Member States shall ensure that penalties pursuant to Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (1) are applicable to the owners of EU ships that:

(a) were sent for recycling without complying with the general requirements pursuant to Article 6 of this Regulation;

(b) were sent for recycling without an inventory certificate pursuant to Article 10(1) of this Regulation;

(c) were sent for recycling without a contract pursuant to Article 9 of this Regulation;

(d) were sent for recycling without a notification to the administration in writing pursuant to Article 21 of this Regulation;

(e) were recycled without approval of the ship recycling plan by the competent authority pursuant to point (b) of Article 7(2) of this Regulation or in a manner which did not comply with the ship recycling plan pursuant to Article 7 of this Regulation.

(1) OJ L 328, 6.12.2008, p. 28
Amendment 102
Proposal for a regulation
Article 23 — paragraph 2

2. The penalties shall be effective, proportionate and dissuasive. In particular, where a ship is sent for recycling in a ship recycling facility which is not included in the European list the applicable penalties shall, as a minimum, correspond to the price paid to the shipowner for its ship.

Amendment 103
Proposal for a regulation
Article 23 — paragraphs 5 and 6

5. Where a ship is sold and, within less than six months after the selling, is sent for recycling in a facility which is not included in the European list, the penalties shall be:

(a) jointly imposed to the last and penultimate owner if the ship is still flying the flag of an European Member State;

(b) only imposed to the penultimate owner if a ship is not flying anymore the flag of an European Member State.

6. Exemptions to the penalties mentioned in paragraph 5 may be introduced by Member States in the case where the shipowner has not sold its ship with the intention to have it recycled. In that case, Member States shall request evidence supporting the shipowner’s claim including a copy of the sales contract.

Amendment 104
Proposal for a regulation
Article 24 — paragraph 3

3. Where the request for action and the accompanying observations show in a plausible manner that a breach of the Regulation exists, the competent authority shall consider any such observations and requests for action. In such circumstances, the competent authority shall give the recycling company an opportunity to make its views known with respect to the request for action and the accompanying observations.
Amendment 105
Proposal for a regulation
Article 24 — paragraph 5

Text proposed by the Commission

5. Member States may decide not to apply paragraphs 1 and 4 to cases of imminent breach of this Regulation.

Amendment

deleted

Amendment 106
Proposal for a regulation
Article 26 — paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 5, 9, 10 and 15 shall be conferred on the Commission 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 Articles 5, 9, 10 and 15 shall be conferred on the Commission for a period of five years from … (*) The Commission shall draw up a report in respect of the delegation of power no 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 no later than three months before the end of each period.

(*) Date of entry into force of this Regulation

Amendment 107
Proposal for a regulation
Article 28 — paragraph 1

Text proposed by the Commission

1. An inventory of hazardous materials shall be established for all ships not later than five years after the entry into force of this Regulation.

Amendment

deleted

Amendment 108
Proposal for a regulation
Article 28 a (new)

Text proposed by the Commission

Directory 2009/16/EC
Annex IV — point 45 (new)

Amendment to Directive 2009/16/EC on port State control

In Annex IV of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (1), the following point is added:
Amendment 109
Proposal for a regulation
Article 29 — paragraph 1
Regulation (EC) No 1013/2006
Article 1 — paragraph 3 — point i

Text proposed by the Commission

(i) Ships falling under the scope of Regulation (EU) No XX [insert full title of this Regulation].

Amendment

(i) Ships that are delivered to a ship recycling facility included in the European list in accordance with Regulation (EU) No XX [insert full title of this Regulation].

Amendment 110
Proposal for a regulation
Article 29 a (new)

Text proposed by the Commission

Amendment

Article 29a

Transit

1. Member States shall ensure that the relevant administration, or another governmental authority, notifies the competent authority or authorities of transit within 7 days of receipt of the notification from the ship owner.

2. The competent authority or authorities of transit shall have 60 days from the date of notification referred to in paragraph 1 within which to:

(a) consent to the transit of the ship through its waters, with or without conditions; or

(b) refuse to consent to transit of the ship through its waters.

The Member State concerned shall immediately inform the ship owner of the decision of the competent authority or authorities of transit.

3. In the event that the consent referred to in paragraph 2 is refused, or is made subject to conditions which are not acceptable to the ship owner, the ship owner may only dispatch the ship for recycling via transit States which have not objected.
4. In the absence of a reply within the 60-day period referred to in paragraph 2, the competent authority of transit shall be presumed to have refused its consent.

5. Notwithstanding paragraph 4, in accordance with Article 6(4) of the Basel Convention, if at any time a competent authority of transit has decided not to require prior written consent, either generally or under specific conditions, the competent authority of transit shall be presumed to have given its consent if no response is received by the Member State concerned within 60 days of the transmission of the notification to the competent authority of transit.

Amendment 111
Proposal for a regulation
Article 30

The Commission shall review this Regulation not later than two years after the date of entry into force of the Hong Kong Convention. This review shall consider the inclusion of facilities authorized by the Parties to the Hong Kong Convention in the European List of ship recycling facilities in order to avoid duplication of work and administrative burden.

Amendment 112
Proposal for a regulation
Article 31 — paragraph 1

This Regulation shall enter into force on the 365th day after its publication in the Official Journal of the European Union.

(*) One year after the entry into force of this Regulation.

Amendment 113
Proposal for a regulation
Annex IV — subtitle 5 a (new)

UNANNOUNCED SURVEY CERTIFICATE

At an unannounced survey in accordance with Article 8 of the Regulation, the ship was found to comply with the relevant provisions of the Regulation.
Text proposed by the Commission

Amendment

Signed: … (Signature of duly authorized official)

Place: …

Date (dd/mm/yyyy): …

(Seal or stamp of the authority, as appropriate)