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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.

EUROPEAN PARLIAMENT

2013-2014 SESSION

Sittings of 20 to 23 May 2013

The Minutes of this session have been published in OJ C 246 E, 27.8.2013.

TEXTS ADOPTED

Tuesday 21 May 2013

I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

P7_TA(2013)0198

Takeover bids

European Parliament resolution of 21 May 2013 on the application of Directive 2004/25/EC on takeover bids (2012/2262(INI))

(2016/C 055/01)

The European Parliament,

— having regard to directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids ([1]),

— having regard to the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 2004/25/EC on takeover bids (COM(2012)0347),

— having regard to the study on the application of Directive 2004/25/EC on takeover bids (External Study) conducted on behalf of the Commission ([2]),

— having regard to the report on the implementation of the Directive on Takeover Bids of 21 February 2007 ([3]),

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

— having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Employment and Social Affairs (A7-0089/2013),

A. whereas the Directive on Takeover Bids (the Directive) provides minimum guidelines which guarantee transparency and legal certainty of the conduct of a takeover bid and grants information rights for shareholders, employees and other stakeholders;

B. whereas several Member States are considering or have already introduced changes to their harmonised national rules on takeover bids with the aim to increase capital market transparency and reinforce the rights of the targeted company and its stakeholders;

([1]) OJ L 142, 30.4.2004, p. 12.
([2]) External Study on the application of the Directive on takeover bids, undertaken by Marccus Partners on behalf of the Commission, available at: http://ec.europa.eu/internal_market/company/docs/takeoverbids/study/study_en.pdf
([3]) Commission staff working document (SEC(2007)0268)

C. whereas the Court of Justice of the European Union has ruled in several cases that the retention of special rights in a private company by a Member State must in general be considered as a limitation of the free movement of capital and can only be justified in duly limited instances ([1]);

D. whereas national competent authorities are responsible for the public oversight of takeover bids;

E. whereas Article 1(3) of Regulation (EU) No 1095/2010 ([2]) stipulates that the European Securities and Markets Authority (ESMA) shall also take appropriate action in the context of takeover bids; whereas ESMA has created a network of competent authorities that is supposed to enhance cooperation between them in the context of cross-border takeover bids;

1. Considers the Directive an important part of the EU company law *acquis*, which goes beyond the mere promotion of further integration and harmonisation of EU capital markets;

2. Stresses that the effects of the Directive are not limited to the core provisions on takeover bids but need to be assessed in the wider context of company law, including corporate governance, capital market law and also employment law;

3. Reiterates that the objectives of the Directive, in particular providing a level playing field for takeover bids while protecting the interests of shareholders, employees and other stakeholders, are crucial cornerstones for a well-functioning market for corporate control;

4. Notes the Commission's conclusion that the Directive is working satisfactorily, and acknowledges the conclusions of the External Study that the Directive has improved the functioning of the market of corporate control; notices with concern, however, the dissatisfaction of employees' representatives, as expressed in the External Study, when it comes to the protection of employees' rights, and calls on the Commission to enhance the dialogue with the employee's representatives on how pressing issues can be tackled in a better way;

Level playing field

5. Underlines that the Directive provides for a level playing field for takeover bids in Europe and believes that, in the long term, further improvements could be envisaged to strengthen this level playing field;

6. Respects the competence of the Member States to introduce additional measures which go beyond the requirements of the Directive, as long as the general objectives of the Directive are observed;

7. Notes, in this context, that some Member States have recently reacted to developments within their domestic markets for corporate control by introducing additional provisions regarding the conduct of takeover bids such as the 'put up or shut up' rule of the UK Takeover Panel, which strives for clarification on whether a takeover bid has to be launched ('put up') or not ('shut up') in cases where it is unclear if the offeror really intends to submit a bid for the offeree company;

Supervision

8. Welcomes the efforts of ESMA to enhance the cooperation between national authorities in the context of takeover bids via the Takeover Bids Network;

([1]) E.g. Case C-171/08, *Commission v. Portugal* [2010] ECR I-6817.

([2]) Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 84).

9. Believes, however, that it is not necessary to arrange for supervision of takeover bids at EU level, as takeover law is not limited to capital market law but is embedded in national company law; stresses that the competent national authorities should remain responsible for the public oversight of takeover bids;

Tackling emerging issues

10. Welcomes the Commission findings and elaboration on the emerging issues resulting from the review of the operation of the Directive, and notes that additional aspects are identified by academics and practitioners ([1]);

Concept of 'acting in concert'

11. Believes that the concept of 'acting in concert' is essential when calculating the threshold that triggers the launch of a mandatory bid, and understands that Member States have transposed the definition provided for in the Directive differently; believes, however, that focusing on changes to the concept of 'acting in concert' solely within the Directive would fall short of enhancing legal certainty, as this concept is also relevant for other calculations required under EU company law; suggests, therefore, that a more detailed analysis is undertaken in order to identify possible means by which the concept of 'acting in concert' could be further clarified and harmonised;

12. Awaits, to this end, the Commission's action plan on EU company law, where this issue should be addressed, and supports the Commission's statement that the ability of national authorities to oblige control-seeking concert parties to accept the legal consequences of their concerted action should by no means be limited ([2]);

National derogations to the mandatory bid rule

13. Stresses that the mandatory bid rule is the core provision for the protection of minority shareholders, and takes note of the results of the External Study that all Member States allow for exemptions from this rule; understands that these derogations are often used to protect the interests of controlling shareholders (e.g. no real change in control), creditors (e.g. when creditors have granted loans) and other stakeholders (e.g. to balance shareholders' and other stakeholders' rights); supports the Commission's intention to gather additional information with a view to determine whether the widely used derogations are contrary to the protection of minority shareholders;

14. Stresses also that the mandatory bid rule enables minority shareholders, in case of change of control, to receive the premium paid for the controlling stake, and notes that the Directive only regulates the price for a mandatory bid (i.e. equitable price) but not for a voluntary bid; notes in particular that the Directive waives the obligation to launch a mandatory bid in cases where, after an initial voluntary bid, the controlling threshold has been reached with the result that the offeror can subsequently increase his participation in the target company via regular share acquisition (so-called creeping in); notes as well that, for such cases, some Member States have introduced an obligation for a second mandatory bid, according to which a second offer is necessary if a certain increase (e.g. 3 %) has taken place within a certain period of time (e.g. 12 months) between two specified thresholds (e.g. between 30 % and 50 %);

15. Believes that the notification thresholds set out in Article 9 of Directive 2004/109/EC ([3]) (Transparency Directive, currently under review) provide for solid transparency of ownership and allow the early detection of creeping-in acquisitions; takes the view that national competent authorities should discourage techniques designed to circumvent the mandatory bid rule and thus avoid paying the control premium to minority shareholders;

Board neutrality

16. Notes that the board neutrality rule relating to post-bid defences has been transposed by the majority of Member States, while only a very limited number of Member States has transposed the breakthrough rule which neutralises pre-bid defences; understands that both pre-bid defences (e.g. pyramid structures or golden shares) and post-bid defences (e.g. white

([1]) See e.g. Freshfields Bruckhaus Deringer, Reform of the EU Takeover Directive and of German Takeover Law, 14 November 2011, available at: http://www.freshfields.com/uploadedFiles/SiteWide/Knowledge/Reform_Eu_Takeover%20directive_31663.pdf

([2]) Commission Report on the Application of Directive 2004/25/EC on takeover bids, p. 9.

([3]) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

knight or debt increase) still exist in the Member States, and that at the same time there seem to be sufficient means to break through such defensive mechanisms; takes the view, however, that in accordance with general principles of company law the board of the offeree company should take into account, and act in the interest of, the long-term sustainability of the company and its stakeholders;

Rights of employees in a takeover situation

17. Underlines that the Directive merely foresees that employees are provided with information, in particular with regard to the offeror's intentions on the future of the target company and the future plans concerning jobs, including any material changes to employment conditions, but that no right to consultation is foreseen;

18. Underlines that the question of how to protect and strengthen workers' rights urgently requires further consideration, taking also into account the acquis, including Directive 2001/23/EC ([1]) and Directive 2002/14/EC ([2]);

19. Insists that the relevant provisions of the Directive on workers' rights are to be effectively applied and, where necessary, properly enforced;

Takeover bids during the economic downturn

20. Recalls that, according to Article 21 of the Directive, its provisions were to be transposed into national law by 20 May 2006, and notes that, according to the External Study, most of the Member States transposed the Directive between 2006 and 2007 ([3]);

21. Emphasises that the period of transposition of the Directive coincides with the beginning of the financial crisis, which eventually developed into an economic and debt crisis, and that takeover activities are closely linked to financial and economic developments both within and outside of Europe;

22. Underlines that, according to the External Study, takeover activities have dramatically declined after the transposition date of the Directive as a result of the crisis, including in the UK, where activities in the market for corporate control are traditionally more concentrated than in the rest of the Union;

23. Takes the view that, as the market for corporate control has steadily been shrinking during this period of financial crisis, the assessment on whether and to what extent further harmonisation measures should be introduced with regard to takeover bids would be distorted;

24. Asks, therefore, the Commission to continue to close-monitor the developments in the market for corporate control and prepare a new assessment on the application of the Directive when takeover activities return to a more regular volume;

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

([1]) 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 (OJ L 82, 22.3.2001, p. 16).

([2]) Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (OJ L 80, 23.3.2002, p. 29).

([3]) See p. 284 and more generally p. 58 et seq. of the External Study.

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P7_TA(2013)0199

Regional strategies for industrial areas in the European Union

European Parliament resolution of 21 May 2013 on regional strategies for industrial areas in the European Union (2012/2100(INI))

(2016/C 055/02)

The European Parliament,

— having regard to Article 162 TFEU, which covers the objectives of the European Social Fund and refers, inter alia, to the objective of facilitating adaptation to industrial changes and to changes in production systems,

— having regard to Articles 174 et seq. TFEU, which establish the objective of economic, social and territorial cohesion and define the structural financial instruments for achieving this,

— having regard to Article 176 TFEU, which covers the European Regional Development Fund and refers, inter alia, to the development and structural adjustment of regions whose development is lagging behind and to the conversion of declining industrial regions,

— having regard to Article 173 (Title XVII) TFEU, which covers EU industrial policy and refers, inter alia, to the competitiveness of the Union's industry,

— having regard to the Commission proposal of 11 September 2012 for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (COM(2012)0496),

— having regard to its resolution of 20 May 2010 on the implementation of the synergies of research and innovation earmarked Funds in Regulation (EC) No 1080/2006 concerning the European Regional Development Fund and the Seventh Framework Programme for Research and Development in cities and regions as well as in the Member States and the Union ([1]),

— having regard to its resolution of 20 May 2010 on the contribution of the cohesion policy to the achievement of Lisbon and the EU 2020 objectives ([2]),

— having regard to its resolution of 15 June 2010 on Community innovation policy in a changing world ([3]),

— having regard to its resolution of 16 June 2010 on EU 2020 ([4]),

— having regard to its resolution of 7 October 2010 on EU cohesion and regional policy after 2013 ([5]),

— having regard to its resolution of 9 March 2011 on an Industrial Policy for the Globalised Era ([6]),

— having regard to the conclusions of the meeting of the Council (3057th Competitiveness Council — Internal Market, Industry, Research and Space) held in Brussels on 10 December 2010 on 'Industrial policy for the globalisation era',

([1]) OJ C 161 E, 31.5.2011, p. 104.
([2]) OJ C 161 E, 31.5.2011, p. 120.
([3]) OJ C 236 E, 12.8.2011, p. 41.
([4]) OJ C 236 E, 12.8.2011, p. 57.
([5]) OJ C 371 E, 20.12.2011, p. 39.
([6]) OJ C 199 E, 7.7.2012, p. 131.

— having regard to the Commission's sixth progress report of 25 June 2009 on 'Economic and social cohesion — Creative and innovative regions' (COM(2009)0295),

— having regard to the Commission Staff Working Document of 30 July 2009 on 'European Industry In A Changing World — Updated Sectoral Overview 2009' (SEC(2009)1111),

— having regard to the Commission communication of 23 September 2009, 'Preparing for our future: Developing a common strategy for key enabling technologies in the EU' (COM(2009)0512),

— having regard to the Commission communication of 3 March 2010 entitled 'Europe 2020 — A Strategy for Smart, Sustainable and Inclusive Growth' (COM(2010)2020),

— having regard to the Commission communication of 6 October 2010 entitled 'Europe 2020 Flagship Initiative: Innovation Union' (COM(2010)0546),

— having regard to the Commission communication of 28 October 2010 entitled 'An Integrated Industrial Policy for the Globalised Era Putting Competitiveness and Sustainability at Centre Stage' (COM(2010)0614),

— having regard to the Commission communication of 9 November 2010 entitled 'Conclusions of the fifth report on economic, social and territorial cohesion: the future of cohesion policy' (COM(2010)0642),

— having regard to the Commission communication of 14 October 2011 entitled 'Industrial Policy: Reinforcing Competitiveness — Member States' competitiveness performance and policies 2011' (COM(2011)0642),

— having regard to the Commission Staff Working Document of 14 March 2012 on 'Elements for a Common Strategic Framework 2014 to 2020: the European Regional Development Fund the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund' (SWD(2012) 0061),

— having regard to the Commission Staff Working Document of 24 April 2012 on 'The partnership principle in the implementation of the Common Strategic Framework Funds — elements for a European Code of Conduct on Partnership' (SWD(2012)0106),

— having regard to the Commission communication of 10 October 2012 entitled 'A Stronger European Industry for Growth and Economic Recovery. Industrial Policy Communication Update' (COM(2012)0582),

— having regard to the Commission Staff Working Document of 10 October 2012 on the European Competitiveness Report (SWD(2012)0299),

— having regard to the Commission Staff Working Document entitled 'Industrial Performance Scoreboard and Member States' Competitiveness Performance and Policies' (SWD(2012)0298),

— having regard to the opinion of the European Economic and Social Committee (EESC) of 26 May 2010 on 'The need to apply an integrated approach to urban regeneration' ([1]),

— having regard to the opinion of the European Economic and Social Committee on the Commission communication 'An Integrated Industrial Policy for the Globalisation Era: Putting Competitiveness and Sustainability at Centre Stage' (CCMI/083 — CESE 808/2011),

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

— having regard to the report of the Committee on Regional Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0145/2013),

([1]) OJ C 21, 21.1.2011, p. 1

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A. whereas the term 'industry' is not clearly defined and may include a wide variety of sectors;

B. whereas industry is unquestionably one of our main assets at international level, without which the EU would not play such an important role in the global balance of economic forces;

C. whereas the industrial sector could play a leading role in the economy of the EU, given that the Commission estimates that for every 100 jobs created in industry, between 60 to 200 new jobs can be created in the rest of the economy; whereas, however, between 2008 and 2011, industrial production fell from 20 % to 16 % of the EU's GDP and the number of jobs in the sector fell by 11 %;

D. whereas the Commission seeks to reverse the decline of industry in the EU and to bring it back from its current level of around 16 % of GDP to as high as 20 % by 2020; whereas industry is the main destination for private and public investment in research, development and innovation;

E. whereas cohesion policy can help address the structural challenges facing EU industry, and can contribute to achieving the ambitious objectives of the Europe 2020 Strategy, including the shift towards a sustainable, low-carbon, energy-efficient and inclusive economy that fosters knowledge and employment;

F. whereas many old industrialised regions in Europe face similar problems, having had long periods of growth in the past followed by severe economic decline in recent years;

G. whereas, owing to their economic interdependence and shared features, the component parts of many cross-border regions — for example, traditional mining, steelmaking and textile manufacturing regions — are faced with the same industrial challenges;

H. whereas industrial policy tends to focus on the specific day-to-day problems of industry, and its strong impact on regions is therefore often overlooked;

I. whereas research has shown that the restructuring of old industrialised regions calls for a broad approach, and administrative obstacles can hinder achieving this;

J. whereas Member States, regions and cities in the EU are facing financial constraints; whereas, in particular, areas with an old industrial base are often not well positioned to attract sufficient funds for conversion; whereas EU funding to aid reconversion and restructuring efforts is indispensable for supporting regional and crossborder policy approaches;

K. whereas cities are drivers of innovation and sustainable growth, and have the important task of addressing challenges in old industrialised areas;

L. whereas new and innovative integrated approaches, also facilitated by appropriate legislative policy frameworks and smart specialisation strategies, are needed to help regions and cities fulfil their innovation potential and refocus their industrial assets in the direction of emerging industries and services and globalised markets;

M. whereas reindustrialisation policies fail to take proper account of the cultural and creative industries, which are a key potential source of growth, innovation and jobs, contribute to social cohesion and provide an effective means of combating the current recession;

1. Draws attention to the existing resources made available through cohesion policy and the Structural Funds, capitalising on the European Investment Bank's financial engineering schemes, as well as the national, regional and municipal economic development policies in support of the reconversion of old industrial areas and the reindustrialisation of crisis-stricken industrial areas, the aim being to achieve a modern and sustainable reindustrialisation; regrets, however, that these options do not always address the real region-specific problems and that the structural and investment funding made available is not fully taken up by Member States and regions at a time when industry is being hit hard by the crisis;

2. Points out that further aid measures to assist old industrialised regions, particularly mono-industrialised regions, need to be put into place so that they can successfully find new development paths focusing on creative and cultural industries and can promote the use of unoccupied sites, which can play a key role in brownfield redevelopment;

3. Calls for more integrated and systemic approaches to industrial renewal and regional development, and for increased coherence between the different policies at EU, national, regional, interregional and crossborder level, in order to ensure that the potential of the European industrial sector is exploited; stresses the need to create economic zones of regional importance and hi-tech parks on a basis of public-private partnerships, and to contribute to improving the use of local and regional human and economic resources using the latest technologies;

4. Stresses that the success of such an industrial renewal coupled with regional development will depend on the existence of effective policies in areas such as cohesion policy, economic governance, competitiveness, research and innovation, energy, the digital agenda, sustainable development, the cultural and creative industries, new qualifications and jobs, etc;

5. Believes that the main challenges for old industrialised regions lie in:

— the physical regeneration of land;

— the regeneration of housing and social infrastructure;

— the renewal of infrastructure, oriented to the needs of new industries;

— the development of broadband infrastructure, which adds to an area's attractiveness;

— the need for vocational retraining of jobless workers and lifelong learning efforts to create jobs focusing on high-quality technological education for the workforce, especially young people;

— the stimulation of crossborder employment, innovation, training, environmental rehabilitation and regional attractiveness strategies;

— the need to promote entrepreneurship with tailor-made Union employment strategies and to adapt social skills, qualifications and entrepreneurship to the new demands arising as a result of economic, technological, professional and environmental challenges;

— the sustainable rehabilitation of the areas concerned, with it being guaranteed that green areas are included wherever possible;

— reinventing of the economic base and investment conditions;

— the treatment of ecologically-linked problems;

— financial obstacles and the lack of direct financing possibilities;

— the building-up of smart specialisation solutions for industrial renewal and economic diversification;

6. Stresses that regional strategies for industrial areas should include, as a focal point, measures to protect land, water and air quality, to safeguard regional and local biodiversity and natural resources, and to clean up land and water, so that environmentally harmful substances do not continue to leak into the natural environment;

7. Believes it is important that strategies for industrial areas include an integrated focus on possible forms of sustainable transport to and from those areas, including raw materials, goods and personnel as well as the necessary infrastructure, be it existing or planned, and that such a focus can help reduce the environmental footprint of industrial and urban areas and ensure that community needs are met, while at the same time safeguarding natural resources and capital and making a positive contribution to human health;

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8. Takes the view that as a result of the enlargement process of the EU regional disparities have increased, and thus attention and public awareness have shifted away from old industrialised regions which lack sufficient investment opportunities for concrete regional development strategies;

9. Calls on the Commission to assess the present situation in old industrialised regions, identify their main challenges, and provide information and guidance for those regions, in order to develop, by means of democratic procedures, regional strategies based on broad partnerships which can help improve those regions' sustainable development prospects by harnessing their endogenous potential;

10. Stresses that strengthening the industrial basis of the economy is necessary for progress in economic growth and job creation, as well as for achieving the EU 2020 goals and targets, and that industry-related assets in terms of cultural, historic and architectural heritage and the expertise available in old industrialised regions can form an irreplaceable basis for this, and should be preserved and adapted to the new needs;

11. Notes that many former industrial areas offer great possibilities for increasing energy efficiency through the application of modern technology and building standards, and that this will benefit both the regional economies concerned and the environment;

12. Reiterates that where old industrialised regions have tried to explore new opportunities for regional development, they have been most successful where they have based these strategies on their past features, their territorial assets, their industrial heritage, and their experiences and capacities;

13. Points out that urban areas play an important role in terms of innovation and sustainable growth, and that reconversion efforts cannot succeed without sufficient investment in this field, since without action on buildings and city transport the EU's targets will not be achieved;

14. Takes the view that the decline in most of the old industrialised regions is partly due to the reliance on monostructures; believes that to base an economy solely on monostructures is counterproductive and that a diversified economy is of the utmost importance as a basis for sustainable growth and job creation;

15. Calls on the Commission to develop political concepts and instruments which combine the Cohesion Fund and the Structural Funds with industrial policy approaches, in order to support the structural transformation from old industrialised regions to modern industrial regions;

16. Believes that regional industrial strategies must be based on an integrated approach, including an employment, training, and education component, aimed at promoting growth sectors capable of creating sustainable local and regional jobs, especially for young people, e.g. in innovative SMEs, as part of the programme for the competitiveness of enterprises and SMEs (COSME); highlights the special role cities play in developing regional strategies for industrial areas; believes in this framework that cities are central to achieving smart growth; underlines, therefore, the fact that, in particular, cities with an old industrialised base offer an enormous potential, which the EU should explore to the full; calls on the Commission to engage in closer dialogue with the cities concerned with a view to raising the profile of cities as direct partners of the EU;

17. Stresses that support for energy-efficient building renovation, in particular, will help regions to reduce carbon emissions, create local jobs and save consumers money on heating bills;

18. Calls on the Commission to capitalise on synergies between cohesion and industrial policies in order to support competitiveness and growth and assist Member States, regions and cities to find a basis for regional-led industrial development strategies;

19. Believes that no specific blueprint for regional strategies for industrial areas for the EU as a whole exists, and that a local and regional approach is most suitable for developing regional strategies; calls on the Commission to support regional economic research in the context of the initiative Horizon 2020, which enables the development of regionally adjusted strategies for additional old industrialised regions;

20. Highlights the fact that regions' characteristics have to be taken into consideration when planning regional development strategies; in this context and having regard to the model that bottom-up rural (LEADER) development strategies provide for rural areas, considers that bottom-up local development initiatives for urban areas should be encouraged;

21. Calls on the Commission to use the past experiences of urban areas such as Manchester in the UK, Lille in France, Essen and the Ruhr area in Germany and Bilbao in Spain, where EU financing has contributed to the reconversion and restructuring of old industrialised regions, in order to develop future strategies for other regions in the EU;

22. Welcomes the benefits deriving from European Capital of Culture status, as exemplified by Glasgow, Lille, and other cities and urban agglomerations formerly suffering from industrial decline, and maintains that culture and creative activity are key catalysts for urban regeneration and regional attractiveness;

23. Stresses that the sustainable regeneration of old industrialised regions takes decades and is very costly, often exceeding the administrative and financial capacities of in situ public bodies; points to the need, therefore, to develop technical assistance to regional and local authorities and public bodies;

24. Emphasises that the new instrument for 'Integrated Territorial Investment' proposed in Article 99 of the draft Common Provisions Regulation for the new funding period 2014-2020 could offer an opportunity for developing regional strategies beyond administrative borders;

25. Calls on the Member States to avoid over-complex rules for beneficiaries; reiterates that where EU rules exist domestic rules can be eliminated, in order to avoid duplicated or conflicting rules;

26. Calls on the Commission to create a database of existing industry parks and regional activity areas, with a view to identifying the best models that could also be used in other regions and tailoring them to local and regional long-term development strategies, and to provide guidance on how to use funds for assisting in the reconversion process;

27. Takes the view that more support should be given to developing the entrepreneurial spirit among young people, through access to EU funds and business advice;

28. Calls on the Member States to ensure that old industrialised regions can fully benefit from national and European funds, so that the EU can start off a 'new industrial revolution';

29. Stresses the need for the further concentration of cohesion policy support on industrial reconversion in the regions, in the following areas: business innovation and investment, social inclusion, integrated approaches to urban development, and urban regeneration;

30. Calls on the Member States to support their regions in participating in the 'smart specialisation' approach; reiterates that regions need tailor-made sustainable development strategies in order to be successful; notes that in many cases local public bodies cannot acquire the necessary know-how and experience without support from the Commission and the Member States;

31. Takes the view that it is necessary to create industrial areas that will boost the development of cities; maintains that more emphasis should be placed on research activities, innovation and learning, recalling the creative role of universities in this respect; supports the creation of Innovation, Competitiveness and Entrepreneurship networks at regional level with a view to encouraging increased links between universities, businesses and knowledge centres, thus fostering new industrial activities to encourage the development of sectoral specialisation strategies and promote the formation of industrial clusters; calls on the Commission and the Member States concerned to insist on greater transparency in the allocation of means to the relevant stakeholders;

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32. Instructs its President to forward this resolution to the Council, the Commission and the Member States.

P7_TA(2013)0201

Renewable energy in the European internal energy market

European Parliament resolution of 21 May 2013 current challenges and opportunities for renewable energy in the European internal energy market (2012/2259(INI))

(2016/C 055/03)

The European Parliament,

— having regard to the Commission communication entitled 'Renewable Energy: a major player in the European energy market' and the related working documents (COM(2012)0271),

— having regard to Article 194(1) of the Treaty on the Functioning of the European Union,

— having regard to the Commission Communication on the Energy Roadmap 2050 (COM(2011)0885),

— having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ([1]),

— having regard to the Staff Working Document accompanying the proposal for a Directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (SEC(2008)0057),

— having regard to Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency ([2]),

— having regard to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC ([3]),

— having regard to Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC ([4]),

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

— having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on International Trade, the Committee on the Environment, Public Health and Food Safety, the Committee on Regional Development and the Committee on Agriculture and Rural Development (A7-0135/2013),

A. whereas the share in Europe's energy mix accounted for by renewable energy sources (RES) is growing in the short, medium and long term, and whereas RES make a significant contribution to guaranteeing a secure, independent, diversified and low-emission energy supply for Europe;

B. whereas the Europe-wide energy-supply potential of RES has not yet been exhausted;

([1]) OJ L 140, 5.6.2009, p. 16.
([2]) OJ L 326, 8.12.2011, p. 1.
([3]) OJ L 211, 14.8.2009, p. 55.
([4]) OJ L 211, 14.8.2009, p. 94.

C. whereas the growing share of the European energy mix accounted for by RES makes the expansion of the existing grid and IT infrastructure essential;

D. whereas the diversification of our energy mix relies on a vast array of renewable energy technologies (hydropower, geothermal, solar power, marine, wind, heat pump, biomass, biofuel) offering different services in the form of electricity, heating and cooling as well as transport solutions;

E. whereas energy policy must, at all times, reflect a balance between the aims of supply security, competitiveness and economic and environmental viability;

F. whereas the EU currently depends on energy imports for more than half of its final energy consumption;

G. whereas one of the aims of European Union energy policy — in a spirit of solidarity among the Member States, as part of the creation of the single market and in accordance with the need to conserve and improve the environment — is to promote the development of new and existing renewable forms of energy;

H. whereas the completion of the internal energy market by 2014 should facilitate new and more market participants, including from of a growing number of SMEs producing renewable energy;

I. whereas liberalisation and competition have played a pivotal role in bringing down energy prices for all EU consumers;

J. whereas, under the terms of the EU Treaties, the Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply falls within the competence of the Member States, although improved cooperation and communication are nevertheless essential; whereas the Commission's Energy Roadmap 2050 concludes that any scenario of Europe's energy system requires a substantially higher share of renewable energy;

K. whereas, according to estimates, the EU is on track to achieve its target of a 20 % share for RES in the energy mix by 2020;

L. whereas in recent years technological advances have been made in the area of energy generation from RES, and whereas the European Union is a world leader in this area;

M. whereas the economic crisis and the debt crisis in Europe have not yet been overcome and major challenges have to be faced in terms of public budgeting and investor confidence; whereas the crisis should be used as an opportunity to make the necessary investments in clean technologies in order to generate employment and economic growth;

N. whereas, in Europe's liberalised energy markets, the growth of renewable energy depends on private investment, which in turn relies on the stability of renewable energy policy;

O. whereas investors require security and continuity for their projected investments beyond 2020;

P. whereas energy consumption must be reduced and efficiency of energy production, transmission and use must be increased;

Q. whereas renewable heating and cooling technologies have a key role to play in the decarbonisation of the energy sector;

R. whereas the Energy Roadmap recognises that gas will be critical in the transformation of the energy system, providing both variable load and baseload to support renewables;

S. whereas the Commission has calculated that optimal trade in renewables could save up to EUR 8 billion per year;

T. whereas existing legal instruments on forest management set up a sufficient framework to provide the proof of sustainability of forest biomass produced within the European Union;

Getting the benefit of renewables

1. Agrees with the Commission that RES, together with energy efficiency measures and flexible and smart infrastructure, are the 'no regrets' options identified by the Commission and that RES in the future will account for a growing share of energy provision in Europe, for electricity supply, for heating (which makes up nearly half of the total energy demand in the EU) and cooling and for the transport sector, and that they will reduce Europe's dependence on conventional energy; adds that targets and milestones should be set for the period to 2050 in order to ensure that RES have a credible future in the EU; recalls that all scenarios presented by the Commission in its Energy Roadmap 2050 assume a share of at least 30 % RES in the EU's energy mix in 2030; suggests, therefore, that the EU should endeavour to achieve an even higher share, and calls on the Commission to propose a mandatory EU-wide RES target for 2030, taking into account the mutually interacting effects with other potential climate and energy policy targets, in particular with a GHG emission reduction target, as well its impact on the competitiveness of EU industries, including the RES industrial sectors;

2. Emphasises that renewable energies not only contribute to addressing climate change and increase the energy independence of Europe but also offer significant additional environmental benefits through the reduction of air pollution, waste generation and water use, as well as of further risks inherent to other forms of power generation;

3. Emphasises that safe, secure, affordable and sustainable energy provision is indispensable for the competitiveness of European industry and the economy; emphasises that approximately half of the power plants in the EU need to be replaced in the coming decade and that the energy supply system needs to be modernised and made more flexible to accommodate the expected growing share of RES; highlights that the share of RES in electricity, heating and cooling and transport needs to be increased in a manner that is cost-efficient, taking into account the benefits and full costs of RES, including system costs, while safeguarding supply security; acknowledges the increasing competitiveness of renewable energy technologies and stresses that RES and clean-tech related industries are important growth drivers for Europe's competitiveness, representing an enormous job creation potential and making an important contribution to the development of new industries and export markets;

4. Notes that the more intensive development of RES in the Member States is likely to lead to increased use of biomass, which will in turn necessitate the framing of detailed sustainability criteria for gaseous and solid biomass;

5. Points out that, within the RES sector, the current and expected contribution of biomass and of other controllable energy resources should be made more visible to stakeholders in order to foster a fair and balanced decision-making process;

6. Calls on the EU to guarantee that the promotion of renewable resources in the production and use of energy will not jeopardise food security, high-quality sustainable food production or agricultural competitiveness;

7. Notes that a number of elements of the food system are vulnerable to higher energy costs and that this could have adverse effects for producers and consumers;

8. Recognises that the potential for reducing carbon dioxide emissions by increasing the use of biomethane in vehicles for short and long distances, particularly in heavy duty vehicles, and the use of electricity in vehicles for short distances within cities, is significant;

9. Is convinced that waste recovery represents an opportunity for further developing RES and achieving the goals of a European energy plan;

10. Notes that some renewable energy sources, such as geothermal energy, can provide heat and power locally and continuously; takes the view that such local sources of energy increase energy independence, including for isolated communities;

11. Emphasises that sustainable hydropower in all its forms helps achieve the objective of a renewable energy supply in future and, in addition to generating energy, serves a number of other useful purposes, including flood prevention and helping to ensure a safe supply of drinking water; calls on the Commission and the Member States to raise public awareness of the multiple benefits of hydropower;

12. Calls on the Commission and the Member States to pay more attention to the untapped potential of RES in the heating and cooling sector and to the interdependencies between and opportunities arising from increased renewable energy use on the one hand and the implementation of the Energy Efficiency and Buildings Directives on the other;

13. Draws attention to the potential savings to be made by taking account of the passage of the sun through Europe's different time zones when developing RES;

14. Notes that the Member States, within the framework provided by the EU Renewable Energy Directive 2009/28/EC, are currently acting independently in promoting RES within national administrative frameworks that differ widely, and that this is exacerbating their uneven development, while the potential for developing renewables varies on account of technical, non-technical and natural circumstances, given the differing regional competitive advantages; points out that a functioning internal market could contribute to compensating RES variability and the uneven distribution of natural assets; believes that most areas can make contributions to the deployment of RES; notes however, the need to incentivise investment in RES where they have the greatest potential, in order to ensure efficient use of public funding;

15. Notes that levels of public and political acceptance of renewable energy differ, as they do for most other types of energy generation and infrastructure; notes that the availability of public and private financing to promote RES varies widely; stresses that access to capital for investments is a crucial factor in the further deployment of renewable energy, especially in light of the financial crisis, which has led to a large capital spread for investors; believes that, where market imperfections exist or where producers face limited opportunities to secure market-based financing, access to more capital for RES should be facilitated; suggests that the Commission should explore with the European Investment Bank and national institutions possibilities for innovative financial instruments to finance renewable energy projects, while carbon markets should do their part in incentivising investments in RES projects;

16. Notes that, so far, some renewables on the energy market are economically competitive, while other technologies are closing the gap with market prices; agrees with the Commission that all appropriate, financially sustainable means must be used to bring the costs down to further enhance the economic competitiveness of RES;

17. Believes there is a need to phase out subsidies that damage competition and also those that support environmentally harmful fossil fuels;

Renewable energy on the European internal energy market

18. Notes that the internal market in gas and electricity is to be completed by 2014 and will be crucial for RES integration to serve as a cost-effective means to balance variable electricity production; welcomes the Commission's report on the state of progress as regards completion of the internal energy market and implementation of the third package; calls on the Commission to use all the instruments available, including the referral of Member States to the Court of Justice, to bring the internal energy market closer to completion as quickly as possible; calls on the Commission to tackle inappropriate market concentration where it hinders competition; calls on the Member States to continue with the full implementation of the internal energy market legislation and the development of interconnections, as well as the elimination of energy islands and bottlenecks;

19. Notes that, as a result of disparities between national market features, different potentials and different stages of technology patterns and maturity, a wide variety of different schemes for promoting RES currently coexist within the Union; stresses that this variety exacerbates the problems for the internal energy market, for instance by creating inefficiencies in cross-border electricity trading; welcomes guidance from the Commission on support scheme reform;

20. Notes that those who will benefit most from completion of the internal energy market are the consumers; supports the Commission's view that competition needs to extend to renewables, when they become mature and economically viable, as well as all other energy sources because it is the best stimulus to advances in innovation and price reductions, thereby preventing an extension of energy poverty; underlines that the persistence of regulated prices at the retail level jeopardizes the capability of consumers to fully exercise their choices;

21. Notes that the cooperation mechanisms introduced by Directive 2009/28/EC on the promotion of the use of energy from renewable sources have, to date, not yet been very much used, but that a number of cooperation schemes are being planned; points to the Commission's findings indicating that better use of the existing scope for cooperation could bring considerable benefits, such as boosting trade; welcomes the Commission's declared intention to draw up guidelines on cooperation within the EU, which set out how the cooperation mechanisms should work in practice and outline the challenges involved and ways of tackling them; calls on the Commission to ensure that EU guidelines are implemented by the Member States; calls on the Commission to include and interpretation of Art. 13 of the RES directive (2009/28/EC) to ensure that Member States implement the directive correctly and prevent public authorities from using certification and licensing procedures in a manner that distorts competition; calls on the Member States to subsequently make better use of the cooperation mechanisms where appropriate and also increase communication between one another;

22. Welcomes that forecasting methods for wind capacity to be available on the intra-day markets have improved, allowing for a better integration of electricity from variable RES; equally welcomes the new network codes required by the 3rd internal energy market package currently being developed by the relevant actors leading to stabilised frequency, thus also contributing to a better integration of RES produced electricity;

23. Emphasises that appropriate market arrangements must facilitate the progressive integration of RES into the energy system and the European internal energy market in all the Member States without delay and that in the long term different types of RES, in accordance with their intrinsic characteristics and capabilities, must take on stabilising functions and tasks within the system that have previously been performed by conventional energy sources; stresses that promising examples of such markets exist in the EU; calls, in that connection, for greater account to be taken, in planning and implementation, of the positive and negative and direct and indirect side effects of RES, in particular with regard to existing infrastructure, such as transmission and distribution systems and the environment, biodiversity and nature conservation; calls on the Commission and the Member States to raise public awareness of the potential effects of the various RES technologies;

24. Calls on the Commission to consider, based on a cost-benefit analysis, what impact existing environmental law, such as the Water Framework Directive or the Birds Directive, will have on the development of RES;

Infrastructure requirements

25. Notes that in certain cases, renewable sources feeding energy into the grid are decentralised, remotely located, weather-dependent and variable and thus require infrastructure different from that currently in place, which has been developed solely for conventional energy; stresses that this modernisation of the energy grid needs to accommodate the changes in production, transmission, distribution and balancing technologies as part of the overall energy system; underlines that some renewable energy sources can also balance variable energy sources and therefore alleviate the need for additional grid infrastructure; stresses that infrastructure development is urgent and critical for the success of the single market and for the integration of renewable energy; notes that implementation of the energy infrastructure package is crucial in this respect, in particular for speeding up the construction of new infrastructure with cross-border impact; emphasizes that authorisation procedures for energy infrastructure projects must be speeded up;

26. Points out that there are many renewable energy generation sites that are not being used to their intended capacity because the grid is unable to receive power generated in this way;

27. Notes that, in order to guarantee supply security, the development of RES with variable feed-in will necessitate a flexible balancing of fluctuations and a flexible back-up through an integrated and interconnected European electricity grid that allows cross-border trading, demand response systems, energy storage and flexible power plants; calls on the Commission to assess whether there is a capacity issue in the EU and to determine the amount of firm capacity that can be

provided by variable RES in an integrated EU power system, as well as its potential impact on generation adequacy; agrees with Commission's analysis that the development of reserve capacity mechanisms entails substantial costs and may distort price signals; notes that there is an increasing need for a stable policy framework to provide economic guarantees concerning the availability of these reserves as well as for system and balancing services; rejects the concept of competition for subsidies between energy sources and calls for an energy market design tailored to the Union's long-term energy and climate policy objectives, which makes it possible to integrate RES technologies into the internal energy market, but acknowledges that state aid has historically been necessary in the development of all energy sources;

28. Emphasises the importance to the cost-efficient deployment of renewables of a supergrid and of the North Sea offshore grid; highlights in this regard the importance of the North Sea Countries' Offshore Grid Initiative (NSCOGI), at a time when over 140 GW of offshore wind projects have been announced; calls on the Member States and the Commission to give additional impetus to NSCOGI;

29. Recalls that investment in renewable energy sources represents more than half of all investments in new generation capacity over the last ten years and will continue to grow; emphasises that according a large share of the energy mix to RES entails major challenges for existing network infrastructure, and that investment is necessary to overcome these challenges; notes that, in certain Member States in which the increased feed-in from RES was not accompanied by the development of energy infrastructure, supply security is challenged by such increased feed-in; emphasises that according to ENTSO-E a significant proportion of all the bottlenecks in European energy grids relate to feed-in from RES; emphasises the importance of implementing new approaches to overcome bottlenecks in the distribution grids, which do not always entail grid extension and reinforcement; is confident that the benefits of upgrading the European grid, which is equally due to the single electricity market, can offset its costs by offering a much more efficient operation of the EU's power system; calls on the Transmission System Operators to update their grid development policies in order to cope with the integration of RES generation capacities while maintaining security of supply, and to enhance cooperation with distribution system operators;

30. Notes that many of the best and most competitive locations for RES in the EU are at a considerable distance from the centres of energy consumption, which makes the optimum use of such locations contingent on the development of transmission and distribution systems and reinforcement of cross-border interconnections; notes also the advantages of decentralised renewable energy supply close to consumption centres; stresses that this can lead to cost reductions, reduce the need for grid extension and avoid congestions when adequate infrastructure is in place; points out that the Commission should facilitate the development of adequate modelling tools to define the optimal mix of distant, large scale generation plants and distribution level installations; stresses the potential of an integrated approach for the energy system that would cover both heat and electricity demand and supply; notes also the potential of local RES production such as micro generation or cooperatives by citizens jointly investing in the production and supply of renewable energy, such as geo-thermal heating and solar power, as mentioned in the Commission Communication;

31. Notes that insufficient network capacity and storage facilities and a lack of cooperation between transmission system operators can add to uncoordinated cross-border energy flows (loop flows) and could cause serious emergencies in other Member States, thus making load reduction increasingly necessary in the interests of supply security, if it does not go hand-in-hand with the requisite optimisation (e.g. temperature line monitoring) and development of the grid in those Member States; is concerned about the state of development and maintenance of grid infrastructure in the Member States; calls on the Member States to press ahead as quickly as possible with the development of transmission and distribution systems and to encourage greater cooperation between transmission system operators;

32. Underlines the potential of smart grids, demand side management tools and energy storage solutions, both to facilitate the best possible integration of RES-E and to even out grid fluctuations; re-emphasises the urgent need for further research into, and deployment of, electricity storage including on the basis of cooperation with pumped-storage hydroelectric plants; notes in particular the need for further research into variable-speed storage options, which offer a more flexible system for controlling storage speeds and thus facilitate faster and better-matching connections; calls on the Member States to avoid imposing a double tax burden on electricity storage operators;

33. Considers that cross-border markets for electricity balancing services must be created and that the European transmission system must be developed quickly to facilitate the cross-border integration of pumped-storage hydropower, particularly in Scandinavia, the Alps and the Pyrenees;

34. Emphasises that hydropower must play a central role in the planned development of RES, primarily to balance out the increasingly volatile generation of power by RES but also, through pumped storage, as a method of storing electricity; stresses, therefore, that the existing development potential of hydroelectric power generation and pumped storage in the EU must be fully exploited;

35. Recognises that gas infrastructure will play an important role in the development of renewable energy across Europe; points out that biogas, as a renewable energy, can easily be fed at present, as biomethane, into the existing gas grid infrastructure and that new technologies such as 'power to hydrogen' and 'power to gas', will further benefit the future low-carbon economy framework, making use of existing and new infrastructures that should be promoted and developed;

36. Takes the view that ICT will in future contribute to managing energy supply and demand and make consumers more active in this market; calls on the Commission to bring forward without delay proposals, in line with the third internal energy market package, for the development, promotion and standardisation of smart grids and meters as this will increasingly allow the involvement of more market participants and boost potential deployment, development and maintenance synergies throughout the telecommunications and energy networks; calls on the Commission to give particular support to research and development in this sector; emphasises that important factors in this regard include not only planning certainty on the providers' side but also acceptance by consumers, who should be the main beneficiaries of smart meters and whose data protection rights need to be ensured in accordance with the new data protection directive; urges the Commission to carefully evaluate the cost and benefits of smart-meter-rollout and their impact on different consumer groups; acknowledges that consumer engagement is vital for the success of smart-meter roll-out;

37. Notes that the ICT sector itself, being a major consumer of electricity with data centres in the EU accounting for up to 1,5 % of total electricity consumption and consumers being increasingly aware of the carbon footprint of IT and cloud services they use, can become a role model for energy efficiency and RES promotion;

38. Points out that, in some regions, especially small communities and islands, the deployment of windmills and photovoltaic panels has met with public opposition; points out that windmills and photovoltaic panels are perceived to have an adverse effect on tourist industries and on the nature and form of countryside/island landscapes;

39. Emphasises that, where citizens own renewable production through cooperative or community-owned models. there is an increase in social acceptance, which reduces planning time for implementation and promotion of a greater public understanding of the energy transition;

40. Emphasises that the further development of RES, and the building of all other energy generation facilities and infrastructure, entails landscape change in Europe; insists that this must not result in ecological damage, including in Natura 2000 sites and protected landscape areas; points out that public acceptance of RES infrastructure can be won through transparent and coordinated planning, as well as construction and licensing procedures with mandatory and timely public consultation, in which all stakeholders are involved from the outset, including at the local level; stresses that the participation of citizens and stakeholders, such as in cooperatives, can help to win public support as can communication about the potential benefits for local economies;

Empowering consumers

41. Sees the need for further action to increase the social acceptance of renewable energy sources; states, at the same time, that an effective action to this end would be to establish a holistic approach to the producer/consumer — or 'prosumer' — who would be able to manage the process of energy generation;

42. Recognises the importance of small-scale RES for increasing the share of renewable energy sources; recognises that the deployment of small-scale RES represents an opportunity for single households, industries and communities to become energy producers, thus acquiring awareness of efficient ways to produce and consume energy; highlights the importance of

microgeneration for increasing energy efficiency; emphasises that small-scale RES deployment can lead to substantial savings on energy bills and to the creation of new business models and jobs;

43. Notes, in this regard, the importance of stimulating local cooperatives for renewable energy in increasing citizens' participation, increasing accessibility of renewable energy and generating financial investments;

44. Stresses that a clever combination of small-scale RES, storage, demand-side management and energy efficiency can lead to decreased use of local grids during peak load times, thus decreasing the overall investment costs borne by distribution system operators;

45. Notes that a prerequisite for efficient local consumption and production of energy, from a prosumer and distribution-grid perspective, is the roll-out of smart meters and more generally of smart grids;

46. Welcomes the Commission's announcement that it will issue a communication on energy technologies and innovation focusing on micro-generation;

47. Considers that EU regional policy has a key role to play in promoting renewable energy production and energy-efficiency on a Europe-wide scale, as well as in the field of electricity services and energy transport services; welcomes the fact that the cohesion and regional policy input intended to encourage renewable energy use has continued to expand step by step with the aim of ensuring that RES fully contribute to the EU energy policy goals and that the EU energy objectives are implemented EU-wide; considers it particularly important for the direction of European policy to be such as to enable the funding rate to be sufficient in the coming period 2014-2020;

48. Supports a multi-level governance and decentralised approach to energy policy and renewables, which should include, among other things, the Covenant of Mayors and the further development of the Smart Cities initiative, as well as the promotion of the best solutions at regional and local level by means of information campaigns;

49. Observes that agriculture and rural areas have the potential to provide a significant proportion of renewable energy production, and takes the view, therefore, that the new policy on agriculture and rural development should promote the production of renewable energies;

50. Acknowledges the importance of promoting and encouraging the development of on-farm sources of alternative energy, especially on a small scale, and of disseminating the relevant methods to farmers and consumers alike;

51. Emphasises the contribution that cooperation among farmers might make to a successful outcome for the policy for promoting renewable resources;

52. Calls on the European Investment Bank to create rolling funds, through financial intermediaries, to provide the necessary start-up capital, and technical support, for farm-based and community-owned micro- and small-scale schemes for electricity and heat generation from renewables, the profits of which can be re-invested in additional schemes;

International cooperation and trade

53. Recalls that the EU's trade deficit arising from fossil fuel imports is set to increase in the coming years, and that dependence on fossil fuel imports entails ever-growing political, economic and environmental risks; underlines in this respect the role domestic renewable energy sources play in terms of security of supply and re-establishing a positive trade balance with oil and gas exporter countries, and therefore stresses that these should play a larger role in achieving the EU's energy security;

54. Recognises that world markets for RES are growing and that this will have a positive impact on the European industry, job creation, prices and on the further development of existing and new technologies globally and in the EU, provided that the EU's political and regulatory framework for RES remains predictable and helps clean businesses to keep their competitive advantage and lead vis-à-vis their global counterparts; acknowledges non-OECD countries as important trading partners due to their major RES-potential;

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55. Emphasises that the unlawful distortion of competition on the market is unacceptable, as it is only through fair competition that the EU can be assured of a reasonable level of prices for RES-technologies; calls on the Commission to bring ongoing proceedings on unfair practices to a conclusion as quickly as possible; emphasises that the best conditions for the growth of RES are offered by free and open global markets; underlines the need to do more to dismantle barriers to trade; calls on the Commission not to create any new obstacles to trade in finished products or components used in renewable energy technologies; calls on the Commission to take action to remedy obstacles to trade, to safeguard fair competition, to help EU companies to access non-EU-markets and to tackle alleged trade distortions, including with regard to illegal state aid;

56. Urges the Commission also to actively monitor the use of unjustified non-tariff barriers (NTBs), subsidies and dumping measures by the EU's trade partners in this area;

57. Calls on the Commission to take note of the WTO's Information Technology Agreement and to investigate the possibilities for the initiation of an Environmental Technology Free Trade Agreement, which would establish tariff-free trade in environmental technology products;

58. Stresses that this strategy should also encourage trade facilitation in order to support the efforts of developing countries in this particular field and allow the use of renewables as trade commodities;

59. Stresses that trade has an important role to play in ensuring that renewable energy is produced and financed sustainably; recalls that imported bioenergy and agrofuels should comply with EU sustainability criteria and that the latter need to be clearly defined; to this end, encourages the Commission to introduce indirect land use as an additional criterion; recommends that trade agreements should contain provisions to address the issues of deforestation and forest degradation and should incentivise the sound management of land and water resources; encourages the Commission to continue negotiating voluntary partnership agreements (VPAs) with the relevant third countries to prohibit illegal logging;

60. Underlines the need for closer cooperation on energy policy, including in the field of renewable energy, with the EU's neighbouring countries, and the need to exploit the trading potential of renewables more effectively; stresses the need for adequate infrastructure that facilitates cooperation, both within the EU and with neighbouring countries; stresses that cooperation on renewables should incorporate the relevant EU-policy objectives; emphasises that, in the Mediterranean region in particular, there is great potential for electricity generation from RES; highlights the potential of non-domestic projects, such as Desertec, Medgrid and Helios, and of the further development of hydropower in Norway and Switzerland, including its potential for balancing purposes; highlights also the significant local added-value of such large RES projects;

61. Stresses that international cooperation needs to be based on a sound regulatory framework and the Union *acquis* on renewables, such as within the Energy Community, in order to increase the stability and reliability of such cooperation.

62. Calls for coordinated action with other technological leaders (US and Japan) to deal with emerging challenges, such as the shortage of raw materials, rare earths, that affect the deployment of renewable energy technologies;

63. Emphasises the need for the EU to develop close scientific cooperation and a clear policy for research and innovation collaboration in the field of RES with international partners, particularly the BRICS countries;

Innovation, R&D and industrial policy

64. Notes that Europe needs to make efforts in its industrial and R&D capacity to remain in the vanguard when it comes to RES technology; emphasises the need to facilitate a competitive environment for the operations and internationalisation of SMEs and to strive to reduce bureaucratic obstacles in such efforts; stresses that only innovation, based on R&D, can secure Europe's leading position in RES technology markets; stresses private investors' need for certainty; calls on the Commission to foster an industrial strategy for energy technologies, including, in particular, renewable energy technologies, to ensure that the EU's leading position in energy technologies and in particular in the field of renewable energies is maintained;

65. Underlines the EU industry's leadership in onshore wind technologies and the great potential of the European offshore wind industry to contribute to a re-industrialisation of the Member States bordering the Baltic and the North Seas;

66. Stresses that educational institutions capable of producing skilled labour force and the next generation of scientists and innovators in the area of RES technologies is a key priority; recalls, in this connection, the important role of Horizon 2020 and the European Institute of Innovation and Technology in bridging the gap between education, research and implementation in the renewable energy sector;

67. Attaches particular importance to cooperation between European patent-protection mechanisms in the field of renewables, with a view to facilitating access to valuable and untapped intellectual property; stresses the need to activate as a matter of priority the projected European patent in the field of renewables;

68. Believes that targeted R&D through existing instruments needs to be made more effective and is concerned that R&D has been neglected in certain branches of the renewable energy sector, leading, in some cases, to commercial problems; underscores the need for investment in the further development of innovative, emerging and existing technologies as well as system integration between transport and energy in order to sustain or achieve competitiveness and to ensure that existing technologies remain sustainable throughout their life-cycle; emphasises the need for investments in renewable energy R&D, particularly in the area of capacity, efficiency and reducing the spatial footprint;

69. Calls on the Commission and the Member States to invest in research based on the use of renewable energy with industrial applications, for example in the automobile sector;

70. Welcomes the Commission's announcement that it will issue a communication on energy technology policy in 2013; calls on the Commission, when implementing the relevant parts of the Strategic Energy Technology Plan (SET), to focus on technologies which improve the competitiveness of renewables and their integration in the energy system such as grid management, storage technologies or renewable heating and cooling, while not discriminating against proven RES technologies which have been used for many years;

71. Stresses that research is key to the development and affordability of new and clean technologies; believes that the SET Plan can make important contributions towards making renewable technologies affordable and competitive;

A European framework for the promotion of renewable energy

72. Emphasises that the Member States currently use a wide variety of promotion mechanisms; points out that this support has led to healthy growth, in particular when support schemes are well designed, but that some of the promotion systems have been badly designed and have proved insufficiently flexible to adjust to the decreasing cost of some technologies and have, in some cases, caused overcompensation, thereby placing a financial burden on consumers; is pleased to observe that, thanks to the subsidies, some RES have managed to become competitive vis-à-vis conventional methods of energy production in certain areas, e.g. where geographical conditions favour them, where access to capital is good, where the administrative burden is the lowest or by economies of scale;

73. Emphasises that state influence and other factors, including fossil fuel prices, have had the effect of increasing the retail price of electricity for consumers and industry in certain Member States; points out that, in 2010, 22 % of households in the EU were worried about being able to meet their electricity bills and assumes that the situation in this regard has since worsened; stresses that energy should be affordable for all and that industry's ability to compete must not be affected; asks the Member States to take the necessary measures to ensure that low income customers are effectively protected, while raising public awareness of the potential of energy saving and energy efficiency measures; points out also that falling wholesale prices must be passed on to consumers;

74. Warns that pitching support at too high a level has the effect of over-compensating and thus of slowing technological progress and impeding market integration because it reduces the incentive to develop more innovative and better-value products; notes that the intelligent design of support mechanisms, allowing responses to market signals, is crucial to prevent over-compensation; believes that moving fast towards a system exposing producers to market price risk encourages technology competitiveness and eases integration into the market;

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75. Is convinced that the Commission should support Member States in identifying the most cost-effective RES and the way to best realise the potential; recalls that cost-optimal policies differ according to demand pattern, supply potential and economic context at local level;

76. Welcomes the Commission's declared intention to draw up guidelines on good practice and the reform of national support arrangements; calls on the Commission to produce the guidelines as soon as possible to ensure that the different national schemes do not distort competition or create barriers to trade and investment within the EU, in order to encourage predictability and cost-effectiveness and avoid excessive subsidies; urges the Commission, in this connection, to ensure that the internal market *acquis* is fully respected by the Member States; is convinced that good practice guidelines are an important step to ensure a functioning single market for energy and believes the guidelines could be supplemented with an evaluation of the cost-effectiveness of current national support systems, taking into account the different technologies they cover in order to ensure better comparability and coordination for the gradual and progressive convergence of national support mechanisms; is also convinced that implementation of these guidelines at Member State level will be crucial as they can help to avoid national support schemes being retrospectively amended or cancelled, which would send out disastrous signals to investors, as well as potentially causing severe economic distress to private citizens having invested in RES on the basis of such schemes; stresses that the implementation of these guidelines should be ensured by the Member States, and that special support arrangements for the development of local and regional resources should be allowed;

77. Regards it as essential, in view of the multiplicity of support arrangements in place in the Member States, to move the debate about greater convergence and a suitable European system of support for post-2020 forward; is convinced that in the long term a more integrated system for promoting RES at EU level, which takes full account of regional and geographical differences and existing supranational initiatives, and is part of a general effort towards decarbonisation, could help provide the most cost-effective framework for renewables and a level-playing field in which their full potential can be realised; notes that the existing Renewable Energy Directive allows governments to use joint support schemes; notes the evidence of experience in certain European countries that successfully demonstrates how a common approach in an integrated electricity market allows for mutually beneficial innovations between national systems; asks the Commission to assess, in the context of a post-2020 framework, whether an EU-wide mechanism for promoting RES would offer a more cost-effective framework in which their full potential could be realised, and how a progressive convergence could function;

78. Highlights the benefits of exchanges of best practice between Member States on support mechanisms; points out that the UK and Italy have recently announced a change in their support scheme from a quota system to a feed-in system, because evidence from similar geographic locations suggested that feed-in support models were less costly; calls on the Commission to include these aspects in its current analysis ([1]) and its upcoming guidelines proposal;

79. Proposes to build upon initiatives such as the joint support scheme implemented by Norway and Sweden in order to develop, where appropriate, regional joint support schemes on a step-by-step basis, around common energy markets such as the Nord Pool;

80. Calls on the budgetary authority to provide the Agency for the Cooperation of Energy Regulators (ACER) with the wherewithal to perform its duties and achieve the goals laid down in the regulation on wholesale energy market integrity, transparency and efficiency; notes that this is necessary in order to complete an integrated and transparent internal electricity and gas market by 2014;

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

([1]) COM(2012)0271 and accompanying documents; SEC(2008)0057; IEE Studies Reshaping 'Quo(ta) vadis, Europe?'.

Tuesday 21 May 2013

P7_TA(2013)0202

Women's rights in the Balkan accession countries

European Parliament resolution of 21 May 2013 on women's rights in the Balkan accession countries (2012/2255 (INI))

(2016/C 055/04)

The European Parliament,

— having regard to Article 3 of the Treaty on European Union, and Articles 8 and 19 of the Treaty on the Functioning of the European Union,

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

— having regard to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly on 18 December 1979,

— having regard to United Nations Security Council Resolution 1325 (UNSCR 1325);

— having regard to the European Pact for Gender Equality (2011-2020), adopted by the Council in March 2011 ([1]),

— having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995 and Parliament's resolutions of 18 May 2000 on the follow-up to the Beijing Action Platform ([2]), of 10 March 2005 on the follow-up to the Fourth World Conference on Women — Platform for Action (Beijing+10) ([3]) and of 25 February 2010 on Beijing + 15 — UN Platform for Action for Gender Equality ([4]),

— having regard to the Commission communication of 21 September 2010, entitled 'Strategy for equality between women and men 2010-2015' (COM(2010)0491),

— having regard to the Commission communication of 9 November 2010 entitled 'Commission Opinion on Albania's application for membership of the European Union' (COM(2010)0680), which states that gender equality is not fully guaranteed in practice, in particular in the field of employment and access to economic aid,

— having regard to the Commission communication of 9 November 2010 entitled 'Commission Opinion on Montenegro's application for membership of the European Union' (COM(2010)0670), which states that gender equality is not fully guaranteed in practice,

— having regard to the Commission's 2012 progress reports on the candidate and potential candidate countries accompanying the Commission communication of 10 October 2012 entitled 'Enlargement Strategy and Main Challenges 2012-2013' (COM(2012)0600),

— 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 Commission communication of 10 October 2012 on the Main Findings of the Comprehensive Monitoring Report on Croatia's state of preparedness for EU membership (COM(2012)0601),

— having regard to the Commission communication of 5 March 2008 entitled 'Western Balkans: Enhancing the European perspective' (COM(2008)0127),

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([1]) Annex to Council conclusions of 7 March 2011.
([2]) OJ C 59, 23.2.2001, p. 258.
([3]) OJ C 320 E, 15.12.2005, p. 247.
([4]) OJ C 348 E, 21.12.2010, p. 11.

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— having regard to the Commission communication of 27 January 2006 entitled 'The Western Balkans on the road to the EU: consolidating stability and raising prosperity' (COM(2006)0027),

— having regard to the Council conclusions of 2 and 3 June 2005, in which Member States and the Commission are invited to strengthen institutional mechanisms for promoting gender equality and to create a framework for assessing the implementation of the Beijing Platform for Action, in order to develop more consistent and systematic monitoring of progress,

— having regard to the Council conclusions of 30 November and 1 December 2006 on Review of the implementation by the Member States and the EU institutions of the Beijing Platform for Action — Indicators in respect of Institutional Mechanisms,

— having regard to the Council conclusions of 30 September 2009 on the review of the implementation by the Member States and the EU institutions of the Beijing Platform for Action,

— having regard to its resolution of 4 December 2008 on the situation of women in the Balkans ([1]),

— having regard to its resolution of 9 March 2011 on the EU strategy on Roma inclusion ([2]);

— 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 and the opinion of the Committee on Foreign Affairs (A7-0136/2013),

A. whereas seven countries in the Western Balkans — Albania, Bosnia and Herzegovina, Croatia, Kosovo, former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia — are at different stages of the process to become Member States of the European Union; whereas these countries need to adopt and implement the acquis communautaire and other EU obligations in the area of gender equality during this process;

B. whereas the implementation of women's rights and gender equality measures requires an increase in public awareness of these rights, judicial and non-judicial ways to invoke these rights, and governmental and independent institutions to initiate, carry out and monitor the implementation process;

C. whereas women play an essential role in peace, stabilisation and reconciliation efforts, and whereas their contributions should be recognised and encouraged, in line with UNSCR 1325 and subsequent resolutions;

General remarks

1. Notes that the accession countries in the Western Balkans have adopted much of the legislation required in the EU accession process, but that this legislation is in many cases not being effectively implemented;

2. Stresses the need for women in the Western Balkans to take a prominent role in society through active participation and representation in political, economic and social life at all levels; points out that advancing towards women's equal participation in decision-making at all levels of government (from local to national, from executive to legislative powers) is of high importance;

3. Notes with concern that the population in most countries is not fully aware of the existing legislation and policies to promote gender equality and women's rights and that such awareness rarely reaches the vulnerable or marginalised members of society, especially Roma women; calls on the Commission and the governments of accession countries to foster awareness through the media, public campaigns and education programmes in order to eliminate gender stereotypes and promote female role models and women's active participation in all paths of life including decision making; calls, above all, for the personal commitment of government members and officials;

([1]) OJ C 21 E, 28.1.2010, p. 8.
([2]) OJ C 199 E, 7.7.2012, p. 112.

4. Underlines the importance of awareness-raising campaigns in the fight against stereotypes, discrimination (gender-based, cultural, religion-based) and domestic violence, and for gender equality in general; notes that these campaigns should be complemented with the promotion of a positive picture of female role models in the media and advertising, educational materials and the internet; stresses the importance of improving the situation of women in rural areas, especially vis-à-vis discriminatory customs and stereotypes;

5. Notes with concern that women remain under-represented in the labour market as well as in economic and political decision making; welcomes quotas and calls on those countries which have not already done so to promote female representation and, where necessary, to apply quotas effectively in political parties and national assemblies, and encourages those countries which have already done so to continue this process in order to enable women to participate in political life and overcome their under-representation; notes that, where gender quotas in political decision making have been introduced, they should be properly implemented and supplemented with effective legal sanctions; welcomes, in this connection, the recent international women's summit on 'Partnership for Change' held in Pristina in October 2012 under the auspices of the region's only female head of state, Atifete Jahjaga;

6. Notes with concern that women's employment rates in the Western Balkan countries remain very low; points out that supporting equal opportunities policies is important for the economic and social development of the Balkan accession countries; calls on the governments to introduce measures in order to reduce the gender pay gap and, consequently, the gender pension gap and to tackle high unemployment rates, focusing in particular on women, especially those in rural areas; invites the governments of the countries in the Balkans to establish a legal framework for equal pay for equal work for both sexes, to assist women in reconciling private and professional life, to secure better working conditions, lifelong learning, flexible work schedules and in addition to create an environment which stimulates female entrepreneurship;

7. Notes with concern that, in some states in this region, women entrepreneurs are frequently discriminated against when trying to secure loans or credit for their businesses, and still often face barriers based on gender stereotypes; calls on states in the region to consider the creation of mentoring schemes and support programmes that can harness the advice and experience of entrepreneurial professionals; calls on the Western Balkan countries to develop active labour market schemes designed to curb unemployment among women; urges them to develop loan schemes and make funding available for starting businesses;

8. Stresses the importance of combating all forms of discrimination in the workplace, including gender discrimination in respect of recruitment, promotion and benefits;

9. Emphasises that, in the process of building properly functioning democratic institutions, securing the active participation of women — who comprise over half of the population in the Balkan countries — is crucial for democratic governance; notes with concern the lack of financial and human resources allocated to the functioning of governmental and independent institutions tasked with the initiation and implementation of gender equality measures and especially gender mainstreaming policies in most countries; calls on the authorities to accompany measures and action plans with adequate resources for their implementation, including appropriate women personnel; stresses that the Instrument for Pre-Accession Assistance (IPA) may and should be used for projects related to the promotion of women's rights and gender equality and that authorities in the countries bear full responsibility for well-functioning implementation mechanisms for women's rights and gender equality; calls on the Commission to exercise due diligence with respect to the effectiveness of spending;

10. Notes with concern the lack of statistical information on gender equality, on violence against women, on access to and availability of contraceptives, and on unmet need for contraception necessary for monitoring implementation that is standardised and may be compared over time, between accession countries and between EU Member States and accession countries; calls on the governments of the Balkan accession countries to establish a common methodology for gathering statistical information together with Eurostat, EIGE and other relevant institutes; stresses that specific strategies need to be developed and existing strategies implemented to improve the position of women faced with multiple discrimination, such as Roma women, lesbian, bisexual or transgender women, women with disabilities, women of ethnic minorities and older women;

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11. Considers that women play an essential role in stabilisation and conflict resolution, which is crucial to reconciliation in the region as a whole; underlines the importance of access to justice for women victims of wartime crimes, in particular rape; reiterates the responsibility of all states to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, including crimes involving sexual violence against women and girls, and to recognise and condemn these crimes as crimes against humanity and war crimes; stresses the need to exclude these crimes from amnesty provisions; welcomes the efforts of networks such as the Regional Women's Lobby to support women in peace-building and to promote access to justice for women in post-conflict countries; stresses the ongoing need to deal with the past and to secure systematically justice and rehabilitation for victims of conflict-related sexual violence; urges the adoption and implementation of adequate state programmes for witness protection and the prosecution of these crimes;

12. Condemns all forms of violence against women and notes with concern that gender-based violence and verbal abuse remain present in the Balkan countries; invites the governments of the Balkan countries to strengthen law enforcement bodies in order successfully to address issues such as gender-based violence, domestic violence, forced prostitution and trafficking in women, to create shelters for victims who have experienced or are currently experiencing domestic violence and to ensure that law enforcement institutions, legal authorities and public servants are more sensitive to this phenomenon; encourages national authorities in the region to set up awareness-raising programmes on domestic violence;

13. Notes with deep concern that 30 % of the victims of cross-border trafficking in human beings in the EU are nationals of Balkan countries, whereas women and girls comprise the bulk of the victims detected; stresses that gender equality, awareness-raising campaigns, and measures to combat corruption and organised crime are essential in order to prevent trafficking and protect potential victims; calls on national authorities in the region to work together in creating a common front;

14. Calls on the authorities in the Balkan accession countries to provide sustained funding to combat trafficking, to further strengthen their capacity to identify proactively and protect victims among the vulnerable population, to ensure by law that identified trafficking victims are not punished for committing crimes as a direct result of being trafficked, to sustain victim protection efforts, to train law enforcement officials, and to further develop reception-centre and shelter capacity; calls also on the respective governments to improve the implementation of the existing legislation in order to create a dissuasive environment for traffickers, where cases of trafficking are properly investigated and perpetrators are prosecuted and convicted; calls on the Commission to urge Balkan accession countries to improve their records on prosecution and punishment and support local initiatives to address the root causes of trafficking, such as domestic violence and limited economic opportunities for women;

15. Considers that genuine gender equality also rests on equality and non-discrimination as regards sexual orientation and gender identity; encourages the governments of the accession countries to address lingering homophobia and transphobia in law, policy and practice, including by legislating on hate crimes, police training and anti-discrimination legislation, and asks the national authorities in the region to denounce hatred and violence on grounds of sexual orientation, gender identity or gender expression;

16. Welcomes the increase in cross-border regional initiatives in the area of women's rights and gender equality; calls on governments and the Commission to support these initiatives and to encourage the exchange and promotion of good practices arising from them, inter alia by employing the pre-accession funds and by making sufficient grants available to these initiatives, including from a gender budgeting perspective;

17. Invites the Government of Montenegro, and the Serbian, FYROM and Albanian Governments, once they start accession negotiations, to agree on a framework agreement with their parliaments, political parties and civil society on the involvement of civil society organisations, inter alia in the area of women's rights and gender equality, in the accession negotiations and in drafting the action plans for reform resulting from these negotiations, and ensuring their access to relevant documents pertaining to the accession process;

18. Calls on the governments of the Balkan accession countries to recognise and support the role that civil society and women's organisations play in specific areas, such as promoting LGBT rights, combating violence against women, increasing women's political participation and representation and promoting peace-building efforts; strongly supports activities aimed at empowering women and strengthening their position in the societies concerned;

19. Notes with concern that in most of the Balkan accession countries the process for the social inclusion of Roma has slowed down and, in some cases, even came to a halt; calls on the respective governments to step up their efforts to further integrate Roma citizens and guarantee the elimination of all forms of discrimination and prejudice against Roma, especially women and girls who suffer from multiple, compound and intersectional discrimination; calls on the Commission to enhance its efforts to involve the enlargements countries at whatever stage of accession, and to mobilise the Instrument on Pre-Accession Assistance (IPA) and the mechanism of the Stabilisation and Association (SAA) process;

20. Notes with concern that LGBT-rights activists and human rights activists who stress the importance of dealing with the past are regular targets of hate speech, threats and physical attacks, and calls on the governments of the Balkan accession countries to take specific measures to prevent and combat violence against women human rights defenders;

21. Calls on the Commission to make the implementation of women's rights, the mainstreaming of gender equality and the continuous fight against domestic violence a priority in the accession process of Western Balkan countries, by continuing to address these issues and to monitor and report on their implementation in progress reports, and to emphasise their importance in contacts with authorities, and showing a good example by ensuring that its own delegations, negotiating teams and representation at meetings and in the media are gender-balanced;

22. Calls on the EU delegations in the Balkan countries to keep progress in the sphere of women's rights and gender equality under careful review in anticipation of future accession to the EU and calls on each delegation to appoint a member of staff to deal with gender policies with a view to facilitating the exchange of good practice within the Balkan region;

23. Encourages national authorities in the region to support gender equality through education in schools and universities; notes that from a young age many girls are discouraged from pursuing school and university subjects perceived as inherently 'masculine', such as science, maths and technology; recommends that initial courses be introduced at school that the spectrum of possible subjects and careers open to girls be broadened, so that they are able to develop the knowledge base and full range of skills necessary for succeeding in any path of life they may decide to choose;

24. Stresses that all women must have control over their sexual and reproductive rights, including by having access to affordable high-quality contraception; expresses concern about the restrictions on access to sexual and reproductive health services in the Balkan accession countries;

25. Calls on the governments of the Balkan accession countries to adopt legislation and policies that ensure universal access to reproductive health services and promote reproductive rights, and to gather systematically data that is necessary to promote the situation of sexual and reproductive health;

Albania

26. Calls on the Albanian Government to support the participation of more women in political decision-making, especially with a view to the parliamentary elections in 2013;

27. Calls on the Albanian Government to implement the National Strategy for Integration and Development and the Law on Protection from Discrimination by strengthening the Office of the Commissioner for Protection from Discrimination and establishing an appeals institution in the form of a Commissioner specifically for cases of gender discrimination, in order to promote an environment in which women giving birth to girls are not subjected to discrimination;

28. Calls on the Albanian Government to improve coordination between national and local authorities, especially for the purpose of combating domestic violence, and notes that women should be involved more widely in local and national decision-making in Albania;

29. Calls on the Albanian Government to propose gender-sensitive reforms to the legislation on property rights, the penal code, the electoral law and labour laws;

30. Commends Albania for the training given to judges on the implementation of gender-equality legislation and measures against violence against women and for the possibility for victims of discrimination or violence to receive state-sponsored legal aid;

31. Commends Albania for the decision taken on gender mainstreaming in the medium-term budget programme for all line ministries and looks forward to seeing the results of its implementation;

32. Calls on the Albanian Government to implement, and if necessary adapt, performance indicators to monitor the implementation of women's rights and gender equality measures;

33. Calls on the Albanian parliament to establish a parliamentary committee to deal specifically with women's rights and gender equality;

34. Calls on the Albanian Government to step up the implementation, particularly at local level, of policy tools fostering women's rights, such as the National Strategy on gender equality, domestic violence and violence against women (2011-2015);

35. Commends the Albanian authorities on the establishment of performance indicators to monitor the implementation of women's rights and gender-equality measures, and the publication of the National Report on the Status of Women and Gender Equality in Albania 2012;

Bosnia and Herzegovina

36. Calls on the Government of Bosnia and Herzegovina to align legislation on gender equality as well as legal practice at different levels, in order to create a uniform legal situation in the country and to strengthen the department responsible for gender equality at central level in order to address the ongoing lack of women in the highest echelons of governance and monitor the problems caused so far by its non-implementation; calls on the Commission to use all available mechanisms to strengthen accountability and stronger action on the part of the Bosnia and Herzegovina authorities in this direction; calls on the Bosnia and Herzegovina Government to put stronger emphasis on the implementation and harmonisation of the Law on Gender Equality of Bosnia and Herzegovina and the Law on Prohibition of Discrimination with other laws at the state level;

37. Notes with particular concern the discrimination against pregnant women and women who have just given birth on the labour market, and the differences in social security rights pertaining to maternity between different entities and cantons; calls on the Bosnia and Herzegovina authorities to align social security rights for those who take maternity, paternity or parental leave across the country to a high standard, creating a uniform situation for all citizens;

38. Notes with concern the low level of awareness of gender equality legislation and legislation against violence against women, not only among the population at large, but also among those working in law enforcement; calls on the authorities to implement an action plan to create more awareness and to train law enforcement officers;

39. Notes with serious concern that the laws on protecting victims of domestic violence still remain to be harmonized with the entity laws, with a view to recognising domestic violence as a criminal offence in the criminal codes of both Bosnia and Herzegovina entities, thus failing to properly provide legal security to these victims; calls on the Government of Bosnia and Herzegovina to resolve this issue as soon as possible in order to increase protection for victims;

40. Commends the women in the Bosnia and Herzegovina parliament for their cross-party debate on gender-based violence with the relevant ministers; calls on the Bosnia and Herzegovina authorities to follow up on this debate with concrete measures to promote combating gender-based violence;

41. Calls on the Bosnia and Herzegovina authorities to provide official statistics on the number of reported cases of violence on the basis of data gathered from police reports, social care centres and judicial institutions and to make these statistics publicly available; likewise, calls on the Bosnia and Herzegovina authorities to gather and publicise data on measures aimed at ensuring protection of victims of domestic violence;

42. Calls on the Government of Bosnia and Herzegovina to harmonise the Law on Gender Equality of Bosnia and Herzegovina with the Election Law, as regards the composition of bodies of executive governance at all decision-making levels (municipal, cantonal, entity and state);

43. Commends Bosnia and Herzegovina on its legislation laying down a 40 % minimum representation rate for each gender in administrative functions in state and local government bodies, but notes that this has not led to women accounting for 40 % of staff in administration in practice; calls on the Bosnia and Herzegovina authorities to draw up an action plan with clear timeframes and a clear division of responsibilities to implement this legislation;

44. Notes with concern the lack of financial and human resources for the implementation of the action plan on UNSCR 1325, for institutional mechanisms to ensure gender equality, for proper access to justice and for shelters for victims of domestic violence; calls on the Bosnia and Herzegovina authorities at all levels to include sufficient funding for these purposes in their budgets;

45. Deplores the fact that, until now, the Bosnia and Herzegovina authorities have investigated and condemned only a limited number of cases of war crimes of sexual violence; notes with serious concern that a large number of perpetrators of such crimes have escaped the justice system with impunity; notes also the failure of the Bosnia and Herzegovina authorities to provide adequate witness protection programmes for the victims; calls, therefore, on the Bosnia and Herzegovina authorities to ensure that all victims of war crimes of sexual violence have safe and adequate access to the judicial system and that all war-crime cases brought forth be dealt with swiftly and efficiently;

46. Calls on the Bosnia and Herzegovina government to improve monitoring of existing legislation in the area of women's rights and gender equality, by including clear objectives in policies and action plans and clearly identifying the state institutions accountable for implementation; furthermore calls on Bosnia and Herzegovina authorities at all levels to cooperate in gathering comprehensive statistical data on gender equality for the country as a whole;

Croatia

47. Encourages the Croatian Government to continue the adjustment of its legislation with the EU's acquis communautaire in the area of gender equality after accession;

48. Calls on the Croatian authorities to fully implement the legislation stipulating 40 % women on election lists for local and regional self-government bodies, Parliament and the European Parliament, considering that during the parliamentary elections in 2011, two thirds of political parties did not meet the prescribed target;

49. Commends Croatia for the establishment of the office of a Gender Equality Ombudsperson and the awareness of women's rights and gender equality measures created by the visibility of this office; recommends all countries in the region to consider whether they can follow this example as good practice; encourages the Croatian Government to continue funding the Ombudspersons Office and follow up their recommendations;

50. Welcomes the local gender mainstreaming action plans especially in the Istria region, calls on the Croatian government to promote the adoption and implementation of such action plans throughout the country;

51. Calls on the Croatian Government to establish a structural dialogue with civil society organisations, especially with a view to the situation after accession;

52. Welcomes the progress made in Croatia in terms of the proper handling of cases of violence against women and gender discrimination by the police following targeted training of police officers in this field and encourages authorities to continue these actions; points out that cases are however still not always properly handled by the judiciary and calls on authorities to initiate actions to sensitise and train the judiciary too; furthermore calls on the Croatian government to make free legal aid available to victims of gender-based violence and discrimination;

53. Asks the Croatian authorities to clarify in the National Strategy on Protection from Family Violence (2011-2016) which authority is responsible for what action and to award proper funding to authorities and civil society organisations to implement the strategy;

Kosovo

54. Welcomes the role attributed to the Assembly of Kosovo in approving, reviewing and monitoring the Programme for Gender Equality; calls for the implementation of the recommendations arising from monitoring reports;

55. Calls on the Kosovar Government to promote a country-wide SOS hotline for victims of domestic violence and gender-related violence and to create awareness of the possibilities for reporting and handling of cases;

56. Commends the Kosovar Government for placing the Gender Equality Agency under the Office of the Prime Minister, and calls on the Government to ensure more efficient functioning of the Agency in implementing and monitoring the Law on Gender Equality without political interference;

57. Calls on the Kosovar Government to establish the proposed Centre for Equal Treatment as soon as possible;

58. Commends Kosovo on the training of police officers in the handling of cases of gender-based violence and the establishment of special rooms in police stations for victims and their children; calls on the Kosovar Government to train the judiciary in handling these cases too and to increase the number of shelters for victims and the possible duration of stay in these shelters;

59. Urges the Kosovar Government to recognise and work towards the implementation of the Pristina principles as established by the Kosovo women's summit in October 2012;

60. Stresses the need for further advocacy regarding the use and supply of, and access to, contraceptives, given that while a greater percentage of women are now using such forms of birth control, the use of contraceptives is still far from universal among all women in Kosovo;

61. Calls on the Kosovar Government to recognise the victims of sexual violence during the conflict in 1998-1999 as a special category under the law through an amendment to Law No. 04/L-054 on the status and the rights of the martyrs, invalids, veterans, members of Kosova Liberation Army, civilian victims of war and their families;

62. Calls on the Kosovar Government to identify clear indicators for compliance and non-compliance with administrative instructions for laws on gender equality and discrimination, in order to facilitate their implementation and monitoring; calls, furthermore, on the Government to collect data on, and establish a national registry for, cases of gender-based discrimination and violence;

The former Yugoslav Republic of Macedonia (FYROM)

63. Commends the Macedonian Government on the new law proposal against sexual harassment or mobbing in the workplace, including fines for perpetrators, and calls for the harmonisation of the law proposal with the criminal code; welcomes the intention of the Macedonian Government to change legislation to ensure that both parents are allowed to take parental leave or family leave in order to take care of sick relatives, and the recent adoption of changes to the labour law to afford better legal protection on the labour market for women who are pregnant or have just given birth;

64. Notes with concern that Roma women suffer from double discrimination on the grounds of gender and ethnicity; calls, therefore, on the Macedonian Government to adopt a comprehensive anti-discrimination framework that would enable Roma women to secure their rights;

65. Commends the Macedonian authorities on the addition of dissuasive penalties for non-compliance with the law stipulating a representation of at least 30 % of each gender in political decision-making bodies; calls on the Macedonian Government to monitor closely whether, as a result, at least 30 % of members in decision-making bodies, especially at local level, are women;

66. Commends the Macedonian Parliament on the active 'women's club' through which female Members of Parliament of different parties cooperate in promoting women's rights and gender equality by arranging public debates, conferences and international and other events, and by cooperating with civil society to address delicate or marginalised issues such as sexual education in primary schools, domestic violence, HIV, cervical cancer, hate speech and the position of women in rural areas;

67. Notes that the mechanisms of the Legal Representative within the Department for Equal Opportunities at the Ministry of Labour and Social Policy, responsible for providing legal advice in cases of unequal treatment between women and men, does not function properly; calls on the Macedonian Government to take measures to improve the functioning of these mechanisms;

68. Notes with concern the fragmented implementation of the action plans and strategies for gender equality and the lack of overall coordination of efforts; calls on the Macedonian Government to increase the financial and human resources available to the Department for Gender Equality, as well as to ensure the appointment and effective functioning of Coordinators for Equal Opportunities at national and local level;

69. Welcomes the progress made in combating gender-based violence, reflected not least in the increase in reports as a result of awareness campaigns, the training of specialised police officers and the agreement on protocols between institutions in the handling of reports; notes with concern, however, that the number of shelters for victims of domestic and other forms of gender-based violence is not sufficient;

70. Calls on the Macedonian Government to eliminate the existing cultural and financial barriers for women to gain access to contraception;

Montenegro

71. Notes with concern that the percentage of women in political decision-making has hardly increased over the past decades; calls on the Montenegrin Government to reform legislation in this area and ensure compliance;

72. Calls on the Montenegrin Government to increase the human and financial resources available to the Department for Gender Equality, the implementation of the legal and institutional framework for enforcing gender equality and the Gender Equality Action Plan;

73. Commends the Montenegrin Government on the drafting of the new National Action Plan for Accomplishing Gender Equality in cooperation with civil society and the inclusion of strategic and operational goals in this plan; calls on the Government to set aside sufficient human and financial resources for its implementation and to establish a framework for continuing cooperation with civil society in the implementation phase;

74. Welcomes the inclusion of gender equality measures in the Montenegrin reform programme for accession; calls on the Montenegrin Government to prioritise actions to implement gender equality provisions in the accession negotiations on Chapter 23 on 'Judiciary and Fundamental Rights' as well as in other relevant chapters, including Chapter 19 on 'Social Policy and Employment', Chapter 24 on 'Justice, Freedom and Security' and Chapter 18 on 'Statistics';

75. Commends the Montenegrin Government on the progress made in addressing domestic violence through the adoption of a Code of Conduct on procedures for coordinated institutional response; notes with concern, however, that domestic violence remains a great concern in Montenegro, and calls on the Government to dedicate sufficient funds and efforts to implement the relevant legislation and the Code of Conduct, to introduce a national SOS helpline and to collect data;

76. Notes with concern the low number of complaints of gender-based discrimination and violence; calls on the Montenegrin Government to make the investments needed to raise awareness about women's rights, the legislation in place to combat violence and the possibilities to report and address violations;

77. Welcomes the efforts made by the Montenegrin Parliament to research in a methodical manner the implementation of equality legislation;

Serbia

78. Calls on the Serbian Government to implement further the National EU Integration Programme by strengthening mechanisms to monitor the application of the law prohibiting discrimination, and to improve the administrative capacities of bodies dealing with gender equality, including the Equality Protection Commissioner and the Deputy Ombudsperson for Gender Equality;

79. Commends the Serbian Government on the electoral code stipulating that every third candidate on election lists for Parliament must be a member of the underrepresented sex and on the full implementation thereof, which has ensured that 34 % of the seats in Parliament are held by women;

80. Calls on the Serbian Government to reinforce the training of law enforcement officers in the police and judiciary in awareness and proper handling of cases of gender-based discrimination and violence, to make free legal aid available to victims and to address the general problem of the backlog of cases before the courts;

81. Commends the progress made in combating domestic violence through the adoption of a general protocol on procedures for cooperation in situations of domestic and partner-relationship violence, the introduction of a telephone helpline and the opening of a new shelter; notes, however, that domestic violence is still a great concern in Serbia; calls on the Government to award sufficient funds and efforts to implement legislation and the protocol, to promote the reporting of cases and to collect and share information and data between institutions, agencies and women's civil society organisations;

82. Commends the Serbian Government and Parliament on their close cooperation with civil society organisations in drafting and monitoring an extensive action plan to implement UN Security Council resolution 1325; calls on the Government to make sufficient human and financial resources available for its implementation;

83. Calls on the Serbian authorities to improve cooperation with civil society organisations for gender equality, especially at local level between local governments and local civil society organisations, in drafting, implementing and monitoring laws and policies on gender equality and gender-based violence, and to provide structural funding for the work of organisations dealing with gender-based violence;

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84. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Balkan accession countries.

Tuesday 21 May 2013

P7_TA(2013)0203

EU Charter: standard settings for media freedom across the EU

European Parliament resolution of 21 May 2013 on the EU Charter: standard settings for media freedom across the EU (2011/2246(INI))

(2016/C 055/05)

The European Parliament,

— having regard to Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the UNESCO Convention on the Protection and the Promotion of the Diversity of Cultural Expressions,

— having regard to Article 10 of the European Convention on Human Rights, the case-law of the European Court of Human Rights, the declarations, recommendations and resolutions of the Committee of Ministers and Parliamentary Assembly of the Council of Europe, and the documents of the Venice Commission and the Council of Europe's Commissioner for Human Rights on freedom of expression, of information and of the media,

— having regard to Article 11 of the EU Charter of Fundamental Rights, Articles 2, 7 and 9 to 12 of the Treaty on European Union, the treaty articles relating to freedom of establishment, freedom to provide services, free movement of persons and goods, competition and state aids, and Article 167 of the Treaty on the Functioning of the European Union (culture),

— having regard to the Protocol on the system of public broadcasting in the Member States annexed to the Treaty on European Union, known as the Protocol of Amsterdam,

— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) ([1]),

— having regard to the Commission staff working document on media pluralism in the Member States of the European Union (SEC(2007)0032),

— having regard to the European Charter on Freedom of the Press ([2]),

— having regard to the establishment by the Commission of a High-Level Group on Media Freedom and Pluralism,

— having regard to its resolutions of 20 November 2002 on media concentration ([3]), of 4 September 2003 on the situation as regards fundamental rights in the European Union (2002) ([4]), of 4 September 2003 on Television without Frontiers ([5]), of 6 September 2005 on the application of Articles 4 and 5 of Directive 89/552/EEC ('Television without Frontiers'), as amended by Directive 97/36/EC, for the period 2001-2002 ([6]), of 22 April 2004 on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental Rights) ([7]), of 25 September 2008 on concentration and pluralism in the media in the European Union ([8]), of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system ([9]), and of 10 March 2011 on media law in Hungary ([10]),

([1]) OJ L 95, 15.4.2010, p. 1.
([2]) http://www.pressfreedom.eu/en/index.php
([3]) OJ C 25 E, 29.1.2004, p. 205.
([4]) OJ C 76 E, 25.3.2004, p. 412.
([5]) OJ C 76 E, 25.3.2004, p. 453.
([6]) OJ C 193 E, 17.8.2006, p. 117.
([7]) OJ C 104 E, 30.4.2004, p. 1026.
([8]) OJ C 8 E, 14.1.2010, p. 75.
([9]) OJ C 99 E, 3.4.2012, p. 50.
([10]) OJ C 199 E, 7.7.2012, p. 154.

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— having regard to the ongoing European Initiative for Media Pluralism ([1]), an initiative registered with the Commission, which aims to protect media pluralism through the partial harmonisation of the national rules concerning media ownership and transparency, conflicts of interest with political office, and the independence of media supervisory authorities,

— having regard to Recitals 8 and 94 of the Audiovisual Media Services Directive, which outline the need for Member States to prevent any actions which create dominant positions or restrict pluralism, and to enable independent regulatory bodies to carry out their work transparently and impartially,

— having regard to the work carried out by the OSCE on media freedom, in particular by its Representative on Freedom of the Media, to the related reports, and to the speech delivered by video at the hearing on media freedom held by the Committee on Civil Liberties, Justice and Home Affairs on 6 November 2012,

— having regard to the reports on the media published by NGOs, including those by Reporters Without Borders (Press Freedom Indexes) and Freedom House (Freedom of the Press reports),

— having regard to the studies on media-related issues published by Parliament ([2]) and by the European University Institute's Centre for Media Pluralism and Media Freedom ([3]),

— having regard to the independent study 'The indicators for media pluralism in the Member States — Towards a risk-based approach' conducted on the Commission's request in 2007 and published in 2009 ([4]), in which a Media Monitoring Tool is defined with indicators in order to highlight threats to media pluralism,

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

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Culture and Education (A7-0117/2013),

A. whereas the media play a fundamental 'public watchdog' role in democracy, as they allow citizens to exercise their right to be informed, to scrutinise and to judge the actions and decisions of those exercising or holding power or influence, in particular on the occasion of electoral consultations; whereas they can also play a part in establishing the public agenda using their authority as information gatekeepers and hence act as opinion formers;

B. whereas freedom of expression in the public sphere has been shown to be formative of democracy and the rule of law itself, and coaxial to its existence and survival; whereas free and independent media and free exchange of information have a decisive role in the democratic transformations taking place in non-democratic regimes, and the Commission is requested to undertake the close monitoring of media freedom and pluralism in accession countries and to pay sufficient attention to the role of free media in the promotion of democracy throughout the world;

C. whereas freedom of the media is a cornerstone of the values enshrined in the Treaties, among them democracy, pluralism, and respect for the rights of minorities; whereas the history thereof, under the name of 'freedom of the press' has been constitutive of the progress of democratic ideas and the development of the European ideal in history;

D. whereas media freedom, pluralism and independent journalism are essential elements to the very exercise of media activity throughout the Union, and particularly in the single market; whereas, therefore, any undue restrictions on media freedom, pluralism and the independence of journalism are also restrictions on the freedom of opinion and on economic freedom; whereas journalists should be free from the pressure of owners, managers and governments, as well as from financial threats;

([1]) www.mediainitiative.eu
([2]) 'The Citizen's Right to Information: Law and Policy in the EU and its Member States',June 2012, available at http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=75131
([3]) http://cmpf.eui.eu/Home.aspx.
([4]) drafted by K.U.Leuven — ICRI, Jönköping International Business School — MMTC, Central European University — CMCS and Ernst & Young Consultancy Belgium.

E. whereas an autonomous and strong public sphere, based on independent and plural media, constitutes the essential environment in which the collective freedoms of civil society, such as the right of assembly and association, as well as individual freedoms, such as the right to freedom of expression and the right of access to information, can thrive;

F. whereas citizens' fundamental rights to freedom of expression and information can be guaranteed only through media freedom and pluralism, whereby journalists and the media can exercise their right and duty to inform citizens in a fair and neutral manner and report impartially on events and decisions of public interest; whereas all members of society have the right to express their views in a democratic and peaceful fashion;

G. whereas the European Court of Human Rights has ruled that there is a positive obligation on Member States to ensure media pluralism, arising from Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which includes similar provisions to those contained in Article 11 of the Charter of Fundamental Rights of the European Union, which is part of the acquis communautaire;

H. whereas information, by its very nature, and also and in particular thanks to the technological changes of recent decades, goes beyond geographical boundaries and performs a crucial role in informing national communities living abroad, providing tools that permit mutual knowledge and understanding across borders and between countries; whereas including online, but not limited to it, media have acquired a global character on which the expectations and needs of the public, and in particular consumers of information, are now dependent; whereas the changes in the media world and communication technologies have redefined the arena of information exchange and the way in which people are informed and public opinion is shaped;

I. whereas a Europe-wide public sphere based upon continuous and uninterrupted respect for media freedom and pluralism is a crucial element in the integration process of the Union, in accordance with the values enshrined in the Treaties, the accountability of the EU institutions and the development of European democracy, as for example in the case of elections to the European Parliament; whereas a vibrant, competitive and pluralistic media landscape, both print and audiovisual, stimulates the participation of citizens in public debate which is essential for a well-functioning democratic system;

J. whereas NGOs, associations monitoring media freedom, the Council of Europe and the OSCE, as well as the European Parliament in its studies and resolutions, have reported on and warned against the threats posed to a free and independent media by governments, including EU Member State governments ([1]);

K. whereas the Council of Europe and the OSCE have examined the human and democratic dimension of communication, through detailed declarations, resolutions, recommendations, opinions and reports on the subjects of media freedom, pluralism and concentration, thus creating a significant body of common pan-European minimum standards in this field;

L. whereas the European Union is committed to protecting and promoting media pluralism as an essential pillar of the right to information and the right to freedom of expression, which are essential milestones for active citizenship and participative democracy, and are enshrined in Article 11 of the Charter of Fundamental Rights;

M. whereas media freedom is a qualifying criterion for the accession of candidate countries to the EU under the Copenhagen criteria, and is also one of the principles promoted by the EU in its foreign policy; whereas the EU and its Member States should consequently lead by example internally, thereby ensuring credibility and coherence;

([1]) These include: direct or indirect partisan political control and influence over the media or media control bodies; the barring or limiting of market access for some media outlets through broadcast licensing and authorising procedures; misuse and abuse of the rules on national or military security and public order or morality in order to impose censorship and impede access to documents and information; violation of the principle of the confidentiality of sources; absence of laws on media concentration and conflicts of interest; and the use of advertising to influence editorial lines.

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N. whereas Parliament has repeatedly expressed concern about media freedom, pluralism and concentration, and has called on the Commission, as guardian of the treaties, to take appropriate measures, inter alia by proposing a legislative initiative on the matter;

O. whereas on 16 January 2007 the Commission launched a 'three-step approach', consisting of: a Commission Staff Working Paper on Media Pluralism; an independent study on media pluralism in EU Member States, with indicators for assessing media pluralism and identifying potential risks in the Member States (to appear in 2007); and a Commission communication on the indicators for media pluralism in the Member States (to appear in 2008), to be followed by a public consultation ([1]); whereas the media pluralism tool described in the independent study has yet to be implemented;

P. whereas this approach has unfortunately been discontinued by the Commission, as neither the communication nor the public consultation were ever launched;

Q. whereas, with the entry into force of the Lisbon Treaty, the Charter of Fundamental Rights has become binding; whereas the Charter is the first international document that explicitly states that 'the freedom and pluralism of the media shall be respected' (Article 11(2)); whereas the Treaties provide the EU with a mandate and powers to ensure that all fundamental rights are protected in the Union, notably on the basis of Articles 2 and 7 TEU;

R. whereas Member States have a duty to constantly promote and protect freedom of opinion, expression, information and the media, as these principles are also guaranteed in their constitutions and laws, and also to provide citizens with fair and equal access to different sources of information and thus to differing viewpoints and opinions; whereas they have in addition the duty to respect and protect private and family life, home and communications, as well as the personal data of citizens, under Articles 7 and 8 of the Charter; whereas, should these freedoms be placed at serious risk or violated in a Member State, the Union is obliged to intervene in a timely and effective fashion, on the basis of its competences as enshrined in the Treaties and in the Charter, so as to protect the European democratic and pluralistic order and fundamental rights;

S. whereas the EU has competences in media-related fields such as the internal market, audiovisual policy, competition (including state subsidies), telecommunications and fundamental rights; whereas Parliament has stated that on this basis minimum essential standards should be defined in order to ensure, guarantee and promote freedom of information and an adequate level of media pluralism and independent media governance ([2]); whereas the Commission has entrusted the Centre for Media Pluralism and Media Freedom of the European University Institute with the task of conducting an analysis of the scope of EU competences in the field of media freedom;

T. whereas concerns arise in relation to the challenges and pressure facing the media, notably public service broadcasters, in terms of editorial independence, staff recruitment, precarious employment, self-censorship, pluralism, neutrality and quality of information, access and funding, arising from undue political and financial interference, as well as the economic crisis;

U. whereas concern arises in relation to the high unemployment rate of journalists in Europe, as well as the large proportion of them who act as freelancers, with limited job stability and support and in a climate of great uncertainty;

V. whereas the private media are faced with growing concentration, both domestically and crossborder, with media conglomerates distributing their products in different countries, increasing intra-EU media investment, and non-European investors and media exerting an increasing influence in Europe leading to the monopolisation of information and undermining pluralism of opinion; whereas there is a certain concern regarding the sources of financing of some private media, including some in the EU;

([1]) http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/52
([2]) See paragraph 6 of the resolution of Parliament of 10 March 2011 on media law in Hungary.

W. whereas the European public has, as shown by numerous surveys, opinion studies and public initiatives, voiced its concern regarding the deterioration of media freedom and pluralism, and has repeatedly demanded action from the EU for the preservation of media freedom and the development of a strong, independent and plural mediascape;

X. whereas the speeding-up of the news cycle has resulted in severe shortcomings on the part of journalists, such as omitting to check and double-check journalistic sources;

Y. whereas the development of the digital environment can play an essential role in access to online information for European citizens;

Z. whereas the media landscape is undergoing fundamental changes; whereas, particularly in this time of economic crisis, an increasing proportion of journalists are working in precarious conditions of employment and facing a lack of social security, by comparison with labour market standards, and also have to face various challenges related to the future of journalism;

AA. whereas petitions have been addressed to Parliament regarding the same concerns and demands by citizens, thereby showing a request for action on the part of the institutions, and in particular Parliament;

AB. whereas the technological changes brought about by the internet, personal computing, and, more recently, mobile computing have profoundly changed the informational infrastructure in ways that have had consequences for the business model of more traditional media, and in particular its reliance on the advertisement market, thereby imperilling the survival of media titles that perform an important civic and democratic role; whereas it is therefore the obligation of public authorities, at Member State as well as Union level, to create a 'toolbox', to be made available during the present transition period, that will help guarantee the survival of the values and responsibilities of independent media, regardless of whatever technological platform is assumed by them now or in the future; calls on the Commission, in this regard, to conduct a study of the effects of technological change on the media business model and its consequences for media freedom and pluralism;

AC. whereas the recent economic crisis has made the difficulties of media titles worse and, with the increasing precariousness of the journalist's role, has made the mediascape more vulnerable to economic and political pressure, as well as more fragile in itself; whereas these phenomena have had particular consequences for those journalistic genres which are more expensive or take more time to develop, such as investigative journalism, reportage, and the posting of international and European correspondents; whereas these types of journalism are essential to guarantee responsibility and accountability on the part of public and political authorities, to stop abuses of economic and institutional power, and to ensure the uncovering and prosecution of criminal activity in the social, environmental and humanitarian areas; calls on the Commission to conduct a study of the effects of the crisis and of precarious employment on the journalistic community, with a view to analysing and endeavouring to remedy the consequences for media freedom and pluralism;

AD. whereas technological change, a diverse community of independent journalism professionals, and the acquisition of the plural competences needed to gather and produce quality today also create opportunities for the creation of new cross-platform and transnational journalistic ventures that can be supported through both public and market-based policies;

1. Calls on the Member States and the European Union to respect, guarantee, protect and promote the fundamental right to freedom of expression and information, as well as media freedom and pluralism, and hence to refrain from exerting, and to develop or support mechanisms to impede, threats to media freedom such as trying to unduly and politically influence or pressure and impose partisan control and censorship on the media, limit or wrongfully restrict the freedom and independence of the mass media in the service of private or political interests, or threaten public service broadcasters financially;

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2. Calls on the Member States and the EU to make sure that legally binding procedures and mechanisms are in place for the selection and appointment of public media heads, management boards, media councils and regulatory bodies that are transparent, are based on merit and indisputable experience and ensure professionalism, integrity and independence, as well as maximum consensus in terms of representing the entire political and social spectrum, legal certainty and continuity rather than political or partisan criteria that are based on a 'spoil and reward' system linked to election results or are subject to the will of those in power; notes that every Member State should establish a set of criteria for appointing state media heads or boards, in line with the principles of independence, integrity, experience and professionalism; calls on the Member States to establish guarantees ensuring the independence of media councils and regulatory bodies from the political influence of the government, the parliamentary majority or any other group in society;

3. Stresses that media pluralism and journalistic and editorial independence are pillars of media freedom, in terms of ensuring that media are diversified, grant access to different social and political actors, opinions and viewpoints (including NGOs, citizens' associations, minorities, etc), and offer a wide range of views;

4. Calls on the Member States to ensure that cultural communities which are divided in several regional governments or Member States can have access to media in their language, and that no political decisions are taken that would curtail such access;

5. Recalls that, according to the European Court of Human Rights, states party must guarantee media pluralism under Article 10 of the European Convention on Human Rights; points out that Article 10 of that Convention contains provisions similar to those of Article 11 of the Charter of Fundamental Rights of the European Union, which forms part of the Community acquis;

6. Stresses that the Commission should ensure that Member States guarantee proper implementation of the Charter of Fundamental Rights in their country, as witnessed by media pluralism, equal access to information and respect for the independence of the press through neutrality;

7. Notes that under the Copenhagen criteria countries wishing to accede to the European Union must comply with the acquis communautaire, which includes the Charter of Fundamental Rights and, more particularly, Article 11 thereof, which requires respect for the freedom and pluralism of the media; notes, conversely, that although existing Member States are also required to comply with the Charter, no mechanism exists to ensure that they do so;

8. Underlines the fundamental role of a genuinely balanced European dual system, in which private and public service media play their respective roles and which shall be preserved, as requested by Parliament, the Commission and the Council of Europe; notes that in a multimedia society in which there are now greater numbers of commercially-driven global market players, public service media are essential; recalls the important role of public service media funded by the citizens through the state to meet their needs, as well as their institutional duty to provide-high quality, accurate and reliable information for a wide range of audiences, which shall be independent of external pressures and private or political interests, while also offering space for niches that may not be profitable for private media; stresses that the private media have similar duties in relation to information, in particular that of an institutional and political nature, e.g. in such contexts as elections, referendums, etc; underlines the need to guarantee the professional independence of national news agencies and avoid the creation of news monopolies;

9. Recognises that continued self-regulation and non-legislative initiatives, where they are independent, impartial and transparent, have an important role to play in ensuring media freedom; calls on the Commission to take measures to support the independence of the media and its regulatory agencies, from both the state (including at European level) and from powerful commercial interests;

10. Recalls the specific and distinctive role of public service media, as stated in the Amsterdam Protocol on the system of public broadcasting in the Member States;

11. Recalls that Protocol 29 to the Treaties recognises that the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism; consequently foresees that Member States can fund public service broadcasting only insofar as this is provided for the fulfilment of the public service remit, and without affecting trading conditions and competition in the Union to an extent which would be contrary to the common interest;

12. Stresses the importance of appropriate, proportionate and stable funding for public service media in order to guarantee their political and economic independence so that they may fulfil their full remit — including their social, educational, cultural and democratic roles — and can adapt to digital change and contribute to an inclusive information and knowledge society in which representative, high-quality media are available to all; expresses its concern over the current trend in some Member States to apply budget cuts or scale down the activities of public service media, since this reduces their ability to fulfil their mission; urges Member States to reverse this trend and ensure that public service media receive stable, sustainable, adequate and predictable funding;

13. Stresses that measures to regulate the access of media outlets to the market through broadcast licensing and authorising procedures, rules on the protection of state, national or military security and public order and rules on public morality and child protection should not be abused for purposes of imposing political or partisan control or censorship on the media or impeding the fundamental right of citizens to be informed on issues of public interest and importance; underlines that a proper balance needs to be ensured in this respect; warns that the media should not be threatened by the influence of specific interest groups or lobbies, economic actors, or religious groups;

14. Calls on the Commission and the Member States to apply competition and media rules, to ensure competition in order to address and prevent dominant positions, possibly through setting lower competition thresholds in the media industry than in other markets, to guarantee the access of new entrants on the market, to intervene where the media are excessively concentrated and where media pluralism, independence and freedom are in danger, in order to ensure that all EU citizens have access to free and diversified media in all Member States, and to recommend improvements where needed; stresses that the existence of press groups owned by enterprises that have the power to award public procurement contracts represents a threat to media independence; calls on the Commission to assess how existing competition rules relate to the increasing concentration of commercial media in the Member States; calls on the Commission to propose concrete measures to safeguard media pluralism and prevent excessive media concentration;

15. Stresses that attention must be paid to the level of concentration of media ownership in the Member States, while underlining that the concept of media pluralism covers a wider spectrum of issues, such as prohibition of censorship, protection of sources and whistleblowers, issues related to pressure from political actors and market forces, transparency, working conditions of journalists, media control authorities, cultural diversity, the development of new technologies, unrestricted access to information and communication, uncensored access to the internet, and the digital divide; believes that media ownership and management should be transparent and not concentrated; stresses that concentration of ownership jeopardises pluralism and cultural diversity and leads to uniformity of media content;

16. Calls for rules to ensure that conflicts of interest such as those resulting from the amalgamation of political office and control over media outlets are properly addressed and resolved, and, in particular, that the beneficiary owners of media conglomerates are always public so as to avoid conflicts of interest; calls for the effective implementation of clear rules to ensure transparent and fair procedures for media funding and state advertising and sponsoring allocation, so as to guarantee that these do not cause interference with freedom of information and expression, pluralism or the editorial line of media, and calls on the Commission to monitor this;

17. Highlights that, despite the use of competition policy through the EU Merger Regulation and, in particular, its Article 21 ([1]), concern has been raised that these instruments do not adequately control media concentration due to problems of market delimitation, where in some cases large cross-media mergers fall short of turnover thresholds stipulated in EU competition policy;

18. Highlights that market power in the media industry arises not only from monopoly pricing power, but also from political influence leading to regulatory capture, making dominant positions more difficult to dismantle once they are established; calls for competition thresholds to be set lower in the media industry than in other markets;

([1]) That article stipulates that national authorities may act in defence of 'legitimate interest' in enacting national legislation to preserve media pluralism.

19. Reminds the Commission that on several occasions in the past it has been asked on the possibility of introducing a legal framework to prevent concentration of ownership and abuse of dominant positions; calls on the Commission to propose concrete measures to safeguard media pluralism, including a legislative framework for media ownership rules introducing minimum standards for Member States;

20. Underlines the importance of ensuring the independence of journalists, both from internal pressures from editors, publishers or owners and externally from political or economic lobbies or other interest groups, and stresses the importance of editorial charters or codes of conduct on editorial independence, since these prevent owners, governments or external stakeholders from interfering with news content; stresses the importance of exercising the right to freedom of speech without discrimination of any kind and on the basis of equality and equal treatment; highlights the fact that the right of access to public documents and information is fundamental for journalists and citizens, and calls on the Member States to establish a solid and extensive legal framework with regard to freedom of governmental information and access to documents of public interest; appeals to the Member States to provide legal guarantees regarding the full protection of the confidentiality of sources principle, and calls for the strict application of European Court of Human Rights case-law in this area, including in relation to whistle-blowing;

21. Calls for journalists to be protected from pressures, intimidation, harassment, threats and violence, recalling that investigative journalists are often threatened and physically attacked, and even have attempts made on their lives as a result of their activities; stresses the importance of ensuring justice and fighting against impunity for such acts, also pointing to their chilling effect on free expression, which leads to media self-censorship; emphasises that investigative journalism helps monitor democracy and good governance, as well as uncovering irregularities and criminal offences, thus being of assistance to the prosecution authorities; urges Member States and the EU to support and promote investigative journalism and to promote ethical journalism in the media by developing professional standards and appropriate redress procedures, notably through professional training and codes of conduct established by media associations and unions;

22. Calls on the Member States to adopt legislation so as to prevent the infiltration of newsrooms by intelligence officers, since such practices highly endanger freedom of expression as they allow the surveillance of newsrooms and generate a climate of distrust, hamper the gathering of information, threaten the confidentiality of sources and ultimately attempt to misinform and manipulate the public, as well as damage the credibility of the media;

23. Stresses that an increasing number of journalists find themselves employed under precarious conditions, lacking the social guarantees that are usual on the job market, and calls for the improvement of the working conditions of media professionals; emphasises that Member States must ensure that journalists' working conditions comply with the provisions of the European Social Charter; stresses the importance of collective contracts for journalists and of trade union representation of journalists' collectives, which must be permitted for all employees, even if they are members of a small group, work in small companies or have non-standard forms of contract, such as temporary or interim work, as security of employment allows them to speak and act together and more easily and effectively uphold their professional standards;

24. Emphasizes the need to promote ethical journalism in media; calls upon the European Commission to propose an instrument (e.g. by means of a recommendation such as the recommendation of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and online information services industry) to ensure that the Member States invite the media sector to develop professional standards and ethical codes which include the obligation to indicate a difference between facts and opinions in reporting, the necessity of accuracy, impartiality and objectivity, respect for people's privacy, the duty to correct misinformation and the right of reply; this framework should foresee the establishment by the media sector of an independent media regulatory authority — operating independently from political or other external interference — that can treat complaints about the press based on the professional standards and ethical codes, and that has the authority to take appropriate sanctions;

25. Calls on all Member States in which defamation is a criminal offence to decriminalise it as soon as possible; regrets that pressures, violence and harassment are exerted on journalists and the media in many Member States, including while covering demonstrations and public events, raising concerns among European and international organisations and in academia and civil society; emphasises the importance of engaging in dialogue with the authorities in order to ensure that media freedom and independence are not endangered, that critical voices are not curbed and that law enforcement personnel respect the role played by the media and ensure they can report freely and safely;

26. Underlines the importance of setting up self-regulatory bodies of the media, such as complaints commissions and ombudspersons, and supports the practical, bottom-up efforts initiated by European journalists to defend their fundamental rights by instituting a drop-in centre to document alleged violations of those rights, notably of their freedom of expression (in line with the pilot project which was adopted by the plenary as part of Parliament's position on the 2013 budget on 23 October 2012);

27. Underlines the need for rules in relation to political information in the whole audiovisual media sector, in order to guarantee fair access to different political competitors, opinions and viewpoints, in particular on the occasion of elections and referendums, with a view to ensuring that citizens can form their opinions without undue influence from one dominant opinion-forming power; stresses that such rules need to be properly enforced by the regulatory bodies;

28. Stresses that the fundamental right to freedom of expression and freedom of the media is not only reserved for traditional media, but also covers social media and other forms of new media; underlines the importance of ensuring freedom of expression and information on the internet, notably through guaranteeing net neutrality, and consequently calls on the EU and the Member States to ensure that these rights and freedoms are fully respected on the internet in relation to the unrestricted access to and provision and circulation of information; warns against any attempts by authorities to require registration or authorisation or curb content alleged by them to be harmful; acknowledges that the provision of internet services by public service media contributes to their mission of ensuring that citizens are able to access information and form their opinions from a variety of sources;

29. Emphasises the growing importance of news aggregators, search engines and other intermediaries in the dissemination of and access to information and news content on the internet; calls on the Commission to include these internet actors in the EU regulatory framework when revising the Audiovisual Media Services Directive, in order to tackle the problems of discrimination of content and distortion of source selection;

30. Encourages the Commission and the Member States, in the framework of the Commission's media literacy policy, to pay sufficient attention to the importance of media education in providing citizens with critical interpretation skills and the ability to sift through the ever-growing volume of information;

31. Calls on the Commission to check whether Member States allocate broadcasting licenses on the basis of objective, transparent, non-discriminatory and proportionate criteria;

32. Underlines the importance and urgency of annually monitoring media freedom and pluralism in all Member States and reporting on a yearly basis on the matter, on the basis of the detailed standards developed by the Council of Europe and the OSCE and the risk-based analytical approach and indicators developed by the independent study drawn up for the Commission, in liaison with NGOs, stakeholders and experts, including by monitoring and supervising the development of and changes in media legislation and the impact of any legislation adopted in the Member States affecting media freedom, notably in relation to government interference, as well as good practices for the definition of public service standards for both public and private channels; underlines the importance of making such common European standards known to the wider public; believes that the Commission, the Fundamental Rights Agency and/or the EUI Centre for Media Pluralism and Media Freedom must carry out this task and publish an annual report with the results of the monitoring; believes that the Commission should present that report to Parliament and the Council and make proposals for any actions and measures arising from its conclusions on the report;

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33. Considers that the EU has the competences to take legislative measures to guarantee, protect and promote freedom of expression and information, media freedom and pluralism, at least as much as it has in relation to the protection of minors and of human dignity, cultural diversity, citizens' access to information about and/or the coverage of important events, promotion of the rights of persons with disabilities, consumer protection in relation to commercial communications, and the right of reply, these being general interests covered by the AVMSD; at the same time, believes that any regulation should take place on the basis of a detailed and careful analysis of the situation in the EU and the Member States and of the problems to be solved and the best ways to address them; believes that non-legislative initiatives, such as monitoring, self-regulation and codes of conduct, as well as the activation of Article 7 TEU when appropriate, shall be pursued, as requested by most stakeholders and bearing in mind that some of the most striking threats to media freedom in some Member States come from newly adopted legislation;

34. Repeats its call on the Commission to review and amend the Audiovisual Media Services Directive (AVMSD) and extend its scope to minimum standards for the respect, protection and promotion of the fundamental right to freedom of expression and information, media freedom and pluralism, and to ensure the full application of the Charter of Fundamental Rights, of the ECHR and of the related jurisprudence on positive obligations in the field of media, since the directive's objective is to create an area without internal frontiers for audiovisual media services whilst ensuring at the same time a high level of protection of objectives of general interest, such as putting in place an appropriate legislative and administrative framework to guarantee effective pluralism ([1]); consequently, calls on the Commission to review and amend the AVMSD in order to ensure — as happens for and on the basis of the model of regulatory authorities in the framework of electronic communications — that the national regulatory authorities are fully independent, impartial and transparent as regards their decision-making processes, the exercise of their duties and powers and the monitoring process, effectively funded to carry out their activities, and have appropriate sanctioning powers to ensure that their decisions are implemented;

35. Calls on the Commission to include in the evaluation and revision of the AVMSD also provisions on transparency on media ownership, media concentration, conflict of interest rules to prevent undue influence on the media by political and economic forces, and independence of media supervisory bodies; calls on the Commission to launch the communication implementing the Media Pluralism Monitoring Tool indicators for media pluralism in the EU Member States, as already developed in the independent study 'The indicators for media pluralism in the Member States — Towards a risk-based approach and on the basis of the proposed 'three-step approach' of January 2007; this should be followed by a broad public consultation with all involved actors, inter alia on the basis of the follow-up to the report of the High Level Group on Media Freedom, and notably through the drafting of a proposal for a set of EU Guidelines on Media Freedom and Pluralism;

36. Calls on the Member States to immediately proceed with reforms to achieve these objectives; calls on the Commission to clearly establish the remit of the media regulatory authorities, particularly in terms of regulating and monitoring, and to monitor their compliance with the requirements of necessity and proportionality when imposing sanctions; recalls the importance of adapting the scope of the regulation to the specific nature of individual media;

37. Calls on the National Regulatory Authorities to cooperate and coordinate at EU level on media matters, for instance by establishing a European Regulators' Association for audiovisual media services, to harmonise the status of the National Regulatory Authorities foreseen by Articles 29 and 30 AVMSD by ensuring they are independent, impartial and transparent, both in their decision-making processes and in the exercise of their powers, as well as in the monitoring process, and to provide them with appropriate sanctioning powers to ensure that their decisions are implemented;

38. Calls on the Commission, the Council and the Member States to take appropriate, timely, proportionate and progressive measures where concerns arise in relation to freedom of expression, information, media freedom and pluralism in the EU and the Member States;

([1]) ECHR, Centro Europa 7, 7 June 2012, par. 134.

39. Believes that in the case of further accessions to the EU additional emphasis should be placed on the protection of freedoms and on freedom of speech, since these are widely considered to be elements of the human rights and democracy conditionality of the Copenhagen criteria; calls on the Commission to continue to monitor the performance and progress of EU candidate countries as regards the protection of media freedoms;

40. Calls on the Commission to ensure that criteria based on media pluralism and ownership are included in every Impact Assessment undertaken for new initiatives on legislative proposals;

41. Expresses concern at the lack of transparency in media ownership in Europe, and consequently calls on the Commission and the Member States to ensure transparency in media ownership and management and to take initiatives in this field, notably by requiring broadcast, print and similar media to submit to national media authorities, company registers and the public sufficiently accurate and up-to-date ownership information so as to allow identification of the beneficiary and ultimate owners and co-owners of media outlets, their CVs and their financing, for instance by further developing the Mavise database into a Single European Register in order to identify excessive media concentration, prevent media organisations from hiding special interests, and allow citizens to check what the interests behind their media are; calls on the Commission and the Member States to scrutinise and monitor whether public funds destined by Member States to the public service media are used transparently and in strict accordance with Protocol 29 to the Treaties; believes that transparency of ownership is an essential component of media pluralism; calls on the Commission to monitor and support progress to promote greater exchange of information on media ownership;

42. Underlines that freedom of the media should also include freedom of access to media, by ensuring the effective supply of and access to broadband internet for all European citizens, within a reasonable timeframe and cost, by further developing wireless technologies, including satellite enabling internet connectivity;

43. Emphasises that according to the European Court of Human Rights jurisprudence authorities have positive obligations under Article 10 ECHR to protect freedom of expression as one of the preconditions for a functioning democracy, since the 'genuine effective exercise of certain freedoms foes not depend merely on the State's duty not to interfere, but may require positive measures of protection';

44. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the European Fundamental Rights Agency, the OSCE, and the Council of Europe's Committee of Ministers, Parliamentary Assembly, Venice Commission and Commissioner for Human Rights.

P7_TA(2013)0204

Adequate, safe and sustainable pensions

European Parliament resolution of 21 May 2013 on an Agenda for Adequate, Safe and Sustainable Pensions (2012/2234(INI))

(2016/C 055/06)

The European Parliament,

— having regard to the Commission Communication of 7 July 2010 entitled 'Green Paper — towards adequate, sustainable and safe European pension systems' (COM(2010)0365) and its resolution of 16 February 2011 thereon ([1]),

([1]) OJ C 188 E, 28.6.2012, p. 9.

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— having regard to the Commission Communication of 16 February 2012 entitled 'White Paper — an Agenda for Adequate, Safe and Sustainable Pensions' (COM(2012)0055),

— having regard to the opinion of the European Economic and Social Committee on the Commission Communication of 16 February 2012 entitled 'White Paper — an Agenda for Adequate, Safe and Sustainable Pensions' ([1]),

— having regard to the report prepared jointly by the Directorate-General for Employment, Social Affairs and Inclusion of the European Commission and the Social Protection Committee entitled 'Pension Adequacy in the European Union 2010-2050' (2012 Adequacy Report),

— having regard to the joint report prepared by the Directorate-General for Economic and Financial Affairs of the European Commission and the Economic Policy Committee entitled 'The 2012 Ageing Report: Economic and budgetary projections for the 27 EU Member States (2010-2060)' ([2]),

— having regard to the Commission Communication of 23 November 2011 entitled 'Annual Growth Survey 2012' (COM (2011)0815) and its resolution of 15 February 2012 thereon ([3]),

— having regard to Council Decision 2010/707/UE of 21 October 2010 on guidelines for the employment policies of the Member States ([4]),

— having regard to its resolution of 9 October 2008 on promoting social inclusion and combating poverty, including child poverty, in the EU ([5]),

— having regard to the Council Declaration on the European Year for Active Ageing and Solidarity between Generations (2012): The Way Forward (SOC 992/SAN 322) of 7 December 2012,

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

— having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Internal Market and Consumer Protection and the Committee on Women's Rights and Gender Equality (A7-0137/2013),

A. whereas Parliament's views on the Commission's 2010 Green Paper 'Towards adequate, sustainable and safe pensions' were expressed in its resolution of 16 February 2011;

B. whereas the worst financial and economic crisis in decades has turned into an acute sovereign debt and social crisis that has severely affected the pension incomes of millions of EU citizens; whereas this crisis has shown that European economies are interdependent and that it is no longer possible for any country to guarantee, on its own, the adequacy, safety and sustainability of its social protection systems;

C. whereas pensions are the main source of revenue of older Europeans and are supposed to ensure that older people have a decent standard of living and enable them to be financially independent; whereas, however, around 22 % of women over the age of 75 fall below the European Union's poverty threshold, thus running the risk of social exclusion, and whereas women represent the majority of the population over 75;

D. whereas the first cohort of the so-called 'baby boom generation' has reached pensionable age, causing the demographic challenge to be no longer a future scenario but today's reality, and whereas the number of people aged 60+ will increase by more than 2 million per year;

E. whereas even set apart from the economic crisis, long-term demographic and productivity trends point to a low-growth economic scenario in most EU Member States, with economic growth rates significantly lower than those attained during previous decades;

([1]) OJ C 299, 4.10.2012, p. 115.
([2]) ISBN 978-92-79-22850-6.
([3]) Texts adopted, P7_TA(2012)0047.
([4]) OJ L 308, 24.11.2010, p. 46.
([5]) OJ C 9 E, 15.1.2010, p. 11.

F. whereas the European Council in March 2001 already endorsed the three-pronged Stockholm Strategy aimed at: reducing public debt at a fast pace, raising employment rates and productivity levels, and reforming pension, health care and long-term care systems;

G. whereas the negative influence of the economic and financial crisis in Europe on wages and employment will increase the future risk of poverty in old age;

H. whereas rising unemployment and disappointing financial markets returns have hurt both pay-as-you-go and funded pension schemes;

I. whereas the European Economic and Social Committee recommends that minimum pension levels should rise with a view to providing pension incomes above the poverty threshold,

J. whereas retirement systems are a key element of European social models, their fundamental and non-negotiable objective being to ensure an adequate standard of living for people in old age; whereas pension provision remains a Member State competence;

K. whereas the sustainability of pension policy goes beyond fiscal considerations; whereas private saving ratios, employment rates and projected demographic developments also play a significant role in ensuring sustainability;

L. whereas, in the current European debate, pension schemes are too often considered a mere burden on public finance instead of an essential instrument to combat old-age poverty and allow a redistribution over an individual's lifetime and across society;

M. whereas pensioners are a major consumer category and any fluctuation in their spending habits has serious repercussions for the real economy;

N. whereas in many EU countries fertility rates remain low, leading to a drop in the number of people of working age in the future;

O. whereas, according to the OECD, there is a lack of mobility between the Member States and only 3 % of working-age EU citizens live in another Member State ([1]);

P. whereas the study 'Women living alone — an update' ([2]), requested by Parliament's Committee on Women's Rights and Gender Equality, shows the implicit risks of some of the existing pension arrangements in aggravating gender imbalances, especially for women living alone;

Q. whereas OECD Social, Employment and Migration Working Paper No 116, entitled 'Cooking, Caring and Volunteering: Unpaid Work Around the World' ([3]) sheds light on the importance of unpaid work, which is not yet recognised in national pension schemes;

R. whereas, in the EU, the employment rate among people aged between of 55 and 64 stands at a mere 47,4 % and among women at only 40,2 %; whereas in some EU countries only 2 % of all job vacancies are filled by people aged 55 or above; whereas such low employment rates cause an intra-generational pension gap between men and women, as well as an inter-generational gap resulting in substantial disparities in financial resources between the generations;

S. whereas pension schemes within and across Member States differ significantly, e.g. regarding extent of funding, level of government involvement, governance structure, claim type, cost-efficiency, degree of collectiveness and solidarity, and a common EU typology is therefore not available;

([1]) OECD (2012), 'Mobility and migration in Europe', p. 63. In: OECD Economic Surveys: European Union 2012, OECD Publishing.
([2]) http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN=79590
([3]) Miranda, V., *Cooking, Caring and Volunteering: Unpaid Work Around the World*, OECD Social, Employment and Migration Working Papers, No. 116, OECD Publishing (2011).

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Introduction

1. Notes that national budgets are under severe pressure and that the lowering of pension benefits in many Member States is a consequence of the severe escalation of the financial and economic crisis; deplores the severe cuts in the Member States hardest hit by the crisis that have pushed many pensioners into, or at-the-risk of poverty;

2. Stresses the necessity for the EU and the Member States to assess the current and future sustainability and adequacy of pension systems and to identify best practices and policy strategies that can lead to the most secure and cost-effective delivery of pensions within the Member States;

3. Emphasises the likelihood of a long-term, low-growth economic scenario, which would require most Member States to consolidate their budgets and reform their economies under austere conditions, requiring sound management of public finances; agrees with the view expressed in the Commission's White Paper that it is necessary to build up funded, complementary occupational pensions, apart from the priority of safeguarding universal, public pensions that at least guarantee a decent standard of living for all in old age;

4. Stresses that first-pillar, public pension schemes remain the most important source of income for pensioners; regrets that in the White Paper the Commission does not properly address the importance of universal, at least poverty-proof, first-pillar public schemes; calls on the Member States — in line with the Europe 2020 strategy's targets on raising employment and combating poverty — to continue to work on more active and inclusive labour market strategies to decrease the economic dependency ratio between inactive persons and people in employment; calls on the social partners and the Member States to combine these reforms with constant improvements in working conditions and the implementation of lifelong training schemes which enable people to have healthier and longer careers until the statutory retirement age, thereby increasing the number of people paying pension premiums, this also to avoid increasing public pension costs jeopardising sustainable public finances; calls on Member States to implement reforms to their first-pillar systems in such a way that the number of contributory years is also taken into account;

5. Calls on Member States to thoroughly evaluate the need to implement reforms to their first-pillar systems, taking into account changing life expectancies — and the changing ratio between pensioners, unemployed people, and economically active people — so as to guarantee a decent living standard and economic independence for people in old age, in particular those belonging to vulnerable groups;

6. Observes that the financial and economic crisis and challenges posed by ageing populations have revealed the vulnerability of both funded and pay-as-you-go pension schemes; recommends a multi-pillar pension approach, consisting of combinations of:

i. a universal, pay-as-you-go, public pension;

ii. a funded, occupational, supplementary pension, resulting from collective agreements at the national, sector or company level or resulting from national legislation, accessible to all workers concerned;

Stresses that the first pillar alone, or in combination with the second-pillar pension (depending on national institutional arrangements or legislation) should establish a decent replacement income based on a worker's prior wages, to be complemented, if possible, with:

iii. an individual third-pillar pension based on private savings with equitable incentives geared to low income workers, self-employed people and to people with incomplete contributory years as regards their employment-related pension scheme;

Calls on the Member States to consider introducing or maintaining such or comparable financially and socially sustainable schemes where they do not yet exist; calls on the Commission to ensure that any existing or future regulation in the field of pensions be conducive to and in full respect of this approach.

7. Recognises the potential of occupational and individual pension providers as substantial and reliable long-term investors in the EU economy; emphasises their expected contribution to achieving the Europe 2020 strategy's headline targets when it comes to attaining sustainable economic growth, more and better jobs and socially more inclusive societies;

welcomes, in this respect, the forthcoming initiative by the Commission to launch a Green Paper on long-term investment; urges the Commission not to jeopardise the investment potential and to respect the different characteristics of pension funds and other pension providers when introducing or changing EU regulation, especially when reviewing the directive on the activities and supervision of institutions for occupational retirement provision;

8. Invites the Commission to take stock of the cumulative effects of financial market legislation — e.g. the European Market Infrastructure Regulation (EMIR), the Markets in Financial Instruments Directive (MiFID) and the revised Capital Requirements Directive (CRD IV) — on second-pillar pension funds and their ability to invest in the real economy, and to report on this in its forthcoming Green Paper on long-term investments;

9. Recalls the Lisbon Strategy 2000-2010, in the context of which the Commission and the Member States exhaustively discussed, in the course of a decade, structural reforms with regard to macro-economic, micro-economic and employment policy, resulting in Treaty-based, country-specific recommendations to Member States, many of which directly or indirectly related to safeguarding adequate and sustainable pensions; deplores the lack of implementation of these recommendations which could, to an important extent, have alleviated the impact of the crisis;

10. Welcomes the comprehensive and high-quality publications 'The 2012 Ageing Report' ([1]) and the 2012 'Adequacy Report' ([2]) which explore the long-term adequacy and sustainability of pension systems in all Member States; deplores the fact that the adequacy and sustainability dimensions of pensions are covered in separate reports of a highly technical nature; urgently requests the Commission and the Council to publish an integrated, concise, non-technical citizen's summary that allows EU citizens to assess the challenges facing their national pension system in a EU comparison;

11. Stresses the importance of using a uniform methodology to calculate the long-term sustainability of public finances and the share therein of pension-related obligations;

12. Is of the opinion that in order to arrive at an effective solution to the pension challenge, taking into account the need in most Member States to increase the number of contributory years, and to improve working conditions and lifelong learning so as to enable people to work at least until the statutory retirement age, and beyond if they so wish, consensus between governments and employers and trade unions is paramount;

13. Proposes that representatives of all age groups, including the young and old, which especially feel the impact of reforms, should be duly consulted on any pension reform so as to ensure balanced and fair outcomes and in order to maintain maximum consensus between generations;

14. Welcomes the main thrust of the White Paper which suggests that focus be placed on balancing time spent in work and retirement, developing complementary occupational and private pension savings, and enhancing the EU's pension monitoring tools, while also stressing the importance to improve pension literacy;

Raising employment rates and balancing time spent in work and retirement

15. Stresses that implementing structural reforms aimed at increasing the employment rate and enabling people to work until the statutory retirement age, thus reducing the economic dependency ratio, is paramount to generating the tax revenues and social and pension premiums needed to consolidate Member State budgets and to fund adequate, safe and sustainable pension schemes; stresses that these reforms must be carried out in a transparent way that allows people to anticipate in a timely way any effects that these reforms may entail; points to the risk that unemployment and low-wage, part-time and a-typical employment may result in only partial pension entitlements, making poverty more prevalent in old age;

([1]) European Commission, *The 2012 Ageing Report: Economic and budgetary projections for the 27 EU Member States (2010-2060)*, Brussels, May 2011. http://ec.europa.eu/economy_finance/publications/european_economy/2012/pdf/ee-2012-2_en.pdf

([2]) 'Pension Adequacy in the European Union2010-2050', a report prepared jointly by the Directorate-General for Employment, Social Affairs and Inclusion of the European Commission and the Social Protection Committee, 23 May 2012, http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7105&type=2&furtherPubs=yes

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16. Calls on the Member States to: adopt comprehensive active labour-market policy measures; take the necessary measures to combat undeclared work and tax and premium evasion, also with a view to safeguarding fair competition; put funds aside to combat the rising public costs of the retiring populations; and promote good employment, inter alia by offering comprehensive advice and support for jobseekers and enabling particularly vulnerable groups to find work;

17. Notes the Commission's last mention in the 2013 Annual Growth Survey of the need to reform pension systems; observes, however, that in many Member States priority should be assigned to aligning the actual retirement age with the statutory retirement age;

18. Welcomes the commitments made by Member States to ensure adequate and sustainable retirement systems in the country-specific recommendations adopted by the Council in 2012 in the framework of the European Semester;

19. Observes that more than 17 % of people in the European Union are currently aged 65 or older, and that, according to Eurostat's forecasts, this figure will rise to 30 % by 2060;

20. Emphasises the acceleration of the pressure posed by demographic developments on national budgets and pension systems now that the first cohorts of the 'baby boom generation' retire; notes the uneven progress and levels of ambition across Member States in formulating and implementing structural reforms aimed at raising employment, phasing out early retirement schemes and evaluating, at Member State level and together with social partners, the need to put both the statutory and effective retirement age on a sustainable footing with increases in life expectancy; stresses that Member States that fail to implement gradual reforms now may at a later stage find themselves in a scenario where they have to implement reforms shock-wise and with significant social consequences;

21. Reiterates the call for closely linking pension benefits to years worked and premiums paid ('actuarial fairness'), to ensure that working more and longer pays off for workers by having a better pension while duly taking into account periods away from the labour market due to care for dependent persons; recommends that the Member States, in consultation with relevant partners, put a ban on mandatory retirement when reaching the statutory retirement age, so as to enable people who can and wish to do so to choose to continue to work beyond the statutory retirement age or to gradually phase in their retirement, as extending the period of premiums paid while at the same time shortening the period of benefit eligibility can help workers reduce any pension gaps at a fast pace;

22. Stresses that the assumption behind early retirement schemes, whereby older workers are allowed to retire early so as to make jobs available for the young, has been proven empirically wrong as the Member States displaying the highest youth employment rates, on average, are also the ones displaying the highest employment rates for older workers;

23. Calls on the social partners to adopt a life-cycle approach to human resources policies and to adapt workplaces in this regard; calls on employers to come up with programmes to support active and healthy ageing; calls on workers to engage actively in such training opportunities as are made available to them and to keep themselves fit for the labour market at all stages of their working life. Stresses the need to improve the integration of older workers into the labour market, and calls for social innovation approaches to facilitate longer working lives, in particular in the most strenuous occupations, by adapting workplaces, creating adequate working conditions and offering a flexible organisation of work by making adjustments to the hours worked and the type of work performed;

24. Stresses the need to take more preventive health measures, step-up vocational (re)training and combat discrimination in the labour market of younger and older workers; underlines the need for effective enforcement and implementation of legislation on health and safety at work in this regard; stresses that mentoring schemes can be a valuable tool for the purposes of keeping older employees in work for longer and exploiting their experience to help integrate young people into the employment market; calls on social partners to develop attractive models for a flexible transition from work to retirement;

25. Urges the Member States to act vigorously to realise the ambitions formulated in the EU Pact for Gender Equality (2011-2020) that focus on closing gender gaps and combat gender segregation and on promoting a better work-life balance for women and men; stresses that these objectives are key to raising female employment and to fighting female poverty in working and old age;

26. Stresses that SMEs are one of the main sources of employment and growth in the EU and can make a significant contribution to the sustainability and adequacy of pension systems within Member States;

Developing complementary private retirement savings

27. Welcomes the call in the White Paper for developing both funded, complementary occupational pensions accessible for all workers concerned and, if possible, individual schemes; stresses, however, that the Commission should rather recommend collective, solidarity-based supplementary occupational pension savings, preferably resulting from collective agreements and established at the national, sectoral or company level, as they allow for solidarity within and between generations, whereas individual schemes do not; stresses the urgent need to promote efforts to build up, to the extent possible, complementary occupational pension systems;

28. Notes that many Member States have already embarked on major programmes of pension reform which aim for both sustainability and adequacy; stresses the importance of ensuring that any measures proposed at EU level must complement and not contradict national pension reform programmes; recalls that pensions remain a Member State competence, and is concerned that any further EU legislation in this area may have adverse impacts on certain Member States' schemes, especially as regards the characteristics of occupational pension systems;

29. Stresses the low operating costs of (sector-wide) collective (preferably non-profit) occupational pension schemes, as compared to individual pension savings schemes; emphasises the importance of low operating costs as even limited cost reductions can yield substantially higher pensions; stresses, however, that unfortunately — to date — these schemes only exist in a few Member States;

30. Urges the Member States and the agencies responsible for pension schemes to inform citizens properly about their accrued pension entitlements, and to raise their awareness and educate them so that they are able to make well-informed decisions as regards future additional pension savings; urges the Member States also to inform citizens in time about planned changes to pension systems, so that they can make informed and well-considered decisions about their pension savings; calls on the Member States to formulate and enforce strict disclosure rules regarding the operating costs and risk of, and the return on, investments of pension funds operating within their jurisdiction;

31. Acknowledges the wide dispersion in characteristics and outcomes across Member States' occupational pension schemes as regards access, solidarity, cost-effectiveness, risk and return; welcomes the Commission's intention, in close consultation with the Member States, social partners, the pension industry and other stakeholders, to develop a code of good practice for occupational pension schemes addressing issues such as better coverage of employees, the payout phase, risk-sharing and mitigation, cost-effectiveness, and shock absorption in compliance with the subsidiarity principle; stresses the mutual benefit of improving the exchange of best practices between Member States;

32. Supports the Commission's intention to continue to target EU funding — notably through the European Social Fund (ESF) — to support projects aimed at active and healthy ageing in the workplace, and, through the Programme for Social Change and Innovation (PSCI), to provide financial and practical support to Member States and social partners considering to gradually implement cost-effective supplementary pension schemes, subject to the oversight of Parliament;

Pensions of mobile workers

33. Recognises the significant heterogeneity of pension schemes across the EU yet emphasises the importance for workers to be able to change jobs within or outside their Member State; stresses the need to guarantee that mobile workers are able to acquire and preserve occupational pension entitlements; endorses the approach advocated by the Commission to focus on safeguarding the acquisition and preservation of pensions entitlements, and calls on Member States to ensure that dormant pension rights of mobile workers are treated in line with those of active scheme members or those of retirees;

notes the important role the Commission can play in removing obstacles to free movement, including those that hamper mobility; is of the opinion that, apart from language barriers and family considerations, mobility on the labour market is hampered by long vesting periods or unreasonable age restrictions, and calls on Member States to lower these; stresses that any action to promote mobility must be balanced by the cost-effective provision of supplementary pension schemes and must take into account the nature of national pension schemes;

34. Notes the Commission's proposal to assess possible linkages between Regulation (EC) No 883/2004 on the coordination of social security systems and 'certain' occupational pension schemes; highlights the practical difficulties experienced in applying the said regulation to the 27 Member States' markedly differing social security systems; points to the diversity of pension systems within the EU and therefore to the complexity of applying a coordination approach to the tens of thousands of very divergent pension schemes operating in the Member States; questions, therefore, the practicability of applying such an approach in the field of complementary occupational pension schemes;

35. Calls on the Commission and the Member States to work ambitiously to set up and maintain efficient tracking services, possibly web-based, that enable citizens to track their employment- and non-employment-related pension entitlements and thereby make timely and well-informed decisions on additional, individual (third-pillar) pension savings; calls for coordination at EU level to ensure adequate compatibility of the national tracking services; welcomes the Commission's pilot project in this field and calls on the Commission to ensure that the pilot project is complemented by an impact assessment of the benefits of providing EU citizens with consolidated pension information in an accessible way;

36. Notes that, when fully developed, pension tracking services should ideally cover not only occupational pensions, but also third-pillar schemes and individualised information on first-pillar entitlements;

37. Questions the need for an EU pension fund for researchers;

38. Considers the fact that people in general lead longer, healthier and wealthier lives as one of the greatest achievements of modern society; calls for a positive tone in the ageing debate, addressing, on the one hand, the challenge of actively coping with the significant but surmountable challenge that ageing poses, while, on the other hand, seizing the opportunities that ageing and the 'silver economy' bring; acknowledges the very active and valuable role that the elderly play in our societies;

Review of the IORP Directive

39. Stresses that the aim of the review of the Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (the IORP Directive) should be to keep occupational pensions across Europe adequate, sustainable and safe by creating an environment that stimulates further national and internal market progress in this field, by providing enhanced protection to current and future pensioners, and by adapting in a flexible way to the considerable cross-border and cross-sector diversity of existing schemes;

40. Believes that ensuring that EU second-pillar systems comply with robust prudential regulation is key to achieving a high level of protection for members and beneficiaries and to respecting the G20 mandate, according to which all financial institutions shall be subject to proper regulation and adequate supervision;

41. Demands that EU legislative initiatives in this regard respect the choices made by Member States with regard to the providers of second-pillar pensions;

42. Stresses that any further EU regulatory work concerning precautionary measures must be built on a solid impact analysis which should include the provision that similar products be subject to the same prudential standards and ensure adequate provisioning and worker mobility within the Union, and should have the overall aim of safeguarding the accumulated entitlements of employees; stresses that any further EU regulatory work on precautionary measures must also be built on an active dialogue with social partners and other stakeholders and on a genuine understanding of and respect for

national specificities; emphasises that pension systems are deeply embedded in the cultural, social, political and economic circumstances of each Member State; stresses that all second-pillar pension providers, whatever their legal form, should be subject to proportionate and robust regulation that takes into account the characteristics of their business, particularly with a long-term focus;

43. Insists that second-pillar pensions, regardless of their providers, should not be jeopardised by EU regulation that does not take into account their long-term horizon;

44. Considers that Commission proposals regarding precautionary measures must not only identify and take into account the differences between national systems, but must also apply the principle of 'same risk, same rules' within each national system and respective pillar; stresses that the measures must comply strictly with the principle of proportionality in terms of weighing aims and benefits against the financial, administrative and technical burden involved and must consider the right balance between costs and benefits;

45. Considers, with regard to qualitative precautionary measures, that proposals concerning strengthened corporate governance and risk management — along with proposals regarding enhanced transparency, information disclosure obligations, the disclosure of costs, and transparency of investment strategies — are useful and should be put forward in the framework of any review, subject to the principles of subsidiarity and proportionality; notes that, given the considerable differences between Member States, convergence of qualitative precautionary measures at EU level is, in the short term, more feasible than the convergence of quantitative precautionary measures;

46. Is not convinced, given the information available at this point in time, that Europe-wide requirements concerning own capital or balance-sheet valuation would be appropriate; rejects, in line with that rationale, any review of the IORP Directive which aims to achieve this; believes, however, that the Quantitative Impact Study (QIS) currently being carried out by the European Insurance and Occupational Pensions Authority (EIOPA), as well as possible follow-up analyses to that study, should be fully taken into account in this policy context; emphasises that if such requirements were later to be introduced, direct application of Solvency II requirements to IORPs would not be the right instrument;

47. Points out that the IORP Directive applies only to voluntary pension schemes and does not cover any instruments that are part of the compulsory public pension scheme;

48. Emphasises that there are crucial differences between insurance products and IORPs; stresses that any direct application of quantitative Solvency II requirements to IORPs would be inappropriate and could potentially be harmful to the interests of both employees and employers; opposes therefore the copy-paste application of Solvency II requirements to IORPs, while remaining open to an approach seeking security and sustainability;

49. Stresses that the social partners (i.e. employers and employees) have a shared responsibility for the content of occupational pension arrangements; emphasises that contractual agreements between social partners need to be recognised at all times, in particular with regard to the balance between risks and rewards that an occupational pension scheme aims to achieve;

50. Considers the further development at the EU level of solvency models, such as the Holistic Balance Sheet (HBS), to be useful only if their application, on the basis of solid impact analysis, proves to be realistic in practical terms and effective in terms of costs and benefits, particularly given the diversity of IORPs within and across Member States; emphasises that any further development of variations of Solvency II or HBS must not aim to introduce Solvency II-style provisions;

51. Notes a large variety in the design of pension plans, varying from defined benefit (DB) to defined contribution (DC) or mixed schemes; notes also a shift from DB schemes to DC schemes or the establishment of mandatory funded pillars in some Member States; stresses that this increases the need for more transparency and better information provision to citizens regarding the promised benefits, cost levels and investment strategies;

52. Points out that the idea of establishing equal competition between life insurance and IORPs in the second pillar is relevant only to a certain extent, given the crucial differences between insurance products and IORPs and depending on the risk profile, the degree of integration in the financial market and the for-profit or non-profit character of any particular

provider; recognises that given the competition between life insurance and IORPs in the second pillar, it is essential that products with the same risks be subject to the same rules to avoid misleading beneficiaries and to provide them with the same level of prudential protection;

Protection of workers' occupational pensions in the event of insolvency

53. Believes that, in the event of insolvency, entitlements under Article 8 of Directive 2008/94/EC must consistently be safeguarded in the Member States;

54. Calls on the Commission to carry out a comprehensive overview of national guarantee schemes and measures and, if major inadequacies are identified in that assessment, to make enhanced EU proposals in order to ensure that fully reliable mechanisms for simple, cost-effective and proportionate protection of occupational pension rights are put in place throughout the EU;

55. notes that, in some Member States, employers already support their pension schemes through protection schemes, the segregation of assets, the independent governance of schemes, and the granting of priority creditor status to pension schemes ahead of shareholders in case of company insolvency;

56. Emphasises that issues regarding pension protection in case of insolvency are closely related to key aspects of the review of the IORP Directive; stresses that the Commission, in developing these two directives, should ensure that they are made congruent and fully compatible;

Complementary third-pillar pension savings

57. Finds that the meaning, scope and composition of the third pillar differs between the individual Member States;

58. Regrets that third-pillar systems are most often more cost-intensive, more risky and less transparent than first-pillar systems; calls for stability, reliability and sustainability for the third pillar;

59. Considers that, in certain cases, private pension savings could be necessary to build up an adequate pension; encourages the Commission to cooperate with Member States on the basis of a best practices approach and to assess and optimise incentives for private pension savings, in particular for individuals who otherwise would not build up an adequate pension;

60. Regards an evaluation of reliable procedures and proposals to optimise incentives as worthwhile;

61. Emphasises that the key priority of public policy should not be to subsidise third-pillar schemes, but to make certain that everyone is adequately protected within a well-functioning and sustainable first pillar;

62. Calls on the Commission to investigate the vulnerability of third-pillar systems to crises and to put forward proposals to reduce the risk;

63. Recommends that the legal cost limits at national level for contract conclusion and management, change of provider or change of contract type be investigated and that proposals be made in this regard;

64. Considers that codes of conduct with regard to quality, information provision to consumers and consumer protection in the third pillar could increase the attractiveness of third-pillar pension plans; encourages the Commission to facilitate the exchange of current best practices in Member States;

65. Supports the elaboration and establishment of EU-level voluntary codes of conduct — and possibly also product certification schemes — with regard to quality, information provision to consumers and consumer protection in the third pillar; recommends that Member States assume regulatory tasks in these areas should the voluntary codes of conduct not prove successful;

66. Calls on the Commission to look into ways to make better use of EU financial sector legislation when it comes to ensuring that consumers are given accurate and unbiased financial advice on pension and pensions-related products;

Removing tax and contract related cross-border obstacles to pension investments

67. Calls on the Commission and the Member States concerned to reach agreement in the field of cross-border pensions, especially as regards how to avoid double taxation and double non-taxation;

68. Regards discriminatory taxes as a major barrier to cross-border mobility and calls for their swift withdrawal, while noting limited EU competence in the area of Member State tax policy;

69. Is of the view that contract law obstacles should be investigated;

70. Calls on the Commission to involve social partners in an appropriate way by means of the structures available;

Gender

71. Recalls the gender challenge regarding pensions; considers the growing number of elderly people, especially women, who live below the poverty line alarming; stresses that first-pillar, public pension schemes should guarantee at least a decent standard of living for all; stresses that gender equality in the labour market is crucial to ensure the sustainability of pension systems, as higher employment rates enhance economic growth and lead to more pension premiums being paid; considers that the equalisation of the pension age for men and women must be accompanied by effective policies to ensure equal pay for equal work, reconciliation of work and care for dependents; stresses the need to consider the introduction of care-related pension credits as a recognition of care for dependent persons, which is usually unpaid;

72. Welcomes the call made in the White Paper for Member States to consider the development of care credits as a means of ensuring that periods spent taking care of dependent persons are taken into account when calculating individual women's or men's pension entitlements; points out that an unequal sharing of family responsibilities between women and men — often leading women to have less secure, less paid or even undeclared jobs with a negative impact on pension entitlements — and a lack of accessible and affordable services and care facilities and recent austerity measures in this area are having a direct impact on especially women's possibilities to work and build up pensions; therefore calls upon the Commission to commission a study on this issue;

73. Reiterates the need for Member States to take measures to eliminate the pay and income differential between women and men for the same work and the discrepancies in their achieving positions of responsibility, as well as gender inequalities in the labour market, which also affect pensions, resulting in a substantial difference between pensions paid to women and the much higher pensions paid to men; urges the Commission to come forward with the revision of the existing legislation; notes that, despite countless campaigns, targets and measures in recent years, the gender pay gap remains stubbornly wide;

74. Calls on the Commission and the Member States to ensure that the principle of equal treatment between women and men is applied;

75. Stresses that urgent measures need to be taken against the gender pay gap in the private sector, which is particularly serious in most of the Member States;

76. Stresses the need to reduce the pay differential for men and women with the same skills and the same jobs, as this causes women's income to lag ever more behind that of men and raises the high number of women living in poverty when they retire or are widowed;

77. Stresses that women's higher life expectancy ought not to be a cause of discrimination in pension calculations;

78. Urges Member States to comply with and enforce legislation on maternity rights so that women do not suffer disadvantages in terms of pensions because they have been mothers during their working lives;

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79. Considers that the individualisation of pension rights is necessary from a gender equality perspective, and that the security of many older women currently relying on widows' pensions and other derived rights should be also ensured;

80. Points out that the Member States should support research into the impact of different pension indexation formulas on the poverty risk in old age, taking account of the gender dimension; calls on the Member States to take particular account of the evolution in people's needs when ageing, e.g. long-term care, in order to ensure that elderly people, mainly women, are able to receive an adequate pension and live with dignity;

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

P7_TA(2013)0205

Fight against tax fraud, tax evasion and tax havens

European Parliament resolution of 21 May 2013 on Fight against Tax Fraud, Tax Evasion and Tax Havens (2013/2060(INI))

(2016/C 055/07)

The European Parliament,

— having regard to the Commission Communication of 6 December 2012 on an Action plan to strengthen the fight against tax fraud and tax evasion (COM(2012)0722),

— having regard to the Commission Recommendation of 6 December 2012 on aggressive tax planning (C(2012)8806),

— having regard to the Commission Recommendation of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (C(2012)8805),

— having regard to the Commission Communication of 27 June 2012 on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries (COM(2012)0351),

— having regard to the Commission Communication of 28 November 2012 on the Annual Growth Survey 2013 (COM(2012)0750),

— having regard to the Commission's proposal of 5 February 2013 for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (2013/0025(COD)),

— having regard to the Financial Action Task Force (FATF) Recommendations of February 2012 on international standards on combating money laundering and the financing of terrorism and proliferation,

— having regard to its resolution of 19 April 2012 on the call for concrete ways to combat tax fraud and tax evasion ([1]),

— having regard to the report of 10 February 2012 by Richard Murphy FCA on 'Closing the European Tax Gap',

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([1]) Texts adopted, P7_TA(2012)0137.

— having regard to the Council resolution of 1 December 1997 on a code of conduct for business taxation and to the report to the Council of the Code of Conduct on Business Taxation Group of 4 December 2012,

— having regard to the OECD Report 'Addressing Base Erosion and Profit Shifting' (2013),

— having regard to the ECOFIN Conclusions and ECOFIN Report to the European Council on tax issues of 22 June 2012,

— having regard to its resolution of 8 March 2011 on cooperating with developing countries on promoting good governance in tax matters ([1]),

— having regard to its legislative resolution of 19 April 2012 on the proposal for a Council directive on a CCCTB ([2]),

— having regard to the Communiqué following the Meeting of Finance Ministers and Central Bank Governors of the G20 which took place in Moscow on 15—16 February 2013,

— having regard to its resolution of 10 February 2010 on promoting good governance in tax matters ([3]),

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

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Development and the Committee on Budgetary Control (A7-0162/2013),

A. whereas an estimated and scandalous EUR 1 trillion of potential tax revenue is lost to tax fraud, tax evasion, tax avoidance and aggressive tax planning every year in the EU, representing an approximate cost of EUR 2 000 for every European citizen each year, without appropriate measures being taken in response ([4]);

B. whereas this loss represents: a danger for the safeguarding of a EU social market economy based on quality public services; a threat to the proper functioning of the Single Market; a dent to the efficiency and fairness of tax systems within the EU; and a risk to the ecological transformation of the economy; whereas it produces and further facilitates socially detrimental profiteering which leads to growing inequality, increases citizens' mistrust in democratic institutions and cultivates an environment of democratic deficit;

C. whereas an important part of fiscal sustainability is securing our revenue basis;

D. whereas tax fraud and tax evasion constitute an illegal activity of evading tax liabilities, while, on the other hand, tax avoidance is the legal but improper utilisation of the tax regime to reduce or avoid tax liabilities, and aggressive tax planning consists in taking advantage of the technicalities of a tax system, or of mismatches between two or more tax systems, for the purpose of reducing tax liability;

E. whereas tax avoidance practices, which are facilitated by the increasing dematerialisation of the economy, lead to distortions of competition harmful to European undertakings and growth;

F. whereas the scale of tax fraud and tax avoidance undermines citizens' trust and confidence in the fairness and legitimacy of tax collection and the fiscal system as a whole;

G. whereas the lack of coordination of tax policies in the EU leads to significant cost and administrative burden for citizens and businesses operating cross-border within the EU, and may result in unintended non-taxation or lead to tax fraud and tax avoidance;

([1]) OJ C 199 E, 7.7.2012, p. 37
([2]) Texts adopted, P7_TA(2012)0135.
([3]) OJ C 341 E, 16.12.2010, p. 29.
([4]) http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm

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H. whereas the persistence of distortions caused by non-transparent or harmful tax practices on the part of jurisdictions acting as tax havens can lead to artificial flows and negative effects within the EU internal market; whereas harmful tax competition within EU is clearly against the logic of the single market; whereas more efforts are needed to harmonise tax bases within an ever-closer economic, fiscal and budgetary Union;

I. whereas countries under assistance programmes have in recent years — after having stepped up tax collection and eliminated privileges in line with Troika proposals — seen many of their larger companies leave in order that they may benefit from tax privileges offered by other countries;

J. whereas in practice this has shifted the tax burden onto workers and low-income households and forced governments to make damaging cutbacks in public services;

K. whereas the job cuts made in a majority of the Member States' national tax authorities through austerity measures over the past years have greatly jeopardised the implementation of the Commission's Action Plan;

L. whereas multinational companies' use of tax avoidance practices conflicts with the principle of fair competition and corporate responsibility;

M. whereas the response of some taxpayers to the steps taken by Member States to remedy the lack of transparency has been to route business transactions through another jurisdiction with a lower level of transparency;

N. whereas unilateral national measures have in many cases proven ineffective, insufficient and in some cases even detrimental to the cause, and this necessitates a coordinated and multi-pronged approach at national, EU and international level; whereas the effective fight against tax fraud, tax evasion, tax avoidance and aggressive tax planning requires strongly reinforced cooperation between the tax authorities of different Member States as well as reinforced cooperation of the tax authorities with other law enforcement authorities within a given Member State;

O. whereas, as stated by the OECD in its report 'Addressing Base erosion and Profit Shifting', the fundamental policy issue to be tackled is the fact that the international common principles drawn from national experiences to share tax jurisdiction have not kept pace with the changing business environment; whereas a more active role of the Commission and the Member States is required in the international arena to work for the establishment of international standards based on principles of transparency, exchange of information and abolition of harmful tax measures;

P. whereas developing countries do not have the bargaining power to force tax havens to cooperate, exchange information and become transparent;

Q. whereas investigative journalists, the non-governmental sector and the academic community have been instrumental in exposing cases of tax fraud, tax avoidance and tax havens and duly informing the public thereof;

R. whereas the strengthening of the means of detecting tax fraud should be accompanied by the reinforcement of existing legislation on assistance in the recovery of taxes, equality in tax treatment and practicability for businesses;

S. whereas European finance ministers, meeting at the G20 gathering in Moscow in February 2013, vowed to take the necessary action in tackling tax avoidance, and confirmed that solely national measures will not deliver the desired effects;

T. whereas transfer pricing resulting in tax avoidance negatively affects the budgets of developing countries by forcing on them an estimated loss of circa EUR 125 billion in tax revenues annually, almost twice the amount they receive in international aid;

U. whereas the power to legislate on taxation is currently vested in the Member States;

1. Welcomes the Commission's Action Plan and its recommendations urging Member States to take immediate and coordinated action against tax havens and aggressive tax planning;

2. Welcomes the determination expressed by the G20 finance ministers to address base erosion and profit shifting;

3. Urges the Member States to follow up on their commitment, embrace the Commission's Action Plan, fully implement the two recommendations; insists that the Member States engage in serious negotiations, complete the procedures for all pending legislative proposals and apply measures regarding issues of tax fraud, tax evasion, tax avoidance, aggressive tax planning and tax havens in their dependent territories;

4. Deplores the fact that the Member States have not yet managed to reach an agreement on key legislative proposals such as the 2008 proposal to amend the Council Directive 2003/48/EC on taxation of savings income in the form of interest payments or the 2011 Proposal for a Council Directive on a Common Consolidated Corporate Tax Base;

5. Regrets the lack of substantial progress to the date in the area of taxation in the framework of the commitments of the Euro Plus Pact;

6. Welcomes the Commission's initiative to establish a 'Platform for Tax Good Governance'; calls on the Commission to monitor closely the implementation of both recommendations in all Member States, and to consult and involve in the workings of the Platform also the national tax workforce, social partners and trade unions; calls on the Commission to submit to the Council and Parliament, on a yearly basis, a report on the work and achievements of the Platform;

7. Considers that the scope and severity of the problem, and the urgency of actions needed, are highlighted by the information on secret off-shore bank accounts published in April 2013 by the International Consortium of investigative journalism; calls once more, in light of this, for a strengthened European and international commitment to transparency that should result in an international, binding, multilateral, agreement on the automatic exchange of information in tax matters;

The EU's role in the international arena

8. Emphasises that the EU should take the leading role in discussions on the fight against tax fraud, tax avoidance and tax havens in the OECD, the Global Forum on Transparency and Exchange of information for Tax Purposes, the G20, the G8 and other relevant multinational fora; urges the Commission and the Member States consistently to highlight on the international arena the paramount importance of reinforced cooperation in the fight against tax fraud, tax evasion, tax avoidance, aggressive tax planning and tax havens; stresses that the EU should, where appropriate, persuade non-EU countries to build up and improve the efficacy of their respective tax collection systems by subscribing to the principles of transparency, automatic exchange of information and abolition of harmful tax measures, and to assist them in doing so; encourages the Commission and the Council to upgrade their technical assistance and capacity building efforts in developing countries;

9. Considers it of paramount importance that Member States authorise the Commission to negotiate tax agreements with third countries on behalf of the EU instead of continuing with the practice of bilateral negotiations producing sub-optimal results from the point of view of the EU as a whole and often also of the Member State concerned;

10. Stresses that Member States that have received ([1]) or are seeking financial assistance have an obligation to implement measures designed to strengthen and improve their capacity to collect tax and tackle tax fraud and tax evasion; urges the Commission to extend this obligation to encompass measures tackling money laundering, tax avoidance and aggressive tax planning;

([1]) Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 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.

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11. Calls on the Commission to refrain from granting EU funding, and to ensure that Member States do not provide state aid or access to public procurement to companies that breach EU tax standards; calls on the Commission and the Member States to require a disclosure of information related to penalties or convictions for tax-related offences for all companies bidding for a public procurement contract; suggests that public authorities, while respecting obligations agreed under the revised Late Payments directive, are enabled to include a clause in a public procurement contract that allows them to terminate the contract if a supplier subsequently breaches the tax compliance obligations;

12. Calls on the Commission to propose common standards for tax treaties between Member States and developing countries, with the aim of avoiding tax base erosion for these countries;

13. Calls on the Commission to provide more budgetary resources and staff to DG TAXUD to help it develop EU policies and proposals concerning double non-taxation, tax evasion and fraud;

14. Calls on the Commission and the Member States to insist, in their respective relations with third countries, on the strict application of EU standards in tax related matters, in particular as regards future bilateral or multilateral trade agreements;

15. Welcomes the US Foreign Account Tax compliance Act (FATCA) as a first step towards an automatic exchange of information between the EU and the US to fight trans-border tax fraud and tax evasion; regrets, however, that a bilateral/intergovernmental approach has been taken in the negotiations with the US rather than a common EU negotiating position; regrets the lack of full reciprocity in the exchange of information; calls for the respect of the rights of data protection for EU citizens in this context;

16. Calls on the Commission and the Member States to review closely and duly implement the Financial Action Task Force (FATF) recommendations of February 2012;

Headline target — Addressing the tax gap

17. Calls on the Member States to commit to an ambitious but realistic target of at least halving the tax gap by 2020, since this would gradually create a significantly higher tax revenue potential without raising tax rates;

18. Acknowledges, furthermore, that broadening already existing tax bases, rather than increasing tax rates or introducing new taxes, could generate further incomes for the Member States;

19. Calls on the Commission at last to develop a comprehensive strategy, based on concrete legislative actions within the framework of the existing Treaties, to close the EU tax gap and make sure that all companies that have operations in the EU fulfil their tax obligations in all the Member States in which they operate;

20. Stresses that measures to reduce the tax gap and tackle tax havens, evasion and avoidance would result in fair and transparent competitive conditions on the internal market, help with fiscal consolidation while reducing sovereign debt levels, increase public investment resources, improve the efficiency and fairness of national tax systems, and raise general tax compliance levels, both in the EU and in developing countries;

21. Calls on the Commission and the Member States to enhance the use of the Fiscalis programme by integrating the tax gap strategy into it;

22. Asks the Commission to study the possibility of introducing European taxation on cross-border business models and electronic commerce;

ACTIONS PROPOSED BY THE EUROPEAN PARLIAMENT TO BE AT THE FOREFRONT OF THE EU TAX GAP STRATEGY:

On tax fraud and tax evasion

23. Urges the Member States to allocate adequate staff, expertise and budget resources to their national tax administrations and tax audit staff, as well as resources for the training of tax administration staff focusing on cross-border cooperation on tax fraud and avoidance, and to introduce strong tools against corruption;

24. Calls on the Commission to take immediate action with regard to the transparency of companies' tax payments by obliging all multinational companies to publish a simple, single figure for the amount of tax paid in each Member State in which they operate;

25. Stresses the importance of a Common Consolidated Corporate Tax Base (CCCTB), and calls on the Member States to agree and implement the directive on a CCCTB by moving gradually from an optional to a compulsory scheme, as defined in its legislative resolution of 19 April 2012 on the proposal for a Council directive on a CCCTB;

26. Is of the opinion that competent authorities should take action and suspend or revoke the banking licenses of financial institutions and financial advisors if they assist in tax fraud by offering products or services to customers enabling them to evade taxes or refuse to cooperate with tax authorities;

27. Welcomes the Commission's inclusion of the listing of tax crimes as predicate offences to money laundering in the scope of the new Anti-Money Laundering Directive (2013/0025(COD)) and calls for the directive's swift implementation; encourages the Commission to introduce proposals for a harmonised tackling of tax fraud under criminal law, in particular as regards cross border and mutual investigations; alerts the Commission to enhance its cooperation with other EU law enforcement bodies, in particular authorities responsible for anti-money laundering, justice and social security;

28. Calls on the Member States to remove all obstacles in national law that hinder cooperation and exchanges of tax information with the EU institutions and within the Member States, while also ensuring effective protection of taxpayers' data;

29. Calls on the Commission to identify areas where EU regulations, and the administrative cooperation between Member States, could be improved in order to reduce tax fraud, including through the appropriate use of the Fiscalis and Customs programmes;

30. Welcomes the adoption by the Council of the new framework for administrative cooperation, and calls on the Member States to implement this framework promptly;

31. Encourages the Member States to seek 'smoking gun' data on tax evasion from other government-maintained registers, such as databases on motor vehicles, land, yachts and other assets, and to share this with other Member States and the Commission;

32. Stresses the importance of implementing new strategies and making more efficient use of existing EU structures for improved combating of VAT fraud, especially carousel fraud; urges, in this respect, the Council promptly to adopt and implement the Directive amending Directive 2006/112/EC on the common system of value added tax as regards a quick reaction mechanism against VAT fraud;

33. Encourages the Member States to continue and upgrade, under the new Fiscalis 2020 programme, the simultaneous controls to find and fight cross-border tax fraud, and to facilitate the presence of foreign officials in the offices of tax administrations and during administrative enquiries; highlights the importance of stronger cooperation between tax authorities and other law enforcement bodies, especially with the view of sharing information acquired in relation to investigations linked to money laundering and related tax crimes;

34. Recalls that the elimination of the informal economy cannot be realised without offering appropriate incentives; suggests, moreover, that the Member States must report, via a scoreboard, the extent to which they have succeeded in reducing their informal economies;

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35. Supports the efforts of the International Organisation of Securities Commissions (IOSCO) to introduce Legal Entity Identifiers as a step towards ensuring the traceability and transparency of financial transaction, which is key to facilitating the fight against tax fraud;

36. Notes that the dismantling of tax privileges creates scope for comprehensive reforms leading to an uncomplicated, understandable and fair taxation system;

37. Points out that legal proceedings against tax fraud are cumbersome and lengthy, and that those found guilty receive, in the end, relatively mild sentences, making tax fraud something of a risk-free crime;

38. Emphasises the potential of e-government in terms of increasing transparency and combating fraud and corruption, thereby helping to protect public funds; stresses the need for legislation that enables continuous innovation;

39. Calls on the Commission to address specifically the problem of hybrid mismatches between the different tax systems used in the Member States;

40. Notes, however, that as VAT is an 'own resource', tax evasion in that area does have a direct influence on both the economies of the Member States and the EU budget; recalls that, in the words of the Court of Auditors, 'VAT evasion affects the financial interests of Member States; it has an impact on the EU budget as it leads to lower VAT-based Own Resources; this loss is compensated by the GNI-based own resource, distorting individual Member States' contributions to the EU budget. Moreover, tax fraud undermines the functioning of the internal market and prevents fair competition' ([1]);

41. Notes that the EU's VAT system provides a significant part of public revenues — 21 % in 2009 ([2]) — but is also the cause of high levels of both unnecessary compliance costs and tax avoidance;

42. Points out that ever since VAT was introduced, the model for collecting it has remained unchanged; stresses that as this model is outdated, given the many changes that have taken place in the technological and economic environment, its continued use leads to substantial losses;

43. Stresses that the correct operation of the customs system has direct consequences in terms of the calculation of VAT; is deeply worried that customs checks in the EU are not functioning properly, resulting in significant VAT losses ([3]); finds it unacceptable that, in most Member States, the tax authorities have no direct access to customs data, and that automated cross-checking with tax data is therefore not possible; points out that organised crime is well aware of the weaknesses of the actual system;

44. Calls on the Commission and the Member States to consider setting up measures to enable the social reuse of funds confiscated through criminal proceedings in cases of tax fraud and tax avoidance; calls, therefore, for a substantial part of the funds confiscated to be reused for social purposes and reinjected into local and regional economies directly or indirectly affected by tax crimes;

45. Calls on the Commission and the Member States to foster an environment where the role of the civil society in exposing cases of tax fraud and tax havens will be fully protected, inter alia by setting up effective systems for protecting whistleblowers and journalistic sources;

([1]) Special Report of the Court of Auditors No 13/2011, p. 11, paragraph 5.

([2]) European Parliament, Directorate-General for Internal Policies, Policy Department A (Economic and Scientific Policy): 'Simplifying and Modernising VAT in the Digital Single Market' (IP/A/IMCO/ST/2012_03), September 2012, http://www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=75179

([3]) According to the Court of Auditors' Special Report No 13/2011, in 2009 the application of customs procedure 42 alone accounted for extrapolated losses of approximately EUR 2 200 million with regard to the seven Member States audited, representing 29 % of the VAT theoretically applicable on the taxable amount of all the imports effected under customs procedure 42 in those seven Member States in 2009;

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On tax avoidance and aggressive tax planning

46. Calls on the Member States, as a matter of priority, to adopt and implement the amended Savings Tax Directive in order to close the loopholes of the existing Directive and prevent tax evasion in a better way;

47. Welcomes the international discussions on the updating of the OECD guidelines on transfer pricing, i.e. the shifting of profits to tax havens to avoid paying taxes in both developed and developing countries; urges the Commission and the Member States to take immediate action, and review the current rules, on transfer pricing, in particular in relation to the shift of risks and intangibles, the artificial splitting of ownership of assets between legal entities in a group, and transactions between these entities that would rarely take place between independents; calls on the Commission to develop the system of advance pricing agreement applicable to transfer pricing, whereby a new requirement would be added to the existing obligations under the EU Transfer Pricing Documentation guidelines; suggests that the documentation, as well as the tax declaration requirements, should be broader for transactions with blacklisted jurisdictions;

48. Welcomes the progress made on country-by-country reporting under the Accounting and Transparency Directives; calls on the Commission to introduce, as the next step, country-by-country reporting for cross-border companies in all sectors, enhancing the transparency of payments transactions — by requiring disclosure of information such as the nature of the company's activities and its geographical location, turn-over, number of employees on a full-time equivalent basis, profit or loss before tax, tax on profit or loss, and public subsidies received on a country-by-country basis on the trading of a group as a whole — in order to monitor respect for proper transfer pricing rules;

49. Calls on the proposal for a revision of the Anti-Money Laundering Directive to be complemented by introducing the obligation to create publically available government registers of the beneficial ownership of companies, trusts, foundations and other similar legal structures;

50. Calls on the Member States to improve the effectiveness of the Code of Conduct for business taxation by raising issues at Council level where political decisions are urgently needed; urges the Commission to intervene actively in cases where the Code of Conduct Group cannot agree on procedures to remove mismatches in national tax systems;

51. Calls on the Commission to prepare and promote a Code of Conduct for auditors and advisers; calls on auditing firms to alert national tax authorities to any signs of aggressive tax planning of the audited company;

52. Takes the view that auditors should not be allowed to provide prohibited, non-audit services, and that tax advisory services relating to structuring transactions and tax consulting must be regarded as such;

53. Notes that proper identification of taxpayers is key to the successful exchange of information between national tax administrations; calls on the Commission to speed up the creation of an EU tax identification number (TIN), applicable to all legal and natural persons engaged in cross-border transactions; is of the opinion that the TIN should be connected to an international and open VAT Information Exchange System (VIES) database, assisting in identifying the unpaid taxes and other avoided liabilities;

54. Calls on the Commission to present in 2013 a proposal for the revision of the Parent-Subsidiary Directive and the Interests and Royalties Directive, with a view to revise and align the anti/abuse clauses within both Directives and to eliminate double non-taxation as facilitated by hybrid entities and financial instruments in the EU;

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55. Urges the Member States to swiftly implement the Commission's proposal for the introduction of a General Anti-Abuse Rule to counteract aggressive tax planning practices, and include a clause in their Double Taxation Conventions to prevent occurrences of double non-taxation; encourages the Member States to ignore any tax benefits arising from artificial arrangements or those lacking commercial substance; suggests that work be started on formulating for the Member States a standard set of rules on preventing double taxation;

56. Welcomes the work by the Commission on creating a European taxpayer's code; is of the opinion that such a code will help increase the legitimacy and intelligibility of the given tax system, enhance cooperation, trust and confidence between tax administrations and taxpayers, and assist taxpayers by ensuring greater transparency as regards their rights and obligations;

57. Encourages the Commission and the Member States to establish efficient revenue-collecting mechanisms that minimise the distance between taxpayers and tax authorities and maximise the use of modern technology; calls on the Commission to tackle complexities of taxing electronic commerce by developing appropriate EU standards;

58. Calls on the Member States to ensure that financial sector lobbying, which often results in legal tax avoidance and aggressive tax planning regimes, be made as transparent as possible;

59. Encourages the Commission to regulate financial flows from Member States to third countries arranged for the purposes of tax avoidance and to create a balanced and competitive tax framework;

60. Urges the Commission to take action on companies' aggressive tax planning units, in particular in the financial services sector;

61. Calls on the Commission to carry out an in-depth study into the difference, in the Member States, between legal and actual corporation tax rates in order to ensure that the debate on fiscal harmonisation is based on objective data;

62. Calls on the Member States to notify and make public individual tax rulings by national authorities for cross-border companies; insists that Member States apply strict substance requirements for cross-border companies to obtain tax rulings;

63. Observes that while trusts are often used as conduits for tax evasion, notes with concern that the majority of countries do not require registration of legal arrangements; calls on the EU to introduce a European register for trusts and other secrecy entities as a prerequisite for dealing with tax avoidance;

On tax havens

64. Calls for a common EU approach towards tax havens;

65. Welcomes the Commission's commitment to promoting the automatic exchange of information as the future European and international standard for transparency and exchange of information in tax matters; calls once more for action beyond the OECD framework to address illicit financial flows, tax evasion and avoidance in view of their various shortcomings; deplores the fact that the OECD allows governments to escape its blacklist merely by promising to adhere to the information exchange principles, without ensuring that these principles are effectively put into practice; considers also that the requirement to conclude agreements with 12 other countries so that they can be removed from the blacklist is arbitrary, as it does not refer to any qualitative indicators for an objective assessment of compliance with good governance practices;

66. Calls on the Commission to adopt a clear definition and a common set of criteria to identify tax havens, as well as appropriate measures applying to identified jurisdictions, for implementation by 31 December 2014, and to ensure that it is applied consistently throughout all EU legislation; suggests that the definition be based on the OECD standards of transparency and exchange of information as well as on the Code of Conduct principles and criteria; believes, in this regard, that a jurisdiction is to be considered a tax haven if several of the following indicators are fulfilled:

(i) advantages are accorded only to non-residents or in respect of transactions carried out with non-residents,

(ii) advantages are ring-fenced from the domestic market, so they do not affect the national tax base,

(iii) advantages are granted even without any real economic activity or substantial economic presence within the jurisdiction offering such tax advantages,

(iv) the rules for profit determination in respect of activities within a multinational group of companies departs from internationally accepted principles, notably the rules agreed upon within the OECD,

(v) the tax measures lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way,

(vi) the jurisdiction imposes no or nominal tax on the relevant income,

(vii) there are laws or administrative practices that prevent the effective exchange of information for tax purposes with other governments on taxpayers benefiting from the no or nominal taxation, breaching the standards laid down in Article 26 of the OECD Model Tax Convention on Income and on Capital,

(viii) the jurisdiction creates non-transparent and secretive structures that render the formation and working of company registries and registers of trusts and foundations incomplete and non-transparent,

(ix) the jurisdiction is listed as a Non-Cooperative Country and Territory by FATF;

67. Urges the Commission to compile and create a public European blacklist of tax havens by 31 December 2014; calls, in this context, on the relevant authorities:

— to suspend or terminate existing Double Tax Conventions with jurisdictions that are on the blacklist, and to initiate Double Tax Conventions with jurisdictions that cease to be tax havens,

— to prohibit access to EU public procurement of goods and services and refuse to grant state aid to companies based in blacklisted jurisdictions,

— to prohibit access to state and EU aids for companies that continue to conduct operations involving entities belonging to blacklisted jurisdictions,

— to review the Auditing and Accounting Directives so as to require separate accounting and auditing of profits and losses of each holding company of a given EU legal entity situated in a blacklisted jurisdictions,

— to prohibit EU financial institutions and financial advisors to establish or maintain subsidiaries and branches in blacklisted jurisdictions and to consider revoking licenses for European financial institutions and financial advisors, which maintain branches and continue operating in blacklisted jurisdictions,

— to introduce a special levy on all transactions to or from blacklisted jurisdictions,

— to secure the abolition of exemptions from taxation at source for individuals who are non-residents for tax purposes in blacklisted jurisdictions,

— to examine a range of options for the non-recognition, within the EU, of the legal status of companies set up in blacklisted jurisdictions,

— to apply tariff barriers in cases of trade with blacklisted third countries,

— to strengthen the dialogue between the Commission and the European Investment Bank in order to ensure that investment is withheld for projects, beneficiaries and intermediaries from blacklisted jurisdictions;

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International dimension

68. Is of the opinion that the minimum standards in the Commission Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance should explicitly apply to the Member States as well;

69. Encourages the Member States to offer cooperation and assistance to developing third countries which are not tax havens, helping them to tackle tax fraud and tax avoidance effectively, in particular through capacity-building measures; supports the Commission's call that, to this end, the Member States should second tax experts to such countries for a limited period of time;

70. Calls on the Commission to fully contribute to the further development of the OECD Base Erosion and Profit Shifting (BEPS) project by sharing analysis on the problematic tax regimes in and between Member States, and on what changes are needed at Member State and EU level to avoid tax fraud and evasion as well as any form of aggressive tax planning; calls on the Commission to report regularly on this process to the Council and Parliament;

71. Stresses the need to mobilise and secure tax resources in developing countries in order to achieve the Millennium Development Goals (MDGs), as they are more predictable and sustainable than foreign assistance and help to reduce debt; notes, however, that tax resources-to-GDP ratios are low in most developing countries, which are confronted with social, political and administrative difficulties in establishing a sound public finance system, thereby making them particularly vulnerable to tax evasion and avoidance activities on the part of individual taxpayers and corporations;

72. Notes with concern that many developing countries find themselves in a very weak bargaining position towards certain foreign direct investors 'shopping around' for tax subsidies and exemptions; considers with respect to sizeable investments that companies should be required to make precise commitments on the positive spill-over effects of projects in terms of local and/or national economic and social development;

73. Points out that illicit outflows are a major explanation for developing country debt, while aggressive tax planning is contrary to the principles of corporate social responsibility;

74. Notes that tax systems in many developing countries are not in line with international standards (instead exhibiting weak fiscal jurisdiction and inefficiencies in tax administration, high levels of corruption, insufficient capacity to introduce and sustain well-functioning tax registers, etc.); calls on the EU to upgrade its assistance, within the remit of the Development Co-operation Instrument (DCI) and the European Development Fund (EDF) in terms of tax governance and in addressing international tax fraud and excessive optimisation, by building up the capacity of developing countries to detect and prosecute inappropriate practices through stronger tax governance cooperation; considers also that support should be provided for the economic reconversion of developing countries that are tax havens;

75. Welcomes the first steps taken with the Global Forum (GF) peer reviews on tax evasion; believes, however, that, by focusing on the OECD's 'upon request' information exchange system, GF standards will be ineffective in curtailing illicit financial flows;

76. Points out that, by reinforcing a bilateral rather than a multilateral approach to transnational tax issues, double taxation agreements (DTA) risk encouraging transfer pricing and regulatory arbitrage; calls on the Commission, therefore, to refrain from promoting such agreements, instead of tax information exchange agreements (TIEAs), since the former usually result in a fiscal loss for developing countries through lower withholding tax rates on dividend, interest and royalty payments;

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77. Instructs its President to forward this resolution to the Council, Commission, the OECD and the UN Committee of Experts on International Cooperation in Tax Matter, the OLAF Supervisory Committee and OLAF.

P7_TA(2013)0206

Annual tax report: how to free the EU potential for economic growth

European Parliament resolution of 21 May 2013 on the Annual Tax Report: how to free the EU potential for economic growth (2013/2025(INI))

(2016/C 055/08)

The European Parliament,

— having regard to Article 3 of the Treaty on European Union (TEU) and Articles 26, 110-115 and 120 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to the Commission proposal for a Council Directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments (COM(2008)0727),

— having regard to the Commission proposal for a Council Decision authorising enhanced cooperation in the area of financial transaction tax (COM(2012)0631),

— having regard to the Commission proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2011)0121),

— having regard to the Commission proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity (COM(2011)0169),

— having regard to its position of 11 September 2012 on corporate taxation: common system of taxation applicable to interest and royalty payments (recast) ([1]),

— having regard to the Commission Communication of 27 June 2012 on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries (COM(2012)0351),

— having regard to the Commission Communication of 6 December 2012 on An Action Plan to strengthen the fight against tax fraud and tax evasion (COM(2012)0722),

— having regard to the Commission recommendation of 6 December 2012 on aggressive tax planning (C(2012)8806),

— having regard to the Commission recommendation of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (C(2012)8805),

— having regard to the Commission Communication of 14 December 2012 on strengthening the Single Market by removing cross-border tax obstacles for passenger cars (COM(2012)0756),

— having regard to the Commission proposal for a regulation establishing an action programme for taxation in the European Union for the period 2014-2020 (Fiscalis 2020) (COM(2012)0465),

— having regard to the Commission report on public finances in EMU (European Economy no. 4/2012),

— having regard to its resolution of 16 January 2013 on public finances in EMU — 2011 and 2012 ([2]),

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([1]) Texts adopted, P7_TA(2012)0318.
([2]) Texts adopted, P7_TA(2013)0011.

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— having regard to the Commission report on tax reforms in the EU Member States (European Economy no. 6/2012),

— having regard to 'OECD's Current Tax agenda 2012' ([1]),

— having regard to the OECD report on 'Addressing Base Erosion and Profit Shifting' ([2]),

— having regard to the Deutsche Bank paper of 5 October 2012 on the impact of tax systems on economic growth in Europe ([3]),

— having regard to the EU 2020 strategy (COM(2010)2020),

— having regard to the ECOFIN Council conclusions of 10 July 2012 ([4]),

— having regard to the Commission Annual Growth Survey for 2013 (COM(2012)0750),

— having regard to the conclusions of the Council of 12 February 2013 on the Alert Mechanism Report 2013 ([5]),

— having regard to the Conclusions of the European Councils of 29 June, 19 October and 14 December 2012,

— having regard to the final Statement of the G20 Meeting of Finance Ministers and Central Bank Governors in Moscow, 15—16 February 2013 ([6]),

— having regard to the working programme of the Irish Presidency of the Council,

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

— having regard to the report of the Committee on Economic and Monetary Affairs (A7-0154/2013),

A. whereas the EU economies — in many cases due to the weak focus in the current policy mix on investment, competitiveness, employment and fair and efficient taxation — have a modest to negative outlook for economic growth and employment in the near future; whereas the euro area as a whole is experiencing a double-dip recession;

B. whereas since the outbreak of the recent debt crisis, the structure of tax revenues has quite significantly changed in a number of Member States, and the related structural and cyclical effects of this modification are hard to distinguish; whereas, in developing tax policy, the principles of subsidiarity and multi-level governance should be fully taken into account, in line with relevant legislation of the Member States;

C. whereas, because of the crisis which has revealed the structural weaknesses of some EU economies, and which continues to harm the potential for economic growth in the EU, the Member States are facing the difficult challenge of having to balance their budgets while at the same time promoting economic growth and jobs;

D. whereas, since the turn of the millennium, a trend can be observed in the EU towards the development of a more growth-oriented tax system;

E. whereas tax systems in the EU shall be oriented to be business friendly in order to enhance their capacity to create growth and jobs;

([1]) http://www.oecd.org/ctp/OECDCurrentTaxAgenda2012.pdf
([2]) http://www.oecd.org/ctp/beps.htm
([3]) http://www.dbresearch.com/PROD/DBR_INTERNET_EN-PROD/PROD0000000000295266.pdf
([4]) http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ecofin/131662.pdf
([5]) http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ecofin/135430.pdf
([6]) http://www.g20.org/news/20130216/781212902.html

F. whereas in an environment of slow growth and recession, late devolution of anticipated tax payments create additional liquidity problems for corporations;

G. whereas the impact of the crisis should be diminished with a tax policy that is compatible with the aims of the EU 2020 strategy, which should be a priority;

H. whereas the need to restore the credibility of budgetary policies, and to reduce the sovereign debt of Member States, makes it necessary to modify budget expenses, swiftly implement growth-friendly structural reforms, improve methods of tax collection and modify some taxes, ensuring that priority, where appropriate, is given to those taxes that are levied on capital, environmentally harmful activities and some types of consumption rather than to those levied on labour;

I. whereas smart and active policy development in the field of environmental taxation is key to implementing the polluter pays principles, enhancing growth and making growth prospects sustainable;

General considerations

1. Notes that taxation policy still remains a national competence and that the different tax systems of the Member States have therefore to be respected; notes that the transfer of competences in the area of taxation from the national to the Union level requires a change in the Treaty, which in turn requires the unanimous agreement of all Member States; notes also, however, that this does not exclude the effective coordination of tax arrangements at European level; underlines that in developing tax policy, the principles of subsidiarity and multi-level governance should be fully taken into account, in line with relevant legislation of the Member States;

2. Notes that the optimal design of tax systems depend on numerous factors and differ therefore from country to country; stresses that proper planning and adjustment of tax policies in the short-, medium-, and long term are indispensable;

3. Underlines the improvements made in the field of tax policy coordination, but points out that EU citizens and enterprises engaged in cross-border activities still face considerable costs, administrative burdens and legal gaps which need to be eradicated as soon as possible in order to enable them to grasp the full benefits of the single market;

4. Notes that fair and healthy competition between different tax systems in the Single Market has stimulating effects on the European economies; stresses, on the other hand, that harmful tax competition has a detrimental economic impact; having regard to the OECD report on 'Addressing Base Erosion and Profit Shifting', underlines that functional institutions based on a sound and fair legal and administrative framework are crucial;

5. Notes that besides ensuring compliance with the sustainable fiscal policies, in order to achieve economic balance it is necessary to implement growth-conducive measures such as fighting tax fraud and evasion, shifting taxation towards more growth-friendly tax areas and providing viable tax stimulus for both self-employed persons and small and medium-sized enterprises (SMEs), especially with the aim of promoting innovation and R&D activities;

6. Emphasises that it is in the interest of enterprises and citizens to have a clear, predictable, stable and transparent tax environment within the Single Market, as a lack of transparency on tax rules is an obstacle to cross-border activities and domestic foreign investments in the EU; suggests that more and better information should be made available for individuals and enterprises with respect to the taxation rules, requirements and regulations in every Member State;

7. Recommends that Member States proceed carefully when altering existing taxes and introducing new taxes, ensuring that this is done in a growth-friendly way and that citizens and the business sector have sufficient time and adequate means to prepare themselves before the new fiscal measures enter into force;

8. Is concerned about the effects that the shift in many Member States towards a more extensive taxation of consumption could have on social inequalities; calls on the Member States to be attentive to this potential problem and to study carefully the negative implications of eroding the progressivity of the tax system as a whole; believes that there should be a certain degree of flexibility in the VAT system, where — in duly justified cases as foreseen by the Directive on Common system of value added tax, relating to for example culture or basic needs — some product categories could be taxed at rates below the standard rate;

9. Understands that in order to make the EU budget a useful instrument to enhance growth, own resources are necessary in order to have more autonomy for the Commission in its proposals;

Identifying hidden resources that could contribute to economic growth through taxation policy

10. Notes that economic development depends on such factors as labour, capital, technological progress, resource efficiency and productivity, and that taxation policy should pay careful attention to these factors in the short, medium and long term; stresses, therefore, the importance of concerted decision-making to this aim;

11. Notes that taxation policy should be designed with the aim of strengthening the economy, inter alia by building tax structures that stimulate aggregated demand in a long term, facilitate export-oriented activities, stimulate job creation and promote sustainable development;

12. Assumes that tax increases in certain domains, such as excise duties, could have some positive effects by channelling additional resources, and thus be beneficial to the citizens and the real economy;

13. Stresses that providing tax incentives for research and development is likely to yield long-term benefits, such as growth and job creation in knowledge-driven economies, in particular if part of a balanced overall taxation strategy; considers that this should be taken into account at the European and national levels;

14. Acknowledges that broadening already existing tax bases, rather than increasing tax rates or introducing new taxes, could generate further incomes for the Member States;

15. Recalls that tax cuts should be based on a solid and responsibly planned fiscal policy, where the sustainability of public finances is in no way put in danger, and accompanied by measures aimed at increasing competitiveness, growth and employment;

16. Considers that there is a need to create, on the basis of a thorough analysis, an EU-wide tax information system serving not to harmonise the different national tax structures, but to facilitate their coordination in a continuous and transparent manner, keeping track of the cuts and increases made within each structure;

17. Notes that for the functioning of such a system, the framework of the European Semester would be a good basis, since — in tandem with other specific macroeconomic measures — it could keep good record of the various tax policies of the different Member States, taking fully into account the general economic forecast as well as the fundamentals and future perspectives of the Member States concerned and common European objectives; in light of this, encourages the Commission and the Member States to integrate a strategy aimed at reducing the tax gap into the European Semester;

18. Notes the enhanced cooperation on the Financial Transaction Tax (FTT) to be implemented in 11 Member States, together representing two thirds of EU GDP;

19. Emphasises that in countries where labour costs are high relative to productivity, and where the creation of jobs is therefore hindered, possible taxation measures to reduce these costs and/or increase productivity could be examined while making determined efforts aimed at increasing productivity; underlines that tax reforms must serve to promote labour market participation in order to increase labour supply and promote inclusiveness; stresses, in this context, that the rights of workers and roles of social partners should always be fully respected;

20. Welcomes the Commission's initiative regarding the elaboration of a single guide for the calculation of corporate taxes; calls on the Member States to agree on and start implementing the Common Consolidated Corporate Tax Base (CCCTB); underlines that Parliament's position should be used as a key point of reference in this regard;

21. Underlines that there is a substantial growth potential in reducing and removing tax-related impediments to cross-border activities in the single market; stresses that the revision of the VAT Directive, the work on the CCCTB and the development of administrative cooperation in the area of taxation are crucial factors in making full use of that potential;

22. Calls on the Commission to take immediate action with regard to strengthening transparency and regulation in respect of company registries and registers of trusts and foundations;

23. Calls on the Member States to give their full support to the Commission initiatives, in collaboration with national tax authorities, aimed at suppressing fiscal obstacles related to cross-border activities in order to improve further coordination and cooperation in this field; encourages the Member States to exploit the full potential of the Fiscalis and Customs programmes; calls on the Commission to identify additional areas where EU legislation and Member State administrative cooperation could be improved in order to reduce tax fraud and aggressive tax planning;

24. Calls on the Member States to be very careful in an environment of slow growth or recession and to avoid late devolution of anticipated tax reimbursements as this could create additional liquidity problems, particularly for SMEs;

Fighting tax fraud and evasion and abolishing double taxation, double non-taxation and discriminatory measures against EU enterprises

25. Calls on the Member States to improve substantially their tax surveillance, control and collection capacity, thereby generating additional resources to promote growth and jobs as laid down in the EU 2020 strategy; underlines that national best practices in making tax administration more efficient should be compiled in a transparent manner — preferably in a European code of best practice within the EU-wide tax information system — and carefully taken into account; is concerned by the tendency in a number of Member States to cut staff and other resources at tax authorities and similar bodies; stresses that this could weaken the ability to provide fair and efficient service to enterprises and individuals and to counter tax fraud and tax evasion; in light of this, urges the Member States to allocate adequate financial and human resources to their national tax administrations and tax audit staff;

26. Calls on the Member States to improve their administrative cooperation in the area of direct taxation;

27. Calls again on the Commission to provide more budgetary resources and staff to DG TAXUD to help it develop EU policies and proposals concerning double non-taxation, tax evasion and fraud;

28. Welcomes the Commission's Communication entitled 'An Action Plan to strengthen the fight against tax fraud and tax evasion' as well as its recommendations on 'measures intended to encourage third countries to apply minimum standards of good governance in tax matters' and 'aggressive tax planning';

29. Calls on the Member States to work actively in line with the Commission's Communication and recommendations by taking coordinated and determined EU action against tax fraud, tax evasion, tax avoidance, aggressive tax planning and tax havens, thereby guaranteeing a fairer distribution of the fiscal effort and increased tax revenues; urges the Member States to swiftly implement, among the many specific measures to be taken in this context, the Commission proposals for the introduction of a General Anti-Abuse Rule to counteract aggressive tax planning practices and for the inclusion of a clause in their respective double taxation conventions to prevent occurrences of double non-taxation;

30. Notes that an estimated EUR 1 trillion in public revenue is lost every year in the EU because of tax fraud and tax avoidance; calls on the Member States to take the measures needed to at least halve the tax gap by 2020;

31. Stresses that reduced levels of fraud and evasion would strengthen the growth potential in the economy by making public finances healthier — which would increase the public funds available for fostering investment and enhancing the European social market economy — and by making enterprises compete on level playing field;

32. Urges the Member States to engage in serious negotiations and complete the procedures for all pending legislative proposals regarding issues of tax fraud, tax evasion, tax avoidance, aggressive tax planning and tax havens; calls, inter alia, on the Member States to conclude the process of reviewing and extending the scope of the Savings Taxation Directive and, following the report from Parliament, to adopt and implement without delay the Commission's proposal for a Quick Reaction Mechanism against VAT fraud;

33. Welcomes the intensified international work in the field of corporate taxation aimed at addressing base erosion and profit shifting; finds the OECD report on this theme to be a crucial contribution, and looks forward to the follow-up action plan to be presented this summer; expects the G-20 finance ministers, having endorsed the report at their recent meeting in Moscow, to take bold and collective action on the basis of that action plan;

34. Underlines, in line with solid Commission observations, that environmental taxes are among the most growth-friendly in relative terms; stresses that environmental taxes, in addition to generating revenues, should be used consistently and dynamically in order to keep economic developments on a sustainable path; calls on the Commission to come forward with a comprehensive assessment of existing internalisation gaps, followed by appropriate legislative proposals;

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35. Instructs its President to forward this resolution to the Council, the Commission and to the national parliaments.

Wednesday 22 May 2013

P7_TA(2013)0215

Implementation of the audiovisual media services directive

European Parliament resolution of 22 May 2013 on the Implementation of the Audiovisual Media Services Directive (2012/2132(INI))

(2016/C 055/09)

The European Parliament,

— having regard to Article 167 of the Treaty on the Functioning of the European Union,

— having regard to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on 20 October 2005,

— having regard to the Protocol on the system of public broadcasting in the Member States annexed to the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,

— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) ([1]),

— having regard to Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising ([2]),

— having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') ([3]),

— having regard to Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) ([4]) amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 ([5]),

— having regard to Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2004/68/JHA ([6]),

— having regard to Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of the Programme of support for the European Audiovisual sector (MEDIA 2007) ([7]),

— having regard to the Commission interpretative communication on certain aspects of the provisions on televised advertising in the 'Television without frontiers' Directive ([8]),

— having regard to Recommendation 2006/952/EC of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry ([9]),

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([1]) OJ L 95, 15.4.2010, p. 1.
([2]) OJ L 376, 27.12.2006, p. 21.
([3]) OJ L 178, 17.7.2000, p. 1.
([4]) OJ L 108, 24.4.2002, p. 51.
([5]) OJ L 337, 18.12.2009, p. 11.
([6]) OJ L 335, 17.12.2011, p. 1.
([7]) OJ L 327, 24.11.2006, p. 12.
([8]) OJ C 102, 28.4.2004, p. 2.
([9]) OJ L 378, 27.12.2006, p. 72.

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— having regard to the conclusions of the Council on the protection of minors in the digital world ([1]),

— having regard to the Commission Proposal for a Regulation of the European Parliament and of the Council on establishing the Creative Europe Programme (COM(2011)0785),

— having regard to the Commission Communication of 1 December 2008 'Towards an accessible information society' (COM(2008)0804),

— having regard to the Commission Communication of 3 March 2010 'Europe 2020: A strategy for smart, sustainable and inclusive growth' (COM(2010)2020),

— having regard to the Commission Communication of 26 August 2010 'A Digital Agenda for Europe' (COM(2010)0245/2),

— having regard to its resolution of 16 December 2008 on media literacy in a digital world ([2]),

— having regard to its resolution of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system ([3]),

— having regard its resolution of 16 November 2011 on European cinema in the digital era ([4]),

— having regard to its resolution of 22 May 2012 on a strategy for strengthening the rights of vulnerable consumers ([5]),

— having regard to its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union ([6]),

— having regard to its resolution of 20 November 2012 on protecting children in the digital world ([7]),

— having regard to the Commission Recommendation 2009/625/EC of 20 August 2009 on media literacy in the digital environment for a more competitive audiovisual and content industry and an inclusive knowledge society ([8]),

— having regard to the First Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 24 September 2012 on the Application of Articles 13, 16 and 17 of Directive 2010/13/EU for the period 2009-2010, Promotion of European works in EU scheduled and on-demand audiovisual media services (COM(2012)0522),

— having regard to the Commission Communication of 26 September 2012 'Promoting cultural and creative sectors for growth and jobs in the EU' (COM(2012)0537),

— having regard to the First Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 4 May 2012 on the application of Directive 2010/13/EU 'Audiovisual Media Service Directive', Audiovisual Media Services and Connected Devices: Past and Future Perspectives (COM(2012)0203),

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

— having regard to the report of the Committee on Culture and Education and the opinions of the Committee on Internal Market and Consumer Protection, the Committee on Legal Affairs, and the Committee on Civil Liberties, Justice and Home Affairs (A7-0055/2013),

A. whereas the Audiovisual Media Services Directive (AVMSD) is the backbone of EU media regulation;

([1]) OJ C 372, 20.12.2011, p. 15.
([2]) OJ C 45 E, 23.2.2010, p. 9.
([3]) OJ C 99 E, 3.4.2012, p. 50.
([4]) Texts adopted, P7_TA(2011)0506.
([5]) Texts adopted, P7_TA(2012)0209.
([6]) Texts adopted, P7_TA(2012)0324.
([7]) Texts adopted, P7_TA(2012)0428.
([8]) OJ L 227, 29.8.2009, p. 9.

B. whereas audiovisual media services are as much cultural services as they are economic services;

C. whereas the AVMSD is based on the principle of technological neutrality and thus covers all services with audiovisual content irrespective of the technology used to deliver it, guaranteeing a level playing field for all audiovisual media service providers;

D. whereas the AVMSD guarantees a free flow of audiovisual media services as an internal market instrument, and respects the right to freedom of expression and access to information while protecting the public interest objectives, including authors' rights, media freedom, freedom of information and freedom of expression;

E. whereas the AVMSD aims to take into account the cultural nature of audiovisual media services, which are of particular importance for society and democracy as vectors of identities and values, and to preserve independent cultural development in the Member States while safeguarding cultural diversity in the Union, particularly through minimum harmonisation and the promotion of European audiovisual works;

F. whereas technological convergence means that consumers will in future distinguish less and less between linear and non-linear services;

G. whereas the goal should be a level playing field, as the different levels of regulation for linear and non-linear services are no longer recognisable for consumers, which in turn can lead to a distortion of competition;

H. whereas the audiovisual media services markets continue to experience significant changes in technology as well as developments in business practices and models, influencing the way content is delivered and accessed by viewers;

I. whereas the accessibility of audiovisual media services is essential for guaranteeing the right of persons with a disability and of the elderly to participate and be integrated in the social and cultural life of the EU, in particular with the development of new content delivery platforms such as IPTV and Connected TV;

J. whereas specific focus should be placed on media literacy in the context of the increasing pace of technological developments and the convergence of media platforms;

K. whereas the on-going technological changes have made the protection of minors an even more pressing and challenging issue;

L. whereas some Member States have not transposed the AVMSD in a timely manner or have not fully or correctly implemented it;

M. whereas in most Member States the transposition of Article 13 of the AVMSD on the promotion of European works by on-demand services is not prescriptive enough to meet the cultural diversity objective spelled out in the directive;

N. whereas neither a full assessment of the implementation of the AVMSD nor a thorough evaluation of its effectiveness can therefore be carried out;

O. whereas the expansion of the audiovisual media services markets with the development of hybrid services presents new challenges with regard to a wide range of issues, such as competition, intellectual property rights, the evolution of existing and the emergence of new forms of audiovisual commercial communications, and overlay advertising which challenges programme integrity and puts into question the adequacy and effectiveness of the AVMSD, as well as its relationship with other instruments of EU law;

P. whereas the provisions of Article 15 of the AVMSD balance the interests of all stakeholders in a fair manner by ensuring respect for, on the one hand, the public's right to access information and, on the other hand, the right to property and the freedom to conduct a business;

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State of play

1. Reminds the Commission of its commitment to the smart regulation agenda, and the importance of making timely and pertinent ex-post controls of EU legislation in order to manage the quality of regulation throughout the policy cycle;

2. Notes in this respect that, under Article 33 of the AVMSD, the Commission was under an obligation to submit the report on the application of the Directive no later than 19 December 2011;

3. Notes that the Commission has submitted its application report with a significant delay by submitting it on 4 May 2012;

4. Notes also that the Member States have implemented the AVMSD in a particularly diverse manner;

5. Stresses that the AVMSD remains the appropriate instrument to govern the EU-wide coordination of national legislation on all audiovisual media and to uphold the principles of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;

6. Notes in particular that the 'country of origin' principle, when properly applied, gives broadcasters important clarity and certainty about their operational arrangements;

7. Deplores that the Commission application report does not assess the need for a possible adaptation of the AVMSD in view of these findings as required by Article 33;

8. Calls on the Commission to encourage the consistent and full implementation of the AVMSD in the Member States and, in particular, to ensure that all due account is taken of the specific definitions contained in the recitals to this Directive when it is transposed into national law;

9. Strongly supports a technology-neutral approach, in view of evolving viewing and delivery patterns, to facilitate increased consumer choice; calls, in this regard, for a full impact assessment of the current state of play on the market and of the regulatory framework;

10. Notes the Commission's intention to publish shortly a policy document on convergence with regard to Connected TV and connected devices that will launch a public consultation on all issues arising from these new developments;

11. Encourages the Commission to examine, in the event of any review of the AVMSD, to what extent, if any, uncertainties or inaccuracies in the definitions have led to difficulties in implementation in the Member States, so that these issues can be resolved in the context of this review;

12. Notes, in relation to the 'over-the-top' delivery of audiovisual content, that it is necessary to specify what is meant by 'stakeholders', these being, at the very least, public and private television companies, internet providers, consumers and creators;

13. Calls on the Commission to continue to ensure that audiovisual media services, given their dual nature as providers of cultural as well as economic services, remain excluded from any accord on liberalisation reached in negotiations on the General Agreement on Trade in Services (GATS);

Accessibility

14. Stresses that the Commission application report fails to address substantively the issue of accessibility as referred to in Article 7 of the AVMSD, and regrets that the effectiveness of the Member States' implementing rules in this regard is not addressed;

15. Notes that in many Member States the infrastructure to provide such services does not yet exist, and that it will take time for some Member States to meet these requirements; encourages the Member States concerned to attend to this matter as soon as possible in order to allow for the practical implementation of Article 7;

16. Calls on the Commission to address this deficit by providing a regular overview of the measures taken by the Member States, and an assessment of their efficacy, so as to ensure that audiovisual media services are continually made more accessible;

17. Highlights the fact that, in an increasingly digital environment, public media services play a crucial role in ensuring that citizens are able to access information online, and acknowledges, in this regard, that the provision of internet services by public media services contributes directly to their mission;

18. Takes the view that the concentration of media ownership may undermine freedom of information and, in particular, the right to receive information;

19. Takes the view, therefore, that a proper balance should be struck between the objectives of the AVMSD and the need to safeguard the freedom to distribute and access content, in order to avoid the risks of concentration and loss of diversity;

20. Acknowledges the different business models in place to finance content, and emphasises the importance of affordability of access for different consumers;

21. Points to the need for wider accessibility of programmes, in particular those rendered via on-demand services, through further developments in, inter alia, audio description, audio/spoken subtitles, sign language and menu navigation, notably of electronic programme guides (EPGs);

22. Recognises, furthermore, that the Member States should encourage media service providers and manufacturers of supporting devices under their jurisdiction to make their services more accessible, particularly to the elderly and to people with disabilities, such as the hard of hearing and the visually impaired;

23. Welcomes the personal commitment made by Commissioner Barnier in relation to the ongoing negotiations on a Treaty on copyright limitations and exceptions for visually impaired persons and persons with print disabilities;

24. Calls on the Commission to ensure that aids for persons with impaired vision are generally available for accessing audiovisual products and services;

25. Believes that Article 7 of the AVMSD should therefore be reworded in order to include stronger, binding language, requiring media service providers to ensure that their services are made available to people with disabilities;

26. Stresses, however, that the market for non-linear services is still at a relatively early stage of development and that any new obligations placed on providers must reflect this;

Exclusive rights and short news reports

27. Calls on the Commission, in its next report on the application of the AVMSD, to assess whether the Member States have implemented this directive in a way that preserves the necessary and existing balance between, on the one hand, safeguarding the principle of freedom of access to information, especially on events of high interest to society, and, on the other hand, the protection of rights holders;

28. Welcomes the approach taken by the Commission and the European Court of Justice in relation to the interpretation of Article 14 of the AVMSD; calls for a continued broad interpretation of the term 'events which are regarded as being of major importance for society', including sports and entertainment events that are of general interest, and encourages the Member States to draw up lists of such events;

29. Calls on the Commission to include in its next report an assessment of the ways the Member States have implemented Article 15 of the AVMSD, by looking more particularly at how they ensure that events of high interest to the public, which are transmitted on an exclusive basis by a broadcaster under their jurisdiction, are used for the purposes of short news reports in general news programmes;

30. Hopes that the Member States, in their application of Article 15 of the Directive, promote a high level of diversity in the number of events of significant public interest that are shown in general news programmes through short news reports;

Wednesday 22 May 2013

Promotion of European audiovisual works

31. Highlights that while most Member States comply with the rules relating to the promotion of European works, priority is still given to national works whilst the percentage of independent works on TV is on the decline;

32. Regrets that the data provided are insufficient to draw any conclusions on the promotion of European works by on-demand services providers;

33. Calls, in this regard, for the reporting requirement on European works to include at least a breakdown by category — cinema production, fiction and non-fiction TV production, and show-type or entertainment formats — and by means of distribution, and urges the Member States to provide relevant data in this regard;

34. Stresses the lack of detailed reporting under Article 13 of the AVMSD on the dual obligation to promote the production of, and the access to, European works in on-demand services, and asks the Commission to clarify this point while also taking into account that such services are still in their infancy and that drawing conclusions about the effectiveness of promotion criteria applied to on-demand services is difficult;

35. Calls, therefore, on the Commission and the Member States to act urgently to ensure the effective implementation of Article 13 of the AVMSD;

36. Calls on the Member States to take effective measures to promote better synergies among regulatory authorities, audiovisual media services providers and the Commission, so that EU films can reach a wider audience both within and beyond the EU on linear and non-linear services;

37. Recommends strengthening the role of the European Audiovisual Observatory, as this would be an appropriate solution for collecting data concerning the promotion of European audiovisual works;

Independent works

38. Stresses the importance of implementing Article 17 of the AVMSD in a satisfactory manner with regard to the average broadcasting time for European works by independent producers, and emphasises the autonomy of the Member States in this respect; encourages the Member States and broadcasters to go beyond the minimum level of 10 % suggested in the directive;

Protection of minors

39. Takes note of self-regulatory initiatives and codes of conduct designed to limit children's and minors' exposure to food advertising and marketing, such as those launched within the framework of the Commission's Platform for Action on Diet, Physical Activity and Health;

40. Recognises the efforts made by the advertising industry and members of the EU Pledge, to respond to the AVMSD's call for codes of conduct for commercial communications, accompanying or included in children's programmes, of foods and beverages high in fat, sugar and salt;

41. Stresses that co-regulatory and self-regulatory initiatives, particularly in the field of advertising that targets minors, not least against the background of the Commission's new strategy on corporate social responsibility (CSR), which is defined as 'the responsibility of enterprises for their impacts on society', represent an advance on the prior situation because they offer a means of reacting more swiftly to developments in the rapidly changing world of the media;

42. Notes, however, that such initiatives may not always be sufficiently effective in all Member States and that they should be regarded as complementary to legal provisions in realising the aims of the AVMSD, particularly in an online context;

43. Stresses that it is essential to find the right balance between voluntary measures and mandatory regulation in this respect;

44. Stresses, therefore, that such initiatives need to be monitored regularly to ensure that they are enforced, along with future legally binding requirements that may be necessary to ensure the effective protection of minors;

45. Calls on the Commission, in the event of a revision of the AVMSD, to give these relatively new regulatory tools a greater role in the protection of minors in the media and in the regulation of advertising; without, however, eschewing public-authority regulation or supervision;

46. Urges the Member States to continue to encourage audiovisual media service providers to develop codes of conduct with regard to inappropriate audiovisual commercial communications in children's programmes;

47. Calls on the Commission to consider how the basic requirements of the AVMSD applicable to non-linear services can be extended to other online content and services which are currently out of its scope, and what steps need to be taken to create a level playing field for all operators; calls on the Commission to present to Parliament the results of its considerations no later than 31 December 2013;

48. Acknowledges Member States' achievements in providing protection against content inciting hatred on the grounds of race, sex, nationality and religion;

49. Highlights the need for a comparative, pan-European study to provide further understanding of how children's, adolescents' and adults' media consumption behaviour is evolving; believes that such a study would be beneficial to audiovisual policymakers at EU level and in the Member States;

Advertising

50. Notes that the 12-minute hourly advertising limit has been breached in some Member States;

51. Urges the Member States concerned to implement fully, correctly and without delay the provisions of the AVMSD in this respect;

52. Reiterates that the proportion of televised advertising and teleshopping spots should not exceed 12 minutes per hour;

53. Is concerned that the 12-minute limitation is regularly breached in some Member States;

54. Urges the Commission, while monitoring compliance with existing rules setting out qualitative and quantitative stipulations on advertising, to have an eye to future challenges, e.g. that of Connected TV, in terms of the competitiveness and the sustainable financing of audiovisual media services;

55. Highlights, in particular, the need to monitor commercial formats devised to circumvent this restriction, especially surreptitious advertising, which can confuse consumers;

56. Asks the Commission to submit, as soon as possible, the clarifications needed of the issues it has identified in the field of commercial communications concerning sponsorship, self-promotion and product placement;

57. Calls on the Commission to analyse the effectiveness of the regulations in place and to monitor compliance with the rules on advertising aimed at children and minors;

58. Calls, furthermore, for a ban on prejudicial advertising, as described in Article 9 of the AVMSD, during programmes for children and young people; recommends, as a basis for future reform of the legislative framework, an analysis of the best practices followed in this field in certain countries;

59. Regrets that the necessary, updated version of the interpretative communication on certain aspects of the provisions on televised advertising has still not been issued;

60. Welcomes the Commission's intention to update its interpretative communication on certain aspects of the provisions on televised advertising in 2013;

Media literacy

61. Takes note of the findings by the Commission with regard to the level of media literacy in the Member States;

62. Notes that access to channels, and the choice of audiovisual services, has increased significantly;

63. Stresses that, in order to achieve a true digital single market in Europe, further efforts are therefore needed in the field of improving media literacy among citizens, and calls on the Commission and the Member States to promote media literacy for all EU citizens, in particular children and minors, through initiatives and coordinated actions, in order to increase the critical understanding of audiovisual media services, and to stimulate public debate and civic participation, whilst encouraging the active participation of all stakeholders, in particular the media industry;

64. Encourages, in particular, the Member States to integrate media literacy and e-skills, especially in relation to digital media, into their respective school curricula;

Future challenges

65. Regrets that the Commission only partially carried out its reporting task in keeping with its obligation under Article 33 of the AVMSD, and calls for an interim evaluation before the next Commission application report;

66. Calls on the Member States to increase cooperation and coordination in the framework of the contact committee as established under Article 29 of the AVMSD, in order to increase implementation efficiency and coherence;

67. Calls on the Commission to monitor closely the development of hybrid services in the EU, in particular Connected TV, to establish in its Green Paper on Connected TV the various issues they raise and to pursue those issues through public consultation;

68. Asks the Commission to take into consideration the following aspects when launching public consultations on connected or hybrid television: standardisation, technological neutrality, the challenge of personalised services (especially for persons with disabilities), problems related to multi-cloud security, accessibility to users, protecting children and human dignity;

69. Calls on the Commission to address, in particular, the uncertainties surrounding the use of the term 'on-demand audiovisual media services' and, with an eye both to greater consistency in EU legislation affecting on-demand audiovisual services and to likely developments in media convergence, to establish a clearer definition of the term so that the regulatory aims of the AVMSD can be achieved more effectively;

70. Is convinced — given both the market practices of media services providers and platform operators and the developing potential of the relevant technology — that the level of data protection needs to be improved and standardised throughout the EU, while continuing to provide for anonymity in the use of audiovisual media services as the norm;

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

Thursday 23 May 2013

P7_TA(2013)0216

Non-objection to an implementing measure: transit of certain animal by-products from Bosnia and Herzegovina

European Parliament decision to raise no objections to the draft Commission regulation amending Regulation (EU) No 142/2011 as regards the transit of certain animal by-products from Bosnia and Herzegovina (D025828/03 — 2013/2598(RPS))

(2016/C 055/10)

The European Parliament,

— having regard to the draft Commission regulation (D025828/03),

— having regard to Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption ([1]), and in particular Article 41(3) and Article 42(2) thereof,

— having regard to the opinion delivered on 5 March 2013 by the committee referred to in Article 52 of Regulation (EC) No 1069/2009,

— having regard to the Commission's letter of 16 May 2013 asking Parliament to declare that it will raise no objections to the draft regulation,

— having regard to the letter of 21 May 2013 from the Committee on the Environment, Public Health and Food Safety to the Chair of the Conference of Committee Chairs,

— having regard to Article 5a of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([2]),

— having regard to Rules 88(4)(d) and 87a(6) of its Rules of Procedure,

— having regard to the fact that no objections have been raised within the period laid down in the third and fourth indents of Rule 87a(6) of its Rules of Procedure, which expired on 22 May 2013,

1. Declares that it has no objections to the draft Commission regulation;

2. Instructs its President to forward this decision to the Commission and, for information, to the Council.

P7_TA(2013)0222

Future legislative proposals on EMU

European Parliament resolution of 23 May 2013 on future legislative proposals on EMU: response to the Commission communications (2013/2609(RSP))

(2016/C 055/11)

The European Parliament,

— having regard to the Commission communications entitled 'Ex ante coordination of plans for major economic policy reforms' (COM(2013)0166) and 'The introduction of a Convergence and Competitiveness Instrument' (COM(2013) 0165),

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([1]) OJ L 300, 14.11.2009, p. 1.
([2]) OJ L 184, 17.7.1999, p. 23.

Thursday 23 May 2013

— having regard to the question to the Commission on future legislative proposals on EMU (O-000060/2013 — B7-0204/2013),

— having regard to the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012, hereinafter referred as the 'Fiscal Compact',

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

— having regard to the Commission Blueprint for a Deep and Genuine Economic and Monetary Union of 28 November 2012,

— having regard to the report by the President of the European Council entitled 'Towards a Genuine Economic and Monetary Union' of 5 December 2012,

— 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 European Commission, the European Central Bank and the Eurogroup 'Towards a genuine Economic and Monetary Union' ([1]), hereinafter referred to as the 'Thyssen report',

— having regard to its resolution of 20 October 2010 with recommendations to the Commission on improving the economic governance and stability framework of the Union, in particular in the euro area ([2]), hereinafter referred to as the 'Feio report',

— having regard to Regulations (EU) No 1176/2011 and (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011, hereinafter referred to as the 'six-pack',

— having regard to its resolution of 1 December 2011 on the European Semester for Economic Policy Coordination ([3]),

— having regard to Regulation (EU) No …/2013 of the European Parliament and of 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 and having regard to Regulation (EU) No …/2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability, hereinafter referred to as the 'two-pack',

— having regard to the joint statement by President Barroso and Vice-President Rehn on the occasion of the trilogue agreement on the two-pack legislation on economic governance in the euro area of 20 February 2013 (reference MEMO/13/126),

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas in Article 11 of the Fiscal Compact the signatory Member States agreed to 'ensure that all major economic policy reforms that they plan to undertake will be discussed ex-ante and, where appropriate, coordinated among themselves', and agreed, moreover, that such 'coordination shall involve the institutions of the European Union as required by European Union law';

B. whereas, according to Article 15 of the Fiscal Compact, the treaty should be incorporated into EU law within five years at most 'on the basis of an assessment of the experience of its implementation', and whereas Commission communications COM(2013)0165 and COM(2013)0166 and the legislative proposals expected as follow-up can be seen as steps in that direction;

C. whereas in the Feio report of 2010, Parliament already set out a recommendation to 'establish specific procedures and a requirement for Member States, particularly those in the euro area, to inform each other and the Commission before taking economic policy decisions with expected significant spillover effects, which may jeopardise the smooth functioning of the internal market and of the Economic and Monetary Union (EMU)';

([1]) Texts adopted, P7_TA(2012)0430.
([2]) OJ C 70 E, 8.3.2012, p. 41.
([3]) Texts adopted, P7_TA(2011)0542.

D. whereas the declaration accompanying the two-pack called for the creation of a substantially reinforced economic and budgetary surveillance and control framework and for the further development of European fiscal capacity for the timely implementation of sustainable growth-enhancing structural reforms supporting the principle that steps towards more responsibility and economic discipline should be combined with more solidarity as well as more thoroughgoing integration of decision-making in policy areas such as taxation and labour markets as an important solidarity instrument; whereas this declaration emphasised the principle that steps towards enhanced economic policy coordination must go hand in hand with more solidarity;

E. whereas paragraph 11 of the Thyssen report stressed that a 'genuine EMU' cannot be limited to a system of rules, but requires an increased budgetary capacity based on specific own-resources;

F. whereas the Thyssen report noted that high-quality and reliable European statistics play an essential role at the heart of the new economic governance and of its major decision-making exercises, that the effective independence of the European statistical system at both national and European levels must be safeguarded as a prerequisite and that moving towards public accounting standards in all Member States in a standardised manner will be an essential complement to the Commission's greater enforcement powers in verifying the quality of national sources used to establish debt and deficit figures in a fully-fledged fiscal union;

General assessment of the Commission's communications

1. Acknowledges the Commission's effort to make further progress on macroeconomic governance in the Union, building on the six-pack and the two-pack; stresses, however, that full implementation of the new framework must take precedence over any new proposal;

2. Points out that the creation of an incentive-based enforcement mechanism aiming at increasing solidarity, cohesion and competitiveness must go hand in hand with additional layers on economic policy coordination, as stated in the Commission declaration accompanying the 'two pack', so as to comply with the principle that 'steps towards more responsibility and economic discipline are combined with more solidarity';

3. Stresses that any further proposal must offer clear added value in relation to existing instruments, such as those under the cohesion policy;

4. Stresses that coordination efforts must not blur the respective responsibilities of different levels of decision-making;

5. Reaffirms that governance in the EU must not infringe on the prerogatives of the European Parliament and the national parliaments, especially whenever any transfer of sovereignty is envisaged; stresses that proper legitimacy and accountability require democratic decisions and must be ensured at national and EU levels by national parliaments and the European Parliament respectively; recalls the principle set out in the conclusions of the December 2012 European Council that 'throughout the process, the general objective remains to ensure democratic legitimacy and accountability at the level at which decisions are taken and implemented'; stresses that the mechanisms for ex-ante coordination, and convergence and competitiveness instruments (CCIs), should apply to all Member States which have adopted the euro as their currency, with the possibility for other Member States to join on a permanent basis; calls on the Commission to provide for such compulsory validation by national parliaments in forthcoming legislative proposals, as well as to ensure greater involvement of the two sides of industry in economic coordination;

6. Is of the opinion that the timing of the communications is not optimal; calls on the Commission to bring forward a proposal to adopt a convergence code under the EU Semester, based on EU 2020 and including a strong social pillar;

Thursday 23 May 2013

7. Reiterates that the Commission needs to take full account of Parliament's role as a co-legislator; is disappointed that the recent communications on EMU do not reflect the position taken by the European Parliament at the Deepening EMU negotiations and only provide for very limited parliamentary scrutiny by proposing a dialogue structure; stresses that Parliament is a legislative and budgetary authority on an equal footing with the Council;

8. Is disappointed that the policy areas covered in the communications focus mainly on price competitiveness and do not include tax avoidance or the social and employment dimensions;

9. Stresses that the legislative proposals relating to both communications should follow the ordinary legislative procedure;

Ex-ante coordination of plans for major economic policy reforms

10. Is of the opinion that formal ex-ante coordination of economic policy reforms at EU level is important and should be strengthened on the basis of the Community method, and that it should concern the key national economic reforms provided for in national reform programmes with demonstrable potential spillover effects; believes that any such ex-ante coordination should be aligned with the instruments of the EU Semester for economic policy coordination referred to in Article 2a of Regulation (EU) No 1175/2011 and, where necessary, should be designed in conjunction with new solidarity and incentive-based instruments;

11. Is of the view that more thoroughgoing integration of ex-ante coordination and decision-making in policy areas at Union level must build upon a solid foundation of official statistics and, in particular, that further budgetary coordination within the Union requires consolidated data on the public accounts of the Union, the Member States and local and regional authorities; believes, therefore, that the Commission should include the establishment of such consolidated data in upcoming legislative proposals;

12. Deplores the vague drafting and excessively loose definitions of some of the proposed filters for major economic policy reforms, such as 'political economy considerations'; asks for new and specific filters to be added, based on the EU Semester and EU 2020 instruments, in order to identify key reforms, taking into account national specificities and respecting subsidiarity;

13. Stresses that the mechanisms to be put in place for ex-ante coordination should apply to all euro area Member States and be open to all Member States of the Union, while taking into account the stronger interdependence of euro area Member States; is of the opinion that the Member States in the programme should be allowed to participate on a voluntary basis;

14. Calls for the reform plans to be transparent and inclusive and for them to be made public; calls, furthermore, for a social dialogue involving stakeholders in society to play a central and explicit role in discussions on ex-ante coordination;

15. Calls for diligent design to be applied to the process by which the Commission is informed and for it to be able to comment on the planned reforms in advance of their final adoption;

16. Asks for this new coordination instrument to be included in the European Semester process, and for the European Parliament to be given a role in ensuring democratic accountability;

17. Stresses that ex-ante coordination should strive not to suffocate national reform efforts but to ensure that reforms are not delayed, unless the spillover effects they would bring about are sufficiently significant to warrant a reassessment of the reforms;

Introduction of a convergence and competitiveness instrument (CCI)

18. Is of the opinion that any proposed new CCI should be based on conditionality, solidarity and convergence; believes that such an instrument should only be launched after social imbalances and the need for major long-term and sustainable growth-enhancing structural reforms have been identified on the basis of an assessment of the coherence between the convergence code and national implementation plans, with the proper formal involvement of the European Parliament, the Council and national parliaments;

19. Stresses that the new CCI to be put in place should apply to all euro area Member States and be open to all Member States of the Union, while taking into account the stronger interdependence of euro area Member States; is of the opinion that the Member States in the programme should be allowed to participate on a voluntary basis;

20. Is of the opinion that it is of the utmost importance to ensure that this new instrument is adopted in accordance with the ordinary legislative procedure, is based on the Community method and provides for proper scrutiny by the European Parliament by allowing for case-by-case adoption of the relevant budgetary appropriations;

21. Stresses that annual reporting on, and monitoring of, the implementation of the national plan should be based on a reinforced European Semester, without prejudice to EU budgetary scrutiny;

22. Is of the opinion that the CCI should be a vehicle for increased budgetary capacity and be geared towards conditional support for structural reforms, with the aim of enhancing competitiveness, growth and social cohesion, ensuring closer coordination of economic policies and sustained convergence of the economic performance of the Member States, and addressing imbalances and structural divergences; considers such instruments to be building blocks towards a genuine fiscal capacity;

23. Stresses that such a budgetary capacity could naturally only benefit the Member States contributing to it;

24. Is disappointed that the communications, by providing for contracts between the EU and the Member States, do not respect the single European legal order; is of the opinion that the expression 'contractual arrangements' is inappropriate as the mechanism foreseen in the communications is not, properly speaking, a 'contract' governed by public or private law, but rather an incentive-based enforcement mechanism for economic policy coordination;

25. Stresses that reform plans must be designed by the Member States, with proper involvement of their national parliaments in accordance with their internal constitutional arrangements and in collaboration with the Commission, while fully respecting the principle of subsidiarity and the need to preserve appropriate policy space for national implementation and the democratic processes within each Member State;

26. Points out that the possible short-term negative effects of the implementation of structural reforms, and in particular social and political difficulties, could be alleviated and more easily accepted by citizens if a reform-supporting incentive mechanism were put in place; further states that this mechanism should be funded by means of a new facility triggered and governed under the Community method as an integral part of the EU budget, but outside the MFF ceilings, so as to ensure that the European Parliament is fully involved as a legislative and budgetary authority;

27. States that measures taken should not have a negative impact on social inclusion, workers' rights, health care and other social issues, even in the short term;

28. Stresses that the instrument should avoid problems of moral hazard; takes the view that, to that end, the Commission should ensure that reforms are not delayed until they become eligible for financial support and that the instrument does not provide incentives for reforms that would have been implemented even without Union support;

29. Stresses that the instrument should avoid overlapping with cohesion policy;

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Thursday 23 May 2013

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

P7_TA(2013)0223

Situation of Syrian refugees in neighbouring countries

European Parliament resolution of 23 May 2013 on the situation of Syrian refugees in neighbouring countries (2013/2611(RSP))

(2016/C 055/12)

The European Parliament,

— having regard to its previous resolutions on Syria, in particular those of 16 February 2012 ([1]) and 13 September 2012 ([2]), and on refugees fleeing armed conflict,

— having regard to the Foreign Affairs Council conclusions on Syria of 23 March, 23 April, 14 May, 25 June, 23 July, 15 October, 19 November and 10 December 2012, and of 23 January, 18 February, 11 March, and 22 April 2013; having regard to the Justice and Home Affairs Council of October 2012, which endorsed the establishment of a regional protection programme by the Commission; having regard to the European Council conclusions on Syria of 2 March, 29 June and 14 December 2012, and of 8 February 2013,

— having regard to the statements by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy (VP/HR), Catherine Ashton, on Syrian refugees, in particular her remarks during the plenary debate in Strasbourg on 13 March 2013 and her statement of 8 May 2013; having regard to the statements made by the Commissioner for International Cooperation, Humanitarian Aid and Crisis Response, Kristalina Georgieva, on Syrian refugees and the EU's response, in particular her statement of 12 May 2013, and to the ECHO (Humanitarian Aid and Civil Protection) situation reports and factsheets on Syria,

— having regard to United Nations Security Council resolutions 2059 of 20 July 2012, 2043 of 21 April 2012 and 2042 of 14 April 2012, and to the updated report of the UN Independent International Commission of Inquiry of 11 March 2013; having regard to the Security Council briefings on Syria issued by the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Valerie Amos, in particular that of 18 April 2013,

— having regard to the statements of the Secretary-General of the UN and the remarks made by the UN High Commissioner for Refugees, António Guterres, to the Security Council, in particular those of 18 April 2013; having regard to the UN Human Rights Council resolutions on the Syrian Arab Republic of 2 December 2011 and 22 March 2013,

— having regard to the Marrakesh meeting of the Group of Friends of the Syrian People and to the international conference held in Paris on 28 January 2013,

— having regard to the latest Syria Regional Response Plan (RRP) for the period from January to June 2013, and to all the RRPs issued by the UN High Commissioner for Refugees since the first one in March 2012,

— having regard to the 2013 Syria Humanitarian Assistance Response Plan (SHARP) of 19 December 2012, prepared by the Government of the Syrian Arab Republic in coordination with the UN System,

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([1]) Texts adopted, P7_TA(2012)0057.
([2]) Texts adopted, P7_TA(2012)0351.

— having regard to the Syrian Humanitarian Forum (SHF), which was set up in spring 2012, and to its most recent meeting on 19 February 2013,

— having regard to the Syrian Humanitarian Bulletins issued by the UN Office for the Coordination of Humanitarian Affairs (OCHA),

— having regard to the UN General Assembly resolutions on Syria, in particular Resolution 46/182 on 'Strengthening of the coordination of humanitarian emergency assistance of the United Nations' and the Guiding Principles annexed thereto, and Resolution 67/183 on the situation of human rights in Syria,

— having regard to the summary report of the high-level International Humanitarian Pledging Conference for Syria, held in Kuwait on 30 January 2013,

— having regard to the Final Communiqué of the Action Group for Syria (the 'Geneva Communiqué') of 30 June 2012,

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

— having regard to the Geneva Conventions of 1949 and the additional protocols thereto,

— having regard to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Optional Protocol thereto on the Involvement of Children in Armed Conflict, and the Convention on the Prevention and Punishment of the Crime of Genocide, to all of which Syria is a party,

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

A. whereas up to 16 May 2013 the Office of the UN High Commissioner for Refugees (UNHCR) had registered a total of 1 523 626 Syrian refugees in neighbouring countries and in North Africa; whereas the total number of refugees, including those unregistered, is assessed as being much higher; whereas according to the UNHCR 7 million Syrians rely on aid, including 3,1 million children, and the number of internally displaced persons (IDPs) was 4,25 million as at 6 May 2013; whereas according to the same sources the number of refugees (including those awaiting registration) present in receiving countries as at 16 May 2013 was as follows: Turkey, 347 815; Lebanon, 474 461; Jordan, 474 405; Iraq, 148 028; Egypt, 68 865; Morocco, Algeria and Libya, 10 052 (registered); whereas thousands of Syrians are fleeing on a daily basis to neighbouring countries and the UNHCR is projecting a total of 3,5 million refugees from Syria by the end of 2013;

B. whereas the number of Syrian refugees and people in need is rising dramatically as the political and humanitarian situation deteriorates each day that the armed conflict continues; whereas not only civilians, but also several former political and military leaders of the regime, as well as ambassadors, have defected to neighbouring countries and beyond; whereas the armed conflict in Syria is a major threat to the fragile security and stability of the region as a whole; whereas the risk of spill-over effects from the armed conflict is in danger of transitioning from being incidental to structural; whereas the EU and the international community cannot afford an additional catastrophe; whereas a pan-regional political, security and humanitarian disaster would overwhelm international response capacity;

C. whereas thousands of those of who have fled Syria have deserted from the armed forces to escape having to commit war crimes or crimes against humanity, or are evading military service for similar reasons;

D. whereas in May 2013 the UN estimated that at least 80 000 people, mostly civilians, had died because of the violence in Syria;

E. whereas the destruction of essential infrastructure including schools and hospitals, the devaluation of the currency, rising food prices, fuel and electricity shortages and the lack of water, food and medicine have had an impact on the majority of Syrians; whereas physical access to people in need of humanitarian assistance in Syria remains severely constrained and depends on the Assad government's cooperation;

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F. whereas UN agencies have reported progress in organising inter-agency aid convoys across conflict lines to government- or opposition-controlled and contested areas; whereas bureaucratic obstacles and checkpoints throughout the country (both government- and opposition-controlled) are hindering an effective humanitarian response in all areas of Syria;

G. whereas registration remains the key mechanism through which people of concern are identified, protected and assisted, particularly new arrivals who have specific needs, including the disabled, the elderly, unaccompanied minors and separated children, in order to provide prioritised assistance;

H. whereas the host countries have maintained an open-border policy throughout the armed conflict, but have opted for different hosting methods; whereas their ability and capacity to absorb and shelter the increasing stream of refugees is being stretched to the limit as 'incidents' tend to happen regularly along the border lines; whereas Lebanon has gone for a 'no camp' policy and has largely absorbed the refugees into local communities; whereas approximately three quarters of the Syrian refugees in neighbouring countries are living outside camps in urban settings; whereas approximately 350 000 Syrians are staying in 23 refugee camps in Turkey, Jordan and Iraq;

I. whereas aid organisations are currently responding to the Syrian refugee situation in Jordan, Lebanon and Iraq, focusing primarily on women and children, who have special needs but are often under-served in urban refugee communities; whereas the rural spread of the refugee population demands a complex urban registration programme;

J. whereas the refugee-receiving countries are facing tremendous domestic challenges of their own, including economic instability, inflation and unemployment, with Lebanon and Jordan being particularly vulnerable;

K. whereas affording to pay rent is becoming a growing concern for many Syrian refugees as overcrowding and competition for shelter increase and prices rise; whereas refugees are facing significant income-expenditure gaps, limited work opportunities, the exhaustion of their savings and rising debt levels; whereas competition for jobs and rising food prices are factors that are exacerbating tensions between local and refugee populations, particularly in Lebanon and Jordan, which together are hosting more than 1 million refugees;

L. whereas continuing efforts to increase support for host communities are necessary in order to enable them to continue to keep their borders open, assist refugees and provide the requisite infrastructure, and in order to ease tensions and lift the burden on those communities;

M. whereas funding constraints continue to impede the timely and efficient delivery of basic humanitarian assistance; whereas SHARP requires a total of USD 563 million in funding to address the needs of people in Syria; whereas, as at 6 May 2013, the response plan was only 61 % funded;

N. whereas the current UN Regional Response Plan (RRP 4) is being revised for the period up to December 2013; whereas the UN will launch a new appeal for funding on 7 June 2013, which will reflect the rising number of refugees fleeing Syria and their continuing needs, as well as including greater support for host governments and communities, and is likely to amount to USD 3 billion;

O. whereas reports by aid organisations state that only 30 % to 40 % of the total funds pledged so far by the international community have actually been provided;

P. whereas the level of humanitarian assistance is in danger of becoming unsustainable; whereas all the humanitarian actors involved need levels of financial support that are out of proportion with the established humanitarian aid budgets of traditional donors; whereas extraordinary funding mechanisms have to be established in order to meet basic needs arising from the Syrian crisis;

Q. whereas the EU is the largest donor; whereas on 22 April 2013 the total humanitarian assistance committed by the EU in response to the Syrian crisis amounted to almost EUR 473 million, including EUR 200 million from the EU itself and nearly EUR 273 million from Member States; whereas on 12 May 2013 the Commission announced additional funding of EUR 65 million;

R. whereas some 400 000 Palestinian refugees have been affected inside Syria; whereas the Palestinians have largely remained neutral in the conflict; whereas almost 50 000 Palestinians have been registered by the UN Relief and Works Agency in Lebanon, and almost 5 000 in Jordan; whereas Jordan has closed its border to Palestinians fleeing the conflict in Syria, and whereas they are to a great extent prevented from working in Lebanon; whereas Iraqi, Afghan, Somali and Sudanese refugees in Syria are also facing renewed displacement;

S. whereas safety and security in Jordan's Zaatari Camp have degenerated, with theft and fires taking place; whereas Zaatari has become Jordan's fourth-largest city, housing more than 170 000 people; whereas riots and violent protests in the refugee camps are motivated by poor living conditions and delays in receiving assistance; whereas the overall lack of security continues to endanger lives in the camps, affecting humanitarian workers; whereas aid workers have been attacked, hospitalised and even killed while distributing aid, and whereas journalists have been beaten;

T. whereas according to international organisations, women and girls in refugee camps are the victims of increasing sexual violence, with rape being used as a weapon of war; whereas there are no viable medical options for Syrian refugees who are survivors of sexual violence; whereas a disproportionate number of young girls and women in the refugee camps are getting married; whereas, according to several sources, temporary Mutah 'marriages of pleasure' with Syrian refugees are taking place in refugee camps;

U. whereas in March 2013 the UN launched an independent investigation into allegations concerning the possible use of chemical weapons in Syria; whereas these allegations may have contributed to the mass displacement of people; whereas the Syrian regime has refused to allow the UN investigation team into the country;

1. Expresses grave concern at the ongoing humanitarian crisis in Syria and the implications for its neighbouring countries; expresses concern that the exodus of refugees from Syria is continuing to accelerate; recalls that the Assad government bears primary responsibility for taking care of the well-being of its people;

2. Condemns again, in the strongest terms, the brutality and atrocities perpetrated by the Syrian regime against the country's population; expresses its deepest concern at the gravity of the widespread and systematic human rights violations and possible crimes against humanity authorised and/or perpetrated by the Syrian authorities, the Syrian army, security forces and affiliated militias; condemns the summary extrajudicial executions and all other forms of human rights violations committed by groups and forces opposing the regime of President Assad; reiterates its call for President Bashar al-Assad and his regime to step aside immediately, so as to allow a peaceful, inclusive and democratic Syrian-led transition to take place in the country;

3. Calls on all armed actors to put an immediate end to violence in Syria; stresses again that international humanitarian law, the main aim of which is to protect civilians, must be fully upheld by all actors in the crisis; stresses that those responsible for the widespread, systemic and gross human rights violations committed in Syria over the past 24 months must be held accountable and brought to justice; strongly supports, in this connection, the calls made by the UN High Commissioner for Human Rights to refer the situation in Syria to the International Criminal Court;

4. Extends its condolences to the victims' families; applauds the courage of the Syrian people and reiterates its solidarity with their struggle for freedom, dignity and democracy;

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5. Believes that the key to solving the conflict lies in political mechanisms facilitating a Syrian-led political process that will promote a swift, credible and effective political solution in conjunction with those genuinely committed to transition, while ensuring full respect for the universal values of democracy, the rule of law, human rights and fundamental freedoms, with special regard to the rights of ethnic, cultural and religious minorities and of women; reaffirms that it is a priority to keep the humanitarian and political tracks separate in order to facilitate access to those in need; calls for the EU and the European External Action Service to develop a roadmap for political governance in the liberated areas, including the possibility of lifting the economic sanctions;

6. Notes that all deserters from Syria are entitled to further protection, being at risk on other grounds than those set out in paragraph 26 of the UNHCR guidelines, namely 'excessive or disproportionately severe' punishment, possibly amounting to torture, inhuman or degrading treatment or even arbitrary execution;

7. Calls on the UN Security Council (UNSC) members, in particular Russia and China, to fulfil their responsibility to put an end to the violence and repression against the Syrian people, inter alia by adopting a UNSC resolution based on the UNSC press statement of 18 April 2013, and to mandate humanitarian aid deliveries in all areas of Syria; calls on the VP/HR to do her utmost to secure the adoption of a UNSC resolution by exerting effective diplomatic pressure on both Russia and China; calls for the EU to continue to explore, within the UNSC, all the options under the Responsibility to Protect (R2P) framework, in close cooperation with the US, Turkey and the League of Arab States, in order to assist the Syrian people and halt the bloodshed; strongly supports the work of the Independent Commission of Inquiry on the situation in Syria and welcomes its updated report;

8. Supports the joint call by US Secretary of State John Kerry and Russian Foreign Minister Sergey Lavrov to convene an international peace conference on Syria as soon as possible as a follow-up to the Geneva Conference of June 2012;

9. Expresses its concern about further militarisation of the conflict and sectarian violence; notes the role of different regional actors, including in the delivery of arms, and is concerned about the spill-over effects of the Syrian conflict in neighbouring countries in terms of the humanitarian crisis, security and stability; strongly condemns the car bomb attacks of 11 May 2013 which killed and injured dozens of people near a Syrian refugee base in the town of Reyhanli, in the Hatay province of south-eastern Turkey, as well as instances of shelling and shooting by Syrian armed forces into neighbouring countries; supports the VP/HR's condemnation of terrorist attacks of any kind;

10. Stresses that the EU has a particular responsibility for stability and security in its neighbourhood and calls on the VP/HR and the Commissioner for Enlargement and European Neighbourhood Policy to ensure that the EU plays a leading role in preventing the armed conflict in Syria from spilling over into neighbouring countries;

11. Pays tribute to host communities and to Syria's neighbouring countries, in particular Jordan, Lebanon, Turkey and Iraq, for their resourcefulness in providing shelter and humanitarian aid to families fleeing the armed conflict in Syria, but is seriously concerned about the dangerous saturation point that those countries are approaching on account of the influx of Syrian refugees, which could set off unprecedented regional instability;

12. Supports and welcomes the considerable contribution made by the Commission and the Member States to international humanitarian assistance programmes, and the political leadership shown by the Commissioner for International Cooperation, Humanitarian Aid and Crisis Response; welcomes the Commission's diversification of humanitarian partners in Syria in order to provide more efficient and widespread aid, particularly in regions outside government control; calls on EU actors and the Member States to better coordinate their actions and assistance inside and outside Syria;

13. Urges the Commission to present a comprehensive aid package — serving as an example to other major donors — to address the humanitarian crisis in Syria and its neighbouring countries, based on three pillars: (i) increased humanitarian assistance (via ECHO), (ii) support to help host countries strengthen local communities and increase capacity and infrastructure (via DEVCO) and (iii) the swift introduction of macro-financial assistance packages for Lebanon and Jordan;

14. Underlines the importance of keeping international borders open and urges the international community to support Lebanon and Jordan generously in managing the growing refugee influx; urges all regional host governments and other actors to uphold the principles of non-refoulement and equal treatment of refugees;

15. Calls for the EU to take appropriate, responsible measures regarding the possible influx of refugees into its Member States;

16. Calls for the Member States immediately to cease their reported use of prolonged detention periods and the practice of refoulement, which are in direct violation of international and EU law;

17. Calls for immediate humanitarian assistance for all those in need in Syria, with special regard to the wounded, refugees, internally displaced persons, women and children; commends the efforts of the International Committee of the Red Cross and the UNRWA in this regard; demands that the Assad government allow humanitarian organisations full access to the country; stresses the need to increase cooperation among the various actors operating on the ground, such as local authorities, international organisations and NGOs, including cooperation at the border; considers that assistance protocols and monitoring at the border would bring added value;

18. Calls on the EU to support the establishment of safe havens along the Turkish-Syrian border, and possibly within Syria, as well as the creation of humanitarian corridors by the international community;

19. Welcomes the immense humanitarian aid operation to which international and local organisations are contributing under the auspices of the OCHA and the UNHCR and pays tribute to all humanitarian aid and health workers, international and local, for their courage and perseverance; calls on the EU and the international community to enhance the protection of civilians, including humanitarian workers and medical personnel; urges the international community to find a solution to the ongoing lack of security and problems with law and order in refugee camps, inter alia by setting up a new security initiative within the camps; urges all parties to the conflict to respect international humanitarian law and to facilitate humanitarian access to allow aid workers inside and outside the country to cope with the growing needs;

20. Calls on all countries, and in particular the EU Member States, swiftly to fulfil the pledges they made at the Kuwait donor conference of 30 January 2013; calls for the EU and the international community to set up accountability mechanisms in order to ensure that all pledged funds reach their designated beneficiaries;

21. Denounces the practice of sexual violence in Syria's armed conflict, which is also used as a weapon of war and hence constitutes a war crime, urges the EU and the international community to allocate specific resources to ending sexual violence and calls on host communities to provide proper medical treatment to those who have been victims of sexual violence;

22. Calls on donors, in the light of the growing needs of the Palestinian refugee population in Syria and its neighbouring countries, to fund the UNRWA appropriately, and calls on the UNRWA to generously support ongoing efforts to shore up the resilience of those refugees and minimise their suffering and displacement;

23. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the parliaments and governments of the Member States, the Secretary-General of the United Nations and all the parties involved in the conflict in Syria.

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P7_TA(2013)0224

Asset recovery to Arab Spring countries in transition

European Parliament resolution of 23 May 2013 on asset recovery by Arab Spring countries in transition (2013/2612(RSP))

(2016/C 055/13)

The European Parliament,

— having regard to its previous resolutions on Arab Spring countries and on the Union for the Mediterranean, in particular its resolution of 14 March 2013 on the situation in Egypt [1] and its resolution of 10 May 2012 on 'Trade for change: The EU Trade and Investment Strategy for the Southern Mediterranean following the Arab Spring revolutions' [2],

— having regard to the recommendations of the Committee on Political Affairs, Security and Human Rights of the Parliamentary Assembly of the Union for the Mediterranean of 12 April 2013,

— having regard to the new Council regulation of 26 November 2012 concerning the adoption of a new legislative framework to facilitate asset recovery in Egypt and Tunisia,

— having regard to the EU-Tunisia and EU-Egypt Task Forces Co-Chairs' Conclusions of 28—29 September 2011 and 14 November 2012 respectively, and in particular the sections thereof concerning asset recovery,

— having regard to Council Regulation (EU) No 101/2011 of 4 February 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Tunisia and Council Regulation (EU) No 1100/2012 amending it,

— having regard to Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt and Council Regulation (EU) No 1099/2012 amending it,

— having regard to Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya and Council Decisions 2011/625/CFSP and 2011/178/CFSP amending it, to Council Regulation (EU) No 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya and Council Regulation (EU) No 965/2011 amending it, and to Council Implementing Regulations (EU) No 364/2013 and (EU) No 50/2013 implementing Article 16(2) of Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya,

— having regard to the existing EU legal instruments aimed at improving confiscation and asset recovery under Council Decisions 2001/500/JHA, 2003/577/JHA, 2005/212/JHA, 2006/783/JHA and 2007/845/JHA, and the proposal for a directive of the European Parliament and of the Council of 12 March 2012 on the freezing and confiscation of proceeds of crime in the European Union (COM(2012)0085),

— having regard to the UN Convention against Corruption (UNCAC) of 2005, in particular Article 43 thereof on international cooperation and Chapter V thereof on asset recovery, to which Egypt, Libya and Tunisia are parties and which was approved on behalf of the European Union by Council Decision 2008/801/EC of 25 September 2008,

— having regard to the United Nations Convention on Transnational Organised Crime (Palermo Convention) of 2000,

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[1] Texts adopted, P7_TA(2013)0095.
[2] Texts adopted, P7_TA(2012)0201.

— having regard to UN Human Rights Council Resolution 19/38 of 19 April 2012 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation,

— having regard to the UN Secretary-General's initiative of 17 September 2007 on stolen asset recovery,

— having regard to the Stolen Asset Recovery Initiative (StAR), a joint programme of the World Bank and the United Nations Office on Drugs and Crime,

— having regard to the Action Plan on Asset Recovery of the G8 Deauville Partnership with Arab Countries in Transition of 21 May 2012, to which the EU is a party,

— having regard to the Final Report of the Arab Forum on Asset Recovery of 13 September 2012,

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

A. whereas, while the freezing of assets is an EU competence, the recovery and repatriation of assets is a competence of the Member States and must be carried out in accordance with national legal provisions; whereas the EU institutions have a vital role to play in stimulating and facilitating this process;

B. whereas asset recovery by Arab Spring countries in transition is a moral and legal imperative and a highly political issue in the EU's relations with its southern neighbourhood; whereas it is also an important economic issue for the southern neighbours concerned, given the potential for these assets, when returned and used in a transparent and effective manner, to contribute to their economic recovery; whereas asset recovery sends a strong message against the impunity of those involved in corruption and money laundering;

C. whereas there exists a comprehensive international legal framework governing this area, with special regard to the United Nations Convention against Corruption (UNCAC) of 2003, which confers clear obligations on States Parties; whereas Article 51 of the UNCAC declares that the return of assets 'is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard';

D. whereas the judicial process for recovering assets is complex and lengthy; whereas the applicable legal requirements of requested states cannot be circumvented and legitimate third parties cannot be deprived of their legal rights in this process; whereas the lack of adequate legal expertise and limited institutional capacity in requesting states are additional obstacles to successful initiatives in this field; whereas there is a lack of efficient cooperation between requesting and requested states;

E. whereas following the Arab Spring revolutions in Egypt and Tunisia, the EU promptly froze the assets of former dictators, their families and several other persons associated with their regimes; whereas a similar EU decision was adopted, in accordance with UN Security Council resolution 1970 (2011), in the case of Libya;

F. whereas the new legislative framework adopted by the Council on 26 November 2012 allows EU Members States to release frozen assets to the Egyptian and Tunisian authorities on the basis of judicial decisions recognised in EU Member States and facilitates the exchange of information between EU Member States and the relevant authorities;

G. whereas the EU-Egypt and EU-Tunisia Task Forces have underlined the importance of the return of illicitly acquired assets which are still currently frozen in a number of third countries; whereas the Task Forces agreed to finalise a roadmap, which could include the establishment of an asset recovery group coordinated by the European External Action Service (EEAS) for each country;

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H. whereas the G8 is supporting countries in the Arab world engaged in transitions towards 'free, democratic and tolerant societies' through the Deauville Partnership of May 2011; whereas its Action Plan issued on 21 May 2012 recognises that, in the wake of the Arab Spring, asset recovery has become a more urgent area of focus in the region and in the international community;

I. whereas Egypt, Libya and Tunisia have made considerable efforts to ensure that misappropriated assets stolen by former dictators and their regimes are repatriated to those countries, including setting up dedicated national investigative commissions tasked with tracing, identifying and recovering such assets, and initiating legal cases in the courts of EU Member States; whereas several key international actors — including the EU, G8 members, and Switzerland — responded positively to these efforts; whereas, however, few concrete results have been achieved in this context so far; whereas this has caused growing frustration among the governments and civil societies of the requesting countries;

J. whereas communication is key in asset recovery efforts in order to disseminate best practice and create incentives by publicising success stories; whereas this would avoid misleading statements about the quantity of assets to be recovered;

K. whereas asset recovery can be achieved by bilateral judicial mechanisms and multilateral cooperation; whereas asset recovery operations should be launched at both national and international levels;

L. whereas in April 2013 the Lebanese authorities returned to their Tunisian counterparts close to USD 30 million illicitly deposited in the former Tunisian ruler's bank accounts;

1. Stresses that the return of misappropriated assets stolen by former dictators and their regimes to Arab Spring countries in transition is, beyond its economic significance, a moral and legal imperative and a highly political issue owing to its implications in terms of justice and accountability being restored in the spirit of democracy and the rule of law, as well as of the EU's political commitment and credibility, and therefore constitute a key dimension of the Union's partnership with its southern neighbourhood, with special regard to Egypt, Libya and Tunisia;

2. Acknowledges that for the Arab Spring countries the recovery of stolen assets is also of economic and social importance, as funds are needed to help stabilise economies and create jobs and growth across those countries, which face serious economic challenges;

3. Notes that, despite the considerable efforts made by the Egyptian, Libyan and Tunisian authorities and the strong political will on all sides, practitioners engaged in the recovery of misappropriated assets have experienced very limited success, owing mainly to the diversity and complexity of the relevant provisions and procedures in the various national legal systems, legal rigidity, the lack of expertise on the part of the Arab Spring countries concerned regarding legal, financial and administrative procedures in European and other jurisdictions and the lack of resources available to them;

4. Urges the EU and its Member States to make further significant efforts aimed at facilitating the return of misappropriated assets stolen by the former regimes to the people of Arab Spring countries within a reasonable timeframe; encourages national asset recovery offices in all the Member States to work closely together and to develop their relations with the relevant authorities of Arab Spring countries with a view to assisting them with the complex legal procedures involved; calls on the European External Action Service to take a proactive leadership role, notably in coordinating Member States' efforts, providing capacity-building, and encouraging cooperation among all the states concerned;

5. Stresses that asset recovery is an essential part of the Union's support for democratic transition and economic recovery in those countries and can strengthen mutual confidence on both sides in the spirit of partnership with societies, which is a cornerstone of the revised European Neighbourhood Policy;

6. Welcomes, in this connection, the initiative of Canada, France, Germany, Italy, the UK, Japan, Switzerland and the United States to issue a guide containing a comprehensive description of their national legal systems in relation to asset recovery, so as to give the requesting countries a better understanding of what is legally possible, the kind of information available, the types of investigation that can be conducted, and how to proceed in order to obtain effective asset recovery through the provision of mutual legal assistance; encourages all the Member States to do likewise and to establish a common EU set of principles;

7. Welcomes the G8 initiative of the Deauville Partnership's Action Plan on Asset Recovery, which identifies concrete measures to promote cooperation, case assistance, capacity-building efforts and technical assistance, and suggests a collaborative regional initiative, the Arab Asset Recovery Forum, for discussion and cooperation on continued efforts;

8. Welcomes the new legislative framework adopted by the Council on 26 November 2012, which facilitates the return of misappropriated funds to Egypt and Tunisia by authorising Member States to release frozen assets on the basis of recognised judicial decisions and by encouraging the exchange of information between the relevant authorities of Member States, on the one hand, and of Egypt and Tunisia, on the other; stresses, however, the need to achieve concrete results and to fully include Libya in this process;

9. Welcomes the close cooperation between EU institutions and other key international actors in asset recovery by Egypt, Libya and Tunisia, with special regard to the Stolen Asset Recovery Initiative (StAR) of the World Bank and the United Nations Office on Drugs and Crime; stresses the importance of making full use of existing mechanisms, at both national and international level, in parallel with adopting the necessary new legislation and adjusting existing legislation within national legal systems in this area;

10. Calls on the Parliamentary Assembly of the Union for the Mediterranean to raise the issue of asset recovery with national parliaments, so that parliamentarians from both shores can be persuaded to actively promote legal measures to ensure closer cooperation between the police and judicial authorities involved;

11. Calls for the establishment without delay of an EU mechanism composed of a team of national and international investigators, prosecutors, lawyers and other experts, with the aim of providing legal and technical advice and assistance to Arab Spring countries in the process of asset recovery; requests that this mechanism be duly financed by the relevant financial instrument within the field of the Union's external relations; underlines, in the context of complex, sensitive and lengthy judicial procedures, the importance of this EU mechanism being sustainable; calls on the EU institutions to draw lessons from, and build on, this experience; notes also the possibility of additional funding for this mechanism, at a later stage, through co-financing agreements with requesting states;

12. Urges the Arab League to define, adopt and quickly implement mechanisms of cooperation on asset recovery, and calls on the Gulf countries in particular to enhance their cooperation and to offer their legal assistance to Arab Spring countries in addressing the process of asset recovery;

13. Acknowledges and fully supports the contribution of civil society organisations, in both requesting and requested countries, to the process of asset recovery, in particular by providing information to the relevant authorities, encouraging cooperation among key national and international actors, monitoring the return of assets and ensuring that returned assets are used in a transparent and effective way in the requesting states;

14. Reaffirms its commitment to supporting democratic transition in the Arab Spring countries and pledges to support and assist Arab Spring countries in creating strong and stable democracies in which the rule of law is upheld, human rights and fundamental freedoms, including women's rights and freedom of expression, are respected, and elections are conducted

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in line with international standards; stresses that it is of the utmost importance for the EU to show its concrete and genuine commitment to this process;

15. 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 parliaments and governments of the Member States, the Parliament and Government of Switzerland, the Congress and President of the United States, the Parliamentary Assembly of the Union for the Mediterranean and the parliaments and governments of Egypt, Libya and Tunisia.

P7_TA(2013)0225

2012 progress report on Bosnia and Herzegovina

European Parliament resolution of 23 May 2013 on the 2012 Progress Report on Bosnia and Herzegovina (2012/2865(RSP))

(2016/C 055/14)

The European Parliament,

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

— having regard to the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, signed on 16 June 2008 and ratified by all EU Member States and Bosnia and Herzegovina,

— having regard to Council Decision 2008/211/EC of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina and repealing Decision 2006/55/EC ([1]),

— having regard to Council Decision 2011/426/CFSP of 18 July 2011 ([2]) and to the Council conclusions on Bosnia and Herzegovina of 21 March 2011, 10 October 2011, 5 December 2011, 25 June 2012 and 11 December 2012,

— 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) and to the 2012 Progress Report on Bosnia-Herzegovina adopted on 10 October 2012 (SWD(2012)0335),

— having regard to the Joint Statement of the 14th European Parliament — Parliamentary Assembly of Bosnia and Herzegovina Interparliamentary Meeting, held in Sarajevo on 29—30 October 2012,

— having regard to its previous resolutions, in particular the resolution of 14 March 2012 on the progress report on Bosnia and Herzegovina ([3]) and the resolution of 22 November 2012 on Enlargement: policies, criteria and the EU's strategic interest ([4]),

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

A. whereas the EU has repeatedly reaffirmed its commitment to EU membership for the Western Balkan countries, including Bosnia and Herzegovina (BiH); whereas the EU continues to be strongly committed to a sovereign and united Bosnia and Herzegovina that has the prospect of EU membership, and whereas this prospect is one of the most unifying factors amongst the people of the country;

([1]) OJ L 80, 19.3.2008, p. 18.
([2]) OJ L 188, 19.7.2011, p. 30.
([3]) Texts adopted, P7_TA(2012)0085.
([4]) Texts adopted, P7_TA(2012)0453.

B. whereas, in order to accelerate the country's progress towards EU membership and achieve tangible results for the benefit of all citizens, functional institutions and clear coordination mechanisms at all levels as well as firm and consistent commitment by the political leaders of the country are required;

C. whereas constitutional reform remains the key reform for the transformation of BiH into an effective and fully functional democracy; whereas tangible progress is needed in key areas of state-building, including in governance, the judiciary and the implementation of the rule of law, as well as in the fight against corruption and in approximation to EU standards;

D. whereas the creation of effective coordination mechanisms is urgently needed for better engagement with the EU;

E. whereas lack of job prospects, in particular for young people, continues to seriously plague the socio-economic and political development of the country;

F. whereas corruption continues to seriously hamper socio-economic and political development in the country;

G. whereas regional cooperation and good neighbourly relations are key elements of the Stabilisation and Association Process and play a decisive role in the process of transformation of the Western Balkans into an area of long-standing stability and sustainable development; whereas cooperation with other countries of the region in a good-neighbourly spirit is a prerequisite for peaceful coexistence and reconciliation within BiH and the Western Balkans;

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

General considerations

1. Strongly reiterates its support for the European integration of BiH, to the benefit of all citizens of the country;

2. Is concerned at the continued lack of a shared vision for the overall direction of the country on the part of the political elites, which is putting BiH at risk of continuing to fall further behind the other countries of the region;

3. Commends the peaceful, free and fair conduct of the local elections; takes note of the dispute in the wake of the elections in Srebrenica; acknowledges the decisions of the Central Electoral Commission of BiH in this matter; is concerned about the fact that Mostar was the only town where municipal elections were not held; urges all parties concerned to agree to the changes to the Statute of the City of Mostar in accordance with a relevant decision of the Constitutional Court in BiH;

4. Welcomes the suspension of international supervision in the Brcko District; invites the authorities to fulfil the outstanding objectives and conditions which will allow the closure of the Office of the High Representative, so as to allow greater local ownership and responsibility;

5. Underlines the importance for BiH of speaking with one voice in the EU integration process; urges political leaders and elected officials to work together and focus on the implementation of the Roadmap as part of the High Level Dialogue with the Commission, thus making it possible to meet the requirements enabling the Stabilisation and Association Agreement to come into force at last and permitting the submission of a credible membership application; invites political leaders and all authorities to work in close cooperation with the EU Special Representative in the accession process;

6. Reminds the Commission that EU enlargement goes beyond a mere transfer of the EU acquis and must be based on a true and comprehensive commitment to European values; notes with some concern that the 'soft-power' transformational force of the EU may have been diminished by the recent economic and financial crisis; encourages, however, the Commission, the Member States and the other Western Balkan countries to examine innovative ways of fostering a culture and climate of reconciliation in Bosnia and Herzegovina and in the region;

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7. Regrets the cancellation of the Third Meeting of the EU-BiH High-Level Dialogue on the Accession Process planned for 11 April 2013 owing to lack of progress on the Sejdić-Finci case;

8. Notes the significant contribution made by the EU Police Mission, which closed on 30 June 2012, and welcomes the reinforced EU presence in the field of the rule of law; welcomes the renewal of the mandate of the European Union multinational stabilisation force (EUFOR Althea) and its refocus on capacity-building and training;

Political conditions

9. Recalls the importance of functioning institutions at all levels for the country's progress in the European integration process; welcomes the return to dialogue and the election of new ministers to the Council of Ministers in November 2012 after the breakup of the coalition and five months of stalemate; is concerned at the blockages arising from the uncertainty surrounding the reshuffling of the government of the Federation of BiH; welcomes, however, the progress made in naming candidates for the vacancies in the Federation's Constitutional Court;

10. Calls on all competent authorities to develop a strategy/programme of integration with the EU, which would ensure the coordinated and harmonised transposition, implementation and enforcement of EU law and standards throughout the country, and thus demonstrate a shared vision of the overall direction of the country and a willingness to secure overall prosperity for its citizens;

11. Calls for changes to the rules of procedure of the House of Peoples and the House of Representatives with a view to introducing a fast-track mechanism for EU legislation;

12. Welcomes the progress achieved in the first half of 2012 and since October, in particular the adoption of important laws on the census and state aid, the 2011, 2012 and 2013 State Budget, the phytosanitary package, the progress regarding the State Aid Council and the Anti-Corruption Agency, as well as the political agreement reached on state and defence property; calls for the effective implementation of these measures and urges the Commission, together with the EU Special Representative, to closely monitor implementation, taking full account of the ruling of the Constitutional Court of BiH of 13 July 2012; calls on the BiH authorities to build and strengthen the capacities of the relevant bodies such as the State Aid Council and the Anti-Corruption Agency, especially with regard to sufficient staffing levels;

13. Is concerned about the delay in undertaking the census; underlines the importance of conducting a census of the population in October 2013, and welcomes the efforts to ensure that it takes place in October in compliance with international standards; urges all the competent authorities to remove all obstacles and not to politicise a census whose purpose is to provide objective socio-economic data; calls for respect for the rights of minorities in this regard;

14. Calls on the BiH state authorities to comply with the ruling of the Constitutional Court on the need to amend the legislation regarding citizen ID numbers; notes that after 12 February 2013, owing to several months of inactivity, newborn babies could not be issued ID numbers nor, as a consequence, basic documents such as passports or medical insurance cards; calls, as a matter of urgency, for measures to resolve this situation;

15. Urges the authorities to execute the Sejdić-Finci judgment, as a first step in the comprehensive constitutional reform that is needed in order to move towards a modern and functional democracy in which all forms of discrimination are eliminated and all citizens, regardless of their ethnic affiliation, enjoy the same rights and freedoms; welcomes the fact that the Assembly of the Sarajevo Canton, the first to do so in BiH, has already unanimously amended its constitution to give the ethnically undeclared and ethnic minorities the possibility of forming their own caucus in the Assembly, in line with the ruling under the European Convention on Human Rights (ECHR) on the Sejdić-Finci case;

16. Notes the decision by the Commissioner for Enlargement and Neighbourhood Policy not to hold the planned Third Meeting of the EU-BiH High-Level Dialogue on the Accession Process, given the lack of political agreement on the implementation of the Sejdić-Finci ruling; is concerned that a failure to reach agreement may have adverse effects on the accession process as a whole, and calls on the political leaders to find a solution;

17. Encourages the EU Special Representative and Head of Delegation (EUSR/HoD) to further strengthen his efforts to facilitate an agreement on the implementation of the Sejdić-Finci ruling;

18. Notes the urgent need for substantial constitutional reforms, at both state and entity levels, in order to make the institutional structures at all levels more efficient, functional and transparent; reiterates the need for simplification of the structure of the Federation of BiH; invites the EEAS and the Commission to initiate broad and open consultations as well as public discussions with all stakeholders in the country on constitutional change; stresses that all parties and communities must be fully involved in this process, which should lead to concrete results;

19. Calls on all competent authorities to ensure the establishment of an independent, impartial and effective judicial system supported by an impartial and independent police service, and to effectively implement the Justice Sector Reform Strategy and the National War Crimes Strategy; urges the harmonisation of jurisprudence in criminal and civil matters between the different judicial and prosecution systems, as well as the implementation of all recommendations of the EU-BiH Structured Dialogue on Justice;

20. Calls on the BiH authorities to make progress in reforming public administration and strengthening the administrative capacities at all levels of government dealing with EU matters; is concerned about the financial sustainability of the public administration and the lack of political support for its reform; stresses the need to concentrate on building, with the EU's assistance, an efficient coordination mechanism and on improving the qualifications and competence of the civil service, as an important element of ensuring efficient and productive cooperation with the EU;

21. Expresses its concern over the high level of corruption present in the country, its link to political parties and the presence of corruption in all layers of public life; encourages the competent authorities on all levels to propose and implement anti-corruption strategies and plans; invites the responsible authorities to show political will in tackling the issue and to provide means for the Anti-Corruption Agency to become fully operational and to build up a track record of investigations and convictions, and encourages BiH authorities to align the relevant legislation on corruption with the recommendations of GRECO; underlines the need to effectively combat trafficking in human beings by prosecuting perpetrators and providing protection and compensation to the victims;

22. Urges the competent authorities to accelerate their efforts to implement the roadmap for an operational agreement with Europol, in particular aligning the relevant data protection legislation and procedures;

23. Urges the BiH authorities to encourage the development of independent and diverse media that are free of political interference, ethnic fragmentation and polarisation; highlights the special role of public service media in strengthening democracy and social cohesion, and calls on the authorities to ensure that such media are financially sustainable and independent and comply with European standards; regrets the continued political pressure affecting journalists and the threats against them; expresses its concern over the attempts to undermine the independence of the Communications Regulatory Agency and the public service broadcasters; recalls that free media represent an essential component of a stable democracy;

24. Calls on all political parties to work proactively for an inclusive and tolerant society; calls on the competent authorities to implement the anti-discrimination laws and policies and to address the shortcomings existing in law and practice, including those related to people with disabilities; is concerned about hate speech, threats and harassment directed at LGBT people; calls on the authorities to fully implement the Roma Action Plan, actively promote the effective inclusion of Roma people and of all other minorities, publicly condemn hate-motivated incidents, and ensure proper police investigation and judicial prosecution; invites the authorities to actively support civil society initiatives in this field, with financial and practical support as well as with political commitment;

25. Encourages the work of human and civil rights defenders in BiH, and calls on the Commission to develop financing mechanisms that also allow grassroots organisations to benefit from IPA funding;

26. Calls for the empowerment of women through promoting, protecting and strengthening their rights, improving their social and economic situation, increasing their presence on the labour market, ensuring their fair representation in political and economic decision-making processes, and encouraging their entrepreneurship; notes that women remain under-represented in the parliaments, governments and public administration and that their employment rights are often ignored; calls on the BiH authorities to align social security rights for those who take maternity, paternity or parental leave across the country to a high standard, thus creating a uniform situation for all citizens and avoiding discrimination;

27. Expresses concern over the high level, non-reporting and insufficient prosecution of domestic violence; calls on the authorities to adopt and implement measures to achieve real protection of women; stresses the need to strengthen the law enforcement bodies in order successfully to address questions such as gender-based violence, domestic violence, forced prostitution and trafficking in women; underlines the importance of protecting children against violence, trafficking and all other types of abuse; encourages the Commission to examine ways to support the combating of domestic violence;

28. Welcomes the draft Programme for Victims of Wartime Rape, Sexual Abuse and Torture in BiH; urges the provision of sufficient resources for the rehabilitation of victims of conflict-related sexual violence in a systematic manner, including reparations, regardless of social status, for medical and psychological care, and for adequate social services; calls on all competent authorities to raise public awareness concerning the status of victims;

29. Calls on the Federation to introduce a hate crime regulation into the Criminal Code, on similar lines to those already established in the Republika Srpska and the Brcko District in 2009;

30. Points out that at the end of 2011 there were still approximately 113 000 internally displaced persons in BiH, including approximately 8 000 residing in collective centres and 7 000 refugees; urges all competent authorities at all levels to facilitate, also on the basis of the commitment by the international donor community as renewed at the Sarajevo international donor conference in April 2012, the sustainable return of refugees and internally displaced persons by ensuring their access to housing, education, social protection and employment; urges them also to facilitate this process by granting financial assistance to all returning refugees in a fair and appropriate manner, including the return of Croatian refugees to the Posavina;

31. Notes with concern the high number of people in BiH suffering from post-traumatic stress disorder (PTSD) as a result of the war; calls on the authorities to address the lack of social and psychological care for persons suffering from PTSD syndrome;

32. Calls for full implementation of the Mine Action Strategy as well as adoption of the law on anti-mines actions, in order to prevent further casualties from landmine accidents;

33. Strongly condemns any attempts, in BiH or anywhere in the world, to minimise or deny the genocide which took place in Srebrenica;

Socio-economic issues

34. Urges governments at all levels to sustain sound fiscal policies; is concerned about the size of the informal economy and the high unemployment rate, in particular for women and young people; expresses concern over the impact that political instability and the weak rule of law have on growth and investment, as well as on the business environment as a whole; calls on the government to create a single economic space within the country, to establish favourable conditions for the proliferation of businesses, especially SMEs, to strengthen domestic sources of growth while reducing the government's dominance of the economy and the shares of monopolies, to promote growth-oriented spending, and to boost competitiveness;

35. Welcomes the EU's decision to grant EUR 100 million in macrofinancial assistance to BiH, as a clear sign of its commitment to the country's European perspective and the wellbeing of its people;

36. Calls on the BiH authorities, especially those in the entities where the most BiH companies are registered, to revise and modernise the existing labour legislation and to strengthen social dialogue and labour inspection;

37. Welcomes the signing of an agreement between BiH and the EU on BiH's accession to the World Trade Organisation (WTO); encourages the BiH authorities to step up negotiations with other partners with the objective of becoming a member of the WTO in the near future;

38. Notes that some progress has been made in improving the general framework for education, but reiterates its call on the Council of Ministers, inter alia, to improve coordination amongst the 12 ministries of education and the Department for Education in the Brcko district and reduce the fragmentation of the educational system;

39. Stresses the need to improve the overall quality of education in order to meet the needs of the internal and foreign labour market; calls on the BiH authorities to address the deficiencies of vocational training in order to attract foreign direct investment, as well as to ensure, for reasons of economic necessity among others, that the accreditation of education institutions gets under way and the agencies dealing with recognition of degrees and diplomas become fully operational; welcomes the measures taken to develop and foster training courses and programmes for young people so as to facilitate their participation in the labour market, and calls for more initiatives in this regard;

40. Urges all competent authorities to end the ethnic segregation of children ('two schools under one roof') which still exists in some cantons of the Federation; calls, furthermore, for the promotion of the effective inclusion of Roma children in particular in education, inter alia through school readiness programmes; calls on the authorities to collaborate with the relevant NGOs in order to encourage Roma families to support their children's access to education; calls on the authorities to harmonise regulations within BiH in order to ensure that all children are treated equally; calls, in general, for more efforts to prevent family separation and more support services for families at risk; calls on the Commission to examine whether targeted EU assistance could assist in ending the segregated education system;

41. Welcomes the Commission's plans to call for a high-level meeting on education aimed at promoting dialogue on several topics, including the ethnic segregation of children in schools and bringing together representatives of relevant international organisations and the BiH authorities responsible for education;

42. Invites the authorities to align their legislation with the acquis on the recognition of EU professional qualifications;

43. Urges the authorities to take all necessary measures to preserve the national heritage and address the respective legal framework; calls, furthermore, on all the competent authorities at all levels to ensure clear procedures for the financing of cultural institutions in order to prevent closures;

44. Urges the BiH authorities to put in place adequate measures to prevent further abuses of the visa-free travel regime, and to effectively tackle organised abuse of the asylum procedures in the EU Member States;

Regional cooperation and bilateral issues

45. Commends BiH for its constructive role in regional cooperation, and invites the country to work on the delimitation of borders in cooperation with all its neighbours;

46. Urges the authorities in BiH to step up their preparations for Croatia's accession to the EU by aligning the relevant BiH food safety legislation with the EU acquis; is concerned at the lack of action by the BiH authorities and the possibility that this may lead to losses on the BiH export markets; welcomes the progress made so far, and urges the competent authorities to swiftly construct the necessary infrastructure at the future EU Border Inspection Posts (BIPs); welcomes the Commission's initiative to find solutions in its trilateral meetings with Croatia and BiH regarding the last outstanding border management issues, in the light of Croatia's accession to the EU, including the Neum/Ploče agreement; calls for further constructive efforts in this regard, allowing for more BIPs if necessary; commends BiH for its contribution to the progress

made on the resolution of outstanding issues, including the finalisation of the Local Border Traffic Agreement, which aims to simplify the movements of citizens in border areas; considers it necessary to find a solution that will maintain the existing identity card regime between the two countries after July 2013, so that BiH citizens can continue to travel to Croatia;

47. Reiterates its call to permit the entry of Kosovo citizens, since BiH is still the only country of the region not admitting them; urges the BiH authorities, therefore, to accept the basic travel documents of Kosovo citizens to enable them to enter the country, as is done by Serbia and other countries;

48. Reiterates the need for continued strict implementation of all the necessary criteria and measures relating to visa-free travel to Schengen countries, to implement long-term strategies, and to regulate policy on minorities; considers it necessary to inform citizens of the limitations of the visa-free regime in order to prevent any kind of abuse of freedom of travel and visa liberalisation policy; notes the consistently low numbers of asylum seekers originating from BiH in EU Member States; highlights the importance of visa-free travel for the citizens of BiH;

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49. Instructs its President to forward this resolution to the High Representative/Vice-President of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the Presidency of Bosnia and Herzegovina, the Council of Ministers of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina and the governments and parliaments of the Federation of Bosnia and Herzegovina and the Republika Srpska.

P7_TA(2013)0226

2012 progress report on the former Yugoslav Republic of Macedonia

European Parliament resolution of 23 May 2013 on the 2012 Progress Report on the former Yugoslav Republic of Macedonia (2013/2866(RSP))

(2016/C 055/15)

The European Parliament,

— having regard to the European Council decision of 16 December 2005 to grant the status of candidate country for EU membership and to the Presidency Conclusions issued following the European Council meetings of 15 and 16 June 2006 and 14 and 15 December 2006,

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

— having regard to the Joint Statement by the Heads of Mission of the EU and the US of 11 January 2013,

— having regard to the Commission's 2012 Progress Report (SWD(2012)0332) and the Commission Communication of 10 October 2012 entitled 'Enlargement Strategy and Main Challenges 2012-2013' (COM(2012)0600),

— having regard to UN Security Council resolutions 845 (1993) and 817 (1993), as well as to UN General Assembly resolution 47/225 (1993) and to the 1995 Interim Accord,

— having regard to the judgment of the International Court of Justice on the Application of the Interim Accord of 13 September 1995,

— having regard to Recommendation 329 (2012) of the Congress of Local and Regional Authorities of the Council of Europe on local democracy in the country,

— having regard to its previous resolutions, including its resolution of 22 November 2012 on Enlargement: policies, criteria and the EU's strategic interests ([1]),

— having regard to the 10th meeting of the Joint Parliamentary Committee of 7 June 2012,

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

A. whereas all candidate and potential candidate countries should be treated according to their own merits in the integration process;

B. whereas the High Level Accession Dialogue (HLAD) has brought new dynamism to reform processes in the country;

C. whereas EU accession is fundamental to the long-term stability of the country and good inter-ethnic relations;

D. whereas the European Council decided for the fourth consecutive year not to open the accession negotiations with the country in spite of the positive recommendation of the Commission in this respect; whereas this further postponement is adding to the growing frustration of the country's public opinion about the stalemate of the EU integration process and risks exacerbating domestic problems and internal tension; whereas bilateral issues should not represent an obstacle to the official opening of accession negotiations, although they should be solved before the end of the accession process;

E. whereas the country is prepared to launch accession negotiations with the EU;

F. whereas regional cooperation and good neighbourly relations remain essential parts of the enlargement process;

G. whereas bilateral issues should be addressed in a constructive spirit, taking into account overall EU interests and values;

General considerations

1. Reiterates its call to the Council to set a date for the start of accession negotiations without further delay;

2. Regrets that, for the fourth consecutive year, the Council decided not to follow the recommendation of the Commission during its last meeting on 11 December 2012 and has not yet opened accession negotiations; nevertheless believes that the European Council conclusions, unanimously endorsed for a time-bound decision based on a further report by the Commission, represent a genuine step forward, recognising the importance of sufficient progress on key areas as drafted in the European Council's December 2012 conclusions; congratulates the Enlargement Commissioner on his initiatives and calls on him to include an assessment of the cost of non-enlargement, including the major risks for the country in case of prolongation of the status quo, in his forthcoming report; welcomes the Spring report of 16 April 2013 from the European Commission and calls on the Irish Presidency to conduct intense diplomacy to achieve a satisfactory outcome aimed at a Council decision to open the negotiations before the end of June 2013;

([1]) Texts adopted, P7_TA(2012)0453.

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3. Underlines the fact that good neighbourly relations are an essential pillar of the EU accession process; welcomes the country's overall constructive role as regards relations with other enlargement countries; encourages the continuing diplomatic exchanges which have taken place between Athens, Sofia and Skopje and stresses the importance of all sides demonstrating proper commitment to 'good neighbourly relations' based especially on friendship, mutual respect, constructive dialogue and a genuine desire to resolve misunderstandings and overcome hostilities; calls for the avoidance of gestures, statements and actions which could negatively impact on good neighbourly relations; welcomes in this respect the first meeting held recently between the representatives of the governments in Skopje and Sofia aimed at the possibility of signing an agreement between the two countries; urges the Enlargement Commissioner to pay special attention in his report to the issue of good neighbourly relations; also calls for greater socio-cultural collaboration in view of strengthening the ties between the peoples of the region;

4. Reiterates its position that 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; reiterates its view that bilateral issues should not be resorted to in order to hinder the EU accession process;

5. Insists that all candidate and potential candidate countries should be treated on their own merits in the integration process;

6. Strongly believes that the start of negotiations can itself be a 'game-changer', providing a positive impulse and an effective instrument to further reforms, improve the domestic situation, facilitate inter-ethnic dialogue and promote favourable relations with neighbours;

7. Considers the High Level Accession Dialogue (HLAD) to have been an important instrument in breaking the existing log jam and instilling renewed dynamism into the EU accession process; welcomes the progress made in over 75 % of the policy areas identified; reiterates the importance of full and irreversible implementation; stresses that HLAD is not a substitute for accession negotiations; calls on the Council to ask the Commission to start the screening process as soon as possible in order to allow further progress;

8. Welcomes and fully supports the recent agreement leading to the unblocking of the deadlock in the domestic political developments in the country and considers that the present accord will allow further progress towards EU accession in advance of the European Council discussions; calls on all parties to continue with political dialogue and stresses the need for broad cross-party support and engagement in the EU agenda; underlines the fact that the national parliament is a key democratic institution for the discussion and resolution of political differences and asks all the political forces in the country to act in this spirit, respecting its procedures and the democratic values on which it was founded; supports initiatives leading to an improvement of the functioning of the parliament, including the proposal for a Commission of Inquiry in order to establish accountability for the events of 24 December 2012, make further recommendations for a comprehensive reform of the parliament's procedures on a genuine cross-party basis, improve the authority, independence and legitimacy of the parliament and prevent any repeat of such incidents; calls on the authorities to set up the Commission of Inquiry immediately so that it can commence its important work with a view to the restoration of a normal political process in the country; regrets that the journalists were also expelled from the parliament and calls for a resumption of the dialogue between the government and the Association of Journalists under conditions in which journalists themselves can have trust and confidence;

9. Expresses deep concern at the tensions in inter-ethnic relations which have arisen during the year; believes that strengthened political dialogue is essential in continuing progress towards a peaceful multi-ethnic, multi-cultural and multi-religious society and eliminating the risk of the polarisation of society along ethnic lines; firmly condemns all incidents and signs of intolerance based on ethnic grounds;

10. Welcomes the government's report on the implementation of the Ohrid Framework Agreement (OFA) and expects the report to be presented publicly in order to generate broad social and political support for the multi-ethnic future of the country; encourages the government to move swiftly to the next stage of the review;

11. Welcomes the 2011-14 Decentralisation Programme and calls for full implementation of the Law on Regional Development; encourages the government to continue fiscal decentralisation, with a medium-term aim of 9 % of GDP to be spent by local and regional authorities; commends the work of the UNDP and the wider donor community working in partnership with the government to build the capacity of local government to ensure good governance and equal access for all citizens;

12. Welcomes the efforts by the authorities to break with the Communist past, the public disclosure of the names of agents affiliated with the former Yugoslav secret services, and the extension of the time frame of applicability of the Lustration Law until the adoption of the Law on Free Access to Public Information; at the same time, encourages the authorities to retrieve the Yugoslav secret service archives from Serbia and to include in the lustration process the personnel of the intelligence and counter-intelligence services; encourages strengthening the mandate of the Data Verification Commission by transferring all necessary documents from the intelligence and counter-intelligence services to the Commission's premises on a permanent basis; stresses the need for a reform of the security sector and strengthening the parliamentary oversight of the intelligence and counter-intelligence services;

13. Believes that the best way of achieving a multi-ethnic society is through a strengthened political dialogue, an example-based leadership which shows acceptance and tolerance towards other ethnicities, and an educational system that teaches the values of a multi-ethnic society; therefore, welcomes the government's multi-ethnic education project and calls on all schools to follow the lead of pioneers such as those in Kumanovo who are seeking to end the separate education of different ethnic communities;

14. Strongly encourages the authorities and civil society to take appropriate measures for historical reconciliation in order to overcome the divide between and within different ethnic and national groups, including citizens of Bulgarian identity; restates its call for positive progress to be made in joint celebrations of common events and figures with neighbouring EU Member States; encourages the attempts to establish joint expert committees on history and education, with the aim of contributing to an objective, fact-based interpretation of history, strengthening academic cooperation and promoting positive attitudes of young people towards their neighbours; urges the authorities to introduce educational materials free of ideological interpretations of history and aimed at improving mutual understanding; notes with concern the phenomenon of 'antiquisation'; is convinced that culture and art should be used to bring people closer together rather than divide them; urges the government to send clear signals to the public and media that discrimination on the basis of national identity is not tolerated in the country, including in relation to the justice system, media, employment and social opportunities; underlines the importance of these actions for the integration of the various ethnic communities and the stability and European integration of the country;

15. Welcomes progress in strengthening the normative framework in the field of justice for children, including amendments to the juvenile justice law, the establishment of a monitoring system and the development of a national strategy on the prevention of juvenile delinquency; notes with concern the remaining gaps in the protection of child victims of crimes, in particular victims of abuse, due to insufficient resources, the limited capacity of professional staff and the absence of an effective response system for child victims; calls for improved financial and human resources for centres for social work and the creation of multi-disciplinary teams able to provide recovery, rehabilitation and reintegration services for child victims;

Good neighbourly relations and the name issue

16. Continues to regret that the inability to solve the name dispute has blocked the country's road to EU membership; agrees with the European Council that the name issue needs to be brought to a definitive conclusion with no delay on either side and that the Hague Decision, which is part of international law, needs to come into force; strongly supports the efforts of the UN special envoy to reach a commonly acceptable solution; welcomes the proposal made by the Enlargement Commissioner regarding a trilateral meeting between Skopje, Athens and Brussels; takes the view that this initiative could help boost the UN-led negotiations; welcomes the momentum generated for a Memorandum of Understanding and the recent contacts with the UN mediator; calls on all parties to seize every opportunity in order to make this action successful, to enter into constructive dialogue towards finding a solution and to unblock the situation; takes the view that the country's leadership and the European Union should explain to the public the benefits of a solution if one is agreed ahead of the referendum on the issue;

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17. Reiterates its call to 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;

18. Welcomes the use of the term 'Macedonian' in the 2012 Progress Report, whilst respecting the different languages, identities and cultures within the country and the neighbouring EU Member States;

Political criteria

19. Shares the Commission's assessment that the country continues to fulfil the political criteria;

20. Calls for reinforcement of Parliament's oversight role vis-à-vis the government and improving the Electoral Code and increasing the transparency of political party financing; stresses, in this respect, that the OSCE/ODIHR recommendations issued after the 2011 parliamentary elections have been only partly implemented and calls, in this regard, on the government to amend the laws to fully implement the recommendations, including as regards the revision and update of the electoral roll;

21. Welcomes the continued efforts in advancing the legislative framework for civil and public service and general administrative procedures, notably with regard to the Law on Administrative Servants and the Law on General Administrative Procedures; calls for additional efforts to guarantee the transparency, impartiality and professionalism of public administration, to ensure merit-based recruitment and to strengthen financial control, strategic planning and human resources management;

22. Calls for further efforts to guarantee the independence and impartiality of the judiciary; considers it important to define clear requirements for the dismissal of judges in order to eliminate risks to judicial independence; welcomes the progress in reducing the overall backlog of court cases but urges measures to address backlogs at the Supreme Court and the Administrative Court; urges the gradual rationalisation of the court network and continued support to the Academy for Judges and Prosecutors, in light of its key role in ensuring continuing training, career development and merit-based recruitment;

23. Welcomes the efforts to increase the efficiency and transparency of the court system and in particular the publication of judgments by courts at all levels on their respective websites; stresses the need to build up an enforcement record of cases of prosecutions and convictions against which progress can be measured; calls for the unification of jurisprudence in order to ensure a predictable judicial system and public trust;

24. Supports the EULEX Special Investigative Task Force (SITF) and encourages the country to cooperate fully with the SITF and assist it in its work;

25. Welcomes the strengthening of the anti-corruption legal framework, including changes to the Law on Conflicts of Interest, but is concerned that corruption remains widespread both inside the country and in the region as a whole; calls for greater efforts regarding the implementation of laws currently in force and urges continued efforts to establish a track record for convictions in high-level cases; welcomes the OSCE-backed programme against corruption, the PrijaviKorupcija.org project allowing corruption to be reported by SMS message and the declaration by ten mayors of zero tolerance of corruption in their municipalities;

26. Notes that, while sentences for corruption-related offences are stricter, orders for the seizure and confiscation of assets remain exceptional; is of the opinion that the seizure and confiscation of assets is a crucial instrument in the fight against corruption and organised crime; calls on the country's authorities to fully enforce its Criminal Code provisions on extended confiscation, illicit enrichment and the criminal liability of legal persons;

27. Commends the amendments made to the Law on the Financing of Political Parties; notes in particular the leading role vested in the State Audit Office (SAO) in the supervision of political financing; calls on the country's authorities to provide the SAO with sufficient means to allow for a proactive and thorough control over party and campaign funding as well as to improve significantly the transparency of public expenditure and of the funding of political parties;

28. Notes that the activities to establish the National Intelligence Database are ongoing; encourages the authorities to complete the tender procedure and decide who will establish the National Intelligence Database as soon as possible in order to provide full support to the fight against organised crime, corruption, fraud, money laundering and other serious offences, including cross-border ones;

29. Welcomes the legal decriminalisation of defamation and the deepening dialogue between the government and journalists on issues relating to freedom of expression; calls on the authorities to continue to strengthen and promote freedom of information and pluralism of the media, which must be free of any form of political or financial influence and must be consistently applied; however, expresses concern that the country has fallen significantly in the 'Reporters Without Borders' Freedom Index and calls for further efforts towards strengthening professional standards in journalism, investigative journalism, promoting media pluralism, the independence of the public service broadcaster, the enforcement of employment rights of media workers, transparency of media ownership, sustainability and compliance with European standards; notes with concern the widespread self-censorship among journalists and the absence of any self-regulating media organisation; expresses concern that most government-funded advertising is channelled towards the pro-government media; supports social media activists who lobbied against censorship of the internet;

30. Is concerned about the lack of analytical and objective media reporting in the run-up to the local elections in March 2013, in particular as regards the activities of the opposition, reporting on which was virtually absent in both state and private media during the campaign; emphasises that vigilant and professional media is a sine qua non for the further development of democratic culture and institutions in the country and for the fulfilment of the political criteria;

31. Notes the El-Masri judgment of the Grand Chamber of the European Court of Human Rights of 13 December 2012 which found multiple violations of the European Convention in the abduction, extraordinary rendition and torture of German citizen Khaled El-Masri on 31 December 2003 and his detention for 23 days in a hotel in Skopje before being transferred via Skopje Airport to Afghanistan; calls on the government to comply without delay with all aspects of the ECHR judgment, including the provision of a formal apology to Mr El-Masri, the payment of the compensation ordered by the court, and committing to the creation of an international commission of inquiry;

32. Welcomes the new Law on Equal Opportunities, the first five-year strategy on gender-based budgeting developed in partnership with UN Women, the funding allocated to the action plan on Roma inclusion and the project to help Roma legalise their homes; welcomes the opening of the new support office for the LGBT community but expresses concern at the act of vandalism committed against it; encourages the government to continue its efforts to strengthen anti-discrimination policies, especially those related to discrimination based on ethnicity as well as on national identity;

33. Calls on ministers and officials to publically condemn discrimination against LGBT people, to ensure that the planned Gay Pride or other activities of the LGBT community can be conducted safely and successfully and to commit to non-discrimination on all grounds named in the EU Treaty; calls on the media to refrain from anti-LGBT rhetoric, including hate speech and incitement to hatred;

34. Is concerned about cases of ill-treatment by the police; calls for continued training, professionalisation and depoliticisation of police personnel; believes that an independent oversight mechanism for law-enforcement agencies is needed to combat impunity and ensure democratic and accountable police services;

35. Stresses that the visa-free regime granted to citizens of the country and to all the Western Balkan countries is a highly important benefit in the process of integration into the EU and a very strong incentive for accelerating reforms in the area of justice and home affairs;

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36. Calls on the authorities to take measures and cooperate with EU Member States to prevent undue asylum claims from the country's citizens in the EU, while guaranteeing the right to visa-free travel for all citizens and preventing any discrimination or stigmatisation of Roma people and persons from ethnic-minority groups; calls on the governments of the Member States not to challenge or hamper the visa-free travel of its citizens but to urge the authorities to implement policies that will offer all citizens a decent future within their country;

37. Whilst welcoming the high number of women parliamentarians compared to some Member States, remains concerned about the low participation of women in the labour market; calls on the authorities to strengthen childcare services for children with disabilities, street children, children using drugs and children who are victims of domestic violence, sexual abuse or trafficking;

38. Welcomes the continuing progress made by the Commission for Protection against Discrimination; calls for it to be fully staffed and believes its acceptance by the European Network of Equality Bodies provides an example to other agencies and organisations to promote EU accession by themselves integrating in relevant European networks;

Civil Society

39. Believes that developing a political culture benefiting from an independent, pluralistic, inter-ethnic, inter-cultural and non-partisan civil society is essential to furthering democratic progress in the country and that the findings of civil society can enrich the possibilities for evidence-based policy making; stresses that civil society organisations (CSOs) need to be strengthened, become independent of political interests and intensify joint projects for mutual benefit with CSOs from neighbouring countries and more generally from across the EU;

40. Welcomes the consultation which took place with CSOs in relation to changes to the laws on legal aid and on foundations; calls for full and timely consultation with civil society on all relevant policy initiatives, including the High Level Accession Dialogue, and the inclusion of transparently-selected civil society observer members in all relevant government working groups;

41. Stresses the crucial role CSOs can play in making the EU integration process more transparent, accountable and inclusive;

42. Believes the parliamentary study on the Instrument for Pre-Accession Assistance (IPA) shows a need for the government to commit to the objective of partnership with civil society and to establish a national fund to provide co-financing to enable CSOs to fully participate in EU-funded programmes; calls for CSOs to be fully involved in programming decisions of the next IPA;

Economic issues

43. Commends the country for maintaining macroeconomic stability; notes, however, that public sector debt has increased, the quality of fiscal governance has deteriorated and the global economic downturn has had a negative effect on foreign direct investment to the country;

44. Welcomes the legislative measures for strengthening the business environment and the continuous action aimed at developing sound medium-term macro-fiscal strategies; encourages the political forces to enter into a transparent political dialogue on the fiscal situation and the country's credit obligations;

45. Notes with concern that unemployment continues to be very high, with youth unemployment one of the highest worldwide, and that female employment remains very low; welcomes the action plan on youth employment developed in conjunction with the ILO Decent Work programme; calls on the government to improve coordination between bodies enforcing labour rules and build on the joint training organised by the European TUC to strengthen the capacities of social partners to engage in effective social dialogue; is of the view that further investment in the strengthening of research, technological development and innovation capacity is needed in order to facilitate the building of a knowledge-based economy;

46. Welcomes the progress made in modernising transport, energy and telecommunications networks and, in particular, the efforts to complete Corridor X ([1]); in view of the importance of the railway links in the framework of a sustainable system of transport, welcomes the government's intention to upgrade or construct railway links from Skopje to the capitals of the neighbouring countries and calls for greater progress, including finalisation of the financing of the railway connections within Corridor VIII ([2]);

47. Underlines the importance of creating a consulting mechanism between the government and private companies when decisions regarding the fight against the economic crisis are being taken; also states that such a mechanism could be a solution towards adjusting the educational system to market needs, which could reduce unemployment among young people;

48. Takes note of the government's efforts to rebuild the local road infrastructure in the country, aimed at improving alternative tourism and the life of the citizens; in that regard, encourages the country to take a more dynamic approach in regional development projects under the IPA that will increase cross-border cooperation and the links among the countries in the region;

49. Points out that significant efforts are needed in the field of the environment and in particular in the areas of water quality, nature protection and industrial pollution control and risk management; underlines the fact that no substantial progress can be achieved without strengthening adequately the administrative capacity; calls on the country's government to take the necessary measures in this respect;

50. Restates the potential of renewable energy for the country and welcomes the fact that progress is being made, with 21 new concessions for small hydro-power plants already granted, a hydro-power plant already in operation and the construction of a wind park underway; calls on the government to raise the level of public debate on the impact of climate change and for more efforts to align national legislation with the EU acquis in this area, and to implement the national legislation, especially on water management, industrial pollution control, nature protection and climate change; stresses the need to strengthen administrative capacity at both central and local level;

51. Encourages the authorities to increase their efforts to introduce e-government as part of the public administration reforms aimed at delivering efficient, accessible and transparent services to citizens and businesses;

Regional and international cooperation

52. Welcomes the fact that the country is currently chairing and contributing to the South-East European Cooperation Process, with the hope that this will reinforce a strong European agenda, good-neighbourliness and inclusiveness; underlines the importance of regional cooperation in line with the European agenda and European values and calls for further progress in this regard; reaffirms that it is important for the EU to pursue the accession of all countries in the region without exception;

53. Believes that a change in mindset from 'Western Balkans' to 'South-East Europe' could assist in this endeavour;

54. Welcomes the country's participation in the EUFOR Althea Mission and the agreement for the country to take part in CSDP crisis management operations; invites the country to align with the EU position on the International Criminal Court;

55. Calls on the government and all competent organisations to endeavour to meet the necessary criteria and conditions for visa waiver arrangements in the Schengen Area; stresses the need to ensure that the public is fully informed regarding visa waiver restrictions and that no abuse of the visa waiver or visa liberalisation policy occurs; stresses that the suspension

([1]) Corridor X is one of the ten pan-European transport corridors and runs from Salzburg (Austria) to Thessaloniki (Greece). Its Branch D follows the route Veles — Prilep — Bitola — Florina — Igoumenitsa (Via Egnatia).

([2]) Corridor VIII is one of the ten pan-European transport corridors and runs from Durrës (Albania) to Varna (Bulgaria). It also passes through Skopje.

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of visa waiver arrangements would not be without unfavourable economic and social consequences;

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56. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the government and parliament of the country.

P7_TA(2013)0227

EU trade and investment agreement negotiations with the US

European Parliament resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America (2013/2558(RSP))

(2016/C 055/16)

The European Parliament,

— having regard to the Joint Statement of the EU-US Summit issued on 28 November 2011 and the Joint Statement of the EU-US Transatlantic Economic Council (TEC) issued on 29 November 2011,

— having regard to the Final Report of the High Level Working Group on Jobs and Growth (HLWG) of 11 February 2013 ([1]),

— having regard to the Joint Statement of 13 February 2013 by US President Barack Obama, European Commission President José Manuel Barroso and European Council President Herman Van Rompuy ([2]),

— having regard to the conclusions of the European Council of 7—8 February 2013 ([3]),

— having regard to its earlier resolutions, in particular the resolution of 23 October 2012 on trade and economic relations with the United States ([4]),

— having regard to the Joint Statement of the 73rd Interparliamentary Meeting of the Transatlantic Legislators' Dialogue (TLD), held in Washington on 30 November and 1 December 2012,

— having regard to the Final Project Report of March 2013 by the Centre for Economic Policy Research (London) entitled 'Reducing Transatlantic Barriers to Trade and Investment: An Economic Assessment' ([5]),

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

A. whereas the EU and the US are the world's two major global traders and investors, accounting together for nearly half of world GDP and one-third of world trade;

([1]) http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf
([2]) http://europa.eu/rapid/press-release_MEMO-13-94_en.htm
([3]) http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/135324.pdf
([4]) Texts adopted, P7_TA(2012)0388.
([5]) http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf

B. whereas the EU and US markets are deeply integrated, with on average close to EUR 2 billion in goods and services being traded bilaterally each day, thus supporting millions of jobs in both economies, and whereas EU and US investments are the real driver of the transatlantic relationship, with bilateral investments totalling over EUR 2,394 trillion in 2011;

C. whereas, according to the Impact Assessment Report prepared by the Commission on the basis of a report by the Centre for Economic Policy Research, an ambitious and comprehensive transatlantic trade and investment partnership, once fully implemented, could bring significant economic gains as a whole for both the EU (EUR 119,2 billion a year) and the US (EUR 94,9 billion a year); whereas EU exports to the US could thus increase by 28 % and total EU exports by 6 %, hence benefiting EU exporters of goods and services as well as EU consumers;

D. whereas the EU and US share common values, comparable legal systems and high, even if different, standards of labour, consumer and environmental protection;

E. whereas the global economy faces challenges and the emergence of new actors, and both the EU and the US must exploit the full potential of closer economic cooperation in order to leverage the benefits of international trade in terms of overcoming the economic crisis and achieving a sustained global economic recovery;

F. whereas, following the EU-US Summit held in November 2011, the HLWG was tasked to identify options for increasing trade and investment in order to support mutually beneficial job creation, economic growth and competitiveness;

G. whereas the HLWG has jointly analysed a wide range of potential options for expanding transatlantic trade and investment, reaching the conclusion in its Final Report that a comprehensive trade and investment agreement would provide the most significant level of benefit for both economies;

H. whereas the EU is convinced that developing and strengthening the multilateral system is the crucial objective; whereas, however, that does not preclude bilateral agreements going beyond WTO commitments and being complementary to multilateral rules, since both regional agreements and free trade agreements lead to increasing harmonisation of standards and broader liberalisation favourable to the multilateral trading system;

I. whereas on 12 March 2013 the Commission proposed authorising the opening of negotiations and draft negotiating directives for the consideration of the Council;

The strategic, political and economic context

1. Believes that the strategic importance of the EU-US economic relationship should be reaffirmed and deepened, and that the EU and the US should design common approaches to global trade, investment and trade-related issues such as standards, norms and regulations, in order to develop a broader transatlantic vision and a common set of strategic goals;

2. Considers that it is crucial for the EU and the US to realise the untapped potential of a truly integrated transatlantic market, in order to maximise the creation of decent jobs and stimulate a smart, strong, sustainable and balanced growth potential; considers this to be particularly timely in the light of the ongoing economic crisis, the state of the financial markets and financing conditions, the high level of public debt, high unemployment rates and modest growth projections on both sides of the Atlantic, and of the benefits offered by a truly coordinated response to these shared problems;

3. Believes that the EU should draw on its vast experience of negotiating deep and comprehensive bilateral trade agreements in order to achieve even more ambitious results with the US;

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The HLWG Final Report

4. Welcomes the release of the HLWG Final Report and fully endorses the recommendation to launch negotiations for a comprehensive trade and investment agreement;

5. Welcomes the emphasis in the Final Report on: (i) ambitiously improving reciprocal market access for goods, services, investment and public procurement at all levels of government; (ii) reducing non-tariff barriers (NTBs) and enhancing the compatibility of regulatory regimes; and (iii) developing common rules to address shared global trade challenges and opportunities;

6. Supports the view that, given already-existent low average tariffs, the key to unlocking the potential of the transatlantic relationship lies in the tackling of NTBs, which consist mainly of customs procedures, technical standards, and behind-the-border regulatory restrictions; supports the objective proposed by the HLWG of moving progressively towards an even more integrated transatlantic marketplace;

7. Welcomes the recommendation to explore new means of reducing unnecessary costs and administrative delays stemming from regulation, while achieving the levels of health, safety and environmental protection that each side deems appropriate, or while otherwise meeting legitimate regulatory objectives;

Negotiating mandate

8. Reiterates its support for a deep and comprehensive trade and investment agreement with the US that would support the creation of high-quality jobs for European workers, directly benefit European consumers, open up new opportunities for EU companies, in particular small and medium-sized enterprises (SMEs), to sell goods and provide services in the US, ensure full access to public procurement markets in the US, and improve opportunities for EU investments in the US;

9. Calls on the Council to follow up on the recommendations contained in the HLWG Final Report and to authorise the Commission to start negotiations for a Transatlantic Trade and Investment Partnership (TTIP) agreement with the US;

10. Stresses that the TTIP should be ambitious and binding on all levels of government on both sides of the Atlantic, including all regulators and other competent authorities; stresses that the agreement should lead to lasting genuine market openness on a reciprocal basis and trade facilitation on the ground, and should pay particular attention to structural ways of achieving greater transatlantic regulatory convergence; considers that the agreement should not risk prejudicing the Union's cultural and linguistic diversity, including in the audiovisual and cultural services sector;

11. Considers it essential for the EU and its Member States to maintain the possibility of preserving and developing their cultural and audiovisual policies, and to do so in the context of their existing laws, standards and agreements; calls, therefore, for the exclusion of cultural and audiovisual services, including those provided online, to be clearly stated in the negotiating mandate;

12. Stresses that intellectual property is one of the driving forces of innovation and creation and a pillar of the knowledge-based economy, and that the agreement should include strong protection of precisely and clearly defined areas of intellectual property rights (IPRs), including geographical indications, and should be consistent with existing international agreements; believes that other areas of divergence relating to IPRs should be resolved in line with international standards of protection;

13. Considers that the agreement should guarantee full respect for EU fundamental rights standards; reiterates its support for a high level of protection of personal data, which should benefit consumers on both sides of the Atlantic; considers that the agreement should take account of the General Agreement on Trade in Services (GATS) provisions on the protection of personal data;

14. Recalls the importance of the transport sector for growth and jobs, and especially in aviation, where the EU and US markets account for 60 % of world air traffic; stresses that the negotiations should meaningfully address the current restrictions on maritime and air transport services owned by European businesses, including in relation to foreign ownership of airlines and reciprocity on cabotage, as well as maritime cargo screening;

15. Highlights the value of risk-based assessment and information sharing between both parties regarding market surveillance and the identification of counterfeit products;

16. Welcomes, in particular, the HLWG's recommendation that the EU and the US address the environment and labour aspects of trade and sustainable development; considers that the experience of previous EU trade agreements and the long-lasting EU-US commitments should be taken into account in order to strengthen the development and enforcement of labour and environmental laws and policies and promote the core standards and benchmarks laid down by the International Labour Organisation (ILO), as well as decent jobs and sustainable development; encourages the harmonisation of Corporate Social Responsibility (CSR) standards; recognises that achieving common standards is likely to present both technical and political challenges, and emphasises that the common goal should be to ensure that there is no diminution of environmental ambitions;

17. Emphasises the sensitivity of certain fields of negotiation, such as the agricultural sector, where perceptions of Genetically Modified Organisms (GMOs), cloning and consumer health tend to diverge between the US and the EU; sees an opportunity in enhanced cooperation in agriculture trade, and stresses the importance of an ambitious and balanced outcome in this field; stresses that the agreement must not undermine the fundamental values of either side, for example the precautionary principle in the EU; calls on the US to lift its import ban on EU beef products, as a trust-building measure;

18. Stresses that financial services must be included in the TTIP negotiations, and calls in this context for particular attention to be paid to equivalence, mutual recognition, convergence and extraterritoriality, since these are central considerations for both sides; emphasises that convergence towards a common financial regulatory framework between the EU and US would be beneficial; highlights that whilst market access must be regarded as a positive step, prudential supervisory processes are vital for obtaining proper convergence; stresses that the negative impact of extraterritoriality should be minimised and should not be allowed to detract from a consistent approach to regulating financial services;

19. Reaffirms its support for the dismantling of unnecessary regulatory barriers, and encourages the Commission and the US Administration to include in the agreement mechanisms (including early upstream regulatory cooperation) aimed at preventing future barriers; considers that better regulation and the reduction of regulatory and administrative burdens are issues which must be at the forefront when negotiating the TTIP, and that greater transatlantic regulatory convergence should lead to more streamlined regulation which is easy to understand and apply, in particular for SMEs;

20. Reiterates its conviction that an EU-US comprehensive trade and investment agreement has the potential to lead to a win-win situation, beneficial for both economies, and that a deeper degree of integration would considerably multiply the gains for both economies; is convinced that aligning EU and US regulatory technical standards where possible, would ensure that the EU and the US will continue to set global standards, and would pave the way for international standards; takes the firm view that the benefits of this agreement in terms of international trade and standardisation must be carefully considered and formulated;

21. Recalls the need for proactive outreach and continuous and transparent engagement by the Commission with a wide range of stakeholders, including business, environmental, agricultural, consumer, labour and other representatives, throughout the negotiation process, in order to ensure fact-based discussions, build trust in the negotiations, obtain proportionate input from various sides, and foster public support by taking stakeholders' concerns into consideration; encourages all stakeholders to actively participate and to put forward initiatives and information relevant to the negotiations;

22. Cautions that quality should prevail over time, and trusts that the negotiators will not rush into a deal that does not deliver tangible and substantive benefits to our businesses, workers and citizens;

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The role of Parliament

23. Looks forward to the launch of negotiations with the US, and to following them closely and contributing to their successful outcome; reminds the Commission of its obligation to keep Parliament immediately and fully informed at all stages of the negotiations (before and after the negotiating rounds); is committed to addressing the legislative and regulatory issues that may arise in the context of the negotiations and the future agreement; reiterates its basic responsibility to represent the citizens of the EU, and looks forward to facilitating inclusive and open discussions during the negotiating process; is committed to taking a proactive role in collaborating with its US counterparts when introducing new regulations;

24. Is committed to working closely with the Council, the Commission, the US Congress, the US Administration and the stakeholders to achieve the full economic, social and environmental potential of the transatlantic economic relationship and strengthen EU and US leadership in the liberalisation and regulation of trade and foreign investment; is committed to encouraging a deeper bilateral EU-US cooperation in order to assert the leadership of both in international trade and investment;

25. Recalls that Parliament will be asked to give its consent to the future TTIP agreement, as stipulated by the Treaty on the Functioning of the European Union, and that its positions should therefore be duly taken into account at all stages;

26. Recalls that Parliament will endeavour to monitor the implementation of the future agreement;

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

P7_TA(2013)0228

Myanmar/Burma's access to generalised tariff preferences

European Parliament resolution of 23 May 2013 on reinstatement of Myanmar/Burma's access to generalised tariff preferences (2012/2929(RSP))

(2016/C 055/17)

The European Parliament,

— having regard to its previous resolutions on Burma/Myanmar, in particular those of 20 April 2012 ([1]) and 22 November 2012 ([2]), and to its resolution of 13 September 2012 on the persecution of Rohingya Muslims in Burma/Myanmar ([3]),

— having regard to the EU Foreign Affairs Council conclusions of 23 April 2012 on Burma/Myanmar,

— having regard to the joint statement of 15 June 2012 by High Representative Catherine Ashton and Trade Commissioner Karel De Gucht, calling for the reinstatement of trade preferences for Burma/Myanmar, and to the statement of 6 February 2013 by the High Representative's spokesperson, announcing the possible organisation of a Myanmar-EU task force in order to strengthen economic cooperation,

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([1]) Texts adopted, P7_TA(2012)0142.
([2]) Texts adopted, P7_TA(2012)0464.
([3]) Texts adopted, P7_TA(2012)0355.

— having regard to the Commission's proposal for a regulation of the European Parliament and of the Council repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to generalised tariff preferences from Myanmar/Burma (COM(2012)0524),

— having regard to Council Regulation (EC) No 732/2008 of 22 July 2008 ([1]), applying the current Generalised Scheme of Tariff Preferences (GSP),

— having regard to the 'Resolution concerning the measures on the subject of Myanmar adopted under article 33 of the ILO Constitution', adopted by the International Labour Conference on 13 June 2012,

— having regard to the Joint Myanmar/ILO Strategy for the elimination of forced labour by 31 December 2015, as approved by the authorities of Myanmar/Burma on 5 July 2012,

— having regard to the US Government document of 11 July 2012 entitled 'Reporting Requirements on Responsible Investment in Burma' ([2]),

— having regard to the report of the United Nations Special Rapporteur on the situation of human rights in Burma/Myanmar of 6 March 2013,

— having regard to the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, adopted in 1998, and to the ILO conventions establishing universal core labour standards with regard to: the abolition of forced labour (Nos 29 (1930) and 105 (1957)); freedom of association and the right to bargain collectively (Nos 87 (1948) and 98 (1949)); the abolition of child labour (Nos 138 (1973) and 182 (1999)); and non-discrimination in employment (Nos 100 (1951) and 111 (1958)),

— having regard to the action plan to prevent the recruitment and use of children by the Myanmar armed forces, signed by the Government of Burma/Myanmar and the UN on 27 June 2012,

— having regard to the UN Convention on the Rights of the Child (CRC) and in particular Article 38 thereof,

— having regard to the UN Guiding Principles on Business and Human Rights ([3]) and to the Foreign Affairs Council conclusions of 8 December 2009 ([4]),

— having regard to the OECD Guidelines for Multinational Enterprises, updated in May 2011,

— having regard to the Global Reporting Initiative and its Sustainability Reporting Guidelines ([5]),

— having regard to the UN Principles for Responsible Investment (UNPRI),

— having regard to the Commission communication entitled '"Responsible Businesses' package' (COM(2011)0685),

— having regard to the ongoing negotiations on the Commission proposal for a directive of the European Parliament and of the Council amending Directive 2004/109/EC (the 'Transparency Directive') (COM(2011)0683) and to the Commission proposal for a directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (COM(2011)0684), which amends Directive 2003/51/EC (the 'Accounting Directive'),

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([1]) OJ L 211, 6.8.2008, p. 1.
([2]) http://www.humanrights.gov/wp-content/uploads/2012/07/Burma-Responsible-Investment-Reporting-Reqs.pdf
([3]) 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' of 16 June 2011, endorsed by the UN Human Rights Council: http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf
([4]) http://www.business-humanrights.org/SpecialRepPortal/Home/Protect Respect-Remedy-Framework and http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/111819.pdf
([5]) Version 3.1, March 2011: https://www.globalreporting.org/resourcelibrary/G3.1-Sustainability-Reporting-Guidelines.pdf

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— having regard to its resolution of 25 November 2010 on corporate social responsibility in international trade agreements ([1]),

— having regard to its resolutions of 6 February 2013 on 'Corporate Social Responsibility: promoting society's interests and a route to sustainable and inclusive recovery' ([2]) and on 'corporate social responsibility: accountable, transparent and responsible business behaviour and sustainable growth' ([3]),

— having regard to the First EP-Myanmar Interparliamentary Meeting held from 26 February to 2 March 2012, and the report thereof ([4]),

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

A. whereas the human rights situation in Myanmar/Burma remains fragile despite the steps being taken by the government of President Thein Sein;

B. whereas Myanmar/Burma is geographically situated in a region that is of great strategic and geopolitical interest to the EU, the United States, China, India and Australia, in particular;

C. whereas these ongoing changes are creating important opportunities for developing a much improved relationship between the EU and Myanmar/Burma, assisting the reform process and contributing to economic, political and social development;

D. whereas the Commission has proposed to reinstate access to generalised tariff preferences for Myanmar/Burma on account of the International Labour Organisation (ILO) judging that violations of the ILO Convention on Forced Labour are no longer considered serious and systematic;

E. whereas, according to ILO estimates, there are still some 5 000 child soldiers in Myanmar/Burma;

F. whereas there is a need for caution, given that, according to the report of the UN Special Rapporteur on the situation of human rights in Myanmar, serious human rights concerns remain, including arbitrary detention, forced displacement, land confiscations, the use of child soldiers, aggressive acts against ethnic minorities and a weak judiciary;

G. whereas in the past many sectors of economic activity in Myanmar/Burma, such as mining, timber, oil, gas and dam construction, have been directly linked to serious human rights abuses and environmental destruction, while at the same time being the military government's main source of revenue;

H. whereas companies operating in fragile states and weak governance zones, such as Myanmar/Burma, face an increased risk of causing or contributing to human rights violations; whereas special measures are consequently necessary in order to avoid this risk, as recognised in the US Government reporting requirements for responsible investment in Myanmar/Burma;

I. whereas European companies and their subsidiaries and subcontractors can play a key role in the promotion and dissemination of social and labour standards worldwide;

J. whereas any enterprise operating in Myanmar/Burma should be required to meet its obligation to uphold international human rights standards and therefore to:

(a) comply with its national and international legal obligations in the areas of human rights, social and labour standards and environmental rules,

(b) show a genuine commitment to the rights, protection and well-being of its workforce and of citizens generally,

(c) uphold freedom of association and collective bargaining rights,

([1]) OJ C 99 E, 3.4.2012, p. 101.
([2]) Texts adopted, P7_TA(2013)0050.
([3]) Texts adopted, P7_TA(2013)0049.
([4]) http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dase/cr/897/897838/897838en.pdf

(d) refrain from land grabbing and forced displacement of local populations,

(e) deal with any infringements swiftly and effectively;

1. Recognises the significant steps taken by President Thein Sein and other reformers in Myanmar/Burma in introducing democratic reforms over the past year which have led the Commission to propose the reinstatement of Myanmar/Burma's access to the Generalised Scheme of Tariff Preferences (GSP); encourages them to continue this process as a matter of urgency so that full democratisation, consolidation of the rule of law and respect for all human rights and fundamental freedoms are made both permanent and irreversible;

2. Calls for continuing peace talks with ethnic groups, in particular the Kachin, and urges the authorities of Myanmar/Burma to set out an action plan to end the repression against the Rohingyas and other repressed minorities, including granting citizenship rights, addressing deep-rooted prejudices and discriminatory attitudes based on ethnicity and religion, and developing a policy of integration and long-term reconciliation for displaced communities;

3. Calls on the Government of Myanmar/Burma to adhere to the principles of good governance and to release all remaining political prisoners without delay or conditions; calls further on the Government of Myanmar/Burma to ensure respect for freedom of opinion, expression, assembly and association, and to continue its close cooperation with organisations such as the ILO in order to eradicate forced labour and make sure that the implementation of laws on labour organisations and peaceful demonstrations and gatherings is consistent with international human rights standards;

4. Urges the Government of Myanmar/Burma to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, allow the International Committee of the Red Cross and national monitoring groups full access to prisons and take immediate and effective measures to prevent torture and ill-treatment;

5. Urges the Government of Myanmar/Burma to accelerate efforts to review and reform legislation and legal provisions that contravene international human rights standards, with clear target dates for the conclusion of each review; notes that these reforms must include unfettered participation of civil society groups and assistance of international human rights bodies, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR); calls on the government to ensure effective implementation of new and revised laws, including by training and building the capacity of implementing institutions, members of the legal profession, law enforcement officers and the judiciary;

6. Regrets that, despite several promises by President Thein Sein, the United Nations Office of the High Commissioner for Human Rights has not yet been able to establish a permanent presence in the country;

7. Underlines the importance of addressing in an independent manner all allegations of human rights violations in conflict-affected areas and granting the United Nations and other aid and humanitarian workers access to all those in need of humanitarian assistance, in both government-controlled and non-government controlled areas;

8. Calls on the Government of Myanmar/Burma to fully implement its Joint Action Plan with the ILO on the eradication of forced labour by 31 December 2015 and to continue its close cooperation with organisations such as the ILO in order to eradicate this practice and make sure that the implementation of laws on labour organisations and peaceful demonstrations and gatherings is consistent with international human rights standards;

9. Notes the implementation of the foreign investment law of November 2012, which is overseeing unprecedented liberalisation of the economy; stresses the importance of ratifying the ILO Memorandum of Understanding, signed by the Burmese Ministry of Labour, with a view to ending forced labour by 2015, and of implementing the plan to adopt anti-corruption and taxation legislation;

10. Recognises that, owing to the long period of military rule, which has permeated and structured all layers of Burmese society, and despite the important initiatives aimed at democratisation, changes are slow and require international aid and support;

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11. Expresses its deep concern about reports that the forced recruitment of children into the ranks of the Tatmadaw Kyi (Myanmar army) and the Border Guard Forces has not ceased and therefore calls on the Government of Myanmar/Burma swiftly to implement all aspects of the action plan on child soldiers, which it signed with the UN, and for the protection of children to become a high priority of the reform agenda;

12. Calls on the Government of Myanmar/Burma to ensure that farmers and communities are protected from land confiscation and forced evictions, in line with international standards; notes concerns about the Constitution, the Farmland Law and the Vacant, Fallow and Virgin Land Management Law, which allows the government to confiscate land for any project that it claims to be of 'national interest' and permits it to use all 'vacant' lands, some of which are occupied and provide a livelihood for communities; further notes that well-connected business people are pursuing legal action to register such land in their own names;

13. Underlines the importance of the Commission's short-term trade-related assistance programme to start in 2013; invites the Government of Myanmar/Burma to strengthen its trade institutions and policies in view of their positive effects on the country's economy, and to take all necessary steps to maximise the benefit derived from EU trade-related assistance and the reinstatement of Everything But Arms preferences;

14. Calls for an increase in the level of EU bilateral development aid to Myanmar/Burma under the 2014-2020 multiannual financial framework and for the Government of Myanmar/Burma to promote and support action in the main areas covered by the European Instrument for Democracy and Human Rights (EIDHR): consolidation of democracy, the rule of law and respect for human rights and fundamental freedoms; notes, in this connection, the work of the EU-funded Myanmar Peace Centre; expects the Government of Myanmar/Burma to accept and facilitate the opening of a UN regional Office of the High Commissioner for Human Rights with a full mandate, as the country needs not only technical assistance but also a mechanism for close monitoring of human rights;

15. Takes note of the decision of the Association of Southeast Asian Nations to accept Burma/Myanmar's bid to chair the organisation in 2014 as a sign of renewed confidence in the country;

16. Stresses the need for the Government of Myanmar/Burma to strengthen its trade institutions and policies, to compose a plan for strengthening anti-corruption and taxation laws, and to establish a framework for companies in line with international standards of corporate social and environmental responsibility;

17. Welcomes the Myanmar/Burma Government's commitment to join the Extractive Industries Transparency Initiative (EITI), which will require it to disclose the revenues it receives from extractive industries and economic activities; invites, furthermore, the Myanmar/Burma Government to move as quickly as possible towards full EITI compliance by meeting the relevant requirements, while fully involving civil society in that process;

18. Acknowledges that responsible and sustainable trade and investment — including with and from the Union — can support Myanmar/Burma 's efforts to fight poverty and to ensure that measures benefit broader sections of the population; notes, however, that this has to be done by promoting implementation of the highest standards of integrity and corporate social responsibility, as laid out in the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights and the EU's own 'strategy 2011-14 for Corporate Social Responsibility' (COM(2011)0681);

19. Considers that disclosure to investors and consumers is a key driver of corporate social responsibility (CSR) and must be based on readily applicable and measurable social and environmental principles; emphasises that it is also important in order to protect the long-term value of European investments; calls for such disclosure to be firmly based on support for the UN Principles for Responsible Investment and the principle of integrated reporting (IR);

20. Notes the positive steps taken in the current reforms of the Transparency Directive and the Accounting Directive, respectively, in addressing the issue of CSR while balancing the legitimate quest for transparency and responsibility with the burden of reporting by companies; strongly supports the legislative proposal for country-by-country reporting based on the EITI standards and for reporting on sales and profits, as well as taxes and revenues, in order to discourage corruption and prevent tax avoidance; stresses that such country-by-country-reporting should cover those sectors which, in Myanmar/Burma, have been directly linked to serious and systematic human rights abuses and environmental destruction, such as mining, timber, oil and gas;

21. Calls on large European companies doing business with Myanmar/Burma to report on their due diligence policies and procedures relating to human rights, workers' rights and the environment, along with the application of those policies and procedures;

22. Asks the Commission to monitor the commitments made by EU enterprises in light of internationally recognised CSR principles and guidelines, in line with its communication on the EU's CSR strategy, as well as any voluntary requirements which may be adopted unilaterally by EU enterprises, and to define human rights guidance for the oil and gas sectors;

23. Calls on the Commission to continue to monitor developments in Myanmar/Burma with respect to forced labour and any other serious and systematic violations of human rights, and to respond to such developments in accordance with the procedures and mechanisms in place, including, if necessary, through renewed proposals for the withdrawal of trade preferences;

24. Expects the EEAS to consult Parliament and keep it informed about the process of establishing a human rights dialogue with Myanmar/Burma;

25. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the parliaments and governments of the Member States and the Parliament and Government of Myanmar/Burma.

P7_TA(2013)0229

A macro-regional strategy for the Alps

European Parliament resolution of 23 May 2013 on a macro-regional strategy for the Alps (2013/2549(RSP))

(2016/C 055/18)

The European Parliament,

— having regard to Articles 192, 265(5) and 174 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to the EU Strategy for the Baltic Sea Region (COM(2009)0248),

— having regard to the Alpine Convention of 7 November 1991,

— having regard to the Commission communication of 8 December 2010 entitled 'European Union Strategy for Danube Region' (COM(2010)0715) and the indicative action plan accompanying that strategy (SEC(2009)0712),

— having regard to its resolution of 17 February 2011 on the implementation of the EU Strategy for the Danube Region ([1]),

— having regard to the European Council conclusions of 24 June 2011, in which the European Council invited the Member States to 'continue work in cooperation with the Commission on possible future macro-regional strategies',

— having regard to the Commission proposal of 6 October 2011 for a regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (COM(2011)0611),

— having regard to Rules 115(5) and 110(4) of its Rules of Procedure,

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([1]) OJ C 188 E, 28.6.2012, p. 30.

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A. whereas macro-regional strategies are aimed at making better use of existing resources to tackle territorial development issues, identifying joint responses to common challenges, enhancing spatial integration and boosting the effectiveness of several forms of EU-supported policies and partnerships between public administrations and local and regional authorities, as well as other institutions and civil society organisations;

B. whereas the Commission is proposing that the transnational strand of territorial cooperation policy should be enhanced and that any new macro-regional strategies should be initiated on a voluntary basis but draw on previous experience and best practice;

C. whereas the territories that make up the Alpine region share many common features, such as the geographical uniqueness of their high mountain areas and their close interactions with the larger cities in the peri-Alpine belt;

D. whereas the macro-regional strategy for the Alps, which should be comparable to the strategies adopted by the EU for the Baltic Sea and Danube regions, will afford an opportunity to give the Alps a new dimension and greater significance in the EU context, in terms of better access to funding;

E. whereas the Alpine region belongs to several EU Member States and non-EU countries, and constitutes an interconnected macro-region with heterogeneous economic capacities and growing concerns over environmental issues, demographic change, transport infrastructure, tourism and energy-related issues, and whereas coordination of the internal and external policies of all stakeholders could produce better results and added value;

F. whereas the Alps are mountains of European and international interest, with fragile ecosystems and a large number of glaciers that are seriously affected by climate change, as well as a high number of protected natural areas and various protected endemic species of flora and fauna;

G. whereas cohesion policy aims to achieve economic, social and territorial cohesion across the EU;

1. Believes that the development of large-scale strategies, such as macro-regional strategies, should contribute to enhancing the role of the local and regional level in the implementation of EU policy, and that the multi-level governance principle should be put at the heart of the planning and implementation of the Alps strategy;

2. Recalls the results of the learning experience afforded by the Baltic Sea Strategy and the Danube Strategy as regards transparency in the decision-making process and the allocation of EU funding; calls on the Commission to submit without delay a specific action plan for this area with a view to overcoming the structural handicaps faced by mountain regions and creating the right conditions for economic growth and effective social and territorial cohesion in the region;

3. Highlights the positive role played by EU legislative tools such as the European Groupings of Territorial Cooperation (EGTCs) in relation to macro-regions, since they provide structural support for concrete aspects of cooperation and the exchange of good practice as well as for the design and implementation of territorial development strategies allowing authorities at different levels to cooperate;

4. Welcomes the current developments in, and the strong bottom-up approach adopted by, the regions of the Alpine area, which have repeatedly expressed their desire for an Alpine strategy to address effectively challenges common to the entire Alpine arc, to exploit its considerable potential more consistently and to address the need to improve mobility, energy security, environmental protection, social and economic development, cultural exchange, and civil protection in the Alpine region;

5. Regards sustainable development of the Alps as one of the main goals within the macro-regional strategy, taking into account the high number of glaciers affected by climate change;

6. Believes that this strategy should also encourage, and try to facilitate cooperation on, the designation of European protected natural areas, as exemplified by the recent joint initiative of the Parc National du Mercantour (France) and the Parco Naturale delle Alpi Marittime (Italy);

7. Points out the importance of aligning the content of the strategy for the Alps with the Alpine Convention and the subsequent protocols thereto, as well as taking into account existing transnational cooperation and networking in this field;

8. Emphasises that a macro-regional strategy for the Alps should take into account the preservation of forms of traditional — primarily agricultural — land use, so as to foster biodiversity, as well as the preservation of existing protected areas;

9. Calls for a macro-regional strategy for the Alps to be the subject of a comprehensive evaluation by the Commission, based on objective criteria and measurable indicators;

10. Calls on the Commission genuinely to implement Article 174 TFEU through a strategic plan, with a view to overcoming the structural handicaps of mountain regions and creating the right conditions for economic growth and effective social and territorial cohesion in the Alpine region;

11. Believes that the strategy's territorial dimension will lead to the concrete development of the idea of territorial cohesion;

12. Stresses that a macro-regional strategy for the Alps is an effective tool for enhancing European territorial cooperation within the region concerned by applying a bottom-up approach and expanding cooperation through better use of available resources, thereby facilitating cross-sector policy coordination;

13. Emphasises that a macro-regional strategy for the Alps would ensure that the EU's different initiatives relating to the Alpine region and mountain areas complement each other, and would bring real added value to concrete projects;

14. Considers that a macro-regional strategy for the Alps must coordinate existing EU funds, in particular under the cohesion policy, in order to implement projects aimed at addressing common challenges such as protection of the environment, investment in competitiveness and innovation, agriculture and forestry, water, energy, environmental and climate issues and transport;

15. Stresses that a possible macro-regional strategy for the Alps would be in line with the Europe 2020 objectives, thereby ensuring conformity with the EU's commitment to smart, sustainable and inclusive growth;

16. Underlines the importance of increasing, by means of such a strategy, the innovative capacity of the Alps region by making use of the skills offered by its labour force, creating partnerships and cooperation among key stakeholders (labour market, education, training and research, and employers), keeping active young people in the area, supporting creativity and enhancing the capacity of the different regions in the areas of education, science and research;

17. Stresses that the new 'macro-regional' cooperation framework must ensure that the natural handicaps of peripheral regions, such as high mountain areas, are converted into assets and opportunities, and that the sustainable development of these regions is stimulated;

18. Instructs its President to forward this resolution to the Council, the Commission, the Committee of the Regions and the other relevant institutions.

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P7_TA(2013)0230

Labour conditions and health and safety standards following the recent factory fires and building collapse in Bangladesh

European Parliament resolution of 23 May 2013 on labour conditions and health and safety standards following the recent factory fires and building collapse in Bangladesh (2013/2638(RSP))

(2016/C 055/19)

The European Parliament,

— having regard to its previous resolutions on Bangladesh, in particular those of 17 January 2013 on recent casualties in textile factory fires, notably in Bangladesh ([1]), and of 14 March 2013 on the situation in Bangladesh ([2]) and on sustainability in the global cotton value chain ([3]),

— having regard to the joint statement of 30 April 2013 by Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy Catherine Ashton and Trade Commissioner Karel De Gucht following the recent building collapse in Bangladesh,

— having regard to the Accord on Fire and Building Safety in Bangladesh,

— having regard to the ILO Declaration on Fundamental Principles and Rights at Work, the United Nations Global Compact and the OECD Guidelines for Multinational Enterprises,

— having regard to its resolutions of 25 November 2010 on human rights and social and environmental standards in international trade agreements ([4]) and on corporate social responsibility in international trade agreements ([5]),

— having regard to the Cooperation Agreement between the European Community and the People's Republic of Bangladesh on Partnership and Development ([6]),

— having regard to the ILO Promotional Framework for Occupational Safety and Health (2006, C-187) and the Occupational Safety and Health Convention (1981, C-155), which have not been ratified by Bangladesh, as well as to their respective recommendations (R-197); having regard also to the Labour Inspection Convention (1947, C-081), to which Bangladesh is a signatory, and to its recommendations (R-164),

— having regard to the Commission communication entitled 'A renewed EU strategy 2011-2014 for Corporate Social Responsibility' (COM(2011)0681),

— having regard to its resolutions of 6 February 2013 on 'corporate social responsibility: accountable, transparent and responsible business behaviour and sustainable growth' ([7]) and on 'Corporate Social Responsibility: promoting society's interests and a route to sustainable and inclusive recovery' ([8]),

— having regard to the UN Guiding Principles on Business and Human Rights, which set a framework for both governments and companies to protect and respect human rights, as endorsed by the Human Rights Council in June 2011,

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([1]) Texts adopted, P7_TA(2013)0027.
([2]) Texts adopted, P7_TA(2013)0100.
([3]) Texts adopted, P7_TA(2013)0099.
([4]) OJ C 99 E, 3.4.2012, p. 31.
([5]) OJ C 99 E, 3.4.2012, p. 101.
([6]) OJ L 118, 27.4.2001, p. 48.
([7]) Texts adopted, P7_TA(2013)0049
([8]) Texts adopted, P7_TA(2013)0050.

— having regard to the Clean Clothes Campaign,

— having regard to the conclusions of the ILO's high-level mission to Bangladesh of 1 to 4 May 2013,

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

A. whereas on 24 April 2013, more than 1 100 people died and some 2 500 were injured in the garment factory collapse at the Rana Plaza building in Dhaka, Bangladesh, making it the worst tragedy in the history of the global garment industry;

B. whereas at least 112 people died in the Tazreen factory fire, in the Ashulia district of Dhaka on 24 November 2012; whereas eight people died in a factory fire in Dhaka on 8 May 2013; and whereas an estimated 600 garment workers had died in factory fires in Bangladesh alone since 2005, before the tragedy of Rana Plaza;

C. whereas the owner of the Rana Plaza and eight other people were arrested and had criminal charges filed against them, on the grounds that the building had been constructed illegally and had developed massive structural problems, yet workers were forced to continue working despite their fears over safety;

D. whereas conditions in such textile factories are often poor, with little regard for labour rights such as those recognised under the main ILO conventions and often with little or no regard for safety; whereas the owners of such factories have in many cases gone unpunished and have therefore done little to improve working conditions;

E. whereas, in the case of the Tazreen factory, although a government enquiry committee formed by the Ministry of Home Affairs and the Parliamentary Standing Committee on the Labour Ministry came to the conclusion that criminal charges for unpardonable negligence should be brought against the owner, he has still not been arrested;

F. whereas the European market is the largest export destination for Bangladeshi apparel and textile products, with prominent Western companies admitting that they had contracts with Rana Plaza factories for the supply of garments;

G. whereas Bangladesh has become the world's second-largest exporter of ready-made garments, next only to China, whereas it now has more than 5 000 textile factories, employing approximately 4 million people, and whereas clothing now accounts for 75 % of its exports;

H. whereas the textile industry is considered to be one of the most polluting industrial sectors; whereas spinning, weaving and production of industrial fibres can undermine air quality and release numerous volatile agents into the atmosphere that are particularly harmful to workers, consumers and the environment;

I. whereas those working in the Rana Plaza are reported to have been paid as little as EUR 29 per month; whereas, according to the Clean Clothes Campaign, labour costs in this sector account for a mere 1 % to 3 % of a product's final price, and whereas pressure on pricing is increasing;

J. whereas several major Western firms have now signed up to a legally binding accord agreed by local labour organisations which aims to ensure basic standards of workplace safety in garment factories in Bangladesh, following widespread criticism of international firms working with local garment producers;

1. Expresses its sorrow at the tragic and preventable loss of more than 1 100 lives and the injuries sustained by thousands more as a result of the collapse of the Rana Plaza; extends its condolences to the victims' families and to those who were injured, and condemns those responsible for failing once again to prevent such heavy loss of life;

2. Stresses that such accidents tragically highlight the lack of safety standards at production sites and prove that urgent action is needed to improve the implementation of ILO core labour standards and enhance respect for the principles of corporate social responsibility (CSR) on the part of multinational textile retailers;

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3. Defends the right of workers in Bangladesh to form, register and join independent trade unions without fear of harassment; considers the existence of democratic trade union structures to be a vital instrument in the struggle for better health and safety standards and working conditions, including higher wages; calls on the Government of Bangladesh to guarantee these fundamental rights;

4. Welcomes the Accord on Fire and Building Safety in Bangladesh between the trade unions, NGOs and about 40 multinational textile retailers, finalised on 15 May 2013, which aims to improve safety standards at production sites (and which covers the arrangements for paying for such measures), in particular by establishing an independent inspection system, including public reports and mandatory repairs and renovations, and by actively supporting the creation of 'health and safety committees' involving worker representation bodies in each factory; calls on all other relevant textile brands to support this effort, including textile retailers Walmart, Gap, Metro, NKD and Ernstings, which continue to reject any binding agreement;

5. Welcomes the Action Plan adopted by the government, employers, workers and the ILO on 4 May 2013, which commits the parties notably to reforming the labour laws so as to allow workers to form trade unions without prior permission from factory owners and to engage in collective bargaining, to assessing the safety of all active export-oriented ready-made-garment factories in Bangladesh by the end of 2013, to relocating unsafe factories and to recruiting hundreds of additional inspectors;

6. Hopes that the Accord and the Action Plan will be implemented in a timely manner and in full; welcomes, in this connection, the approval by the Bangladesh Cabinet on 13 May 2013 of the Bangladesh Labour (Amendment) Act 2013, which includes provisions on group insurance and factory health services; urges the Bangladesh parliament to adopt this amendment without delay at its forthcoming session; also welcomes the Bangladeshi Government's decision to raise the minimum wage in the coming weeks, and urges the Bangladeshi Government to prosecute companies that are illegally undercutting this wage;

7. Recalls that Bangladesh benefits from duty- and quota-free access to the EU market under the 'Everything But Arms' (EBA) scheme of the Generalised System of Preferences (GSP), and that these preferences can be withdrawn pursuant to Article 15(1) of the GSP Regulation in the event of serious and systematic violations of principles laid down in conventions listed in Part A, Annex III on the basis of the conclusions of the relevant monitoring bodies;

8. Calls on the Commission to investigate Bangladesh's compliance with these conventions and expects an investigation to be considered pursuant to Article 18 of the GSP Regulation should Bangladesh be found to be in serious and systematic violation of the principles laid down in them;

9. Considers deeply regrettable the failure of the Bangladeshi Government to enforce national building regulations; calls on the Government and the relevant judicial authorities to investigate allegations that the failure to implement those regulations was due to collusion between corrupt officials and landlords seeking to reduce their costs;

10. Expects those responsible for criminal negligence or otherwise criminally responsible in relation to the collapse of the Rana Plaza, the Tazreen factory fire or any other fire to be brought to justice; expects local authorities and factory management to cooperate in order to guarantee full access to the justice system for all victims, so as to enable them to claim compensation; expects multinational textile retailers that were producing at these factories to be involved in the establishment of a financial compensation plan; welcomes the steps which have already been taken by the Bangladeshi Government to support the victims and their families;

11. Calls on all businesses, notably garment brands, that contract or subcontract to factories in Bangladesh and other countries to adhere fully to internationally recognised CSR practices, in particular the recently updated OECD Guidelines for Multinational Enterprises, the ten principles of the UN Global Compact, the ISO 26000 Guidance Standard on Social Responsibility, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights, and to critically investigate their supply chains in order to ensure that their goods are produced exclusively in factories that fully respect safety standards and labour rights;

12. Calls on the Commission actively to promote responsible business conduct among EU companies operating abroad, with a special focus on ensuring strict compliance with all their legal obligations, in particular international standards and rules in the areas of human rights, labour and the environment;

13. Calls on retailers, NGOs and all the other actors involved, including where appropriate the Commission, to work together to develop a voluntary social labelling standard certifying that a product has been manufactured in accordance with ILO core labour standards throughout the entire supply chain; calls on companies using CSR as a marketing tool to take steps to ensure that any claims made are accurate;

14. Welcomes the support being given by the Commission to the Bangladesh Ministry of Labour and Employment and the Bangladesh Garment Manufacturers and Exporters Association; calls for such cooperation to be strengthened and extended to other countries in the region, as appropriate;

15. Instructs its President to forward this resolution to the Council, the Commission, the European External Action Service, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the UN Human Rights Council, the Government and Parliament of Bangladesh and the Director-General of the ILO.

P7_TA(2013)0231

Guantánamo: hunger strike by prisoners

European Parliament resolution of 23 May 2013 on Guantánamo: hunger strike by prisoners (2013/2654(RSP))

(2016/C 055/20)

The European Parliament,

— having regard to its previous resolutions on Guantánamo,

— having regard to its resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union's policy on the matter, including implications for the EU's strategic human rights policy ([1]),

— having regard to the international, European and national instruments on human rights and fundamental freedoms and on the prohibition of arbitrary detention, enforced disappearance and torture, such as the International Covenant on Civil and Political Rights (ICCPR) of 16 December 1966 and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the relevant protocols thereto,

— having regard to the Joint Statement of the European Union and its Member States and the United States of America, of 15 June 2009, on the closure of the Guantánamo Bay detention facility and future counterterrorism cooperation, based on shared values, international law, and respect for the rule of law and human rights,

([1]) Texts adopted, P7_TA(2012)0126.

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— having regard to the statement of 5 April 2013 by the UN High Commissioner for Human Rights, Navi Pillay, on the Guantánamo detention regime, in which she said that 'the continuing indefinite incarceration of many of the detainees amounts to arbitrary detention and is in clear breach of international law',

— having regard to the principles of the United Nations Charter and to the Universal Declaration of Human Rights,

— having regard to Rule 122 of its Rules of Procedure,

A. whereas many of the 166 remaining prisoners at Guantánamo Bay have engaged in hunger strikes to protest about current conditions at the detention facility;

B. whereas 86 of the remaining prisoners have been cleared for release but are still being held indefinitely;

C. whereas the European Union and the United States share fundamental values of freedom, democracy and respect for international law, the rule of law and human rights;

D. whereas at least 10 detainees participating in the hunger strike have been force-fed in order to keep them alive; whereas international agreements among doctors require that respect be shown for an individual's informed and voluntary decision to participate in a hunger strike;

E. whereas the European Union and the United States of America share the common value of freedom of religion; whereas there have been numerous reports of Korans belonging to the detainees being mishandled by American military personnel during cell searches;

F. whereas the EU-US Joint Statement of 15 June 2009 noted the commitment by President Obama to order the closure of the Guantánamo Bay detention facility by 22 January 2010 and welcomed the 'other steps to be taken, including the intensive review of its detention, transfer trial and interrogation policies in the fight against terrorism and increased transparency about past practices in regard to these policies';

G. whereas the US is closing its only civilian flight into Guantánamo, which means that the only flight available is a military flight requiring individuals to obtain permission from the Pentagon to board, thus limiting access for the press, lawyers and human rights workers;

1. Notes the close transatlantic relationship based on shared core values and respect for basic, universal and non-negotiable human rights, such as the right to a fair trial and the ban on arbitrary detention; welcomes the close transatlantic cooperation on a wide range of international human rights issues;

2. Calls on the US authorities to treat detainees with due respect for their inherent dignity and to uphold their human rights and fundamental freedoms;

3. Expresses concern for the well-being of the detainees on hunger strike and those being force-fed, and calls on the US to be respectful of their rights and decisions;

4. Urges the US to reconsider the closing of its only civilian flight into Guantánamo Bay, which would limit access for the press and civil society members;

5. Urges the US to oversee proper care of, and respect for, religious material while still following mandatory search procedures;

6. Stresses that prisoners still in detention should be entitled to a regular review of the lawfulness of their detention in line with Article 9 of the International Covenant on Civil and Political Rights, which states that 'anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful';

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7. Reiterates its indignation and outrage at all mass terrorist attacks, its solidarity with the victims of such attacks and its sympathy for the pain and suffering of their families, friends and relatives; reiterates, however, that the fight against terrorism cannot be waged at the expense of established basic shared values, such as respect for human rights and the rule of law;

8. Expresses its regret at the fact that the US President's commitment to close Guantánamo by January 2010 has not yet been implemented; reiterates its call on the US authorities to review the military commissions system with a view to ensuring fair trials, to close Guantánamo, and to prohibit in all circumstances the use of torture, ill-treatment and indefinite detention without trial;

9. Views with regret the US President's decision of 7 March 2011 to sign the executive order on detention and the revocation of the ban on military tribunals; is convinced that normal criminal trials under civilian jurisdiction are the best way to resolve the status of Guantánamo detainees; insists that detainees in US custody should be charged promptly and tried in accordance with international standards of the rule of law or else released; emphasises, in this context, that the same standards concerning fair trials should apply to all, without discrimination;

10. Instructs its President to forward this resolution to the Convening Authority for Military Commissions, the US Secretary of State, the US President, the US Congress and Senate, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the EU Member States, the UN Secretary-General, the President of the UN General Assembly and the governments of the UN member states.

P7_TA(2013)0232

India: execution of Mohammad Afzal Guru and its implications

European Parliament resolution of 23 May 2013 on India: execution of Mohammad Afzal Guru and its implications (2013/2640(RSP))

(2016/C 055/21)

The European Parliament,

— having regard to UN General Assembly Resolution 62/149 of 18 December 2007 calling for a moratorium on the use of the death penalty, and UN General Assembly Resolution 63/168 calling for the implementation of General Assembly Resolution 62/149, adopted by the UN General Assembly on 18 December 2008,

— having regard to the final declaration adopted by the 4th World Congress Against the Death Penalty, held in Geneva from 24 to 26 February 2010, which calls for universal abolition of the death penalty,

— having regard to the UN Secretary-General's report of 11 August 2010 on moratoriums on the use of the death penalty,

— having regard to its previous resolutions on the abolition of the death penalty, and in particular that of 26 April 2007 on the initiative for a universal moratorium on the death penalty ([1]),

— having regard to the submission made in July 2012 by 14 retired Indian Supreme Court and High Court judges to the President of India calling on him to commute the death sentences of 13 prisoners on the grounds that those sentences had been erroneously upheld by the Supreme Court over the previous nine years,

([1]) OJ C 74 E, 20.3.2008, p. 775.

Thursday 23 May 2013

— having regard to the World Day against the Death Penalty and to the European Day against the Death Penalty held on 10 October every year,

— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas Mohammad Afzal Guru was sentenced to death in 2002 after being convicted of conspiracy in relation to the December 2001 attack on the Parliament of India, and was executed by the Indian authorities on 9 February 2013;

B. whereas the death penalty is the ultimate cruel, inhuman and degrading punishment, violating the right to life as enshrined in the Universal Declaration of Human Rights;

C. whereas 154 countries in the world have abolished the death penalty de jure or de facto; whereas India, when presenting its candidacy for a seat on the UN Human Rights Council ahead of the elections of 20 May 2011, pledged to uphold the highest standards of promotion and protection of human rights;

D. whereas India ended its eight-year unofficial moratorium on executions in November 2012, when it executed Ajmal Kasab, convicted for his role in the 2008 Mumbai attacks;

E. whereas national and international human rights organisations have raised serious questions about the fairness of Afzal Guru's trial;

F. whereas over 1 455 prisoners in India are currently on death row;

G. whereas, despite a curfew imposed in large parts of Indian-administered Kashmir, Afzal Guru's death was followed by protests;

1. Reiterates its long-standing opposition to the death penalty under all circumstances, and calls once again for an immediate moratorium on executions in those countries where the death penalty is still applied;

2. Condemns the Government of India's execution in secret of Afzal Guru at New Delhi's Tihar Jail on 9 February 2013, in opposition to the worldwide trend towards the abolition of capital punishment, and expresses its regret that Afzal Guru's wife and other family members were not informed of his imminent execution and burial;

3. Calls on the Government of India to return Afzal Guru's body to his family;

4. Urges the Indian authorities to maintain adherence to the highest national and international judicial standards in all trials and judicial proceedings, and to provide the necessary legal assistance to all prisoners and persons facing trial;

5. Regrets the deaths of three young Kashmiris following the protests against Afzal Guru's execution; calls on the security forces to exercise restraint in the use of force against peaceful protesters; expresses its concern over the possible negative effects on the Kashmir peace process;

6. Calls on the Government of India, as a matter of urgency, not to approve any execution order in the future;

7. Calls on the Government and Parliament of India to adopt legislation introducing a permanent moratorium on executions, with the objective of abolishing the death penalty in the near future;

8. Instructs its President to forward this resolution to the Vice-President/High Representative, the Council, the Commission, the governments and parliaments of the Member States, the Commonwealth Secretary-General, the UN Secretary-General, the President of the UN General Assembly, the UN High Commissioner for Human Rights, and the President, Government and Parliament of India.

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P7_TA(2013)0233

Rwanda: case of Victoire Ingabire

European Parliament resolution of 23 May 2013 on Rwanda: case of Victoire Ingabire (2013/2641(RSP))

(2016/C 055/22)

The European Parliament,

— having regard to the International Covenant on Civil and Political Rights, which was ratified by Rwanda in 1975,

— having regard to the African Charter on Human and Peoples' Rights (ACHPR),

— having regard to the African Charter on Democracy, Elections and Governance,

— having regard to the instruments of the United Nations and the African Commission on Human and People's Rights, in particular the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa,

— having regard to the answer by VP/HR Ashton of 4 February 2013 to Written Question E-010366/2012 regarding Victoire Ingabire,

— having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific (ACP) Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, and particularly to Annex VII thereto, which calls for the promotion of human rights, democracy based on the rule of law and transparent and accountable governance,

— having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

— having regard to the Amnesty International report 'Justice in jeopardy: The first instance trial of Victoire Ingabire' of 2013,

— having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

A. whereas in 2010, after 16 years in exile in the Netherlands, Victoire Ingabire, President of the Unified Democratic Forces (UDF ([1])), a coalition of Rwandan opposition parties, returned to Rwanda to run in the presidential election;

B. whereas Victoire Ingabire, who was ultimately barred from standing in the election, was arrested on 14 October 2010; whereas the election was won, with 93 % of the vote, by the outgoing President, Paul Kagame, leader of the Rwandan Patriotic Front (RPF); whereas the UDF had not been able to register as a political party before the 2010 election; whereas other opposition parties were subject to similar treatment;

C. whereas Ms Ingabire's political activities have focused on, among others issues, the rule of law, freedom of political associations and the empowerment of women in Rwanda;

D. whereas the RPF continues to be the dominant political party in Rwanda under President Kagame, controlling public life along the lines of a one-party system, with critics of the Rwandan authorities being harassed, intimidated and imprisoned;

([1]) French: Forces Démocratiques Unifiées (FDU-Inkingi).

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E. whereas on 30 October 2012 Victoire Ingabire was sentenced to eight years in prison; whereas she was convicted of two updated charges and acquitted of four others; whereas she was found guilty of conspiracy to harm the authorities using terrorism, and of minimising the 1994 genocide, on the basis of her presumed relations with the Democratic Forces for the Liberation of Rwanda (FDLR), a Hutu rebel group; whereas the Public Prosecutor sought a sentence of life imprisonment;

F. whereas on 25 March 2013 Victoire Ingabire took the stand in her appeal trial and called for a re-examination of the evidence;

G. whereas the prosecution of Victoire Ingabire for 'genocide ideology' and 'divisionism' illustrates the Rwandan Government's lack of tolerance of political pluralism;

H. whereas in April 2013, in the course of her appeal before the Supreme Court, while she was cleared of the six charges lodged by the prosecution, she was sentenced on new charges that were not based on legal documents and that, according to her defence counsel, had not been presented during the trial; whereas the two new charges include negationism/revisionism and high treason;

I. whereas in May 2013, after having testified against Victoire Ingabire before the Rwandan High Court in 2012, four prosecution witnesses and a co-accused told the Supreme Court that their testimonies had been falsified; whereas a prominent human rights organisation expressed concerns about their 'prolonged incommunicado detention' and 'the use of torture to coerce confessions';

J. whereas the trial, which started in 2011, is considered by many observers to be politically motivated; whereas the Rwandan national law and judiciary contravenes international conventions to which Rwanda is a party, in particular the International Conventions on Civil and Political Rights, which the Rwandan Government signed on the 16 July 1997, specifically its provisions on freedom of expression and freedom of thought;

K. whereas since 16 April 2012 Ms Ingabire had been boycotting her trial in protest at the intimidation and illegal interrogation procedures used against some of her co-accused, namely former FLDR members Lieutenant-Colonel Tharcisse Nditurende, Lt Colonel Noël Habiyaremye, Captain Jean Marie Vianney Karuta and Major Vital Uwumuremyi, as well as against the Court's decision to shorten the hearing of a defence witness Michel Habimana, who accuses the Rwandan authorities of fabricating evidence; whereas these circumstances have not been confirmed by the Rwandan authorities;

L. whereas Bernard Ntaganda, founder of the PS-Imberakuri party, was sentenced to four years in prison on charges of endangering national security, 'divisionism' and attempting to organise demonstrations without authorisation;

M. whereas on 13 September 2012 Victoire Ingabire — together with two other Rwandan political figures, Bernard Ntaganda and Deogratias Mushyayidi, all currently imprisoned in Kigali — was nominated for the European Parliament's Sakharov Prize for Freedom of Thought;

N. whereas Rwanda is signatory to the Cotonou Agreement, which stipulates that respect for human rights is an essential element of EU-ACP cooperation;

O. whereas respect for fundamental human rights, including political pluralism and freedom of expression and association, are severely restricted in Rwanda, making it difficult for opposition parties to operate and for journalists to express critical views;

P. whereas the consolidation of democracy — including ensuring the independence of the judiciary and the participation of opposition parties — is crucial, particularly in view of the 2013 parliamentary elections and the presidential election to be held in 2017;

Q. whereas the Rwandan genocide and civil war of 1994 continue to have a negative impact on the stability of the region;

1. Expresses its deep concern at the initial trial of Victoire Ingabire, which did not meet international standards, not least as regards her right to the presumption of innocence, and which was based on fabricated evidence and confessions from co-accused who had been held in military detention at Camp Kami, where torture is alleged to have been used to coerce their confessions;

2. Strongly condemns the politically motivated nature of the trial, the prosecution of political opponents and the prejudging of the trial outcome; calls on the Rwandan judiciary to ensure a prompt and fair appeal for Ms Victoire Ingabire that meets the standards set by Rwandan and international law;

3. Calls for the principle of equality to be upheld through measures to ensure that each party — prosecution and defence — is given the same procedural means of and opportunity for discovery of material evidence available during the trial, and is given equal opportunity to make its case; encourages better testing of evidence, including means to ensure that it was not obtained by torture;

4. Calls on the EU to send observers to monitor the Victoire Ingabire appeal trial;

5. Stresses its respect for the independence of the judicial system of Rwanda, but reminds the Rwandan authorities that the EU, in the context of the official political dialogue with Rwanda under Article 8 of the Cotonou Agreement, has raised its concerns with regard to the respect due to human rights and the right to a fair trial;

6. Recalls that freedoms of assembly, association and expression are essential components in any democracy, and considers these principles to be subject to serious restrictions in Rwanda;

7. Condemns all forms of repression, intimidation and detention of political activists, journalists and human rights activists; urges the Rwandan authorities immediately to release all individuals and other activists detained or convicted solely for exercising their rights of freedom of expression, association and peaceful assembly; urges, in this respect, the Rwandan authorities to adjust national law in order to guarantee freedom of expression;

8. Urges the Rwandan Government to comply with international law and to respect the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights of 1966 and the African Charter on Human and Peoples' Rights;

9. Recalls that statements obtained by the use of torture or other forms of ill-treatment are inadmissible in any proceedings;

10. Calls on the Rwandan judicial authorities to investigate allegations of torture and other abuses of human rights effectively and to bring those guilty of such offences to justice, as impunity cannot be tolerated;

11. Expresses its concern that 19 years after the RPF came to power, and two years after the re-election of President Kagame, Rwanda still does not have any functioning opposition political parties;

12. Calls on the Rwandan authorities to ensure the separation of administrative, legislative and judicial powers, and in particular the independence of the judiciary, and to promote the participation of opposition parties, in a context of mutual respect and inclusive dialogue as part of a democratic process;

13. Takes the view that the 2008 genocide-ideology law used to accuse Victoire Ingabire has served as a political instrument to silence criticism of the government;

14. Calls on the Government of Rwanda to review the law on 'genocide ideology' in order to bring it into line with Rwanda's obligations under international law, and to change the law instituting punishment for offences of discrimination and sectarianism to bring it into line with Rwanda's obligations under international human rights law;

15. Stresses that the criminal trial of Victoire Ingabire, one of the longest in Rwandan history, is important, both politically and legally, as a test of the Rwandan judiciary's capacity to deal with high-profile political cases in a fair and independent manner;

16. Reminds the Rwandan authorities that democracy is based on pluralistic government, a functioning opposition, independent media and judiciary, respect for human rights, and respect for the rights of expression and assembly; calls, in this regard, on Rwanda to live up to these standards and to improve its human rights record;

17. Stresses that in the context of international development work in Rwanda, much greater priority should be given to human rights, the rule of law, and transparent and responsive governance; calls on the EU, in collaboration with other international donors, to exert continued pressure to encourage human rights reform in Rwanda;

18. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the UN Security Council, the UN Secretary General, the institutions of the African Union, the East African Community, the ACP-EU Joint Parliamentary Assembly, the governments and parliaments of the Member States, the defenders of Victoire Ingabire and the President of Rwanda.

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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

P7_TA(2013)0195

Request for defence of the immunity of Gabriele Albertini

European Parliament decision of 21 May 2013 on the request for defence of the immunity and privileges of Gabriele Albertini (2012/2240(IMM))

(2016/C 055/23)

The European Parliament,

— having regard to the request by Gabriele Albertini of 19 July 2012, announced in plenary on 10 September 2012, for defence of his immunity in connection with proceedings pending before the Court of Milan, Italy,

— having heard Gabriele Albertini in accordance with Rule 7(3) of its Rules of Procedure,

— having regard to Article 68 of the Constitution of the Italian Republic, as amended by Constitutional Law No 3 of 29 October 1993,

— having regard to Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union, annexed to the Treaty on the Functioning 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 Rules 6(3) and 7 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0149/2013),

A. whereas a Member of the European Parliament, Gabriele Albertini, has requested the defence of his parliamentary immunity in connection with proceedings before an Italian court;

([1]) Judgment of 12 May 1964 in Case 101/63, *Wagner v Fohrmann and Krier* (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, *Marra 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 6 September 2011 in Case C-163/10, *Patriciello* (ECR 2011, p. I-7565).

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B. whereas the request by Gabriele Albertini relates to a writ of summons filed against him before the Court of Milan on behalf of Alfredo Robledo, in connection with statements made by Gabriele Albertini in a first interview published by the Italian newspaper *Il Sole 24 Ore* on 26 October 2011 and in a second interview published by the Italian newspaper *Corriere della Sera* on 19 February 2012;

C. whereas, according to the writ of summons, statements made in those interviews constitute libel, resulting in a claim for damages;

D. whereas the statements made in both interviews concern the 'derivatives trial' on the investigation into facts dating back to 2005, involving the municipality of Milan and relating to the function of Gabriele Albertini as mayor of that city;

E. whereas both interviews were given at a time when Gabriele Albertini was a Member of the European Parliament, following his election in the 2004 and 2009 European Parliament elections;

F. whereas, according to Article 8 of the Protocol on the Privileges and Immunities of the European Union, Members of the European Parliament may not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties;

G. whereas, in accordance with Parliament's established practice, the fact that the legal proceedings are of a civil or administrative law nature, or contain certain aspects falling under civil or administrative law, does not *per se* prevent the immunity afforded by that article from applying;

H. whereas the facts of the case, as manifested in the writ of summons and in Gabriele Albertini's oral explication to the Committee on Legal Affairs, indicate that the statements made do not have a direct and obvious connection with Gabriele Albertini's performance of his duties as a Member of the European Parliament;

I. whereas Gabriele Albertini, in granting both interviews in question on the 'derivatives trial', was therefore not acting in the performance of his duties as a Member of the European Parliament;

1. Decides not to defend the immunity and privileges of Gabriele Albertini;

2. Instructs its President to forward this decision immediately to the competent authority of the Italian Republic and to Gabriele Albertini.

P7_TA(2013)0196

Request for waiver of the parliamentary immunity of Spyros Danellis (I)

European Parliament decision of 21 May 2013 on the request for waiver of the immunity of Spyros Danellis (I) (2013/2014(IMM))

(2016/C 055/24)

The European Parliament,

— having regard to the request for waiver of the immunity of Spyros Danellis, forwarded on 11 December 2012 by the Deputy Prosecutor at the Supreme Court of the Hellenic Republic (ref. 4634/2012) in connection with the decision of the Cretan Three-Member Court of Appeal of 22 March 2012 (ref. 584/2012) and announced in plenary on 14 January 2013,

— having heard Spyros Danellis 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, Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage, and Article 62 of the Constitution of the Hellenic Republic,

— 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 Rules 6(2) and 7 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0159/2013),

A. whereas the Deputy Prosecutor at the Supreme Court of the Hellenic Republic has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Spyros Danellis, in connection with possible legal action concerning an alleged offence;

B. whereas, according to Article 9 of Protocol No 7 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 the Parliament of that State;

C. whereas Article 62 of the Constitution of the Hellenic Republic provides that, during the parliamentary term, Members of Parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by Parliament;

D. whereas Spyros Danellis is accused of dereliction of duty, as he is alleged to have omitted, as Mayor of Hersonissos in the Prefecture of Iraklion, to take steps to close an establishment operating in his municipality despite the existence of a decision by the sanitary authorities which required such steps to be taken;

E. whereas the alleged actions do not constitute opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

F. whereas the accusation manifestly bears no relation to Spyros Danellis' position as Member of the European Parliament but to his former position as Mayor of Hersonissos;

G. whereas there is no reason to suspect the existence of a *fumus persecutionis*, bearing in mind in particular that Spyros Danellis is not the only accused in the case in question;

1. Decides to waive the immunity of Spyros Danellis;

2. Instructs its President to forward this decision and the report of its competent committee immediately to the Prosecutor at the Supreme Court of the Hellenic Republic and to Spyros Danellis.

P7_TA(2013)0197

Request for waiver of the parliamentary immunity of Spyros Danellis (II)

European Parliament decision of 21 May 2013 on the request for waiver of the immunity of Spyros Danellis (II) (2013/2028(IMM))

(2016/C 055/25)

The European Parliament,

— having regard to the request for waiver of the immunity of Spyros Danellis, forwarded on 11 December 2012 by the Deputy Prosecutor at the Supreme Court of the Hellenic Republic (ref. 4825/2012) in connection with the decision of

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([1]) Judgment of 12 May 1964 in Case 101/63, *Wagner v Fohrmann and Krier* (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, *Marra 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 6 September 2011 in Case C-163/10, *Patriciello* (ECR 2011, p. I-7565).

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the Cretan Three-Member Court of Appeal of 9 and 16 October 2012 (ref. 1382/2012) and announced in plenary on 6 February 2013,

— having heard Spyros Danellis 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, Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage, and Article 62 of the Constitution of the Hellenic Republic,

— 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 Rules 6(2) and 7 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0160/2013),

A. whereas the Deputy Prosecutor at the Supreme Court of the Hellenic Republic has requested the waiver of the parliamentary immunity of a Member of the European Parliament, Spyros Danellis, in connection with possible legal action concerning an alleged offence;

B. whereas, according to Article 9 of Protocol No 7 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 the Parliament of that State;

C. whereas Article 62 of the Constitution of the Hellenic Republic provides that, during the parliamentary term, Members of Parliament may not be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by Parliament;

D. whereas Spyros Danellis is accused of falsely accusing a third party of an unlawful act with the intent of having him prosecuted for it, and of making false statements about a third party which could damage that party's reputation and good name, knowing such statements to be untrue;

E. whereas said alleged false statements and accusations relate to the sale of the fruit of olive and other trees uprooted on expropriated land by a contractor carrying out public works in the context of the construction of a dam in the municipality of Hersonissos in the Prefecture of Iraklion, of which Spyros Danellis was mayor;

F. whereas the alleged actions do not constitute opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament for the purposes of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;

G. whereas the accusation manifestly bears no relation to Spyros Danellis' position as Member of the European Parliament, but to his former position as Mayor of Hersonissos;

H. whereas there is no reason to suspect the existence of a *fumus persecutionis*, bearing in mind in particular that Spyros Danellis is far from being the only accused in the case in question;

1. Decides to waive the immunity of Spyros Danellis;

2. Instructs its President to forward this decision and the report of its competent committee immediately to the Prosecutor at the Supreme Court of the Hellenic Republic and to Spyros Danellis.

([1]) Judgment of 12 May 1964 in Case 101/63, *Wagner v Fohrmann and Krier* (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, *Marra 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 6 September 2011 in Case C-163/10, *Patriciello* (ECR 2011, p. I-7565).

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P7_TA(2013)0207

Oral amendments and other oral modifications (interpretation of Rule 156(6) of the Rules of Procedure)

European Parliament decision of 21 May 2013 concerning oral amendments and other oral modifications (interpretation of Rule 156(6) of the Rules of Procedure)

(2016/C 055/26)

The European Parliament,

— having regard to the letter of 24 April 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 156(6):

'On a proposal from the President, an oral amendment, or any other oral modification, shall be treated in the same way as an amendment not distributed in all the official languages. If the President considers it admissible under Rule 157(3), and save in the case of objection under Rule 156(6), it shall be put to the vote in accordance with the order of voting established.

In committee, the number of votes needed to object to such an amendment or such a modification is established on the basis of Rule 196 proportionally to that applicable in plenary, rounded up where necessary to the nearest complete number.'

2. Instructs its President to forward this decision to the Council and the Commission, for information.

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III

(Preparatory acts)

EUROPEAN PARLIAMENT

P7_TA(2013)0191

EU-Sri Lanka Agreement on certain aspects of air services ***

European Parliament legislative resolution of 21 May 2013 on the draft Council decision on the conclusion of the Agreement on certain aspects of air services between the European Union and the Government of the Democratic Socialist Republic of Sri Lanka (15318/2012 — C7-0391/2012 — 2012/0018(NLE))

(Consent)

(2016/C 055/27)

The European Parliament,

— having regard to the draft Council decision (15318/2012),

— having regard to the Agreement between the European Union and the Government of the Democratic Socialist Republic of Sri Lanka on certain aspects of air services (08176/2012),

— having regard to the request for consent submitted by the Council in accordance with Article 100(2), Article 218(6), second subparagraph, point (a), and Article 218(8), first subparagraph, of the Treaty on the Functioning of the European Union (C7-0391/2012),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Transport and Tourism (A7-0169/2013),

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 Democratic Socialist Republic of Sri Lanka.

P7_TA(2013)0192

Enhanced cooperation between the European Union and the European Organisation for the Safety of Air Navigation ***

European Parliament legislative resolution of 21 May 2013 on the draft Council decision on the conclusion of the Agreement between the European Union and the European Organisation for the Safety of Air Navigation providing a general framework for enhanced cooperation (05822/2013 — C7-0044/2013 — 2012/0213 (NLE))

(Consent)

(2016/C 055/28)

The European Parliament,

— having regard to the draft Council decision (05822/2013),

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— having regard to the Council Decision on the signing, on behalf of the Union, and provisional application of the Agreement providing a general framework for enhanced cooperation between the European Union and the European Organisation for the Safety of Air Navigation (13792/2012),

— having regard to the request for consent submitted by the Council in accordance with Article 100(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0044/2013),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Transport and Tourism (A7-0157/2013),

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 the European Organisation for the Safety of Air Navigation.

P7_TA(2013)0193

Amendment of Regulation (EEC/Euratom) No 354/83, as regards the deposit of the historical archives of the institutions at the European University Institute in Florence ***

European Parliament legislative resolution of 21 May 2013 on the draft Council regulation amending Regulation (EEC/Euratom) No 354/83, as regards the deposit of the historical archives of the institutions at the European University Institute in Florence (06867/2013 — C7-0081/2013 — 2012/0221(APP))

(Special legislative procedure — consent)

(2016/C 055/29)

The European Parliament,

— having regard to the draft Council regulation (06867/2013),

— having regard to the request for consent submitted by the Council in accordance with Article 352 of the Treaty on the Functioning of the European Union (C7-0081/2013),

— having regard to Rule 81(1) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Culture and Education and the opinion of the Committee on Constitutional Affairs (A7-0156/2013),

1. Consents to the draft Council regulation;

2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Tuesday 21 May 2013

P7_TA(2013)0194

Period for the eighth election of representatives to the European Parliament by direct universal suffrage*

European Parliament legislative resolution of 21 May 2013 on the draft Council decision fixing the period for the eighth election of representatives to the European Parliament by direct universal suffrage (07279/2013 — C7-0068/2013 — 2013/0802(CNS))

(Consultation)

(2016/C 055/30)

The European Parliament,

— having regard to the Council draft (07279/2013),

— having regard to Article 11(2), second subparagraph, of the Act concerning the election of the members of the European Parliament by direct universal suffrage ([1]), pursuant to which the Council consulted Parliament (C7-0068/2013),

— having regard to its resolution of 22 November 2012 on the elections to the European Parliament in 2014 ([2]),

— having regard to Rules 55 and 46(1) of its Rules of Procedure,

— having regard to the report of the Committee on Constitutional Affairs (A7-0138/2013),

1. Approves the Council draft;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;

4. Instructs its President to forward its position to the Council, and, for information, to the governments and parliaments of the Member States and of the Republic of Croatia.

P7_TA(2013)0200

Offshore oil and gas prospection, exploration and production activities ***I

European Parliament legislative resolution of 21 May 2013 on the proposal for a regulation of the European Parliament and of the Council on safety of offshore oil and gas prospection, exploration and production activities (COM(2011)0688 — C7-0392/2011 — 2011/0309(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/31)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0688),

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([1]) Annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 278, 8.10.1976, p. 1), as amended by Council Decision 93/81/Euratom, ECSC, EEC (OJ L 33, 9.2.1993, p. 15), and Council Decision 2002/772/EC, Euratom (OJ L 283, 21.10.2002, p. 1).

([2]) Texts adopted, P7_TA(2012)0462.

— 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 (C7-0392/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 22 February 2012 ([1]),

— after consulting the Committee of the Regions,

— having regard to the undertaking given by the Council representative by letter of 6 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 Industry, Research and Energy and the opinions of the Committee on the Environment, Public Health and Food Safety and the Committee on Legal Affairs (A7-0121/2013),

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 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)0309

Position of the European Parliament adopted at first reading on 21 May 2013 with a view to the adoption of Directive 2013/…/EU of the European Parliament and of the Council on safety of offshore oil and gas operations and amending Directive 2004/35/EC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/30/EU.)

([1]) OJ C 143, 22.5.2012, p. 107.

Wednesday 22 May 2013

P7_TA(2013)0208

Draft protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic (consent) ***

European Parliament decision of 22 May 2013 on the European Council's proposal not to convene a Convention for the addition of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to the Treaty on European Union and the Treaty on the Functioning of the European Union (00091/2011 — C7-0386/2011 — 2011/0818(NLE))

(Consent)

(2016/C 055/32)

The European Parliament,

— having regard to the letter from the Czech Government to the Council of 5 September 2011 on a draft protocol on the application of the Charter of Fundamental Rights of the European Union (the 'Charter') to the Czech Republic,

— having regard to the letter from the President of the European Council to the President of the European Parliament of 25 October 2011, concerning a draft protocol on the application of the Charter to the Czech Republic,

— having regard to the request for consent not to convene a Convention submitted by the European Council in accordance with Article 48(3), second subparagraph, of the Treaty on European Union (C7-0386/2011),

— having regard to Article 6(1) of the Treaty on European Union and to the Charter,

— having regard to the conclusions of the meeting on 29 to 30 October 2009 of the Heads of State or Government of the Member States, meeting within the European Council,

— having regard to Rules 74a and 81(1) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Constitutional Affairs (A7-0282/2012),

Whereas:

A. the Charter was drafted by a Convention held from 17 December 1999 to 2 October 2000, bringing together representatives of Parliament, the Member States, national parliaments and the Commission; the Charter was proclaimed on 7 December 2000 and its text was adapted at Strasbourg on 12 December 2007;

B. a second Convention was held from 22 February 2002 to 18 July 2003 to draft the Treaty establishing a Constitution for Europe, most of the substance of which was incorporated into the Lisbon Treaty, which entered into force on 1 December 2009;

C. both Conventions were convened to address major issues concerning the constitutional order of the Union, including the adoption of a binding text setting out the fundamental rights and principles recognised by the Union;

D. in the light of the above, it is not necessary to call a Convention in order to examine the proposal that Protocol No 30 on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom be extended to the Czech Republic, as the effect of that proposal, if any, would be limited;

1. Approves the European Council's proposal not to convene a Convention;

2. Instructs its President to forward this decision to the European Council, the Council, the Commission and the national parliaments.

P7_TA(2013)0209

Draft protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic (consultation) *

European Parliament resolution of 22 May 2013 on the draft protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic (Article 48(3) of the Treaty on European Union) (00091/2011 — C7-0385/2011 — 2011/0817(NLE))

(2016/C 055/33)

The European Parliament,

— having regard to the letter from the Czech Government to the Council of 5 September 2011 on a draft protocol on the application of the Charter of Fundamental Rights of the European Union ('the Charter') to the Czech Republic,

— having regard to the letter from the President of the European Council to the President of the European Parliament of 25 October 2011, concerning a draft protocol on the application of the Charter to the Czech Republic,

— having regard to the first subparagraph of Article 48(3) of the Treaty on European Union (TEU), pursuant to which the European Council consulted Parliament (C7-0385/2011),

— having regard to Article 6(1) TEU and to the Charter,

— having regard to Protocol No 30 on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom, annexed to the TEU and to the Treaty on the Functioning of the European Union,

— having regard to the conclusions of the meeting on 29 to 30 October 2009 of the Heads of State or Government of the Member States, meeting within the European Council,

— having regard to the declarations concerning the Charter, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, in particular, Declaration No 1 by all the Member States, Declaration No 53 by the Czech Republic and Declarations No 61 and No 62 by the Republic of Poland,

— having regard to Resolution 330, adopted at the 12th Sitting of the Czech Senate on 6 October 2011,

— having regard to Rule 74a of its Rules of Procedure,

— having regard to the report of the Committee on Constitutional Affairs (A7-0174/2013),

Whereas:

A. The Heads of State or Government, meeting within the European Council on 29 to 30 October 2009, agreed that they would, at the time of the conclusion of the next accession treaty and in accordance with their respective constitutional requirements, attach to the Treaties a Protocol concerning the application of the Charter to the Czech Republic.

B. On 5 September 2011 the Czech Government, in a letter from its Permanent Representative, submitted to the Council a proposal, in accordance with Article 48(2) TEU, for the amendment of the Treaties to add a Protocol concerning the application of the Charter to the Czech Republic.

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C. On 11 October 2011 the Council submitted to the European Council, in accordance with Article 48(2) TEU, a proposal for the amendment of the Treaties concerning the addition of a Protocol on the application of the Charter to the Czech Republic.

D. In accordance with the first subparagraph of Article 48(3) TEU, the European Council has consulted Parliament as to whether the proposed amendments should be examined.

E. Pursuant to Article 6(1) TEU, the European Union recognises the rights, freedoms and principles set out in the Charter as having the same legal value and binding force as the Treaties.

F. The Protocols form an integral part of the Treaties to which they are attached, and therefore an additional Protocol establishing special rules with regard to the application of parts of the law of the Union to a Member State requires a revision of the Treaties.

G. According to the second subparagraph of Article 6(1) TEU, the Charter does not extend in any way the competences of the Union as defined in the Treaties.

H. According to Article 51 thereof, the provisions of the Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. Those institutions, bodies, offices and agencies must therefore respect the rights, observe the principles and promote the application of the Charter in accordance with their respective powers and respecting the limits of the powers conferred on the Union by the Treaties. As confirmed by Declaration No 1 by the Member States, the Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined by the Treaties.

I. Paragraph 2 of Declaration No 53 by the Czech Republic provides that the Charter 'does not diminish the field of application of national law and does not restrain any current powers of the national authorities in this field', thereby establishing that the integrity of the legal order of the Czech Republic is guaranteed without recourse to an additional instrument.

J. On the basis of academic evidence and case-law, Protocol No 30 does not exempt Poland and the United Kingdom from the binding provisions of the Charter, it is not an 'opt-out', it does not amend the Charter and it does not alter the legal position which would prevail if it were not to exist ([1]). The only effect it has is to create legal uncertainty not only in Poland and the United Kingdom but also in other Member States.

K. An important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, but Protocol No 30 gives rise to legal uncertainty and political confusion, thereby undermining the efforts of the Union to reach and maintain a uniformly high and equal level of rights protection.

L. If Protocol No 30 were ever to be interpreted as limiting the scope or force of the provisions of the Charter, the effect would be to diminish the protection of fundamental rights and freedoms afforded to people in Poland, in the United Kingdom and, prospectively, in the Czech Republic,

M. The Czech Parliament ratified the Treaty of Lisbon precisely as it had been signed, without any reservation or qualification whatsoever concerning full adherence by the Czech Republic to the Charter ([2]).

N. The Czech Senate, in its Resolution 330 of 6 October 2011, opposed the application to the Czech Republic of Protocol No 30 on the ground that it would lower standards of protection of fundamental rights and freedoms afforded to Czech citizens. The Czech Senate also questioned the — ambiguous — constitutional circumstances in which the matter was first raised by the President of the Republic only after the parliamentary ratification of the Treaty of Lisbon had been completed.

([1]) Judgment of the Court of Justice of 21 December 2011 in Joined Cases C-411/10 and C-493/10, especially paragraph 120.
([2]) The Treaty of Lisbon was ratified by the Czech Chamber of Deputies on 18 February 2009 and by the Czech Senate on 9 May 2009.

O. The Czech Constitutional Court dismissed two petitions in 2008 and 2009, finding the Treaty of Lisbon to be fully in accordance with Czech constitutional law, but the possibility cannot be ruled out that a petition against the proposed amendment of the Treaties will be lodged at the same Court.

P. Parliament, in a spirit of sincere cooperation, is duty bound to give its opinion to the European Council on all Treaty changes that are proposed, irrespective of their significance, but it is in no way bound to agree with the European Council.

Q. Doubts persist as to the willingness of the Czech Parliament to complete the ratification of the new protocol aimed at extending the application of Protocol No 30 to the Czech Republic; in the event that the European Council decides to examine the proposed amendment, other Member States might wish not to start their ratification procedures until the Czech Republic has completed its own,

1. Calls on the European Council not to examine the proposed amendment of the Treaties;

2. Instructs its President to forward this resolution as its position to the European Council, the Council, the Commission, the government and parliament of the Czech Republic and the parliaments of the other Member States.

P7_TA(2013)0210

Mutual recognition of protection measures in civil matters ***I

European Parliament legislative resolution of 22 May 2013 on the proposal for a regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters (COM(2011)0276 — C7-0128/2011 — 2011/0130(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/34)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0276),

— having regard to Article 294(2) and points (a), (e) and (f) of Article 81(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0128/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the Committee of the Regions of 16 February 2012 ([1]),

— having regard to the undertaking given by the Council representative by letter of 8 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 joint deliberations of the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality under Rule 51 of the Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0126/2013),

([1]) OJ C 113, 18.4.2012, p. 56.

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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)0130

Position of the European Parliament adopted at first reading on 22 May 2013 with a view to the adoption of Regulation (EU) No …/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 606/2013.)

P7_TA(2013)0211

EU-Canada Agreement on customs cooperation with respect to matters related to supply chain security ***

European Parliament legislative resolution of 22 May 2013 on the draft Council decision on the conclusion of the Agreement between the European Union and Canada on customs cooperation with respect to matters related to supply-chain security (11362/2012 — C7- 0078/2013 — 2012/0073(NLE))

(Consent)

(2016/C 055/35)

The European Parliament,

— having regard to the draft Council decision (11362/2012),

— having regard to the draft Agreement between the European Union and Canada on customs cooperation with respect to matters related to supply-chain security (11587/2012),

— having regard to the request for consent submitted by the Council in accordance with Article 207(4), first subparagraph and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0078/2013),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on International Trade (A7-0152/2013),

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 Canada.

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P7_TA(2013)0212

European Banking Authority and prudential supervision of credit institutions ***I

Amendments adopted by the European Parliament on 22 May 2013 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No …/… conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (COM(2012)0512 — C7-0289/2012 — 2012/0244(COD)) ([1])

(Ordinary legislative procedure: first reading)

(2016/C 055/36)

[Amendment No 2]

AMENDMENTS BY THE EUROPEAN PARLIAMENT (*)

to the Commission proposal

REGULATION (EU) NO …/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No …/… conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

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 114 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 European Central Bank ([2]),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) On 29 June 2012, the Euro area Heads of State or Government have called on the Commission to present proposals to provide for a single supervisory mechanism involving the European Central Bank (ECB). The European Council in its conclusions of 29 June 2012 invited the President of the European Council to develop, in close collaboration with

([1]) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0393/2012).
(*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.
([1]) OJ C 11, 15.1.2013, p. 34.
([2]) OJ C 30, 1.2.2013, p. 6.

the President of the Commission, the President of the Eurogroup and the President of the ECB, a specific and time-bound road map for the achievement of a genuine Economic and Monetary Union, which includes concrete proposals on preserving the unity and integrity of the Single Market in financial services. ▌

(2) The provision for a single supervisory mechanism is the first step towards the creation of a European banking union, underpinned by a true single rulebook for financial services and ***new frameworks for*** deposit insurance and resolution ▌.

(3) In order to provide for the single supervisory mechanism, Council Regulation (EU) No …/… [127(6) Regulation] confers specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions in the Member States whose currency is the euro. Other Member States may enter in a close cooperation with the ECB. ▌

(4) The conferral of supervisory tasks to the ECB in the banking sector for part of the Member States of the Union should not in any way hamper the functioning of the internal market in the field of financial services. ***The European Banking Authority (EBA) should therefore maintain its role and retain all its existing powers and tasks: it should continue developing and contributing to the consistent application of the single rulebook applicable to all Member States and enhancing convergence of supervisory practices across the whole Union.***

(4a) It is critical that the banking union should contain democratic accountability mechanisms.

(4b) When carrying out the tasks conferred on it, and without prejudice to the objective to ensure the safety and soundness of credit institutions, EBA should have full regard to the diversity of credit institutions and their size and business models, as well as the systemic benefits of diversity in the European banking industry.

(4c) In order to promote best supervisory practices in the internal market, it is fundamental that the single rulebook is accompanied by a European supervisory handbook on the supervision of financial institutions, drawn up by EBA in consultation with competent authorities. The Supervisory Handbook should identify the best practices across the Union as regards supervisory methodologies and processes so that core international and Union principles are adhered to. The handbook should not take the form of legally binding acts and should not restrict judgement led supervision. It should cover all matters which are within the remit of EBA, including to the extent applicable the areas of consumer protection and efforts against money laundering. It should set out metrics and methodologies for risk assessment, identification of early warnings and criteria for supervisory action. Competent authorities should use the handbook. The use of the handbook should be considered as a significant element in the assessment of the convergence of supervisory practices and for the peer review referred to in this Regulation.

(4d) Requests for information by EBA should be duly justified and reasoned. Objections as to whether a specific request for information by EBA complies with the requirements set out in this Regulation should be raised in accordance with the relevant procedures. The raising of such an objection should not absolve the addressee of the request from providing the information. The Court of Justice of the European Union should be competent to decide, in accordance with the procedures set out in the Treaty, whether a specific request for information by EBA complies with the requirements set out in this Regulation.

(4e) The possibility for EBA to request information from financial institutions subject to the conditions set out in this Regulation should relate to any information to which the financial institution has legal access, including information held by persons remunerated by the relevant financial institution for carrying out relevant activities, audits provided to the relevant financial institution by external auditors, copies of relevant documents, books and records.

(4f) The single market and the cohesion of the Union should be secured. With regard to this, concerns such as governance and voting arrangements in EBA should be considered carefully and equal treatment of Member States participating in the Single Supervisory Mechanism (SSM) and other Member States should be guaranteed.

(4 g) Bearing in mind that EBA, in which all Member States participate with equal rights, was established with an aim to develop and contribute to the consistent application of the single rulebook and to enhance the coherence of supervisory practices within the Union and given the establishment of the single supervisory mechanism with a leading role for the ECB, EBA should be equipped with adequate instruments, which should enable it to efficiently perform its entrusted tasks concerning the integrity of the single market.

(5) In view of the supervisory tasks conferred on the ECB by Council Regulation (EU) No …/… [127(6) Regulation], EBA should be able to carry out its tasks also in relation to the ECB ***in the same manner as in relation to the other competent authorities. In particular,*** existing mechanisms for settlement of disagreements and actions in emergency situations ***should be adjusted accordingly to*** remain effective. ▌

(5a) In order to be able to perform its facilitating and coordinating role in emergency situations, EBA should be fully informed of any relevant developments, and should be invited to participate as an observer in any relevant gathering by the relevant competent supervisory authorities. This includes the right to speak or to make any other contributions.

(6) In order to ensure that interests of all Member States are adequately taken into account and to allow for the proper functioning of EBA with a view to ***maintaining and deepening*** the internal market in the field of financial services, the voting modalities within the Board of Supervisors should be adapted ▌.

(7) Decisions concerning breaches of Union law and settlement of disagreements should be examined by an independent panel composed of voting members of the Board of Supervisors which do not have any conflicts of interest, appointed by the Board of Supervisors. The decisions proposed by the panel to the Board of Supervisors should be ▌ adopted ▌ by a simple majority ▌ of ***the*** members ***of the Board of Supervisors*** from Member States participating in the SSM and ***a simple majority of its members*** from Member States that do not participate in the SSM.

(7a) Decisions concerning actions in emergency situations should be adopted by a simple majority of the Board of Supervisors, which should include a simple majority of its members from Member States participating in the SSM and a simple majority of its members from Member States that do not participate in the SSM.

(7b) Decisions concerning the acts specified in Articles 10 to 16 of Regulation (EU) No 1093/2010 and measures and decisions adopted under the third subparagraph of Article 9(5) and Chapter VI of that Regulation should be adopted by a qualified majority of the Board of Supervisors which should include a simple majority of its members from Member States participating in the SSM and a simple majority of its members from Member States that do not participate in the SSM.

(8) ▌ EBA should develop rules of procedure for the panel that ensure its independence and objectivity.

(9) The composition of the Management Board should be balanced and proper representation of Member States not participating in the SSM should be ensured.

(9a) Appointments of the members of EBA internal bodies and committees should ensure a geographical balance among Member States.

(10) In order to ensure the proper functioning of EBA and adequate representation of all Member States, the voting modalities, the composition of the Management Board, and the composition of the independent panel should be ***monitored, and*** reviewed after an appropriate period of time taking into account any experience gained and further developments.

(10a) No Member State or group of Member States should be discriminated against, directly or indirectly, as a venue for financial services.

(10b) EBA should be provided with the appropriate financial and human resources, in order to adequately fulfil any additional tasks assigned to it under this Regulation. For this purpose, the procedure for the establishment, implementation and control of its budget as set out in Articles 63 and 64 of Regulation (EU) No 1093/2010 should take due account of these tasks. EBA should ensure that the best standards of efficiency are met.

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(11) Since the objectives of this Regulation, namely ensuring a high ***level of*** effective and consistent ▌prudential regulation and supervision across ***all Member States***, protecting the integrity, efficiency and orderly functioning of ***the internal market*** and maintaining the stability of the financial system, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale of the action, 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 on European Union. 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 those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1093/2010 is amended as follows:

-1. Article 1 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The Authority shall act within the powers conferred by this Regulation and within the scope of Directive 2006/48/EC, Directive 2006/49/EC, Directive 2002/87/EC, Regulation (EC) No 1781/2006, Directive 94/19/EC and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2005/60/EC, Directive 2002/65/EC, Directive 2007/64/EC and Directive 2009/110/EC, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation … [conferring specific tasks on the ECB].';

(b) in paragraph 5 the second subparagraph is replaced by the following:

'For those purposes, the Authority shall contribute to the consistent, efficient and effective application of the acts referred to in paragraph 2, foster supervisory convergence, provide opinions to the European Parliament, the Council, and the Commission, and undertake economic analyses of the markets to promote the achievement of the Authority's objective.';

(c) in paragraph 5 the fourth subparagraph is replaced by the following:

'When carrying out its tasks, the Authority shall act independently and objectively and in a non discriminatory way in the interests of the Union as a whole.';

-1a. in Article 2(2), point (f) is replaced by the following:

'(f) the competent or supervisory authorities as specified in the Union acts referred to in Article 1(2) of this Regulation, including the European Central Bank for the tasks conferred on it by Council Regulation (EU) No … [conferring specific tasks on the ECB], of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.';

-1b. Article 3 is replaced by the following:

'Article 3

Accountability of the Authorities

The Authorities referred to in Article 2(a) to (d) shall be accountable to the European Parliament and the Council. The ECB shall be accountable to the European Parliament and the Council for the exercise of its supervisory tasks conferred upon it by Regulation [127(6) TFEU Council Regulation] in accordance with that Regulation.';

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1. in Article 4(2), point (i) is replaced by the following:

'(i) Competent authorities as defined in Directives 2006/48/EC and 2006/49/EC, including the ECB for matters related to the tasks conferred upon it by Council Regulation (EU) No …/… (*)[127(6) TFEU Council Regulation], in Directive 2007/64/EC, and as referred to in Directive 2009/110/EC.

(*) OJ L …, ….., p….';

1a. Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Authority shall have the following tasks:

(a) to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, in particular by providing opinions to the Union institutions and by developing guidelines, recommendations, and draft regulatory and implementing technical standards and other decisions which shall be based on the legislative acts referred to in Article 1(2);

(ab) to develop and maintain up to date, taking into account, inter alia, changing business practices and business models of financial institutions, a European supervisory handbook on the supervision of financial institutions for the whole Union. The European supervisory handbook shall set out supervisory best practice in methodologies and processes;

(b) to contribute to the consistent application of legally binding Union acts, in particular by contributing to a common supervisory culture, ensuring consistent, efficient and effective application of the acts referred to in Article 1(2), preventing regulatory arbitrage, mediating and settling disagreements between competent authorities, ensuring effective and consistent supervision of financial institutions, ensuring a coherent functioning of colleges of supervisors and taking actions, inter alia, in emergency situations;

(c) to facilitate the delegation of tasks and responsibilities among competent authorities;

(d) to cooperate closely with the ESRB, in particular by providing the ESRB with the necessary information for the achievement of its tasks and by ensuring a proper follow up to the warnings and recommendations of the ESRB;

(e) to organise and conduct peer review analyses of competent authorities, including issuing guidelines and recommendations and identifying best practices, in order to strengthen consistency in supervisory outcomes;

(f) to monitor and assess market developments in the area of its competence, including where appropriate trends in credit, in particular, to households and SMEs;

(g) to undertake economic analyses of markets to inform the discharge of the Authority's functions;

(h) to foster depositor and investor protection;

(i) to promote the consistent and coherent functioning of colleges of supervisors, the monitoring, assessment and measurement of systemic risk, the development and coordination of recovery and resolution plans, providing a high level of protection to depositors and investors throughout the Union and developing methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments, with a view to fostering cooperation between competent authorities involved in the management of crisis concerning cross-border institutions that have the potential to pose a systemic risk, in accordance with Articles 21 to 26;

(j) to fulfil any other specific tasks set out in this Regulation or in other legislative acts;

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(k) to publish on its website, and to update regularly, information relating to its field of activities, in particular, within the area of its competence, on registered financial institutions, in order to ensure information is easily accessible by the public;

1a. When fulfilling its tasks in accordance with this Regulation, the Authority shall:

(a) use the full powers available to it; and

(b) without prejudice to the objective to ensure the safety and soundness of credit institutions, have full regard to the different types, business models and sizes of credit institutions.';

(b) in paragraph 2, the following subparagraph is added:

'When undertaking the tasks referred to in paragraph 1 and exercising the powers referred to in this paragraph, the Authority shall have due regard to the principles of better regulation, including to the results of the analysis of costs and benefits produced in compliance with the requirements of this Regulation.';

1b. Article 9 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. The Authority shall establish, as an integral part of the Authority, a Committee on financial innovation, which brings together all relevant competent […] supervisory authorities with a view to achieving a coordinated approach to the regulatory and supervisory treatment of new or innovative financial activities and providing advice for the Authority to present to the European Parliament, the Council and the Commission.';

(b) in paragraph 5, the fourth subparagraph is replaced by the following:

'The Authority may also assess the need to prohibit or restrict certain types of financial activity and, where there is such a need, inform the Commission and competent authorities in order to facilitate the adoption of any such prohibition or restriction.';

2. Article 18 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. In the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union, the Authority shall actively facilitate and, where deemed necessary, coordinate any actions undertaken by the relevant competent supervisory authorities.

In order to be able to perform that facilitating and coordinating role, the Authority shall be fully informed of any relevant developments, and shall be invited to participate as an observer in any relevant gathering by the relevant competent supervisory authorities.';

(b) paragraph 3 is ***replaced by*** the following:

'***3.*** Where ***the Council has adopted a decision pursuant to paragraph 2, and in exceptional circumstances where coordinated action by competent authorities is necessary to respond to adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union,*** the Authority ***may adopt individual decisions requiring*** competent ***authorities*** to take the necessary action in accordance with ***the legislation referred to in Article 1(2) to address any such developments by ensuring that financial institutions and competent authorities satisfy the requirements laid down in that legislation.***';

3. in Article 19***(1), the first subparagraph is replaced by*** the following ▌:

'1. Without prejudice to the powers laid down in Article 17, where a competent authority disagrees about the procedure or content of an action or inaction of another competent authority in cases specified in the acts referred to in Article 1(2), the Authority, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4 of this Article.';

▌

3a. the following Article is inserted after Article 20:

'Article 20a

Convergence of Pillar 2

The Authority shall promote, within the scope of its powers, the convergence of the supervisory review and evaluation process ("Pillar 2") in accordance with Directive …/… EU [CRD4] in order to bring about strong supervisory standards in the Union.';

3b. Article 21 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Authority shall promote, within the scope of its powers, the efficient, effective and consistent functioning of the colleges of supervisors referred to in Directive 2006/48/EC and foster the coherence of the application of Union law among the colleges of supervisors. With the objective of converging supervisory best practices, the Authority shall promote joint supervisory plans and joint examinations, and staff from the Authority shall be able to participate in the activities of the colleges of supervisors, including on-site examinations, carried out jointly by two or more competent authorities.';

(b) in paragraph 2, the first subparagraph is replaced by the following:

'2. The Authority shall lead in ensuring a consistent functioning of colleges of supervisors for cross-border institutions across the Union, taking account of the systemic risk posed by financial institutions referred to in Article 23, and shall, where appropriate, convene a meeting of a college.';

3c. in Article 22, the following paragraph is inserted after paragraph 1:

'1a. At least once per year the Authority shall consider the appropriateness of carrying out Union-wide assessments of the resilience of financial institutions in accordance with Article 32 and shall inform the European Parliament, the Commission and the Council of its considerations. Where such assessments are carried out the Authority shall, where it deems it relevant or appropriate provide disclosures of the results for each participating financial institution.';

3d. in Article 25, paragraph 1 is replaced by the following:

'1. The Authority shall contribute to and participate actively in the development and coordination of effective, consistent and up to date recovery and resolution plans for financial institutions. The Authority shall also where provided for in the legislative acts referred to in Article 1(2) assist in developing procedures in emergency situations and preventive measures to minimise the systemic impact of any failure.';

3e. in Article 27(2), the first subparagraph is replaced by the following:

'2. The Authority shall provide its assessment of the need for a system of coherent, robust and credible funding mechanisms, with appropriate financing instruments linked to a set of coordinated crisis management arrangements.';

3f. in Article 29(2), the following subparagraph is added:

'For the purpose of building a common supervisory culture, the Authority shall develop and maintain up to date, taking into account, inter alia, changing business practices and business models of financial institutions, a European supervisory handbook on the supervision of financial institutions for the whole Union. The European supervisory handbook shall set out supervisory best practice in methodologies and processes.';

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3 g. in Article 30, paragraph 3 is replaced by the following:

'3. On the basis of a peer review, the Authority may issue guidelines and recommendations pursuant to Article 16. In accordance with Article 16(3), the competent authorities shall endeavour to follow those guidelines and recommendations. When developing draft regulatory technical or implementing technical standards in accordance with Articles 10 to 15 the Authority shall take into account the outcome of the peer review, along with any other information acquired in the conduct of its tasks, in order to ensure convergence on the standards and practices of the highest quality.

3a. The Authority shall address an opinion to the Commission whenever the peer review or any other information acquired in the conduct of its tasks shows that a legislative initiative is necessary to ensure the further harmonisation of prudential definitions and rules.';

3h. in Article 31, the second subparagraph is replaced by the following:

'The Authority shall promote a coordinated Union response, inter alia, by:

(a) facilitating the exchange of information between the competent authorities;

(b) determining the scope and verifying where appropriate the reliability of information that should be made available to all the competent authorities concerned;

(c) without prejudice to Article 19, carrying out non-binding mediation upon a request from the competent authorities or on its own initiative;

(d) notifying the ESRB, the Council and the Commission of any potential emergency situations without delay;

(e) taking all appropriate measures in case of developments which may jeopardise the functioning of the financial markets with a view to the coordination of actions undertaken by relevant competent authorities;

(f) centralising information received from competent authorities in accordance with Articles 21 and 35 as the result of the regulatory reporting obligations for institutions. The Authority shall share that information with the other competent authorities concerned;';

3i. Article 32 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The Authority shall, in cooperation with the ESRB, initiate and coordinate Union-wide assessments of the resilience of financial institutions to adverse market developments. To that end it shall develop:

(a) common methodologies for assessing the effect of economic scenarios on an institution's financial position;

(b) common approaches to communication on the outcomes of these assessments of the resilience of financial institutions;

(c) common methodologies for assessing the effect of particular products or distribution processes on an institution; and

(d) common methodologies for asset evaluation as deemed necessary for the purpose of the stress testing.';

(b) the following paragraphs are inserted after paragraph 3:

'3a. For the purpose of running the Union-wide assessments of the resilience of financial institutions as described in this Article, the Authority may, in accordance with and subject to the conditions set out in Article 35, request directly information from them. It may also require competent authorities to conduct specific reviews. It may request them to carry out on-site inspections, including also the participation of the Authority in accordance with and subject to the conditions set out in Article 21, to ensure comparability and reliability of methods, practices and results.

3b. The Authority may request competent authorities to have the financial institutions be subject to an independent audit of the information referred to in paragraph 3a.';

4. ▌Article 35 ***is*** replaced by the following:

'***Article 35***

Collection of information

1. At the request of the Authority, the competent authorities shall provide the Authority with all the necessary information ***in specified formats*** to carry out the duties assigned to it by this Regulation, provided that they have legal access to the relevant information ▌. ***The information must be accurate, coherent, complete and timely.***

2. The Authority may also request information to be provided at recurring intervals and in specified formats ***or comparable templates approved by the Authority***. Such requests shall, where possible, be made using common reporting formats.

3. Upon a duly justified request from a competent authority, the Authority ***shall*** provide any information that is necessary to enable the competent authority to carry out its duties, in accordance with the professional secrecy obligations laid down in sectoral legislation and in Article 70.

4. Before requesting information in accordance with this Article and in order to avoid the duplication of reporting obligations, the Authority shall take account of any relevant existing statistics produced and disseminated by the European Statistical System and the European System of Central Banks.

5. Where information is not available or is not made available by the competent authorities in a timely fashion, the Authority may address a duly justified and reasoned request to other supervisory authorities, to the ministry responsible for finance where it has at its disposal prudential information, to the national central bank or to the statistical office of the Member State concerned.

6. Where complete or accurate information is not available or is not made available under paragraph 1 or 5, in a timely fashion, the Authority may request information, by way of a duly justified and reasoned request, directly from:

(a) relevant financial institutions,

(b) holding companies and/or branches of a relevant financial institution,

(c) non-regulated operational entities within a financial group or conglomerate that are significant to the financial activities of the relevant financial institutions.

The addressees of such a request shall provide the Authority with clear, accurate and complete information promptly and without undue delay.

The Authority shall inform the relevant competent authorities of requests in accordance with this paragraph and with paragraph 5.

At the request of the Authority, the competent authorities shall assist the Authority in collecting the information.

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7. The Authority may use confidential information received pursuant to this Article only for the purposes of carrying out the duties assigned to it by this Regulation.

8. Where the addressees of a request in accordance with paragraph 6 do not provide clear, accurate and complete information promptly, the Authority shall inform the ECB when applicable and shall inform the relevant authorities in Member States concerned which, subject to national law, shall cooperate with the Authority with a view of ensuring full access to the information and to any originating documents, books or records to which the addressee has legal access in order to verify the information.';

4a. Article 36 is amended as follows:

(a) in paragraph 4 the third subparagraph is replaced by the following:

'If the Authority does not act on a recommendation, it shall explain to the ESRB and the Council its reasons for not doing so. The ESRB shall inform the European Parliament in accordance with Article 19(5) of the ESRB-Regulation.';

(b) in paragraph 5 the third subparagraph is replaced by the following:

'The competent authority shall take due account of the views of the Board of Supervisors when informing the Council and the ESRB in accordance with Article 17 of Regulation (EU) No 1092/2010. Where the competent authority thus informs the Council and the ESRB, it shall also inform the Commission.';

4b. Article 37 is amended as follows:

(a) in paragraph 1 the second subparagraph is replaced by the following:

'The Banking Stakeholder Group shall meet on its own initiative whenever deemed necessary, but at least four times a year.';

(b) in paragraph 4, the first subparagraph is replaced by the following:

'4. The Authority shall provide all necessary information subject to professional secrecy as set out in Article 70 and ensure adequate secretarial support for the Banking Stakeholder Group. Adequate compensation shall be provided to members of the Banking Stakeholder Group representing non-profit organisations, excluding industry representatives. Such compensation shall be at least equivalent to the reimbursement rates of officials pursuant to Annex V, Section 2 of the Staff Regulations of Officials of the European Communities. The Banking Stakeholder Group may establish working groups on technical issues. Members of the Banking Stakeholder Group shall serve for a period of two-and-a-half years, following which a new selection procedure shall take place.';

4c. Article 40 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

'(d) one representative nominated by the Supervisory Board of the European Central Bank, who shall be non-voting;';

(b) the following paragraph is inserted after paragraph 4:

'4a. In discussions not relating to individual financial institutions, as provided in Article 44(4), the ECB representative may be accompanied by a second representative with expertise on central banking tasks.';

5. Article 41 *is amended as follows*:

(a) the following paragraph is inserted after paragraph 1:

'1a. For the purposes of Article 17, the Board of Supervisors shall convoke an independent panel, consisting of the Chairperson of the Board of Supervisors and six other members, who are not representatives of the competent authority alleged to have breached Union law and who have neither any interest in the matter nor direct links to the competent authority concerned.

Each member of the panel shall have one vote.

Decisions of the panel shall be taken where at least four members of the panel vote in favour of the decision.';

(b) paragraphs 2, 3 and 4 are replaced by the following:

'2. For the purposes of Article ▌19, the Board of Supervisors shall ***convoke*** an independent panel consisting of the Chairperson ***of*** the Board of Supervisors ***and six other*** members***, who are not*** representatives ▌of the competent authorities which are party to the disagreement ***and who have neither any interest in the conflict nor direct links to the competent authorities concerned.***

Each member of the panel shall have one vote.

Decisions of the panel shall be taken where at least four members of the panel vote in favour of the decision.

3. The panel shall propose a decision ***under Article 17 or Article 19*** for final adoption by the Board of Supervisors ▌.

4. The Board of Supervisors shall adopt rules of procedure for the panel referred to in ***paragraphs 1a and*** 2 ▌.';

6. in Article 42, the following paragraph is added:

'The first and second paragraphs are without prejudice to the tasks conferred upon the ECB by Regulation (EU) No …/… [127(6) TFEU Council Regulation].';

7. Article 44 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Decisions of the Board of Supervisors shall be taken by a simple majority of its members. Each member shall have one vote.

With regard to the acts specified in Articles 10 to 16 and measures and decisions adopted under the third subparagraph of Article 9(5) and Chapter VI and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union and in Article 3 of the Protocol (No 36) on transitional provisions***, which shall include at least a simple majority from members of participating Member States, in accordance with Regulation (EU) No …/… [127(6) TFEU Council Regulation], and a simple majority from members of non participating Member States***.

With regard to decisions in accordance with Articles 17 and 19, the decision proposed by the panel shall be ▌adopted ▌by a simple majority ***of the members of the Board of Supervisors from*** participating Member States ▌in accordance with Regulation (EU) No …/…[127(6) TFEU Council Regulation] ***and a simple majority of its members from non participating Member States.***

By derogation from the third subparagraph, from the date when four or ***fewer*** Member States are ***not*** participating Member States in accordance with Regulation (EU) No …/… [127(6) TFEU Council Regulation] ▌, the decision proposed by the panel shall be ▌adopted ▌by a simple majority ***of the members of the Board of Supervisors*** which shall include at least one vote from members ***from*** those Member States.

Each member shall have one vote.

With regard to the composition of the panel in accordance with Article 41(2), the Board of Supervisors shall strive for consensus. In the absence of consensus, decisions of the Board of Supervisors shall be taken by a majority of three quarters of its members. Each member shall have one vote.

With regard to decisions adopted under Article 18(3) and (4), and by way of derogation from the first subparagraph of this paragraph, the Board of Supervisors shall take decisions on the basis of a simple majority of its members from participating Member States, in accordance with Regulation (EU) No …/… [127(6) TFEU Council Regulation], and a simple majority of its members from non participating Member States.';

(b) paragraph 4 is replaced by the following:

'4. The non-voting members and the observers, with the exception of the Chairperson, the Executive Director and the ECB representative nominated by the Supervisory Board, shall not attend any discussions within the Board of Supervisors relating to individual financial institutions, unless otherwise provided for in Article 75(3) or in the acts referred to in Article 1(2).';

(c) the following paragraph is added:

'4a. The Authority's Chair shall have the prerogative to call a vote at any time. Without prejudice to that prerogative and to the effectiveness of the Authority's decision making procedures, the Board of Supervisors of the Authority shall strive for consensus when taking its decisions.';

8. in Article 45(1), the third subparagraph is replaced by the following:

'The term of office of the members elected by the Board of Supervisors shall be two-and-a-half years. That term may be extended once. The composition of the Management Board shall be balanced and proportionate and shall reflect the Union as a whole. The Management Board shall include at least two representatives from Member States which are not participating Member States in accordance with Regulation [127(6) TFEU Council Regulation] nor have entered into close cooperation with the ECB in accordance with that Regulation. Mandates shall be overlapping and an appropriate rotating arrangement shall apply.';

8a. the following Article is inserted after Article 49:

'Article 49a

Expenses

The Chair shall make public meetings held and hospitality received. Expenses shall be recorded publicly in accordance with the staff regulation of officials of the European Communities.';

8b. the following Article is inserted after Article 52:

'Article 52a

Expenses

The Executive Director shall make public meetings held and hospitality received. Expenses shall be recorded publicly in accordance with the staff regulation of officials of the European Communities.';

8c. in Article 63, paragraph 7 is deleted.

8d. Article 81(3) is replaced by the following:

'3. Concerning the issue of direct supervision of institutions or infrastructures of pan-European reach and taking account of market developments, the stability of the internal market and the cohesion of the Union as a whole, the Commission shall draw up an annual report on the appropriateness of entrusting the Authority with further supervisory responsibilities in this area.';

8e. the following Article is inserted after Article 81:

'Article 81a

Review of voting arrangements

As from the date on which the number of Member States that are not participating Member States reaches four, the Commission shall review and report to the European Parliament, the European Council and the Council on the operation of the voting arrangements described in Articles 41 and 44, taking into account any experience gained since the entry into force of this Regulation.';

Article 2

Without prejudice to Article 81 of Regulation (EU) No 1093/2010, by 1 January 2016, the Commission shall publish a report on the application of the provisions of this Regulation in relation to:

▌

(b) the composition of the Management Board; and

(c) the composition of the independent panel preparing decisions for the purposes of Articles 17 and 19.

The report shall take into account in particular any developments in the number of Member States whose currency is the euro or whose competent authorities have entered into a close cooperation in accordance with Article 6 of Regulation (EU) No …/2013 […] and shall examine whether in light of such developments any further adjustments of those provisions are necessary to ensure that EBA decisions are taken in the interest of maintaining and strengthening the internal market for financial services.

Article 3

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 be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament *For the Council*

The President *The President*

P7_TA(2013)0213

Specific tasks for the European Central Bank concerning policies relating to the prudential supervision of credit institutions *

Amendments adopted by the European Parliament on 22 May 2013 on the proposal for a Council regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (COM(2012)0511 — C7-0314/2012 — 2012/0242(CNS)) ([1])

(Special legislative procedure — consultation)

(2016/C 055/37)

[Amendment No 2]

AMENDMENTS BY THE EUROPEAN PARLIAMENT (*)

to the Commission proposal

COUNCIL REGULATION (EU) NO…/2013

conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 127(6) thereof,

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([1]) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0392/2012).

(*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

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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 Parliament ([1]),

Having regard to the opinion of the European Central Bank ([2]),

Acting in accordance with a special legislative procedure,

Whereas:

(1) Over the past decades, the Union has made considerable progress in creating an internal market for banking services. Consequently, in many Member States, banking groups with their headquarters established in other Member States hold a significant market share, and credit institutions have geographically diversified their business, ▌within ***both*** the Euro area ***and non-euro area***.

(1a) The present financial and economic crisis has shown that the integrity of the single currency and the single market may be threatened by the fragmentation of the financial sector. It is therefore essential to intensify the integration of banking supervision in order to bolster the European Union, restore financial stability and lay the basis for economic recovery.

(2) Maintaining and deepening the internal market for banking services is essential in order to foster economic ***growth*** in the Union ***and adequate funding of the real economy***. However this proves increasingly challenging. Evidence shows that the integration of banking markets in the Union is coming to a halt.

(3) At the same time***, in addition to the adoption of an enhanced EU regulatory framework,*** supervisors must step up their supervisory scrutiny to take account of the lessons of the financial crisis in recent years, and be able to oversee highly complex and inter-connected markets and institutions.

(4) Competence for supervision of individual banks in the Union remains mostly at national level. ***Coordination between supervisors is vital but the crisis has shown that mere coordination is not enough, in particular in the context of a single currency.*** In order to preserve ***financial stability in the Union*** and increase the positive effects of market integration on growth and welfare, integration of supervisory responsibilities should therefore be enhanced. ***This is particularly relevant to ensure a smooth and sound overview over an entire banking group and its overall health and would reduce the risk of different interpretations and contradictory decisions on the individual entity level.***

(5) The solidity of credit institutions is in many instances still closely linked to the Member State in which they are established. Doubts about the sustainability of public debt, economic growth prospects, and the viability of credit institutions have been creating negative, mutually reinforcing market trends. This may lead to risks for the viability of some credit institutions as well as for the stability of the financial system ***in the euro area and the Union as a whole***, and may impose a heavy burden for already strained public finances of the Member States concerned. ▌

(6) The European Banking Authority (EBA), established in 2011 by Regulation (EU) No. 1093/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), ([3]) and the European System of Financial Supervision established by Article 2 of that Regulation and of Regulation (EU) No 1094/2010 of 24 November 2010 establishing a European Supervisory Authority (EIOPA), ([4]) and Regulation (EU) No 1095/2010 of 24 November 2010 establishing a European Supervisory Authority (ESMA) ([5]) have significantly improved cooperation between banking supervisors within the Union. EBA is making important contributions to the creation of a single rulebook for financial services in the Union, and has been crucial in implementing in a consistent way the recapitalisation of major Union credit institutions agreed by the European Council in October 2011***, consistent with the guidelines and conditions relating to State aid adopted by the Commission***.

([1]) OJ C , , p. .
([2]) OJ C , , p. .
([3]) OJ L 331, 15.12.2010, p. 12.
([4]) OJ L 331, 15.12.2010, p. 37.
([5]) OJ L 331, 15.12.2010, p. 84.

(7) The European Parliament called on various occasions for a European body to be directly responsible for certain supervisory tasks over financial institutions, starting with its resolutions of 13 April 2000 on the Commission communication on implementing the framework for financial markets: Action Plan, ([1]) and of 21 November 2002 on prudential supervision rules in the European Union. ([2])

(8) The European Council conclusions of 29 June 2012 invited the President of the European Council to develop a road map for the achievement of a genuine Economic and Monetary Union. On the same day, the Euro area Heads of State or Government Summit pointed out that when an effective single supervisory mechanism is established involving the ECB for banks in the euro area, the ESM could, following a regular decision, have the possibility to recapitalize banks directly which would rely on appropriate conditionality, including compliance with state aid rules.

(8a) The European Council on 19 October 2012 concluded that the process towards deeper economic and monetary union should build on the EU's institutional and legal framework and be characterised by openness and transparency towards Member States which do not use the single currency and by respect for the integrity of the single market. The integrated financial framework will have a Single Supervisory Mechanism (SSM) which will be open to the extent possible to all Member States wishing to participate.

(9) A European banking union should therefore be set up, underpinned by a ***comprehensive and detailed*** single rulebook for financial services for the Single Market as a whole and composed of a single supervisory mechanism ***and new frameworks for*** deposit insurance and resolution ▌. In view of the close links and interactions between Member States participating in the common currency, the banking union should apply at least to all Euro area Member States. With a view to maintaining and deepening the internal market, and to the extent that this is institutionally possible, the banking union should also be open to the participation of other Member States.

(10) As a first step towards the banking union, a single supervisory mechanism should ensure that the Union's policy relating to the prudential supervision of credit institutions is implemented in a coherent and effective way, that the single rulebook for financial services is applied equally to credit institutions in all Member States concerned, and that those credit institutions are subject to supervision of the highest quality, unfettered by other, non-prudential considerations. ***In particular, the single supervisory mechanism should be consistent with the functioning of the internal market for financial services and with the free movement of capital.*** A single supervisory mechanism is the basis for the next steps towards the banking union. This reflects the principle that ***the ESM will, following a regular decision, have the possibility to recapitalise banks directly when an effective single supervisory mechanism is established. The European Council noted in its conclusions of 13/14 December 2012 that 'In a context where banking supervision is effectively moved to a single supervisory mechanism, a single resolution mechanism will be required, with the necessary powers to ensure that any bank in participating Member States can be resolved with the appropriate tools' and that 'the single resolution mechanism should be based on contributions by the financial sector itself and include appropriate and effective backstop arrangements'.***

(11) As the Euro area's central bank with extensive expertise in macroeconomic and financial stability issues, the ECB is well placed to carry out ***clearly defined*** supervisory tasks with a focus on protecting the stability of Europe's financial system. Indeed in many Member States Central Banks are already responsible for banking supervision. The ECB should therefore be conferred specific tasks concerning policies relating to the supervision of credit institutions within the ***participating Member States***.

(11a) The ECB and the national competent authorities of non-participating Member States should conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to the financial institutions defined in this Regulation. The memorandum of understanding could, inter alia, clarify the consultation relating to decisions of

([1]) OJ C 40, 7.2.2001, p. 453.
([2]) OJ C 25 E, 29.1.2004, p. 394.

the ECB having effect on subsidiaries or branches established in the non-participating Member State whose parent undertaking is established in a participating Member State, and the cooperation in emergency situations, including early warning mechanisms in accordance with the procedures set out in relevant Union law. The memorandum should be reviewed on a regular basis.

(12) The ECB should be conferred those specific supervisory tasks which are crucial to ensure a coherent and effective implementation of the Union's policy relating to the prudential supervision of credit institutions, while other tasks should remain with national authorities. The ECB's tasks should include measures taken in pursuance of macro-prudential stability***, subject to specific arrangements reflecting the role of national authorities***.

(13) Safety and soundness of large banks is essential to ensure the stability of the financial system. However, recent experience shows that smaller banks can also pose a threat to financial stability. Therefore, the ECB should be able to exercise supervisory tasks in relation to all ***credit institutions authorised in, and branches established in,*** participating Member States.

(13a) When carrying out the tasks conferred on it, and without prejudice to the objective to ensure the safety and soundness of credit institutions, the ECB should have full regard to the diversity of credit institutions and their size and business models, as well as the systemic benefits of diversity in the European banking industry.

(13b) The exercise of the ECB's tasks should contribute in particular to ensure that credit institutions fully internalise all costs caused by their activities so as to avoid moral hazard and the excessive risk taking arising from it. It should take full account of the relevant macroeconomic conditions in Member States, in particular the stability of the supply of credit and facilitation of productive activities for the economy at large.

(13c) Nothing in this Regulation should be understood as changing the accounting framework applicable pursuant to other acts of Union and national law.

(14) Prior authorisation for taking up the business of credit institutions is a key prudential technique to ensure that only operators with a sound economic basis, an organisation capable of dealing with the specific risks inherent to deposit taking and credit provision, and suitable directors carry out those activities. The ECB should therefore have the task to authorise credit institutions and should be responsible for the withdrawal of authorisations***, subject to specific arrangements reflecting the role of national authorities***.

(15) In addition to the conditions set out in Union ***law*** for authorisation of credit institutions and the cases for withdrawal of such authorisations, Member States may currently provide for further conditions for authorisation and cases for withdrawal of authorisation. The ECB should therefore carry out its task ***with regard*** to ***authorisation of*** credit institutions and ***withdrawal of*** the authorisation in case of non-compliance with national law upon a proposal by the relevant national competent authority, which assesses compliance with the relevant conditions set out by national law.

(16) An assessment of the suitability of any new owner prior to the purchase of a significant stake in a credit institution is an indispensable tool to ensure the continuous suitability and financial soundness of credit institutions' owners. The ECB as a Union institution is well-placed to carry out such an assessment without imposing undue restrictions to the internal market. The ECB should have the task to assess the acquisition and disposal of significant holdings in credit institutions***, except in the context of bank resolution***.

(17) Compliance with Union rules requiring credit institutions to hold certain levels of capital against risks inherent to the business of credit institutions, to limit the size of exposures to individual counterparties, to publicly disclose information on a credit institutions' financial situation, to dispose of sufficient liquid assets to withstand situations of market stress, and to limit leverage is a prerequisite for credit institutions' prudential soundness. The ECB should have the task to ensure compliance with those rules***, including in particular granting approvals, permissions, derogations, or exemptions foreseen for the purposes of those rules.***

(18) Additional capital buffers, including a capital conservation buffer, a countercyclical capital buffer to ensure that credit institutions accumulate during periods of economic growth a sufficient capital base to absorb losses in stressed periods, ***global and other systemic institution buffers, and other measures aimed at addressing systemic or macro-prudential risk,*** are key prudential tools ▌. ***In order to ensure full coordination, where national authorities impose such measures, the ECB should be duly notified. Moreover, where necessary the ECB should be able to apply higher requirements and more stringent measures, subject to close coordination with national authorities. The provisions in this Regulation on measures aimed at addressing systemic or macro-prudential risk are without prejudice to any coordination procedures provided for in other acts of Union law. National competent or designated authorities and the ECB, shall act in respect of any coordination procedure provided for in such acts after having followed the procedures provided for in this Regulation.***

(19) The safety and soundness of a credit institution depend also on the allocation of adequate internal capital, having regard to the risks to which it may be exposed, and on the availability of appropriate internal organisation structures and corporate governance arrangements. The ECB should therefore have the task to apply requirements ensuring that credit institutions have in place robust governance arrangements, processes and mechanisms, including strategies and processes for assessing and maintaining the adequacy of their internal capital. In case of deficiencies it should also have the task to impose appropriate measures including specific additional own funds requirements, specific ***disclosure*** requirements, and specific liquidity requirements.

(20) Risks for the safety and soundness of a credit institution can arise both at the level of an individual credit institution and at the level of a banking group or of a financial conglomerate. Specific supervisory arrangements to mitigate these risks are important to ensure the safety and soundness of credit institutions. In addition to supervision of individual credit institutions, the ECB's tasks should include supervision at the consolidated level, supplementary supervision, supervision of financial holding companies and supervision of mixed financial holding companies***, excluding the supervision of insurance undertakings***.

(21) In order to preserve financial stability, the deterioration of an institution's financial and economic situation must be remedied ***at an early stage***. The ECB should have the task to carry out early intervention actions as defined in relevant Union law. It should however coordinate its early intervention action with the relevant resolution authorities. ***As long as national authorities remain competent to resolve credit institutions***, the ECB should moreover coordinate appropriately with the national authorities concerned to ensure a common understanding about respective responsibilities in case of crises, in particular in the context of the cross border crisis management groups and the future resolution colleges established for these purposes.

(22) Supervisory tasks not conferred on the ECB should remain with national authorities. Those tasks should include the power to receive notifications from credit institutions in relation to the right of establishment and the free provision of services, to supervise bodies which are not covered by the definition of credit institutions under Union law but which are supervised as credit institutions under national law, to supervise credit institutions from third countries establishing a branch or providing cross-border services in the Union, to supervise payments services, to carry out day-to-day verifications of credit institutions, to carry out the function of competent authorities over credit institutions in relation to markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing ***and consumer protection***.

(22a) The ECB should cooperate, as appropriate, fully with the national authorities which are competent to ensure a high level of consumer protection and the fight against money laundering.

(23) The ECB should carry out the tasks conferred on it with a view to ensuring the safety and soundness of credit institutions and the stability of the financial system of the Union ***as well as of individual participating Member States*** and the unity and integrity of the Internal Market, thereby ensuring also the protection of depositors and improving the functioning of the Internal Market, in accordance with the single rulebook for financial services in the Union. ***In particular the ECB should duly take into account the principles of equality and non-discrimination.***

(24) The conferral of supervisory tasks on the ECB ▌ should be consistent with the framework of the European System of Financial Supervision (ESFS) set up in 2010 and its underlying objective to develop the single rulebook and enhance

convergence of supervisory practices across the whole Union. Cooperation between the banking supervisors and the supervisors of insurance and securities markets is important to deal with issues of joint interest and to ensure proper supervision of credit institutions operating also in the insurance and securities sectors. The ECB should therefore be required to cooperate closely with the ***European Banking Authority***, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority, within the framework of the ***ESFS***. ***The ECB should carry out its tasks in accordance with the provisions of this Regulation and without prejudice to the competence and the tasks of the other participants within the ESFS. It should also be required to cooperate with relevant resolution authorities and facilities financing direct or indirect public financial assistance.***

▌

(26) The ECB should carry out its tasks subject to and in compliance with ***relevant*** Union law ▌ including the whole of primary and secondary Union law, Commission decisions in the area of State aids, competition rules and merger control and the single rulebook applying to all Member States. The EBA is entrusted with developing draft technical standards and guidelines and recommendations ensuring supervisory convergence and consistency of supervisory outcomes within the Union. The ECB should not replace the exercise of these tasks by the EBA, and should therefore exercise powers to adopt regulations in accordance with Article 132 TFEU ***and in compliance with*** Union acts adopted by the European Commission upon drafts developed by the EBA ***and subject to Article 16 of Regulation (EU) No. 1093/2010***.

(26a) Where necessary the ECB should enter into memoranda of understanding with competent authorities responsible for markets in financial instruments describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to financial institutions defined in Article 2. Such memoranda should be made available to the European Parliament, the Council and competent authorities of all Member States.

(26b) For the carrying out of its tasks and the exercise of its supervisory powers, the ECB should apply the material rules relating to the prudential supervision of credit institutions. Those rules are composed of the relevant Union law, in particular directly applicable Regulations or Directives, such as those on capital requirements for banks and on financial conglomerates. Where the material rules relating to the prudential supervision of credit institutions are laid down in Directives, the ECB should apply the national legislation transposing those Directives. Where the relevant Union law is composed of Regulations and in areas where, on the date of entry into force of this Regulation, those Regulations explicitly grant options for Member States, the ECB should apply also the national legislation exercising these options. Such options should be construed as excluding options available only to competent or designated authorities. This is without prejudice to the principle of the primacy of EU law. It follows that the ECB should, when adopting guidelines or recommendations or when taking decisions, base itself on, and act in accordance with, the relevant binding Union law.

(26c) Within the scope of the tasks conferred on the ECB, national law confers on national competent authorities certain powers which are currently not required by Union law, including certain early intervention and precautionary powers. The ECB should be able to require national authorities to make use of these powers, in order to ensure the performance of full and effective supervision within the Single Supervisory Mechanism.

(27) In order to ensure that supervisory rules and decisions are applied by credit institutions, financial holding companies and mixed financial holding companies, effective, proportionate and dissuasive sanctions should be imposed in case of breaches. In accordance with Article 132(3) TFEU and Council Regulation (EC) No. 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions, ([1]) the ECB is entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions. Moreover, in order to enable the ECB to effectively carry out its tasks relating to the enforcement of supervisory rules set out in directly applicable Union law, the ECB should be empowered to impose pecuniary

([1]) OJ L 318, 27.11.1998, p. 4.

sanctions on credit institutions, financial holding companies and mixed financial holding companies for breaches of such rules. National authorities should remain able to apply sanctions in case of failure to comply with obligations stemming from national law transposing Union Directives. Where the ECB considers it appropriate for the fulfilment of its tasks that a sanction is applied for such breaches, it should be able to refer the matter to national authorities for those purposes.

(28) National supervisors have important and long-established expertise in the supervision of credit institutions within their territory and their economic, organisational and cultural specificities. They have established a large body of dedicated and highly qualified staff for these purposes. Therefore, in order to ensure high quality European supervision national supervisors should ***be responsible for assisting*** the ECB in the preparation and implementation of any acts relating to the exercise of the ECB supervisory tasks. This should include in particular the ongoing day-to-day assessment of a bank's situation and related on site verifications.

(28a) The criteria laid down in Article 5(4b) to define the scope of institutions that are less significant should be applied at the highest level of consolidation within participating Member states based on consolidated data. Where the ECB carries out the tasks conferred upon it by this Regulation with regard to a group of credit institutions that is not less significant on a consolidated basis, it should carry out those tasks on a consolidated basis with regard to the group of credit institutions and on an individual basis with regard to the banking subsidiaries and branches of that group established in participating Member states.

(28b) The criteria laid down in Article 5(4b) to define the scope of institutions that are less significant should be specified in a framework adopted and published by the ECB in consultation with national competent authorities. On that basis, the ECB should be responsible to apply those criteria and verify, through its own calculations, whether these criteria are met. The ECB's request for information to perform its calculation should not force the institutions to apply accounting frameworks differing from those applicable to them pursuant to other acts of Union and national law.

(28c) Where a bank has been considered significant or less significant, that assessment should generally not be modified more often than once every 12 months, except if there are structural changes in the banking groups, such as mergers or divestitures.

(28d) When deciding, following a notification by a national competent authority, whether an institution is of significant relevance with regard to the domestic economy and should therefore be supervised by the ECB, the ECB should take into account all relevant circumstances, including level-playing-field considerations.

(29) As regards the supervision of cross-border banks active both inside and outside the Euro area the ECB should cooperate closely with the competent authorities of non participating Member States. As a competent authority the ECB should be subject to the related obligations to cooperate and exchange information under Union law and should participate fully in the colleges of supervisors. In addition, since the exercise of supervisory tasks by a European institution brings about clear benefits in terms of financial stability and sustainable market integration, Member States not participating in the common currency should therefore also have the possibility to participate in the new mechanism. However, it is a necessary pre-condition for an effective exercise of supervisory tasks, that supervisory decisions are implemented fully and without delay. Member States wishing to participate in the new mechanism should therefore undertake to ensure that their national competent authorities will abide by and adopt any measure in relation to credit institutions requested by the ECB. The ECB should be able to establish a close cooperation with the competent authorities of a Member State not participating in the common currency. It should be obliged to establish the cooperation where the conditions set out in this regulation are met. ▌

(29a) Taking into account that non-euro area participating Member States are not present in the Governing Council for as long as they have not joined the euro in accordance with the Treaty, and they cannot fully benefit from other mechanisms provided for euro area Member States, additional safeguards in the decision making process are foreseen in this Regulation. However, those safeguards, in particular Article 6(5d), should be used in duly justified, exceptional cases. They should only be used as long as those specific circumstances apply. The safeguards are due to the specific circumstances in which non-euro area participating Member States are under this Regulation, since they are not present in the Governing Council and cannot fully benefit from other mechanisms provided for euro area Member States. Therefore, the safeguards cannot and should not be construed as a precedent for other areas of EU policy.

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(29b) Nothing in this Regulation should alter in any way the current framework regulating the change of legal form of subsidiaries or branches and the application of such framework, or be understood or applied as providing incentives in favour of such change. In this respect, the responsibility of competent authorities of Member States which do not participate in the Single Supervisory Mechanism should be fully respected, so that those authorities continue to enjoy sufficient supervisory tools and powers over credit institutions operating in their territory in order to have the capacity to fulfil this responsibility and effectively safeguard financial stability and public interest. Moreover, in order to assist the competent authorities in fulfilling their responsibilities, timely information on a change of legal form of subsidiaries or branches should be provided to depositors and to the competent authorities.

(30) In order to carry out its tasks, the ECB should have appropriate supervisory powers. Union law on the prudential supervision of credit institutions provides for certain powers to be conferred on competent authorities designated by the Member States for those purposes. To the extent that these powers fall within the scope of the supervisory tasks conferred on the ECB, for participating Member States the ECB should be considered the competent authority and should have the powers conferred on competent authorities by Union law. This includes powers conferred by those acts on the competent authorities of the home and the host Member States and the powers conferred on designated authorities.

(30a) The ECB should have the supervisory power to remove a member of a management body in accordance with the provisions of this regulation.

(31) In order to carry out its tasks effectively, the ECB should be able to require all necessary information, and to conduct investigations and on-site inspections***, where appropriate in cooperation with national competent authorities. The ECB and the national supervisory authorities should have access to the same information without credit institutions being subject to double reporting requirements***.

(31a) Legal profession privilege is a fundamental principle of Union law, protecting the confidentiality of communications between natural or legal persons and their advisors, in accordance with the conditions laid down in the case-law of the European Court of Justice.

(31b) When the ECB needs to require information from a person established in a non-participating Member State but belonging to a credit institution, financial holding company or mixed financial holding company established in a participating Member State, or to which such credit institution, financial holding company or mixed financial holding company has outsourced operational functions or activities, and when such requirements will not apply and will not be enforceable in the non-participating Member State, the ECB should coordinate with the national competent authority in the non-participating Member State concerned.

(31c) This Regulation does not affect the application of the rules established by Articles 34 and 42 of the Protocol on the Statute of the ECB. The acts adopted by the ECB under this Regulation should not create any rights or impose any obligations in non-participating Member States, except where such acts are in accordance with relevant Union law, in accordance with Protocols No 4 and 15.

(32) Where credit institutions exercise their right of establishment or to provide services in another Member State, or where several entities in a group are established in different Member States, Union law provides for specific procedures and for attribution of competences between the Member States concerned. To the extent that the ECB takes over certain supervisory tasks for all participating Member States, those procedures and attributions should not apply to the exercise of the right of establishment or to provide services in another participating Member State.

(32a) When carrying out its tasks under this Regulation and when requesting assistance from national competent authorities, the ECB should have due regard to a fair balance between the involvement of all national competent authorities involved, in line with the responsibilities for solo, sub-consolidated and consolidated supervision set out in applicable Union legislation.

(32b) Nothing in this regulation should be understood as conferring on the ECB the power to impose sanctions on natural or legal persons other than credit institutions, financial holding companies or mixed financial holding companies, without prejudice to the ECB's power to require national authorities to act in order to ensure that appropriate sanctions are imposed.

(33) ***As an institution established by the Treaties the ECB is an institution of the Union as a whole. It should be bound*** in its decision-making procedures ▌by Union rules and general principles on due process and transparency. The right of the addressees of the ECB's decisions to be heard should be fully respected ***as well as their right to request a review of the decisions of the ECB according to the rules set out in this Regulation***.

(34) The conferral of supervisory tasks implies a significant responsibility for the ECB to safeguard financial stability in the Union, and to use its supervisory powers in the most effective and proportionate way. ***Any shift of supervisory powers from the Member State to the Union level should be balanced by appropriate transparency and accountability requirements.*** The ECB should therefore be accountable for the exercise of these tasks towards the European Parliament and the Council ▌as democratically legitimised institutions representing the European people and the Member States. That should include regular reporting, and responding to questions ***by the European Parliament in accordance with its Rules of Procedure, and by the Eurogroup. Any reporting obligations should be subject to the relevant professional secrecy requirements***.

(34a) The ECB should also forward the reports, which it addresses to the European Parliament and the Council, to the national parliaments of the participating Member States. National parliaments of the participating Member States should be able to address any observations or questions to the ECB on the performance of its supervisory tasks, to which the ECB may reply. The internal rules of those national parliaments should take into account details of the relevant procedures and arrangements for addressing the observations and questions to the ECB. In this context particular attention should be attached to observations or questions related to the withdrawal of authorisations of credit institutions in respect of which actions necessary for resolution or to maintain financial stability have been taken by national authorities in accordance with the procedure set out in Article 13(2a). The parliament of a participating Member State should also be able to invite the Chair or a representative of the Supervisory Board to participate in an exchange of views in relation to the supervision of credit institutions in that Member State together with a representative of the national competent authority. This role for national parliaments is appropriate given the potential impact that supervisory measures may have on public finances, credit institutions, their customers and employees, and the markets in the participating Member States. Where national supervisors take action under this Regulation, accountability arrangements provided under national law should continue to apply.

(34b) This Regulation is without prejudice to the right of the European Parliament to set up a temporary Committee of Inquiry to investigate alleged contraventions or maladministration in the implementation of Union law pursuant to Article 226 TFEU or to the exercise of its functions of political control as laid down in the Treaties, including the right for the European Parliament to take a position or adopt a resolution on matters which it considers appropriate.

(34c) In its action, the ECB should comply with the principles of due process and transparency.

(34d) The regulation referred to in Article 15(3) TFEU should determine detailed rules enabling access to documents held by the ECB resulting from the carrying out of supervisory tasks, in accordance with the Treaty.

(34e) Pursuant to Article 263 TFEU, the Court of Justice of the European Union is to review the legality of acts of, inter alia, the ECB, other than recommendations and opinions, intended to produce legal effects vis-à-vis third parties.

(34f) In accordance with Article 340 TFEU, the ECB should, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties. This should be without prejudice to the liability of national competent authorities to make good any damage caused by them or by their servants in the performance of their duties in accordance with national legislation.

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(34 g) Regulation No 1 determining the languages to be used by the European Economic Community applies to the ECB by virtue of Article 342 TFEU.

(34h) When determining whether the right of access to the file by persons concerned should be limited, the ECB should respect the fundamental rights and observe the principles recognised in the Charter of Fundamental Rights of the European Union, notably the right to an effective remedy and to a fair trial.

(34i) The ECB should provide natural and legal persons with the possibility to request a review of decisions taken under the powers conferred upon it by the present regulation and addressed to them, or which are of direct and individual concern to them. The scope of the review should pertain to the procedural and substantive conformity with this regulation of such decisions while respecting the margin of discretion left to the ECB to decide on the opportunity to take these decisions. For that purpose, and for reasons of procedural economy, the ECB should establish an administrative board of review to carry out such internal review. To compose the board, the Governing Council of the ECB should appoint individuals of a high repute. In making its decision, the Governing Council should, to the extent possible, ensure an appropriate geographical and gender balance across the Member States. The procedure laid down for the review should provide for the Supervisory Board to reconsider its former draft decision as appropriate.

(35) The ECB is responsible for carrying out monetary policy functions with a view to maintaining price stability in accordance with Article 127(1) TFEU. The exercise of supervisory tasks has the objective to protect the safety and soundness of credit institutions and the stability of the financial system. ***They should therefore be carried out in full separation, in*** order to avoid conflicts of interests and to ensure that each function is exercised in accordance with the applicable objectives. ***The ECB should be able to ensure that the Governing Council operates in a completely differentiated manner as regards monetary and supervisory functions. Such differentiation should at least include strictly separated meetings and agendas.***

(35a) Organisational separation of staff should concern all services needed for independent monetary policy purposes and should ensure that the exercise of the tasks conferred by this Regulation is fully subject to democratic accountability and oversight as provided for by this Regulation. The staff involved in carrying out the tasks conferred on the ECB by this Regulation should report to the Chair of the Supervisory Board.

(36) In particular, a Supervisory Board responsible for preparing decisions on supervisory matters should be set up with the ECB encompassing the specific expertise of national supervisors. The board should therefore be chaired by a Chair***, have*** a Vice Chair ▌and ***include*** representatives from the ECB and from national authorities. ***The appointments for the Supervisory Board in accordance with this Regulation should respect the principles of gender balance, experience and qualification. All members of the Supervisory Board should be timely and fully informed on the items on the agenda of its meetings, so as to facilitate the effectiveness of the discussion and the draft decision making process.***

(36a) When exercising its tasks, the Supervisory Board shall take account of all relevant facts and circumstances in the participating Member States and shall perform its duties in the interest of the Union as a whole.

(36b) With full respect to the institutional and voting arrangements set by the Treaties, the Supervisory Board should be an essential body in the exercise of supervisory tasks by the ECB, tasks which until now have always been in the hands of national competent authorities. For this reason, the Council should be given the power to adopt an implementing decision to appoint the Chair and the Vice-Chair of the Supervisory Board. After hearing the Supervisory Board, the ECB should submit a proposal for the appointment of the Chair and the Vice-Chair to the European Parliament for approval. Following the approval of this proposal, the Council should adopt that implementing decision. The Chair should be chosen on the basis of an open selection procedure, on which the European Parliament and the Council should be kept duly informed.

(36c) In order to allow for an appropriate rotation while ensuring the full independence of the Chair, the Chair's term of office should not exceed five years and should not be renewable. In order to ensure full coordination with the

activities of the EBA and with the prudential policies of the Union, the Supervisory Board should be able to invite EBA and the European Commission as observers. The Chair of the European Resolution Authority, once established, should participate as observer in the meetings of the Supervisory Board.

(36d) The Supervisory Board should be supported by a Steering committee with a more limited composition. The Steering committee should prepare the meetings of the Supervisory Board and should perform its duties solely in the interest of the Union as a whole and should work in full transparency with the Supervisory Board.

(36e) The Governing Council of the ECB should invite the representatives from non-euro area participating Member States whenever it is contemplated by the Governing Council to object to a draft decision prepared by the Supervisory Board or whenever the concerned national competent authorities inform the Governing Council of their reasoned disagreement with a draft decision of the Supervisory Board, when such decision is addressed to the national authorities in respect of credit institutions from non-euro area participating Member States.

(36f) With a view to ensuring separation between monetary policy and supervisory tasks, the ECB should be required to create a mediation panel. The setting up of the panel, and in particular its composition, should ensure that is resolves differences of views in a balanced way, in the interest of the Union as a whole.

(37) The Supervisory Board***, the steering committee*** and staff of the ECB carrying out supervisory duties should be subject to appropriate professional secrecy requirements. Similar requirements should apply to the exchange of information with the staff of the ECB not involved in supervisory activities. This should not prevent the ECB from exchanging information within the limits and under the conditions set out in the relevant Union legislation, including with the European Commission for the purposes of its tasks under Articles 107 and 108 TFEU and under Union law on enhanced economic and budgetary surveillance.

(38) In order to carry out its supervisory tasks effectively, the ECB should exercise the supervisory tasks conferred on it in full independence, in particular from undue political influence and from industry interference which would affect its operational independence.

(38a) The use of cooling-off periods in supervisory authorities forms an important part of ensuring the effectiveness and independence of the supervision conducted by those authorities. To this end, and without prejudice to the application of stricter national rules, the ECB should establish and maintain comprehensive and formal procedures, including proportionate review periods, to assess in advance and prevent possible conflicts with the legitimate interest of the SSM/ECB where a former member of the Supervisory Board begins work within the banking industry he or she once supervised.

(39) In order to carry out its supervisory tasks effectively, the ECB should dispose of adequate resources. Those resources should be obtained in a way that ensures the ECB's independence from undue influences by national competent authorities and market participants, and separation between monetary policy and supervisory tasks. The costs of supervision should be ▌borne by the entities subject to it. Therefore, the exercise of supervisory tasks by the ECB should be financed ▌by ***annual*** fees charged to credit institutions ***established in the participating Member States. It should also be able to levy fees on branches established in a participating Member State by a credit institution established in a non-participating Member State to cover the expenditure incurred by the ECB when carrying out its tasks as a host supervisor over these branches. In case a credit institution or a branch is supervised on a consolidated basis, the fee should be levied on the highest level of a credit institution within the involved group with establishment in participating Member States. The calculation of the fees should exclude any subsidiaries established in non-participating Member States.***

(39a) Where a credit institution is included in consolidated supervision, the fee should be calculated at the highest level of consolidation within participating Member States and allocated to the credit institutions established in a participating Member State and included in the consolidated supervision, based on objective criteria relating to the importance and risk profile, including the risk weighted assets.

(40) Highly motivated, well-trained and impartial staff is indispensable to effective supervision. In order to create a truly integrated supervisory mechanism, appropriate exchange and secondment of staff with and among ***all*** national supervisors ***of participating Member States*** and the ECB should be provided for. ***To ensure a peer control on an on-going basis***, particularly in the supervision of large banks, the ECB should be able to request that national supervisory teams involve also staff from competent authorities of other participating Member States***, making it***

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possible to install supervisory teams of geographical diversity with specific expertise and profile. The exchange and secondment of staff shall establish a common supervisory culture. On a regular basis the ECB will provide information how many staff members from the national competent authorities of the participating Member States are seconded to the ECB for the purposes of the SSM.

(41) Given the globalisation of banking services and the increased importance of international standards, the ECB should carry out its tasks in respect of international standards and in dialogue and close cooperation with supervisors outside the Union, without duplicating the international role of the EBA. It should be empowered to develop contacts and enter into administrative arrangements with the supervisory authorities and administrations of third countries and with international organisations, ***while coordinating*** with the EBA and while fully respecting the existing roles and respective competences of the Member States and the Union institutions.

(42) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([1]) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([2]) are fully applicable to the processing of personal data ***by the ECB*** for the purposes of this Regulation.

(43) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ([3]) applies to the ECB. ***The ECB has adopted Decision ECB/2004/11 of 3 June 2004 concerning the terms and conditions for European Anti-Fraud Office investigations of the European Central Bank*** ([4]).

(44) In order to ensure that credit institutions are subject to supervision of the highest quality, unfettered by other, non-prudential considerations and that the negative mutually reinforcing impacts of market developments concerns banks and Member States is addressed in a timely and effective way, the ECB should start carrying out specific supervisory tasks as soon as possible. However, the transfer of supervisory tasks from national supervisors to the ECB requires a certain amount of preparation. Therefore, an appropriate phasing-in period should be provided for. ▌

(44a) When adopting the detailed operational arrangements for the implementation of the tasks conferred upon the ECB by this Regulation, the ECB should provide for transitional arrangements which ensure the completion of ongoing supervisory procedures, including any decision and/or measure adopted or investigation commenced prior to the entry into force of this Regulation.

▌

(45a) The Commission has stated in its Communication of 28 November 2012 on a Blueprint for a deep and genuine economic and monetary union that 'Article 127 paragraph 6 TFEU could be amended to make the ordinary legislative procedure applicable and to eliminate some of the legal constraints it currently places on the design of the SSM (e.g. enshrine a direct and irrevocable opt-in by non-euro area Member States to the SSM, beyond the model of "close cooperation", grant non-euro area Member States participating in the SSM fully equal rights in the ECB's decision-making, and go even further in the internal separation of decision-making on monetary policy and on supervision)'. It has also stated that 'a specific point to be addressed would be to strengthen democratic accountability over the ECB insofar as it acts as a banking supervisor'. It is recalled that the Treaty on European Union provides that proposals for treaty change may be submitted by the Government of any Member State, the European Parliament, or the European Commission, and may relate to any aspect of the Treaties.

(46) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably the right to the protection of personal data, the freedom to conduct a business, the right to an effective remedy and to a fair trial, and has to be implemented in accordance with those rights and principles.

([1]) OJ L 281, 23.11.1995, p. 31.
([2]) OJ L 8, 12.1.2001, p. 1.
([3]) OJ L 136, 31.5.1999, p. 1.
([4]) ***OJ L 230, 30.6.2004, p. 56.***

(47) Since the objectives of this Regulation, namely setting up an efficient and effective framework for the exercise of specific supervisory tasks over credit institutions by a Union institution, and ensuring the consistent application of the single rulebook to credit institutions, cannot be sufficiently achieved at the Member State level and can therefore, by reason of the pan-Union structure of the banking market and the impact of bank failures on other Member States, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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 those objectives,

HAS ADOPTED THIS REGULATION:

Chapter I

Subject matter and definitions

Article 1

Subject matter ***and scope***

This Regulation confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions, with a view to ***contributing to*** the safety and soundness of credit institutions and the stability of the financial system ***within the EU and each Member State***, with ***full*** regard ***and duty of care*** for the unity and integrity of the internal market ***based on equal treatment of credit institutions with a view to preventing regulatory arbitrage***.

The institutions referred to in Article 2 of the Directive 2006/48/EC are excluded from the supervisory tasks conferred to ECB in accordance with Article 4 of this Regulation. The scope of the ECB's supervisory tasks is limited to the prudential regulation of credit institutions pursuant to this Regulation. This Regulation shall not confer on the ECB any other supervisory tasks, such as tasks relating to the prudential supervision of Central Counterparties.

When fulfilling its tasks according to this Regulation, and without prejudice to the objective to ensure the safety and soundness of credit institutions, the ECB shall have full regard to the different types, business models and sizes of credit institutions.

No action, proposal or policy of the ECB shall, directly or indirectly, discriminate against any Member State or group of Member States as a venue for the provision of banking or financial services in any currency.

This regulation is without prejudice to the responsibilities and related powers of the competent authorities of the participating Member States to carry out supervisory tasks not conferred on the ECB by this Regulation.

This Regulation is also without prejudice to the responsibilities and related powers of the competent or designated authorities of the participating Member States to apply macro-prudential tools not provided for in relevant acts of Union law.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) 'participating Member State' means a Member State whose currency is the euro ***or a Member State whose currency is not the euro which has established a close cooperation in accordance with Article 6***;

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(2) 'national competent authority' means ***any*** national competent authority designated by participating Member States in accordance with Directive 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) ([1]) and Directive 2006/49/EC of the European Parliament and the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) ([2]);

(3) 'credit institutions' means credit institutions as defined in Article 4(1) of Directive 2006/48/EC;

(4) 'financial holding company' means a financial holding company as defined in Article 4(19) of Directive 2006/48/EC;

(5) 'mixed financial holding company' means a mixed financial holding company as defined in Article 2(15) of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate ([3]);

(6) 'financial conglomerate' means a financial conglomerate as defined in Article 2(14) of Directive 2002/87/EC

(6a) 'national designated authority' means a designated authority within the meaning of the relevant Union law.

(6b) 'qualifying holding' means a qualifying holding as defined in Article 4(11) of Directive 2006/48/EC.

(6c) 'Single supervisory mechanism (SSM)' means a European system of financial supervision composed by the European Central Bank and national competent authorities of participating Member States as described in Article 5 of this regulation.

Chapter II

Cooperation and tasks

Article 3

Cooperation

1. The ECB shall cooperate closely with the European Banking Authority, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the European Systemic Risk Board, ***and the other authorities*** which form part of the European System of Financial Supervision ***(ESFS)*** established by Article 2 of Regulations (EU) No. 1093/2010, (EU) No 1094/2010, and (EU) No 1095/2010***, which ensure an adequate level of regulation and supervision in the Union***.

Where necessary the ECB shall enter into memoranda of understanding with competent authorities of Member States responsible for markets in financial instruments. Such memoranda shall be made available to the European Parliament, the Council and competent authorities of all Member States.

1a. For the purposes of this Regulation, the ECB shall participate in the Board of Supervisors of the European Banking Authority under the conditions set out in Article 40 of Regulation (EU) No. 1093/2010.

1b. The ECB shall carry out its tasks in accordance with this Regulation and without prejudice to the competence and the tasks of EBA, ESMA, EIOPA and the ESRB.

1c. The ECB shall co-operate closely with the authorities empowered to resolve credit institutions, including in the preparation of resolution plans.

1d. Subject to Articles 1, 4 and 5, the ECB shall co-operate closely with any public financial assistance facility including the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM), in particular where such a facility has granted or is likely to grant, direct or indirect financial assistance to a credit institution which is subject to Article 4 of this Regulation.

([1]) OJ L 177, 30.6.2006, p. 1.
([2]) OJ L 177, 30.6.2006, p. 277.
([3]) OJ L 35, 11.2.2003, p. 1.

1e. The ECB and the national competent authorities of non-participating Member States shall conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their supervisory tasks under Union law in relation to the financial institutions defined in Article 2. The memorandum shall be reviewed on a regular basis.

Without prejudice to the first subparagraph the ECB shall conclude a memorandum of understanding with the national competent authority of each non-participating Member State that is home to at least one global systemically important institution, as defined in Union law.

Each memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.

Article 4

Tasks conferred on the ECB

1. ***Within the framework of Article 5,*** the ECB shall, in accordance with ***paragraph 3 of this Article***, be exclusively competent to carry out, for prudential supervisory purposes, the following tasks in relation to all credit institutions established in the participating Member States:

(a) To authorise credit institutions and to withdraw authorisations of credit institutions ***subject to the provisions of Article 13***;

(aa) for credit institutions established in a participating Member State, which wish to establish a branch or provide cross-border services in a non participating Member State, to carry out the tasks which the competent authority of the home Member State shall have under the relevant Union law;

(b) To assess ***applications for the acquisition*** and ***disposal*** of ***qualifying*** holdings in credit institutions***, except in the case of a bank resolution, and subject to the provisions of Article 13a***;

(c) To ensure compliance with ***the*** acts ***referred to in the first subparagraph of Article 4(3), which impose*** prudential requirements on credit institutions in the areas of own funds requirements, ***securitisation,*** large exposure limits, liquidity, leverage, and reporting and public disclosure of information on those matters;

(f) To ***ensure compliance with the acts referred to in the first subparagraph of Article 4(3), which impose*** requirements ***on*** credit institutions to have in place robust governance arrangements, ***including the fit and proper requirements for the persons responsible for the management of credit institutions, risk management*** processes***, internal control*** mechanisms***, remuneration policies and practices*** and effective internal capital adequacy assessment processes***, including Internal Ratings Based models***;

(g) To ***carry out supervisory reviews, including where appropriate in coordination with the EBA, stress tests and their possible publication, in order to*** determine whether the arrangements, strategies, processes and mechanisms put in place by credit institutions and the own funds held by these institutions ensure a sound management and coverage of their risks, and on the basis of that supervisory review to impose on credit institutions specific additional own funds requirements, specific publication requirements, specific liquidity requirements and other measures in the cases specifically ***made available to competent authorities by relevant Union law***;

(i) To carry out supervision on a consolidated basis over credit institutions' parents established in one of the participating Member States, including over financial holding companies and mixed financial holding companies, and to participate in supervision on a consolidated basis, including in colleges of supervisors ***without prejudice to the participation of national competent authorities of participating Member States in these colleges as observers***, in relation to parents not established in one of the participating Member State;

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(j) To participate in supplementary supervision of a financial conglomerate in relation to the credit institutions included in it and assume the tasks of a coordinator where the ECB is appointed as the coordinator for a financial conglomerate in accordance with the criteria set out ***in*** relevant Union law;

(k) To carry out supervisory tasks in relation to ***recovery plans, and*** early intervention where a credit institution ***or group in relation to which the ECB is the consolidating supervisor,*** does not meet or is likely to breach the applicable prudential requirements ***and, only in the cases explicitly stipulated by relevant Union law for competent authorities, structural changes required from credit institutions to prevent financial stress or failure, excluding any resolution powers.***

▌

2. For credit institutions established in a non-participating Member State, which establish a branch or provide cross-border services in a participating Member State, the ECB shall carry out***, within the scope of paragraph 1,*** the tasks ▌ for which the ▌ competent authorities of the participating Member State are competent ***in accordance with relevant Union law***.

3. ***For the purpose of carrying out the tasks conferred upon it by this Regulation, and with the objective of ensuring high standards of supervision, the ECB shall apply all relevant Union law, and where this Union law is composed of Directives, the national legislation transposing those Directives. Where the relevant Union law is composed of Regulations and where currently those Regulations explicitly grant options for Member States, the ECB shall apply also the national legislation exercising these options.***

To that effect, the ECB shall adopt guidelines and recommendations, and take decisions subject to and in compliance with the relevant Union law and in particular any legislative and non-legislative act, including those referred to in Articles 290 and 291 TFEU. It shall in particular be subject to binding regulatory and implementing technical standards developed by EBA and adopted by the Commission in accordance with Article 10 to 15 of Regulation (EU) No 1093/2010, to Article 16 of that Regulation on Guidelines and Recommendations, andbe subject to the provisions of the EBA regulation on the European supervisory handbook developed by the EBA in accordance with that Regulation. The ECB may also adopt regulations only to the extent necessary to organise or specify the modalities for the carrying out of those tasks.

Before adopting a regulation, the ECB shall conduct open public consultations and analyse the potential related costs and benefits, unless such consultations and analyses are disproportionate in relation to the scope and impact of the regulations concerned or in relation to the particular urgency of the matter, in which case the ECB shall justify the urgency.

Where necessary the ECB shall contribute in any participating role to the development of draft regulatory technical standards or implementing technical standards by EBA in accordance with Regulation (EU) No 1093/2010 or shall draw the attention of EBA to a potential need to submit to the Commission draft standards amending existing regulatory or implementing technical standards.

▌

Article 4a

Macroprudential tasks and tools

1. Whenever appropriate or deemed required, and without prejudice to paragraph 2 below, the competent or designated authorities of the participating Member States shall apply requirements for capital buffers to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in Article 4(1c), including countercyclical buffer rates, and any other measures aimed at addressing systemic or macro-prudential risks provided for, and subject to the procedures set out, in the Directives 2006/48/EC and 2006/49/EC in the cases specifically set out in relevant Union law. Ten working days prior to taking such a decision, the concerned authority shall duly notify its intention to the ECB. Where the ECB objects, it shall state its reasons in writing within five working days. The concerned authority shall duly consider the ECB's reasons prior to proceeding with the decision as appropriate.

2. The ECB may, if deemed necessary, instead of the national competent or national designated authorities of the participating Member State, apply higher requirements for capital buffers than applied by the national competent or national designated authorities of participating Member States to be held by credit institutions at the relevant level in accordance with relevant Union law in addition to own funds requirements referred to in Article 4(1c), including countercyclical buffer rates, subject to the conditions set out in paragraphs 3 and 4, and apply more stringent measures aimed at addressing systemic or macro-prudential risks at the level of credit institutions subject to the procedures set out in the Directives 2006/48/EC and 2006/49/EC in the cases specifically set out in relevant Union law.

3. Any national competent or designated authority may propose to the ECB to act under paragraph 2, in order to address the specific situation of the financial system and the economy in its Member State.

4. Where the ECB intends to act in accordance with paragraph 2, it shall cooperate closely with the designated authorities in the Member States concerned when considering to take any action. It shall in particular notify its intention to the concerned national competent or designated authorities ten working days prior to taking such a decision. Where any of the concerned authorities objects, it shall state its reasons in writing within five working days. The ECB shall duly consider those reasons prior to proceeding with the decision as appropriate.

5. When carrying out the tasks referred to in paragraph 2, the ECB shall take into account the specific situation of the financial system, economic situation and the economic cycle in individual Member States or parts thereof.

Article 5

Cooperation within the Single Supervisory Mechanism

1. The ECB shall carry out its tasks within a single supervisory mechanism composed of the ECB and national competent authorities. ***The ECB shall be responsible for the effective and consistent functioning of the single supervisory mechanism.***

2. ***Both the ECB and*** national competent authorities shall ***be subject to a duty of cooperation in good faith, and an obligation to exchange information.***

Without prejudice to the ECB's power to receive directly, or have direct access to information reported, on an ongoing basis, by credit institutions, the national competent authorities shall in particular provide the ECB with all information necessary for the purposes of carrying out the tasks conferred upon the ECB by this Regulation.

▌

4a. Where appropriate and without prejudice to the responsibility and accountability of the ECB for the tasks conferred on it by this Regulation, national competent authorities shall be responsible for assisting the ECB, under the conditions set out in the framework mentioned in paragraph 4e, with the preparation and implementation of any acts relating to the tasks referred to in Article 4 related to all credit institutions, including assistance in verification activities. They shall follow the instructions given by the ECB when performing the tasks mentioned in Article 4.

4b. In relation to the tasks defined in Article 4 except for points (a) and (b) of paragraph 1 thereof, the ECB shall have the responsibilities set out in paragraph 4c and the national competent authorities shall have the responsibilities set out in paragraph 4d, within the framework and subject to the procedures referred to in paragraph 4e, for the supervision of the following credit institutions, financial holding companies or mixed financial holding companies, or branches, which are established in participating Member States, of credit institutions established in non-participating Member States:

— ***Those that are less significant on a consolidated basis, at the highest level of consolidation within the participating Member States, or individually in the specific case of branches, which are established in participating Member States, of credit institutions established in non-participating Member States. The significance shall be assessed based on the following criteria:***

(i) size;

(ii) importance for the economy of the EU or any participating Member State;

(iii) significance of cross-border activities.

With respect to the first subparagraph above, a credit institution, or financial holding company or mixed financial holding company, shall not be considered less significant, unless justified by particular circumstances to be specified in the methodology, if any one of the following conditions are met:

(i) the total value of its assets exceeds 30 billion euro; or

(ii) the ratio of its total assets over the GDP of the participating Member State of establishment exceeds 20 %, unless the total value of its assets is below 5 billion euro; or

(iii) following a notification by its national competent authority that it considers such an institution of significant relevance with regard to the domestic economy, the ECB takes a decision confirming such significance following a comprehensive assessment by the ECB, including a balance-sheet assessment, of that credit institution.

The ECB may also, on its own initiative, consider an institution to be of significant relevance where it has established banking subsidiaries in more than one participating Member States and its cross-border assets or liabilities represent a significant part of its total assets or liabilities subject to the conditions laid down in the methodology.

Those for which public financial assistance has been requested or received directly from the EFSF or the ESM shall not be considered less significant.

Notwithstanding the previous subparagraphs, the ECB shall carry out the tasks conferred upon it by this Regulation in respect of the three most significant credit institutions in each of the participating Member states, unless justified by particular circumstances.

4c. With regard to the credit institutions referred to in paragraph 4b, and within the framework defined in paragraph 4e:

(a) The ECB shall issue regulations, guidelines or general instructions to national competent authorities, according to which the tasks defined in Article 4 excluding letters (a) and (b) thereof are performed and supervisory decisions are adopted by national competent authorities.

Such instructions may refer to the specific powers in Article 13b, paragraph 2 for groups or categories of credit institutions for the purposes of ensuring the consistency of supervisory outcomes within the Single Supervisory Mechanism;

(b) When necessary to ensure consistent application of high supervisory standards, the ECB may at any time, on its own initiative after consulting with national authorities or upon request by a national competent authority, decide to exercise directly itself all the relevant powers for one or more credit institutions referred to in paragraph 4b, including in the case where financial assistance has been requested or received indirectly from the EFSF or the ESM;

(c) The ECB shall exercise oversight over the functioning of the system, based on the responsibilities and procedures set out in this Article, and in particular paragraph 4e(c);

(d) The ECB may at any time make use of the powers referred to in Articles 9 to 12;

(e) The ECB may also request, on an ad hoc or continuous basis, information from the national competent authorities on the performance of the tasks carried out by them under this Article.

4d. Without prejudice to paragraph 4c, national competent authorities shall carry out and be responsible for the tasks referred to in Article 4(1)(aa), (c), (f), (g), (i), and (k) and adopting all relevant supervisory decisions with regard to the credit institutions referred to in paragraph 4b, first subparagraph, within the framework and subject to the procedures referred to in paragraph 4e.

Without prejudice to Articles 9 to 12, the national competent and designated authorities shall maintain the powers, in accordance with national law, to obtain information from credit institutions, holding companies, mixed holding companies and undertakings included in the consolidated financial situation of a credit institution and to perform on site inspections at those credit institutions, holding companies, mixed holding companies and undertakings. The national competent authorities shall inform the ECB, in accordance with the framework set out in paragraph 4e, of the measures taken pursuant to this paragraph and closely coordinate those measures with the ECB.

The national competent authorities shall report to the ECB on a regular basis on the performance of the activities performed under this Article.

4e. The ECB shall, in consultation with national competent authorities of participating Member States, and on the basis of a proposal from the Supervisory Board, adopt and make public a framework to organise the practical modalities of implementation of this Article. The framework shall include, at least, the following:

(a) the specific methodology for the assessment of the criteria referred to in paragraph 4b, subparagraphs 1 to 3 and the criteria under which paragraph 4b, subparagraph 4 ceases to apply to a specific credit institution and the resulting arrangements for the purposes of implementing paragraphs 4c and 4d. These arrangements and the methodology for the assessment of the criteria referred to in paragraph 4b, subparagraphs 1 to 3 shall be reviewed to reflect any relevant changes, and shall ensure that where a bank has been considered significant or less significant that assessment shall only be modified in case of substantial and non transitory changes of circumstances, in particular those circumstances relating to the situation of the bank which are relevant for that assessment;

(b) the definition of the procedures, including time-limits, and the possibility to prepare draft decisions to be sent to the ECB for consideration, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions not considered as less significant in accordance with in paragraph 4b;

(c) the definition of the procedures, including time-limits, for the relation between the ECB and the national competent authorities regarding the supervision of credit institutions considered as less significant in accordance with in paragraph 4b. Such procedures shall in particular require national competent authorities, depending on the cases defined in the framework, to:

(i) notify the ECB of any material supervisory procedure;

(ii) further assess, on ECB request, specific aspects of the procedure;

(iii) transmit to the ECB material draft supervisory decisions on which the ECB may express its views.

4f. Wherever the ECB is assisted by national competent authorities or designated authorities for the purpose of exercising the tasks conferred on it by this Regulation, the ECB and the national competent authorities shall comply with the provisions set out in the relevant Union acts in relation to the allocation of responsibilities and cooperation between competent authorities from different Member States.

Article 6

Close cooperation with the competent authorities of ▌participating Member States ***whose currency is not the Euro***

1. Within the limits set out in this Article, the ECB shall carry out the tasks in the areas referred to in Article 4 (1) and (2) ***and Article 4a*** in relation to credit institutions established in a Member State whose currency is not the euro, where a close cooperation has been established between the ECB and the national competent authority of such Member State in accordance with this Article.

To that end, the ECB may address ***instructions*** to the national competent authority of the ▌participating Member State ***whose currency is not the Euro***.

2. The close cooperation between the ECB and the national competent authority of a ▌participating Member State ***whose currency is not the Euro*** shall be established, by a decision adopted by the ECB, where the following conditions are met:

(a) The Member State concerned notifies the other Member States, the Commission, the ECB and the EBA the request to enter into a close cooperation with the ECB in relation to the exercise of the tasks referred to in Article 4 ***and Article 4a*** with regards to all credit institutions established in the Member State concerned***, in accordance with Article 5***;

(b) In the notification, the Member State concerned undertakes:

— to ensure that its national competent authority ***or national designated authority*** will abide by any guidelines or requests issued by the ECB;

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— to provide all information on the credit institutions established in that Member State that the ECB may require for the purpose of carrying out a comprehensive assessment of those credit institutions.

(c) The Member State concerned has adopted ***relevant*** national ***legislation*** to ensure that its national competent authority will be obliged to adopt any measure in relation to credit institutions requested by the ECB, in accordance with paragraph 5.

▌

4. The decision referred to in paragraph 2 shall be published in the *Official Journal of the European Union*. The decision shall apply 14 days after such publication.

5. Where the ECB considers that a measure relating to the tasks referred to in paragraph 1 should be adopted by the ***national*** competent authority of a concerned Member State in relation to a credit institution, financial holding company or mixed-financial holding company, it shall ***address instructions*** to that authority, specifying a relevant timeframe.

That timeframe shall be no less than 48 hours unless earlier adoption is indispensable to prevent irreparable damage. The competent authority of the concerned Member State shall take all the necessary measures in accordance with the obligation referred to in paragraph (2)(c).

5a. The ECB may decide to issue a warning to the Member State concerned that the close cooperation will be suspended or terminated if no decisive corrective action is undertaken in the following cases:

(a) where***, in the opinion of the ECB,*** the conditions set out in paragraph 2(a) to (c) are no longer met by a Member State concerned; or

(b) where, ***in the opinion of the ECB, the national*** competent authority ***of a Member State*** does not act in accordance with the obligation referred to in paragraph 2(c).

If no such action has been undertaken 15 days after notification of such a warning, the ECB may ***suspend or*** terminate the close cooperation with that Member State.

The decision shall be notified to the Member State concerned and shall be published in the *Official Journal of the European Union*. The decision shall indicate the date from which it applies, taking due consideration of supervisory effectiveness and legitimate interests of credit institutions.

5b. The Member State may request the ECB to terminate the close cooperation at any time after the lapse of three years of the publication in the Official Journal of the European Union of the decision adopted by the ECB for the establishment of the close cooperation. The request shall explain the reasons for the termination, including, when relevant, potential significant adverse consequences as regards the fiscal responsibilities of the Member State. In this case, the ECB shall immediately proceed to adopt a decision terminating the close cooperation and indicate the date from which it applies within a maximum period of three months, taking due consideration of supervisory effectiveness and legitimate interests of credit institutions. The decision shall be published in the Official Journal of the European Union.

5c. If a non-euro participating Member State notifies the ECB in accordance with Article 19(3) of its reasoned disagreement with an objection of the Governing Council to a draft decision of the Supervisory Board, the Governing Council shall, within a period of 30 days, give its opinion on the reasoned disagreement expressed by the Member State and, stating its reasons to do so, confirm or withdraw its objection.

In case the Governing Council confirms its objection, the non-euro participating Member State may notify the ECB that it will not be bound by the potential decision related to a possible amended draft decision by the Supervisory Board.

The ECB shall then consider the possible suspension or termination of the close cooperation with that Member State, taking due consideration of supervisory effectiveness, and take a decision in that respect.

The ECB shall take into account, in particular, the following considerations:

— whether the absence of such suspension or termination could jeopardize the integrity of the SSM or have significant adverse consequences as regards the fiscal responsibilities of the Member States;

— whether such suspension or termination could have significant adverse consequences as regards the fiscal responsibilities in the Member State which has notified the objection in accordance with Art. 19(3);

— whether or not it is satisfied that the national competent authority concerned has adopted measures which, in the ECB's opinion:

(a) ensure credit institutions in the Member State which notified its objection pursuant to the previous subparagraph are not subject to a more favourable treatment than credit institutions in the other participating Member States;

(b) are equally effective as the decision of the Governing Council under the previous subparagraph in achieving the objectives referred to in Article 1 of this Regulation and in ensuring compliance with relevant Union law.

The ECB shall include these considerations in its decision and communicate them to the Member State in question.

5d. If a non-euro participating Member State disagrees with a draft decision of the Supervisory Board, it shall inform the Governing Council of its reasoned disagreement within five working days of receiving the draft decision. The Governing Council shall then decide about the matter within five working days, taking fully into account those reasons, and explain in writing its decision to the Member State concerned. The Member State concerned may request the ECB to terminate the close cooperation with immediate effect and will not be bound by the ensuing decision.

5e. A Member State who has terminated the close cooperation with the ECB may not enter into a new close cooperation before the lapse of three years from the date of the publication in the Official Journal of the European Union of the ECB decision terminating the close cooperation.

Article 7

International relations

Without prejudice to the respective competences of the Member States and the other Union institutions ***and bodies including the EBA***, in relation to the tasks conferred on the ECB by this Regulation, the ECB may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, subject to appropriate coordination with the EBA. Those arrangements shall not create legal obligations in respect of the Union and its Member States.

Chapter III

Powers of the ECB

Article 8

Supervisory and investigatory powers

1. For the ***exclusive purpose*** of carrying out the tasks conferred upon it by Article 4(1), (2) ***and 4a(2)***, the ECB shall be considered***, as appropriate,*** the competent authority ***or the designated authority*** in the participating Member States ***as established by the*** relevant ▌Union law ▌.

For the ***same exclusive*** purpose ▌, the ECB shall ▌have ***all*** the powers and obligations ***set out in this Regulation. It shall also have all the powers and obligations,*** which ***competent and*** designated authorities shall have under ***the relevant Union law, unless otherwise provided for by this Regulation. In particular, the ECB shall have the powers listed in Sections 1 and 2 of this Chapter***.

To the extent necessary to carry out the tasks conferred on it by this Regulation, the ECB may require, by way of instructions, those national authorities to make use of their powers, under and in accordance with the conditions set out in national law, where this Regulation does not confer such powers on the ECB. Those national authorities shall fully inform the ECB about the exercise of these powers.

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2a. The ECB shall exercise the powers referred to in paragraph 1 in accordance with the acts referred to in the first subparagraph of Article 4(3). In the exercise of their respective supervisory and investigatory powers, the ECB and national competent authorities shall cooperate closely.

2b. By derogation from paragraph 1, with regard to credit institutions established in Member States which have entered into a close cooperation in accordance with Article 6, the ECB shall exercise its powers in accordance with Article 6.

SECTION 1

Investigatory powers

Article 9

Requests for information

1. ***Without prejudice to the powers referred to in Article 8(1), and subject to the conditions set out in relevant Union law,*** the ECB may ▌require the following legal or natural persons***, subject to Article 4,*** to provide all information that is necessary in order to carry out the tasks conferred upon it by this Regulation, including information to be provided at recurring intervals and in specified formats for supervisory and related statistical purposes:

(a) credit institutions ***established in the participating Member States***;

(b) financial holding companies ***established in the participating Member States***;

(c) mixed financial holding companies ***established in the participating Member States***;

(d) mixed-activity holding companies ***established in the participating Member States***;

(e) persons ***belonging to*** the entities referred to in (a) to (d) ▌;

(f) third parties to whom the entities referred to in (a) to (d) have outsourced ▌functions or activities;

▌

2. The persons referred to in paragraph 1 shall supply the information requested. ***Professional secrecy provisions do not exempt those persons from the duty to supply the information. The suppliance of the information shall not be deemed to be a breach of professional secrecy.***

2a. Where the ECB obtains information directly from the legal or natural persons referred to in paragraph 1 it shall make that information available to the national competent authorities concerned.

Article 10

General investigations

1. In order to carry out the tasks conferred upon it by this Regulation, ***and subject to other conditions set out in relevant Union law,*** the ECB may conduct all necessary investigations of ***any person*** referred to in Article 9 (1) (a) to (***f***) ***established or located in a participating Member State***.

To that end, the ECB shall have the right to:

(a) require the submission of documents;

(b) examine the books and records of the persons referred to in Article 9 (1) (a) to (***f***) and take copies or extracts from such books and records;

(c) obtain written or oral explanations from any person referred to in Article 9(1) (a) to (***f***) or their representatives or staff;

(d) interview any other ▌ person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;

2. The persons referred to in Article 9 (1) (a) to (***f***) shall ***be subject*** to investigations launched on the basis of a decision of the ECB.

When a person obstructs the conduct of the investigation, the ***national competent authority of the*** participating Member State where the relevant premises are located shall afford***, in compliance with national law,*** the necessary assistance including***, in the cases referred to in Articles 11 and 12, facilitating the*** access by the ECB to the business premises of the legal persons referred to in Article 9(1) (a) to (***f***), so that the aforementioned rights can be exercised.

Article 11

On-site inspections

1. In order to carry out the tasks conferred upon it by this Regulation, ***and subject to other conditions set out in relevant Union law,*** the ECB may ***in accordance with Article 12 and subject to prior notification to the national competent authority concerned*** conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 9(1) (a) to (***f***) ***and any other undertaking included in consolidated supervision where the ECB is the consolidating supervisor*** in accordance with Article ***4(1)(i)***. Where the proper conduct and efficiency of the inspection so require, the ECB may carry out the on-site inspection without prior announcement ***to those legal persons***.

2. The officials of and other persons authorised by the ECB to conduct an on-site inspection may enter any business premises and land of the legal persons subject to an investigation decision adopted by the ECB and shall have all the powers stipulated in Article 10 (1). ▌

3. The ***legal*** persons referred to in Article 9(1) (a) to (***f***) shall ***be subject*** to on-site inspections ***on the basis of a*** decision of the ECB.

4. Officials ***and other accompanying persons*** authorised or appointed by ▌ the ***national*** competent authority of the Member State where the inspection is to be conducted shall ***under*** the ***supervision and coordination*** of the ECB, actively assist the officials of and other persons authorised by the ECB. To that end, they shall enjoy the powers set out in paragraph 2. Officials of the ***national*** competent authority of the participating Member State concerned ***shall*** also ***have the right to participate in*** the on-site inspections ▌.

5. Where the officials of and other accompanying persons authorised ***or appointed*** by the ECB find that a person opposes an inspection ordered pursuant to this Article, the ***national*** competent authority of the participating Member State ***concerned*** shall afford them the necessary assistance ***in accordance with national law. To the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the national competent authority concerned, it shall use its powers to request the necessary assistance of other national authorities***.

Article 12

Authorisation by a judicial authority

1. If an on-site inspection provided for in Article 11(1) ***and (2)*** or the assistance provided for in Article 11(5) requires authorisation by a judicial authority according to national rules, such authorisation shall be applied for.

2. Where authorisation as referred to in paragraph 1 is applied for, the national judicial authority shall control that the decision of the ECB is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the ECB for detailed explanations, in particular relating to the grounds the ECB has for suspecting that an

infringement of the ▌ acts ***referred to in the first subparagraph*** of ***Article 4(3)*** has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the ECB's file. The lawfulness of the ECB's decision shall be subject to review only by the Court of Justice of the European Union.

SECTION 2

specific supervisory powers

Article 13

Authorisation

1. Any application for an authorisation to take up the business of a credit institution to be established in a participating Member State shall be ***submitted to*** the national competent authorities of the Member State where the credit institution is to be established in accordance with the requirements set out in relevant national ***law***.

1a. If the ***applicant*** complies with all conditions of authorisation set out in ***the relevant*** national law of that Member State, the national competent authority shall take***, within the period provided for by relevant national law,*** a ***draft*** decision ***to propose to the ECB to grant the authorisation.*** The ***draft*** decision shall be notified to the ECB and ***the applicant for authorisation. In other cases, the national competent authority shall reject the application for authorisation.***

1b. The draft decision shall be deemed to be adopted by the ECB unless the ECB objects within a maximum period of 10 working days, extendable once for the same period in duly justified cases. The ECB shall object to the draft decision only where the conditions for authorisation set out in relevant Union law are not met. It shall state the reasons for the rejection in writing.

1c. The decision taken in accordance with paragraphs 1a and 1b shall be notified by the national competent authority to the applicant for authorisation.

2. ***Subject to paragraph 2a,*** the ECB may withdraw the authorisation in the cases set out in ***relevant*** Union ***law*** on its own initiative***, following consultations with the national competent authority of the participating Member State where the credit institution is established,*** or on a proposal from the national competent authority of the ***participating*** Member State where the credit institution is established. ***These consultations shall in particular ensure that before taking decisions regarding withdrawal, the ECB allows sufficient time for the national authorities to decide on the necessary remedial actions, including possible resolution measures, and takes these into account.***

Where the national competent authority which has proposed the authorisation in accordance with paragraph 1 considers that the authorisation must be withdrawn in accordance with the ***relevant*** national law, it shall submit a proposal to the ECB to that end. In that case, the ECB ***shall take a decision on the proposed withdrawal taking full account of the justification for withdrawal put forward by the national competent authority***.

2a. As long as national authorities remain competent to resolve credit institutions, in cases where they consider that the withdrawal of the authorisation would prejudice the adequate implementation of or actions necessary for resolution or to maintain financial stability, they will duly notify their objection to the ECB explaining in detail the prejudice that a withdrawal would cause. In those cases, the ECB shall abstain from proceeding to the withdrawal for a period mutually agreed with the national authorities. The ECB can choose to extend that period if it is of the opinion that sufficient progress has been made. If, however, the ECB determines in a reasoned decision that proper actions necessary to maintain financial stability have not been implemented by the national authorities, the withdrawal of the authorisations shall apply immediately.

Article 13a

Assessment of acquisitions of qualifying holdings

1. Without prejudice to the exemptions provided for in Article 4(1)(b), any notification of an acquisition of a qualifying holding in a credit institution established in a participating Member State or any related information shall be introduced with the national competent authorities of the Member State where the credit institution is established in

accordance with the requirements set out in relevant national law based on the acts referred to in the first subparagraph of Article 4(3).

2. The national competent authority shall assess the proposed acquistion, and shall forward the notification and a proposal for a decision to oppose or not to oppose the acquisition, based on the criteria set out in the acts referred to in the first subparagraph of Article 4(3), to the ECB, at least ten working days before the expiry of the relevant assessment period as defined by relevant Union law, and shall assist the ECB in accordance with Article 5.

3. The ECB shall decide whether to oppose the acquisition on the basis of the assessment criteria set out in relevant Union law and in accordance with the procedure and within the assessment periods set out therein.

Article 13b

Supervisory powers

1. For the purpose of carrying out its tasks referred to in Article 4(1) and without prejudice to other powers conferred on the ECB, the ECB shall have the powers set out in paragraph 2 to require any credit institution, financial holding company or mixed financial holding company in participating Member States to take the necessary measures at an early stage to address relevant problems in any of the following circumstances:

(a) the credit institution does not meet the requirements of the acts referred to in the first subparagraph of Article 4(3);

(b) the ECB has evidence that the credit institution is likely to breach the requirements of the acts referred to in the first subparagraph of Article 4(3) within the next 12 months;

(c) based on a determination, in the framework of a supervisory review in accordance with Article 4(1)(g), that the arrangements, strategies, processes and mechanisms implemented by the credit institution and the own funds and liquidity held by it do not ensure a sound management and coverage of its risks.

2. Notwithstanding the provision set out in Article 8(1), the ECB shall have the following powers:

(a) to require institutions to hold own funds in excess of the capital requirements laid down in the acts referred to in the first subparagraph of Article 4(3) related to elements of risks and risks not covered by the relevant Union acts,

(b) to require the reinforcement of the arrangements, processes, mechanisms and strategies;

(c) to require institutions to present a plan to restore compliance with supervisory requirements pursuant to the acts referred to in the first subparagraph of Article 4(3) and set a deadline for its implementation, including improvements to that plan regarding scope and deadline;

(d) to require institutions to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;

(e) to restrict or limit the business, operations or network of institutions or to request the divestment of activities that pose excessive risks to the soundness of an institution;

(f) to require the reduction of the risk inherent in the activities, products and systems of institutions;

(g) to require institutions to limit variable remuneration as a percentage of net revenues when it is inconsistent with the maintenance of a sound capital base;

(h) to require institutions to use net profits to strengthen own funds;

(i) to restrict or prohibit distributions by the institution to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the institution;

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(j) to impose additional or more frequent reporting requirements, including reporting on capital and liquidity positions;

(k) to impose specific liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;

(l) to require additional disclosures;

(m) to remove at any time members from the management body of credit institutions who do not fulfil the requirements set out in the acts referred to in the first subparagraph of Article 4(3).

Article 14

Powers of host authorities and cooperation on consolidated supervision

1. Between participating Member States the procedures set out in ***the relevant*** Union ***law*** for credit institutions wishing to establish a branch or to exercise the freedom to provide services by carrying on their activities within the territory of another Member State and the related competences of home and host Member States shall apply only for the purposes of the tasks not conferred upon the ECB by Article 4 of this Regulation.

2. The provisions set out in ***the relevant*** Union ***law*** in relation to the cooperation between competent authorities from different Member States for conducting supervision on a consolidated basis shall not apply to the extent that the ***ECB is the only*** competent ***authority*** involved ▌.

2a. In fulfilling its task as defined in Articles 4 and 4a the ECB shall respect a fair balance between all participating Member States in accordance with Article 5(8) and shall, in its relationship with non-participating Member States, respect the balance between home and host Member States established in relevant Union law.

Article 15

Administrative sanctions

1. For the purpose of carrying out the tasks conferred upon it by this Regulation, where credit institutions, financial holding companies, or mixed financial holding companies, intentionally or ***negligently***, breach a requirement under ***relevant*** directly applicable ***acts of*** Union ***law*** in relation to which administrative pecuniary sanctions shall be ***made*** available to competent authorities under ***the relevant*** Union law, the ECB may impose administrative pecuniary sanctions of up to twice the amount of the profits gained or losses avoided because of the breach where those can be determined, or up to 10 % of the total annual turnover***, as defined in relevant Union law,*** of a legal person in the preceding business year ***or such other pecuniary sanctions as may be provided for in relevant Union law***.

2. Where the legal person is a subsidiary of a parent undertaking, the relevant total annual turnover referred to in ***paragraph 1*** shall be the total annual turnover resulting from the consolidated account of the ultimate parent undertaking in the preceding business year.

3. The sanctions applied shall be effective, proportionate and dissuasive. In determining whether to impose a sanction and in determining the appropriate sanction, the ECB shall ***act in accordance with Article 8(2a)***.

4. The ECB shall apply this Article in accordance with ***the acts referred to in the first subparagraph*** of ***Article 4(3), including the procedures contained in*** Council Regulation (EC) No 2532/98***, as appropriate***.

5. In the cases not covered by paragraph 1, where necessary for the purpose of carrying out the tasks conferred upon it by this Regulation, the ECB may require national competent authorities to ***open proceedings with a view to taking*** action in order to ensure that appropriate sanctions are imposed ***in accordance with the acts referred to in the first subparagraph of Article 4(3) and any relevant national legislation which confers specific powers which are currently not required by Union Law***. The sanctions applied by national competent authorities will be effective, proportionate and dissuasive.

The first subparagraph shall be applicable in particular to pecuniary sanctions to be imposed on credit institutions, financial holding companies or mixed financial holding companies for breaches of national law transposing relevant EU Directives, and to any administrative sanctions or measures to be imposed on members of the management board ***of a credit institution, financial holding company or mixed financial holding company*** or any other individuals who under national law are responsible for a breach by a credit institution, financial holding company or mixed financial holding company.

6. The ECB shall publish any sanction referred to paragraph 1***, whether it has been appealed or not, in the cases and in accordance with the conditions set out in relevant union law***.

7. Without prejudice to paragraphs 1 to 6, for the purposes of carrying out the tasks conferred on it by this Regulation, in case of breaches of ECB regulations or decisions the ECB may impose sanctions in accordance with Council Regulation (EC) No 2532/98.

Chapter IV

Organisational principles

Article 16

Independence

1. When carrying out the tasks conferred upon it by this Regulation ▌ the ECB ***and the national competent authorities acting within the SSM*** shall act independently. ***The members of the Supervisory Board and the steering committee shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union's institutions or bodies, from any government of a Member State or from any other public or private body.***

2. Union institutions, bodies, offices and agencies and the governments of the Member States ***and any other bodies*** shall respect that independence.

2a. Following an examination of the need for a Code of Conduct by the Supervisory Board, the Governing Council shall establish and publish a Code of Conduct for the ECB staff and management involved in banking supervision concerning in particular conflicts of interest.

Article 17

Accountability ***and reporting***

1. The ECB shall be accountable to the European Parliament and to the Council for the implementation of this Regulation, in accordance with this Chapter.

1a. The ECB shall submit on an annual basis to the European Parliament, the Council, the Commission and the Eurogroup a report on the execution of the tasks conferred upon it by this Regulation, including information on the envisaged evolution of the structure and amount of the supervisory fees mentioned in Article 24.

1b. The Chair of the Supervisory Board of the ECB shall present that report in public to the European Parliament, and to the Eurogroup in the presence of representatives from any participating Member State whose currency is not the Euro.

1c. The Chair of the supervisory board of the ECB may, at the request of the Eurogroup, be heard on the execution of its supervisory tasks by the Eurogroup in the presence of representatives from any participating Member States whose currency is not the Euro.

1d. At the request of the European Parliament, the Chair of the Supervisory Board shall participate in a hearing on the execution of its supervisory tasks by the competent committees of the Parliament.

1e. The ECB shall reply orally or in writing to questions put to it by the European Parliament, or by the Eurogroup in accordance with the Eurogroup's procedures and in the presence of representatives from any participating Member States whose currency is not the Euro.

1f. When the European Court of Auditors examines the operational efficiency of the management of the ECB under Article 27(2) of the Statute of the ECB, it shall also take into account the supervisory tasks conferred upon the ECB under this Regulation.

1 g. Upon request the Chair of the Supervisory Board shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament concerning its supervisory tasks where such discussions are required for the exercise of the European Parliament's powers under the Treaty. An agreement shall be concluded between the European Parliament and the ECB on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the confidentiality obligations imposed on the ECB as a competent authority under relevant Union law.

1h. The ECB shall cooperate sincerely with any investigations by the Parliament, subject to the Treaty. The ECB and the Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB by this regulation. Those arrangements shall cover, inter alia, access to information, cooperation in investigations and information on the selection procedure of the chair.

Article 17a

National parliaments

1. When submitting the report provided for in Article 17(2), the ECB shall simultaneously forward that report directly to the national parliaments of the participating Member States.

National parliaments may address to the ECB their reasoned observations on that report.

2. National parliaments of the participating Member States, through their own procedures, may request the ECB to reply in writing to any observations or questions submitted by them to the ECB in respect of the functions of the ECB under this Regulation.

3. The national parliament of a participating Member State may invite the Chair or a member of the Supervisory Board to participate in an exchange of views in relation to the supervision of credit institutions in that Member State together with a representative of the national competent authority.

4. This regulation is without prejudice to the accountability of national competent authorities to national parliaments in accordance with national law for the performance of tasks not conferred on the ECB by this Regulation and for the performance of activities carried out by them in accordance with Article 5.

Article 17b

Due process for adopting supervisory decisions

1. Before taking supervisory decisions in accordance with Article 4 and Section 2, the ECB shall give the persons who are the subject of the proceedings the opportunity of being heard . The ECB shall base its decisions only on objections on which the parties concerned have been able to comment.

The first subparagraph shall not apply if urgent action is needed in order to prevent significant damage to the financial system. In such a case, the ECB may adopt a provisional decision and shall give the persons concerned the opportunity to be heard as soon as possible after taking its decision.

2. The rights of defence of the persons concerned shall be fully respected in the proceedings. They shall be entitled to have access to the ECB's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information.

The decisions of the ECB shall state the reasons on which they are based.

Article 17c

Reporting of Violations

The ECB shall ensure that effective mechanisms are put in place for reporting of breaches by credit institutions, financial holding companies or mixed financial holding companies or competent authorities of the legal acts referred to in Article 4(3), including specific procedures for the receipt of reports of breaches and their follow-up. Such procedures shall be consistent with relevant EU legislation and shall ensure that the following principles are applied: appropriate protection for persons who report breaches, protection of personal data, and appropriate protection for the accused person.

Article 17d

Administrative Board of Review

1. The ECB shall establish an Administrative Board of Review for the purposes of carrying out an internal administrative review of the decisions taken by the ECB in the exercise of the powers conferred upon it by this regulation after a request for review submitted in accordance with paragraph 5. The scope of the internal administrative review shall pertain to the procedural and substantive conformity with this regulation of such decision.

2. The Administrative Board of Review shall be composed of five individuals of high repute, from Member States and having a proven record of relevant knowledge and professional experience, including supervisory experience, to a sufficiently high level in the fields of banking or other financial services, excluding current staff of the ECB, as well as current staff of competent authorities or other national or Union institutions, bodies, offices and agencies who are involved in the tasks exercised by the ECB under the powers conferred on it in this regulation. The Administrative Board of Review shall have sufficient resources and expertise to assess the exercise of the powers of the ECB under this regulation. Members of the Administrative Board of Review and two alternates shall be appointed by the ECB for a term of five years, which may be extended once, following a public call for expressions of interest published in the Official Journal of the European Union. They shall not be bound by any instructions.

3. The Administrative Board of Review shall decide on the basis of a majority of at least three of its five members.

4. The members of the Board of Review shall act independently and in the public interest. For that purpose, they shall make a public declaration of commitments and a public declaration of interests indicating any direct or indirect interest which might be considered prejudicial to their independence or the absence of any such interest.

5. Any natural or legal person may in the cases referred to in paragraph 1 request a review of a decision of the ECB under this Regulation which is addressed to that person, or is of a direct and individual concern to that person. A request for a review against a decision of the Governing Council as referred to in paragraph 7 shall not be admissible.

6. Any request for review shall be made in writing, including a statement of grounds, and shall be lodged at the ECB within one month of the date of notification of the decision to the person requesting the review, or, in the absence thereof, of the day on which it came to the knowledge of the latter as the case may be.

7. After ruling upon the admissibility of the review, the Administrative Board of Review shall express an opinion within a period appropriate to the urgency of the matter and no later than two months from the receipt of the request and remit the case for preparation of a new draft decision to the Supervisory Board. The Supervisory Board shall take into account the opinion by the Administrative Board of Review and shall promptly submit a new draft decision to the Governing Council. The new draft decision shall either abrogate the initial decision, replace it with a decision of identical content, or replace it with an amended decision. The new draft decision shall be deemed adopted unless the Governing Council objects within a maximum period of ten working days.

8. A request for review pursuant to paragraph 5 shall not have suspensory effect. However, the Governing Council, upon proposal by the Administrative Board of Review may, if it considers that circumstances so requires, suspend the application of the contested decision.

9. The opinion expressed by the Administrative Board of Review, the new draft decision submitted by the Supervisory Board and the decision adopted by the Governing Council pursuant to this article shall be reasoned and notified to the parties.

10. The ECB shall adopt a decision establishing the Administrative Board's operating rules.

11. This article is without prejudice to the right to bring proceedings before the Court of Justice of the European Union in accordance with the Treaties.

Article 18

Separation from monetary policy function

1. When carrying out the tasks conferred on it by this Regulation, the ECB shall pursue only the objectives set by this Regulation.

2. The ECB shall carry out the tasks conferred upon it by this Regulation ***without prejudice to and*** separately from its tasks relating to monetary policy and ▌ any other tasks. The tasks conferred upon the ECB by this Regulation shall ***neither*** interfere with***, nor be determined by, its*** tasks relating to monetary policy. ***The tasks conferred upon the ECB by this Regulation shall moreover not interfere with its tasks in relation to the European Systemic Risk Board or any other tasks. The ECB shall report to the European Parliament and to the Council as to how it has complied with this provision. The tasks conferred by this Regulation to the ECB shall not alter the ongoing monitoring of the solvency of its monetary policy counterparties.***

The staff involved in carrying out the tasks conferred on the ECB by this Regulation shall be organisationally separated from, and subject to, separate reporting lines from the staff involved in carrying out other tasks conferred on the ECB.

3. For the purposes of paragraphs 1 and 2, the ECB shall adopt ***and make public*** any necessary internal rules, including rules regarding professional secrecy ***and information exchanges between the two functional areas***.

3a. The ECB shall ensure that the operation of the Governing Council is completely differentiated as regards monetary and supervisory functions. Such differentiation shall include strictly separated meetings and agendas.

3b. With a view to ensuring separation between monetary policy and supervisory tasks, the ECB shall create a mediation panel. This panel shall resolve differences of views expressed by the competent authorities of concerned participating Member States regarding an objection of the Governing Council to a draft decision by the Supervisory Board. This panel shall include one member per participating Member State, chosen by each Member State among the members of the Governing Council and the Supervisory Board, and shall decide by simple majority, with each member having one vote. The ECB shall adopt and make public a regulation setting up such mediation panel and its rules of procedure.

Article 19

Supervisory board

1. The planning and execution of the tasks conferred upon the ECB, shall be fully undertaken by an internal body composed of ***its Chair and Vice Chair, appointed in accordance with paragraph 1b and*** four representatives of the ECB***, appointed in accordance with paragraph 1d,*** and one representative of the national authority competent for the supervision of credit institutions in each participating Member State (hereinafter 'Supervisory Board'). ***All members of the Supervisory Board shall act in the interest of the Union as a whole.***

Where the competent authority is not a central bank, the member of the Supervisory Board referred to in this paragraph may decide to bring a representative from the Member State's central bank. For the purposes of the voting procedure set out in paragraph 1e, the representatives of the authorities of any one Member State shall together be considered as one member.

1a. The appointments for the Supervisory Board in accordance with this Regulation shall respect the principles of gender balance, experience and qualification.

1b. After hearing the Supervisory Board, the ECB shall submit a proposal for the appointment of the Chair and the Vice-Chair to the European Parliament for approval. Following the approval of this proposal, the Council shall adopt an implementing decision to appoint the Chair and the Vice-Chair of the Supervisory Board. The Chair shall be chosen on the basis of an open selection procedure, on which the European Parliament and the Council shall be kept duly informed, from among individuals of recognised standing and experience in banking and financial matters and who are not members of the Governing Council. The Vice Chair of the Supervisory Board shall be chosen from among the members of the Executive Board of the ECB. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

Once appointed, the Chair shall be a full-time professional and shall not hold any offices at national competent authorities. The term of office shall be five years and shall not be renewable.

1c. If the Chair of the Supervisory Board no longer fulfils the conditions required for the performance of his duties or has been guilty of serious misconduct, the Council may, following a proposal by the ECB, which has been approved by the Parliament, adopt an implementing decision to remove the Chair from office. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

Following a compulsory retirement of the Vice-Chair of the Supervisory Board as a member of the Executive Board, pronounced in accordance with the ESCB and ECB Statute, the Council may, following a proposal by the ECB, which has been approved by the European Parliament, adopt an implementing decision to remove the Vice-Chair from office. The Council shall act by qualified majority without taking into account the vote of the members of the Council which are not participating Member States.

For these purposes the European Parliament or the Council may inform the ECB that they consider that the conditions for the removal of the Chair or the Vice Chair of the Supervisory Board from office are fulfilled, to which the ECB shall respond.

1d. The four representatives of the ECB appointed by the Governing Council shall not perform duties directly related to the monetary function of the ECB. All the ECB representatives shall have voting rights.

1e. Decisions of the Supervisory Board shall be taken by a simple majority of its members. Each member shall have one vote. In case of a draw, the Chair shall have a casting vote.

1f. By derogation from paragraph 1e, the Supervisory Board shall take decisions on the adoption of regulations pursuant to Article 4(3), on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union and in Article 3 of Protocol No 36 on transitional provisions for the members representing the participating Member State's authorities. Each of the four representatives of the ECB appointed by the Governing Council shall have a vote equal to the median vote of the other members.

1 g. Without prejudice to the provisions of Article 5, the Supervisory Board will carry out preparatory works regarding the supervisory tasks conferred upon the ECB and propose to the Governing Council of the ECB complete draft decisions to be adopted by the latter, pursuant to a procedure to be established by the ECB. The draft decisions will be transmitted at the same time to the national competent authorities of the Member States concerned. A draft decision will be deemed adopted unless the Governing Council objects within a period to be defined in the procedure mentioned above but not exceeding a maximum period of 10 working days. However, if a non-euro participating Member State disagrees with a draft decision of the Supervisory Board, the procedure set out in Article 6 (5d) shall apply. In emergency situations the aforementioned period shall not exceed 48 hours. If the Governing Council objects to a draft decision, it shall state the reasons for doing so in writing, in particular stating monetary policy concerns. If a decision is changed following an objection by the Governing Council, a non-euro participating Member State may notify the ECB of its reasoned disagreement with the objection and the procedure set out in Article 6(5c) will apply.

1h. A secretariat shall support the activities of the supervisory board, including preparing the meetings on a full time basis.

1i. The Supervisory Board, voting in accordance with the rule set out in paragraph 1e, shall establish a steering committee from among its members with a more limited composition to support its activities, including preparing the meetings.

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The steering committee of the Supervisory Board shall have no decision-making powers. The steering committee shall be chaired by the Chair or, in the exceptional absence of the Chair, the Vice-Chair of the Supervisory Board. The composition of the steering committee shall ensure a fair balance and rotation between national competent authorities. It shall consist of no more than ten members including the Chair, the Vice-Chair and one additional representative from the ECB. The steering committee shall execute its preparatory tasks in the interest of the Union as a whole and shall work in full transparency with the Supervisory Board.

▌

6. ***A representative*** of the European Commission may participate as observer in the meetings of the supervisory board ***upon invitation. Observers shall not have an access to confidential information relating to individual institutions***.

7. The Governing Council shall adopt ***internal rules setting out in detail its relation with*** the supervisory board***. The supervisory board shall also adopt its rules of procedure, voting in accordance with the rule set out in paragraph 1e. Both sets of rules shall be made public. The rules of procedure of the supervisory board shall ensure equal treatment of all participating Member States.***

Article 20

Professional secrecy and exchange of information

1. Members of the Supervisory Board, staff of the ECB ***and staff seconded by participating Member States*** carrying out supervisory duties, even after their duties are ceased, shall be subject to the professional secrecy requirements set out in Article 37 of ***the Statute of the ESCB*** and ***the ECB and*** in the relevant acts of Union law.

The ECB shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, related to the discharge of supervisory duties are subject to equivalent professional secrecy requirements.

2. For the purpose of carrying out the tasks conferred upon it by this Regulation, the ECB shall be authorised, within the limits and under the conditions set out in the relevant Union law, to exchange information with national or European authorities and bodies in the cases where ***the relevant*** Union law allows national competent authorities to disclose information to those entities or where Member States may provide for such disclosure under ***the relevant*** Union law.

▌

Article 22

Resources

The ECB shall ***be responsible for devoting*** the necessary ***financial and human*** resources to the exercise of the tasks conferred upon it by this Regulation.

Article 23

Budget ***and annual accounts***

1. The ECB's expenditure for carrying out the tasks conferred upon it by this Regulation shall be ***separately identifiable within the*** budget of the ECB.

2. The ECB shall, as part of the report referred to in Article ***17***, report in detail on the ***budget for its*** supervisory ***tasks. The annual accounts of the ECB drawn up and published*** in accordance with Article 26.2 of the Statute of the ECB and of the ESCB ***shall include the income and expenses related to the supervisory tasks***.

2a. In line with Article 27.1 of the Statute of the ECB and of the ESCB the supervisory section of the annual accounts shall be audited.

Article 24

Supervisory fees

1. The ECB shall levy ***an annual supervisory fee on credit institutions established in the participating Member States and branches established in a participating Member State by a credit institution established in a non-participating Member State. The fees shall cover expenditure incurred by the ECB in relation to the tasks conferred upon it under Articles 4 and 5 of this Regulation. These fees shall not exceed the expenditure relating to these tasks.***

2. The amount of ***the*** fee levied on a credit institution ***or branch*** shall be ***calculated in accordance with the modalities defined, and published in advance, by the ECB***.

Before defining these modalities, the ECB shall conduct open public consultations and analyse the potential related costs and benefits, and publish the results of both.

2a. The fees shall be calculated at the highest level of consolidation within participating Member States, and shall be based on objective criteria relating to the importance and risk profile of the credit institution concerned***, including its risk weighted assets***.

The basis for calculating the annual supervisory fee for a given calendar year shall be the expenditure relating to the supervision of credit institutions and branches in that year. The ECB may require advance payments in respect of the annual supervisory fee which shall be based on a reasonable estimate. The ECB shall communicate with the national competent authority before deciding on the final fee level so as to ensure that supervision remains cost-effective and reasonable for all credit institutions and branches concerned. The ECB shall communicate to credit institutions and branches the basis for the calculation of the annual supervisory fee.

2b. The ECB shall report in accordance with Article 17.

2c. This Article is without prejudice to the right of national competent authorities to levy fees in accordance with national law and, to the extent supervisory tasks have not been conferred on the ECB, or in respect of costs of cooperating with and assisting the ECB and acting on its instructions, in accordance with relevant Union law and subject to the arrangements made for the implementation of this Regulation, including Articles 5 and 11 thereof.

Article 25

Staff ***and staff*** exchange

1. The ECB shall ***establish, together with all national competent authorities, arrangements to*** ensure an appropriate exchange and secondment of staff with and among national competent authorities.

2. The ECB ***may*** require ***as*** appropriate that supervisory teams of national competent authorities taking supervisory actions regarding a credit institution, financial holding company or mixed financial holding company located in one participating Member State in accordance with this regulation involve also staff from national competent authorities of other participating Member States.

2a. The ECB shall establish and maintain comprehensive and formal procedures including ethics procedures and proportionate periods to assess in advance and prevent possible conflicts of interest resulting from subsequent employment within two years of members of the Supervisory Board and ECB staff members engaged in supervisory activities, and shall provide for appropriate disclosures subject to applicable data protection rules.

These procedures shall be without prejudice to the application of stricter national rules. For members of the Supervisory Board who are representatives of national competent authorities, those procedures shall be established and implemented in cooperation with national competent authorities, without prejudice to applicable national law.

For the ECB staff members engaged in supervisory activities, those procedures shall determine categories of positions to which such assessment applies, as well as periods that are proportionate to the functions of those staff members in the supervisory activities during their employment at the ECB.

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2b. The procedures referred to in paragraph 2a shall provide that the ECB shall assess whether there are objections that members of the Supervisory Board take paid work in private sector institutions for which the ECB has supervisory responsibility after they have ceased to hold office.

The procedures referred to in paragraph 2a shall apply as a rule for two years after the members of the Supervisory Board have ceased to hold office and may be adjusted, on the basis of due justification, proportionate to the functions performed during that term of office and the length of time that office was held.

2c. The Annual Report of the ECB in accordance with Article 17 shall include detailed information, including statistical data on the application of the procedures referred to in paragraphs 2a and 2b.

Chapter V

General and final provisions

Article 26

Review

By 31 December 2015, ***and subsequently every three years thereafter,*** the Commission shall publish a report on the application of this Regulation***, with a special emphasis on monitoring the potential impact on the smooth functioning of the Single Market***. That report shall evaluate, inter alia:

(a) the functioning of the ***SSM*** within the European System of Financial Supervision ***and the impact of the supervisory activities of the ECB on the interests of the Union as a whole and on the coherence and integrity of the single market in financial services, including its possible impact on the structures of the national banking systems within the EU, and regarding the effectiveness of cooperation and information sharing arrangements between the SSM and national competent authorities of non-participating Member States***;

(aa) the division of tasks between the ECB and the national competent authorities within the SSM, the effectiveness of the practical modalities of organisation adopted by the ECB, and the impact of the SSM on the functioning of the remaining supervisory colleges;

(ab) the effectiveness of the ECB's supervisory and sanctioning powers and the appropriateness of conferring on the ECB additional sanctioning powers, including in relation to persons other than credit institutions, financial holding companies or mixed financial holding companies;

(ac) the appropriateness of the arrangements set out respectively for macroprudential tasks and tools under Article 4a and for the granting and withdrawal of authorisations under Article 13;

(b) the effectiveness of independence and accountability arrangements;

(c) the interaction between the ECB and the European Banking Authority;

(d) the appropriateness of governance arrangements, including the composition of***, and voting modalities in, the Supervisory Board and its relation with the Governing Council. as well as the collaboration in the Supervisory Board between euro area Member States and the other participating Member States in the SSM***;

(da) the interaction between the ECB and the national competent authorities of non-participating Member States and the effects of the SSM on these Member States;

(db) the effectiveness of the recourse mechanism against decisions of the ECB;

(dc) the cost effectiveness of the SSM;

(dd) the possible impact of the application of Article 6(5b), 6(5c), and 6(5d) on the functioning and integrity of the SSM;

(de) the effectiveness of the separation between supervisory and monetary policy functions within the ECB and of the separation of financial resources devoted to supervisory tasks from the budget of the ECB, taking into account any modifications of the relevant legal provisions including at the level of primary law;

(df) the fiscal effects that supervisory decisions taken by the SSM have on participating Member States and the impact of any developments in relation to resolution financing arrangements;

(dg) the possibilities of developing further the SSM, taking into account any modifications of the relevant provisions, including at the level of primary law, and taking into account whether the rationale of the institutional provisions in this Regulation is no longer present, including the possibility to fully align rights and obligations of euro area Member States and other participating Member States.

The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, as appropriate.

Article 27

Transitional provisions

1. The ECB shall ***publish the framework referred to in Article 5(7) by …*** (*).

2. The ECB shall assume ▌ the tasks conferred on it by this regulation on 1 ***March*** 2014 ***or 12 months after the entry into force of this Regulation, whichever is later, subject to the implementation arrangements and measures set out in the following subparagraphs***.

After the entry into force of this Regulation, the ECB shall publish by means of regulations and decisions the detailed operational arrangements for the implementation of the tasks conferred upon it by this Regulation.

From the entry into force of this regulation, the ECB shall send a quarterly report to the European Parliament, the Council and the Commission on progress in the operational implementation of this Regulation.

If on the basis of the reports of the third subparagraph and following discussions of the reports in the Council and the European Parliament, it is shown that the ECB will not be ready for exercising in full its tasks on 1 March 2014 or 12 months after the entry into force of this Regulation, whichever is later, the ECB may adopt a decision to set a date later than the one referred to in the first sub-paragraph to ensure continuity during the transition from national supervision to the SSM, and based on the availability of staff, the setting up of appropriate reporting procedures and arrangements for cooperation with national supervisors pursuant to Article 5.

▌

3a. Notwithstanding paragraph 2, and without prejudice to the exercise of investigatory powers conferred on it under this Regulation, from [date of entry into force of this Regulation], the ECB may start carrying out the tasks conferred on it by this Regulation other than adopting supervisory decisions in respect of any credit institution, financial holding company or mixed financial holding company and following a decision addressed to the entities concerned and to the national competent authorities of the participating Member States concerned.

Notwithstanding paragraph 2, if the ESM unanimously requests the ECB to take over direct supervision of a credit institution, financial holding company or mixed financial holding company as a precondition for its direct recapitalisation, the ECB may immediately start carrying out the tasks conferred on it by this Regulation in respect of that credit institution, financial holding company or mixed financial holding company, and following a decision addressed to the entities concerned and to the national competent authorities of the participating Member States concerned.

(*) ***Six months after the date of entry into force of this Regulation.***

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4. From the entry into force of this Regulation, in view of the assumption of its tasks ▌, the ECB may require the competent authorities of the participating Member States and the persons referred to in Article 9 to provide all relevant information for the ECB to carry out a comprehensive assessment***, including a balance-sheet assessment,*** of the credit institutions of the participating Member State. ***The ECB shall carry out such an assessment at least in relation to the credit institutions not covered by Article 5(4).*** The credit institution and the competent authority shall supply the information requested.

▌

6. Credit institutions authorised by participating Member States on the date referred to in Article 28 or where relevant on the date referred to in paragraphs 2 and 3, shall be deemed to be authorised in accordance with Article 13 and may continue to carry on their business. National competent authorities shall communicate to the ECB before the date of application of this Regulation or where relevant before the dates referred to in paragraphs 2 and 3 the identity of these credit institutions together with a report indicating the supervisory history and the risk profile of the institutions concerned, and any further information requested by the ECB. The information shall be submitted in the format requested by the ECB.

6a. Notwithstanding Article 19(2b), until the first date mentioned in Article 26, qualified majority voting and simple majority voting shall be applied together for the adoption of the Regulations mentioned in Article 4(3).

Article 28

Entry into force

This Regulation shall enter into force ***on the fifth 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 Council

The President

P7_TA(2013)0214

Pyrotechnic articles ***I

European Parliament legislative resolution of 22 May 2013 on the proposal for a directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast) (COM(2011)0764 — C7-0425/2011 — 2011/0358(COD))

(Ordinary legislative procedure — recast)

(2016/C 055/38)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0764),

— 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 (C7-0425/2011),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 28 March 2012 ([1]),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([2]),

— having regard to the letter of 6 November 2012 from the Committee on Legal Affairs to the Committee on the Internal Market and Consumer Protection in accordance with Rule 87(3) of its Rules of Procedure,

— 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 Rules 87 and 55 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0375/2012),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the 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)0358

Position of the European Parliament adopted at first reading on 22 May 2013 with a view to the adoption of Directive 2013/…/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/29/EU.)

([1]) OJ C 181,21.6.2012, p. 105.
([2]) OJ C 77, 28.3.2002, p. 1.

Thursday 23 May 2013

P7_TA(2013)0217

Community Customs Code as regards the date of its application ***I

European Parliament legislative resolution of 23 May 2013 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 450/2008 laying down the Community Customs Code (Modernised Customs Code) as regards the date of its application (COM(2013)0193 — C7-0096/2013 — 2013/0104(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/39)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2013)0193),

— having regard to Article 294(2) and Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0096/2013),

— 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 22 May 2013 ([1]),

— having regard to the undertaking given by the Council representative by letter of 26 April 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0170/2013),

A. Whereas for reasons of urgency it is justified to proceed to the vote before the expiry of the deadline of eight weeks laid down in Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality;

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(2013)0104

Position of the European Parliament adopted at first reading on 23 May 2013 with a view to the adoption of Regulation (EU) No …/2013 of the European Parliament and of the Council amending Regulation (EC) No 450/2008 laying down the Community Customs Code (Modernised Customs Code) as regards the date of its application

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 528/2013)

([1]) Not yet published in the Official Journal.

Thursday 23 May 2013

P7_TA(2013)0218

Reinstatement of Myanmar/Burma's access to generalized tariff preferences ***I

European Parliament legislative resolution of 23 May 2013 on the proposal for a regulation of the European Parliament and of the Council repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to generalised tariff preferences from Myanmar/Burma (COM(2012)0524 — C7-0297/2012 — 2012/0251(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/40)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0524),

— having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0297/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— 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 International Trade (A7-0122/2013),

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)0251

Position of the European Parliament adopted at first reading on 23 May 2013 with a view to the adoption of Regulation (EU) No …/2013 of the European Parliament and of the Council repealing Council Regulation (EC) No 552/97 temporarily withdrawing access to generalised tariff preferences from Myanmar/Burma

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 607/2013)

Thursday 23 May 2013

P7_TA(2013)0219

Establishing a framework for managing financial responsibility linked to investor-state dispute settlement tribunals established by international agreements to which the EU is party ***I

Amendments adopted by the European Parliament on 23 May 2013 on the proposal for a regulation of the European Parliament and of the Council establishing a framework for managing financial responsibility linked to investor-state dispute settlement tribunals established by international agreements to which the European Union is party (COM(2012)0335 — C7-0155/2012 — 2012/0163(COD)) ([1])

(Ordinary legislative procedure: first reading)

(2016/C 055/41)

Amendment 1

Proposal for a regulation

Title

Text proposed by the Commission	*Amendment*
Regulation of the European Parliament and of the Council establishing a framework for managing financial responsibility linked to ***investor-state*** dispute settlement tribunals established by international agreements to which the European Union is party	Regulation of the European Parliament and of the Council establishing a framework for managing financial responsibility linked to ***investor-to-state*** dispute settlement tribunals established by international agreements to which the European Union is party

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission	*Amendment*
(1) With the entry into force of the Lisbon Treaty, the Union has acquired exclusive competence for the conclusion of international agreements on investment protection. The Union is already party to the Energy Charter Treaty which provides for investment protection.	(1) With the entry into force of the Lisbon Treaty, the Union has acquired exclusive competence for the conclusion of international agreements on investment protection. The Union***, like the Member States,*** is already party to the Energy Charter Treaty which provides for investment protection.

([1]) The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0124/2013).

Thursday 23 May 2013

Amendment 3

Proposal for a regulation

Recital 2

Text proposed by the Commission	*Amendment*
(2) ***Agreements providing for*** investment protection ***typically*** include an investor-to-state dispute settlement mechanism, which allows an investor from a third country to bring a claim against a state in which it has made an investment. Investor-to-state dispute settlement can result in awards for monetary compensation. Furthermore, significant costs for administering the arbitration as well as costs relating to the defence of a case will inevitably be incurred in any such case.	(2) ***In the cases where it is justifiable, future*** investment protection ***agreements concluded by the Union can*** include an investor-to-state dispute settlement mechanism, which allows an investor from a third country to bring a claim against a state in which it has made an investment. Investor-to-state dispute settlement can result in awards for monetary compensation. Furthermore, significant costs for administering the arbitration as well as costs relating to the defence of a case will inevitably be incurred in any such case.

Amendment 4

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) Financial responsibility cannot be properly managed if the standards of protection afforded in investment agreements were to exceed significantly the limits of liability recognised in the Union and the majority of the Member States. Accordingly, future Union agreements should afford foreign investors the same high level of protection as, but no higher level of protection than, Union law and the general principles common to the laws of the Member States grant to investors from within the Union.

Thursday 23 May 2013

Amendment 5

Proposal for a regulation

Recital 3 b (new)

Text proposed by the Commission	*Amendment*
	(3b) Delineation of the outer limits of financial responsibilities under this Regulation is also linked to the safeguarding of the Union's legislative powers exercised within the competences defined by the Treaties, and controlled for their legality by the Court of Justice, which cannot be unduly restrained by potential liability defined outside the balanced system established by the Treaties. Accordingly, the Court of Justice has clearly confirmed that the Union's liability for legislative acts, especially in the interaction with international law, must be framed narrowly and cannot be engaged without the clear establishment of fault ([1]). Future investment agreements to be concluded by the Union should respect those safeguards to the Union's legislative powers and should not establish stricter standards of liability allowing a circumvention of the standards defined by the Court of Justice.

([1]) Judgment of the Court of Justice of 9 September 2008 in Joined Cases C-120/06 P and C-121/06 P, FIAMM and Fedon v Council and Commission ([2008] ECR I-6513)

Amendment 6

Proposal for a regulation

Recital 4

Text proposed by the Commission	*Amendment*
(4) Where the Union has international responsibility for the treatment afforded, it will be expected, as a matter of international law, to pay any adverse award and bear the costs of any dispute. However, an adverse award may potentially flow either from treatment afforded by the Union itself or from treatment afforded by a Member State. It would as a consequence be inequitable if awards and the costs of arbitration were to be paid from the Union budget where the treatment was afforded by a Member State. It is therefore necessary that financial responsibility be allocated, as a matter of Union law, and without prejudice to the international responsibility of the Union, between the Union and the Member State responsible for the treatment afforded on the basis of criteria established by this Regulation.	(4) Where the Union***, as an entity having legal personality,*** has international responsibility for the treatment afforded, it will be expected, as a matter of international law, to pay any adverse award and bear the costs of any dispute. However, an adverse award may potentially flow either from treatment afforded by the Union itself or from treatment afforded by a Member State. It would as a consequence be inequitable if awards and the costs of arbitration were to be paid from the ***budget of the European Union*** **(**Union budget) where the treatment was afforded by a Member State. It is therefore necessary that financial responsibility be allocated, as a matter of Union law, and without prejudice to the international responsibility of the Union, between the Union ***itself*** and the Member State responsible for the treatment afforded on the basis of criteria established by this Regulation.

Thursday 23 May 2013

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission	*Amendment*
(6) Financial responsibility should be allocated to the entity responsible for the treatment found to be inconsistent with the relevant provisions of the agreement. This means that the Union should bear the financial responsibility where the treatment concerned is afforded by ***an institution, body or agency*** of the Union. The Member State concerned should bear the financial responsibility where the treatment concerned is afforded by ***a*** Member State. However, where the Member State acts in a manner required by ***the law of*** the Union, for example in transposing a directive adopted by the Union, the Union should bear financial responsibility in so far as the treatment concerned is required by Union law. The regulation also needs to foresee the possibility that an individual case could concern both treatment afforded by a Member State and treatment required by Union law. It will cover all actions taken by Member States and by the ***European*** Union.	(6) Financial responsibility should be allocated to the entity responsible for the treatment found to be inconsistent with the relevant provisions of the agreement. This means that the Union ***itself*** should bear the financial responsibility where the treatment concerned is afforded by ***any institution, body, agency or other legal entity*** of the Union. The Member State concerned should bear the financial responsibility where the treatment concerned is afforded by ***that*** Member State. However, where the Member State acts in a manner required by the Union ***law***, for example in transposing a directive adopted by the Union, the Union ***itself*** should bear financial responsibility in so far as the treatment concerned is required by Union law. The regulation also needs to foresee the possibility that an individual case could concern both treatment afforded by a Member State and treatment required by Union law. It will cover all actions taken by Member States and by the Union. ***In such a case, the Member States and the Union should bear financial responsibility for the specific treatment afforded by either of them.***

Amendment 8

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission	*Amendment*
	(6a) When the Member State acts in a manner inconsistent with that required by Union law, for example when it fails to transpose a directive adopted by the Union or exceeds the terms of a directive adopted by the Union when implementing it into national law, that Member State should consequently bear financial responsibility for the treatment concerned.

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Amendment 9

Proposal for a regulation

Recital 8

Text proposed by the Commission	*Amendment*
(8) On the other hand, where a Member State would bear the potential financial responsibility arising from a dispute, it is appropriate, as a matter of principle, to permit such Member State to act as respondent in order to defend the treatment which it has afforded to the investor. The arrangements set down in this Regulation provide for that. This has the significant advantage that the Union budget and Union resources would not be burdened, even temporarily, by either the costs of litigation or any eventual award made against the Member State concerned.	(8) On the other hand, where a Member State would bear the potential financial responsibility arising from a dispute, it is ***equitable and*** appropriate, as a matter of principle, to permit such Member State to act as respondent in order to defend the treatment which it has afforded to the investor. The arrangements set down in this Regulation provide for that. This has the significant advantage that the Union budget and Union ***non-financial*** resources would not be burdened, even temporarily, by either the costs of litigation or any eventual award made against the Member State concerned.

Amendment 10

Proposal for a regulation

Recital 10

Text proposed by the Commission	*Amendment*
(10) In certain circumstances, it is essential, in order to ensure that the interests of the Union can be appropriately safeguarded, that the Union itself act as a respondent in disputes involving treatment afforded by a Member State. This may be so in particular where the dispute also involves treatment afforded by the Union, where it appears that the treatment afforded by a Member State is required by Union law, where ***it is likely that*** similar claims ***may be brought*** against other Member States or where the case involves ***unsettled*** issues of law, the resolution of which may have an impact on possible future cases against other Member States or the Union. Where a dispute concerns partially treatment afforded by the Union, or required by Union law, the Union should act as a respondent, unless the claims concerning such treatment are of minor importance, having regard to the potential financial responsibility involved and the legal issues raised, in relation to the claims concerning treatment afforded by the Member State.	(10) In certain circumstances, it is essential, in order to ensure that the interests of the Union can be appropriately safeguarded, that the Union itself ***may*** act as a respondent in disputes involving treatment afforded by a Member State. This may be so in particular where the dispute also involves treatment afforded by the Union, where it appears that the treatment afforded by a Member State is required by Union law, where similar claims ***have been lodged*** against other Member States or where the case involves issues of law, the resolution of which may have an impact on ***current or*** possible future cases against other Member States or the Union. Where a dispute concerns partially treatment afforded by the Union, or required by Union law, the Union should act as a respondent, unless the claims concerning such treatment are of minor importance, having regard to the potential financial responsibility involved and the legal issues raised, in relation to the claims concerning treatment afforded by the Member State.

Thursday 23 May 2013

Amendment 11

Proposal for a regulation

Recital 12

Text proposed by the Commission	*Amendment*
(12) ***It is appropriate that*** the Commission decide, within the framework set down in this regulation, whether the Union should be the respondent or whether a Member State should act as respondent.	(12) ***In order to create a workable system,*** the Commission ***should*** decide, within the framework set down in this regulation, whether the Union should be the respondent or whether a Member State should act as respondent ***and inform the European Parliament and the Council of any such decision as part of its annual reporting on the implementation of this Regulation***.

Amendment 12

Proposal for a regulation

Recital 14

Text proposed by the Commission	*Amendment*
(14) Equally, when a Member State acts as respondent it is appropriate that it ***keep*** the Commission informed of developments in the case and that the Commission can, where appropriate, require that the Member State acting as respondent takes a specific position on matters having ***a Union interest***.	(14) Equally, when a Member State acts as respondent it is appropriate that it ***keeps*** the Commission informed of developments in the case and that the Commission can, where appropriate, require that the Member State acting as respondent takes a specific position on matters having ***an impact on the overriding interests of the Union***.

Amendment 13

Proposal for a regulation

Recital 15

Text proposed by the Commission	*Amendment*
(15) A Member State may at any time accept that it would be financially responsible in the event that compensation is to be paid. In such a case the Member State and the Commission may enter into arrangements for the periodic payment of costs and for the payment of any compensation. Such acceptance does not imply that the Member State accepts that the claim under dispute is well founded. The Commission ***should be able to*** adopt a decision requiring the Member State to make provision for such costs. In the event that the tribunal awards costs to the Union, the Commission should ensure that any advance payment of costs is immediately reimbursed to the Member State concerned.	(15) ***Without prejudice to the outcome of the arbitration proceedings,*** a Member State may at any time accept that it would be financially responsible in the event that compensation is to be paid. In such a case the Member State and the Commission may enter into arrangements for the periodic payment of costs and for the payment of any compensation. Such acceptance does not imply ***in any legal manner*** that the Member State accepts that the claim under dispute is well founded. The Commission ***may in such a case*** adopt a decision requiring the Member State to make provision for such costs. In the event that the tribunal awards costs to the Union, the Commission should ensure that any advance payment of costs is immediately reimbursed to the Member State concerned.

Thursday 23 May 2013

Amendment 14

Proposal for a regulation

Recital 16

Text proposed by the Commission	*Amendment*
(16) In some cases, it may be appropriate to reach a settlement in order to avoid costly and unnecessary arbitration. It is necessary to lay down ***a*** procedure for making such settlements. Such a procedure should permit the Commission, acting in accordance with the examination procedure, to settle a case where this would be in the interests of the Union. Where the case concerns treatment afforded by a Member State, it is appropriate that there should be close co-operation and consultations between the Commission and the Member State concerned. The Member State should remain free to settle the case at all times, provided that it accepts full financial responsibility and that any such settlement is consistent with Union law and not against the interests of the Union.	(16) In some cases, it may be appropriate to reach a settlement in order to avoid costly and unnecessary arbitration. It is necessary to lay down ***an effective and swift*** procedure for making such settlements. Such a procedure should permit the Commission, acting in accordance with the examination procedure, to settle a case where this would be in the interests of the Union. Where the case concerns treatment afforded by a Member State, it is appropriate that there should be close co-operation and consultations between the Commission and the Member State concerned***, including on the proceedings of the settlement procedure and on the amount of monetary compensation.*** The Member State should remain free to settle the case at all times, provided that it accepts full financial responsibility and that any such settlement is consistent with Union law and not against the interests of the Union ***as a whole***.

Amendment 15

Proposal for a regulation

Recital 18

Text proposed by the Commission	*Amendment*
(18) The Commission should consult closely with the Member State concerned in order to reach agreement on the apportionment of financial responsibility. Where the Commission determines that a Member State is responsible, and the Member State does not accept that determination, the Commission should pay the award, but should address a decision to the Member State requesting it to provide the amounts concerned to the budget ***of the European Union***, together with applicable interest. The interest payable should be that set down pursuant to ***[Article 71(4)*** of ***Council*** Regulation (***EC***, Euratom) ***No 1605/2002*** of ***25 June 2002*** on the ***Financial Regulation*** applicable to the general budget of the ***European Communities as amended]***. Article 263 of the Treaty is ***available*** in cases where a Member State considers that the decision falls short of the criteria set out in this Regulation.	(18) The Commission should consult closely with the Member State concerned in order to reach agreement on the apportionment of financial responsibility. Where the Commission determines that a Member State is responsible, and the Member State does not accept that determination, the Commission should pay the award, but should address a decision to the Member State requesting it to provide the amounts concerned to the ***Union*** budget, together with applicable interest. The interest payable should be that set down pursuant to ***Article 78(4)*** of Regulation (***EU***, Euratom) ***No 966/2012 of the European Parliament and of the Council*** of ***25 October 2012*** on the ***financial rules*** applicable to the general budget of the ***Union*** ([1]). Article 263 of the Treaty *on the Functioning of the European Union* is ***available*** in cases where a Member State considers that the decision falls short of the criteria set out in this Regulation.

([1]) ***OJ L 298, 26.10.2012, p. 1.***

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Amendment 16

Proposal for a regulation

Recital 19

Text proposed by the Commission	*Amendment*
(19) The Union budget should provide coverage of the expenditure resulting from agreements concluded pursuant to Article 218 of the Treaty providing for ***investor-state*** dispute settlement. Where Member States have financial responsibility pursuant to this Regulation, the Union should be able to either accumulate the contributions of the Member State concerned first before implementing the relevant expenditure or implement the relevant expenditure first and be reimbursed by the Member States concerned after. Use of both of these mechanisms of budgetary treatment should be possible, depending on what is feasible, in particular in terms of timing. For both mechanisms, the contributions or reimbursements paid by the Member States should be treated as internal assigned revenue of the Union budget. The appropriations arising from this internal assigned revenue should not only cover the relevant expenditure but they should also be eligible for replenishment of other parts of the Union budget which provided the initial appropriations to implement the relevant expenditure under the second mechanism.	(19) The Union budget should provide coverage of the expenditure resulting from agreements concluded pursuant to Article 218 of the Treaty providing for ***investor-to-state*** dispute settlement. Where Member States have financial responsibility pursuant to this Regulation, the Union should be able to either accumulate the contributions of the Member State concerned first before implementing the relevant expenditure or implement the relevant expenditure first and be reimbursed by the Member States concerned after. Use of both of these mechanisms of budgetary treatment should be possible, depending on what is feasible, in particular in terms of timing. For both mechanisms, the contributions or reimbursements paid by the Member States should be treated as internal assigned revenue of the Union budget. The appropriations arising from this internal assigned revenue should not only cover the relevant expenditure but they should also be eligible for replenishment of other parts of the Union budget which provided the initial appropriations to implement the relevant expenditure under the second mechanism.

Amendment 17

Proposal for a regulation

Article 2 — point b

Text proposed by the Commission	*Amendment*
(b) 'costs arising from the arbitration' means the fees and costs of the arbitration tribunal and the costs of representation and expenses awarded to the claimant by the arbitration tribunal;	(b) 'costs arising from the arbitration' means the fees and costs of the arbitration tribunal***, arbitration institution*** and the costs of representation and expenses awarded to the claimant by the arbitration tribunal;

Amendment 18

Proposal for a regulation

Article 2 — point c

Text proposed by the Commission	*Amendment*
(c) 'dispute' means a claim brought by a claimant against the Union pursuant to an agreement and on which an arbitration tribunal will rule;	(c) 'dispute' means a claim brought by a claimant against the Union ***or a Member State*** pursuant to an agreement and on which an arbitration tribunal will rule;

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Amendment 19

Proposal for a regulation

Article 2 — point j a (new)

Text proposed by the Commission	*Amendment*
	(ja) 'overriding interests of the Union' means any of the following:
	(i) there is a serious threat to the consistent or uniform application or implementation of investment provisions of the agreement subject to the investor-to-state dispute to which the Union is a party,
	(ii) a Member State measure may conflict with the development of the Union's future investment policy,
	(iii) the dispute implies a possible significant financial impact on the Union budget in a given year or as part of the multiannual financial framework.

Amendment 20

Proposal for a regulation

Article 3 — paragraph 2

Text proposed by the Commission	*Amendment*
2. Where provided for in this Regulation, the Commission shall adopt a decision determining the financial responsibility of the Member State concerned in accordance with the criteria laid down in paragraph 1.	2. Where provided for in this Regulation, the Commission shall adopt a decision determining the financial responsibility of the Member State concerned in accordance with the criteria laid down in paragraph 1. ***The European Parliament and the Council shall be informed of such a decision.***

Amendment 21

Proposal for a regulation

Article 7 — paragraph 1

Text proposed by the Commission	*Amendment*
As soon as the Commission receives notice by which a claimant states its intention to initiate arbitration proceedings, ***in accordance with the provisions of an agreement,*** it shall notify the Member State concerned.	As soon as the Commission receives notice by which a claimant states its intention to initiate arbitration proceedings***, or as soon as the Commission is informed about a request for consultations or a claim against a Member State,*** it shall notify the Member State concerned ***and inform the European Parliament and the Council on any prior request from a claimant for consultations, on the notice by which a claimant states its intention to initiate arbitration proceedings against the Union or a Member State within 15 working days of receiving the notice, including the name of the claimant, the provisions of the agreement alleged to have been breached, the economic sector involved, the treatment alleged to be in breach of the agreement and the amount of damages claimed.***

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Amendment 22

Proposal for a regulation

Article 8 — paragraph 2 — point c

Text proposed by the Commission	*Amendment*
(c) ***it is likely that*** similar claims ***will be brought*** under the same agreement against treatment afforded by other Member States and the Commission is best placed to ensure an effective and consistent defence; or,	(c) similar claims ***or requests for consultations concerning similar claims have been lodged*** under the same agreement against treatment afforded by other Member States and the Commission is best placed to ensure an effective and consistent defence; or,

Amendment 23

Proposal for a regulation

Article 8 — paragraph 2 — point d

Text proposed by the Commission	*Amendment*
(d) the dispute raises ***unsettled*** issues of law which may ***recur in other disputes under the same or*** other ***Union*** agreements ***concerning treatment afforded by the Union or other Member States***.	(d) the dispute raises ***sensitive*** issues of law ***the resolution of*** which may ***affect the future interpretation of the agreement in question or of*** other agreements.

Amendment 24

Proposal for a regulation

Article 8 — paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Where the Union assumes to act as respondent pursuant to a decision of the Commission in accordance with paragraph 2 or the default rule set out in paragraph 1, such determination of the respondent status shall be binding on the claimant and the arbitration tribunal.

Amendment 25

Proposal for a regulation

Article 8 — paragraph 4

Text proposed by the Commission	*Amendment*
4. The Commission shall inform the ***other Member States and*** the European Parliament of any dispute in which this Article is applied and the manner in which it has been applied.	4. The Commission shall inform the European Parliament and ***the Council*** of any dispute in which this Article is applied and the manner in which it has been applied.

Thursday 23 May 2013

Amendment 26

Proposal for a regulation

Article 9 — paragraph 1 — point b

Text proposed by the Commission	*Amendment*
(b) inform the Commission of all significant procedural steps, and enter into consultations regularly and, in any event, when requested by the Commission; and,	(b) inform the Commission of all significant procedural steps ***without delay***, and enter into consultations regularly and, in any event, when requested by the Commission; and,

Amendment 27

Proposal for a regulation

Article 9 — paragraph 2

Text proposed by the Commission	*Amendment*
2. The Commission may, at any time, ***require*** the Member State concerned to take a particular position as regards any point of law raised by the dispute or any other ***element having a Union interest***.	2. ***Where overriding interests of the Union so require,*** the Commission may, at any time ***after consultations with*** the Member State concerned, ***require that Member State*** to take a particular position as regards any point of law raised by the dispute or any other ***issue of law, the resolution of which may affect the future interpretation of the agreement in question or of other agreements***.

Amendment 28

Proposal for a regulation

Article 9 — paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. If the Member State concerned considers the request of the Commission as unduly compromising its effective defence, it shall enter into consultations with a view to finding an acceptable solution. Where an acceptable solution cannot be found, the Commission may take a decision requiring the Member State concerned to take a particular legal position.

Amendment 29

Proposal for a regulation

Article 9 — paragraph 3

Text proposed by the Commission	*Amendment*
3. When an agreement, or the rules referred to therein, provide for the possibility of annulment, appeal or review of a point of law included in an arbitration award, the Commission may where it considers that the consistency or correctness of the interpretation of the agreement so warrant, require ***the*** Member State to lodge an application for such annulment, appeal or review. In such circumstances, representatives of the Commission shall form part of the delegation and may express the views of the Union as regards the point of law in question.	3. When an agreement, or the rules referred to therein, provide for the possibility of annulment, appeal or review of a point of law included in an arbitration award, the Commission may where it considers that the consistency or correctness of the interpretation of the agreement so warrant, ***after consultations with the Member State concerned,*** require ***that*** Member State to lodge an application for such annulment, appeal or review. In such circumstances, representatives of the Commission shall form part of the delegation and may express the views of the Union as regards the point of law in question.

Amendment 30

Proposal for a regulation

Article 9 — paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. If the Member State concerned refuses to lodge an application for annulment, appeal or review, it shall inform the Commission within 30 days. In that case the Commission may take a decision requiring the Member State concerned to lodge an application for annulment, appeal or review.

Amendment 31

Proposal for a regulation

Article 10 — point c

Text proposed by the Commission	*Amendment*
(c) the Commission shall provide the Member State with all documents relating to the proceeding, so as to ensure as effective defence as possible; and,	(c) the Commission shall provide the Member State with all documents relating to the proceeding, ***keep the Member State informed of all significant procedural steps and enter into consultations with the Member State in any event when requested by the Member State concerned,*** so as to ensure as effective defence as possible; and,

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Amendment 32

Proposal for a regulation

Article 10 — paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The Commission shall regularly inform the European Parliament and the Council of developments in the arbitration proceedings referred to in the first paragraph.

Amendment 33

Proposal for a regulation

Article 13 — paragraph 1

Text proposed by the Commission	*Amendment*
1. Where the Union is respondent in a dispute concerning treatment afforded, whether fully or in part, by a Member State, and the Commission considers that the settlement of the dispute would be in the interests of the Union, it shall first consult with the Member State concerned. The Member State may also initiate such consultations with the Commission.	1. Where the Union is respondent in a dispute concerning treatment afforded, whether fully or in part, by a Member State, and the Commission considers that the settlement of the dispute would be in the interests of the Union, it shall first consult with the Member State concerned. The Member State may also initiate such consultations with the Commission. ***The Member State and the Commission shall ensure mutual understanding of the legal situation and possible consequences and avoid any disagreement with a view to the settlement of the case.***

Amendment 34

Proposal for a regulation

Article 13 — paragraph 3

Text proposed by the Commission	*Amendment*
3. In the event that the Member State does not consent to settle the dispute, the Commission may settle the dispute where overriding interests of the Union so require.	3. In the event that the Member State does not consent to settle the dispute, the Commission may settle the dispute where overriding interests of the Union so require. ***The Commission shall provide the European Parliament and the Council with all relevant information about the Commission's decision to settle the dispute, in particular its justification.***

Thursday 23 May 2013

Amendment 35

Proposal for a regulation

Article 14 — paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Where a Member State is respondent in a dispute exclusively concerning treatment afforded by its authorities and decides to settle the dispute, it shall notify the Commission of the draft settlement arrangement and shall inform the Commission of the negotiation and the implementation of the settlement.

Amendment 36

Proposal for a regulation

Article 17 — paragraph 1

Text proposed by the Commission	*Amendment*
1. Where the Union acts as respondent pursuant to Article 8, and the Commission considers that the award or settlement in question should be paid, in part or in full, by the Member State concerned on the basis of the criteria laid down in Article 3(1), the procedure set out in paragraphs 2 to 5 shall apply.	1. Where the Union acts as respondent pursuant to Article 8, and the Commission considers that the award or settlement in question should be paid, in part or in full, by the Member State concerned on the basis of the criteria laid down in Article 3(1), the procedure set out in paragraphs 2 to 5 ***of this Article*** shall apply. ***That procedure shall also apply where the Union, acting as respondent pursuant to Article 8, is successful in the arbitration but has to bear any costs arising from the arbitration.***

Amendment 37

Proposal for a regulation

Article 17 — paragraph 3

Text proposed by the Commission	*Amendment*
3. Within three months of receipt of the request for payment of the final award or settlement, the Commission shall adopt a decision addressed to the Member State concerned, determining the amount to be paid by that Member State.	3. Within three months of receipt of the request for payment of the final award or settlement, the Commission shall adopt a decision addressed to the Member State concerned, determining the amount to be paid by that Member State. ***The Commission shall inform the European Parliament and Council of such decision and its financial reasoning.***

Thursday 23 May 2013

Amendment 38

Proposal for a regulation

Article 17 — paragraph 4

Text proposed by the Commission	*Amendment*
4. Unless the Member State concerned objects to the Commission's determination within one month, the Member State concerned shall compensate ***the budget of*** the Union for the payment of the award or the settlement no later than three months after the Commission's decision. The Member State concerned shall be liable for any interest due at the rate applying to other monies owed to the ***budget of the*** Union.	4. Unless the Member State concerned objects to the Commission's determination within one month, the Member State concerned shall compensate ***with the equivalent amount*** the Union ***budget*** for the payment of the award or the settlement no later than three months after the Commission's decision. The Member State concerned shall be liable for any interest due at the rate applying to other monies owed to the Union ***budget***.

Amendment 39

Proposal for a regulation

Article 18 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission may adopt a decision requiring the Member State concerned to make financial contributions to ***the budget of*** the Union in respect of ***any*** costs arising from the arbitration ***where it considers that the Member State will be liable to pay any award pursuant to*** the criteria set down in Article 3.	1. ***Where the Union acts as respondent pursuant to Article 8, and unless an arrangement has been entered into pursuant to Article 11,*** the Commission may adopt a decision requiring the Member State concerned to make ***advance*** financial contributions to the Union ***budget*** in respect of ***foreseeable or incurred*** costs arising from the arbitration. ***Such a decision on financial contributions shall be proportionate, taking into account*** the criteria set down in Article 3.

Amendment 40

Proposal for a regulation

Article 19

Text proposed by the Commission	*Amendment*
A Member State's reimbursement or payment to ***the budget of*** the Union, for the payment of an award or a settlement or any costs, shall be considered as internal assigned revenue in the sense of ***[Article 18*** of ***Council*** Regulation (***EC***, Euratom) ***No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the General Budget of the European Communities]***. It may be used to cover expenditure resulting from agreements concluded pursuant to Article 218 of the Treaty providing for ***investor-state*** dispute settlement or to replenish appropriations initially provided to cover the payment of an award or a settlement or any costs.	A Member State's reimbursement or payment to the Union ***budget***, for the payment of an award or a settlement or any costs, ***including those referred to in Article 18(1) of this Regulation,*** shall be considered as internal assigned revenue in the sense of ***Article 21(4)*** of Regulation (***EU***, Euratom) ***No 966/2012***. It may be used to cover expenditure resulting from agreements concluded pursuant to Article 218 of the Treaty providing for ***investor-to-state*** dispute settlement or to replenish appropriations initially provided to cover the payment of an award or a settlement or any costs.

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Amendment 41

Proposal for a regulation

Article 20 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall be assisted by [the Committee for Investment Agreements established by Regulation ***[2010/197 COD]***]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by the Committee for Investment Agreements established by Regulation ***(EU) No 1219/2012 of the European Parliament and of the Council of 12 December 2012 establishing transitional arrangements for bilateral investment agreements between Member States and third countries*** [1]**.** That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

[1] ***OJ L 351 20.12.2012, p. 40.***

Amendment 42

Proposal for a regulation

Article 21 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall submit a report on the operation of this Regulation to the European Parliament and the Council at regular intervals. The first report shall be submitted no later than ***three*** years after the entry into force of this Regulation. Subsequent reports shall be submitted every three years thereafter.	1. The Commission shall submit a ***detailed*** report on the operation of this Regulation to the European Parliament and the Council at regular intervals. ***That report shall contain all relevant information including the listing of the claims made against the Union or the Member States, related proceedings, rulings and the financial impact on the respective budgets.*** The first report shall be submitted no later than ***five*** years after the entry into force of this Regulation. Subsequent reports shall be submitted every three years thereafter ***unless the budgetary authority, comprised of the European Parliament and the Council, decides otherwise.***

Amendment 43

Proposal for a regulation

Article 21 — paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. The Commission shall annually submit to the European Parliament and to the Council a list of requests for consultations from claimants, claims and arbitration rulings.

Thursday 23 May 2013

P7_TA(2013)0220

Non-commercial movement of pet animals ***I

European Parliament legislative resolution of 23 May 2013 on the proposal for a Regulation of the European Parliament and of the Council on the non-commercial movement of pet animals (COM(2012)0089 — C7-0060/2012 — 2012/0039(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/42)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0089),

— having regard to Article 294(2) and Articles 43(2) and 168(4)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0060/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 23 May 2012 ([1]),

— after consulting the Committee of the Regions,

— having regard to the undertaking given by the Council representative by letter of 13 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 (A7-0371/2012),

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)0039

Position of the European Parliament adopted at first reading on 23 May 2013 with a view to the adoption of Regulation (EU) No …/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 576/2013)

([1]) OJ C 229, 31.7.2012, p. 119.

Thursday 23 May 2013

ANNEX TO THE LEGISLATIVE RESOLUTION

Commission Statement

Within the framework of the European Union Strategy for the Protection and Welfare of Animals ([1]), the Commission will study the welfare of dogs and cats involved in commercial practices.

If the outcome of that study indicates health risks arising from those commercial practices, the Commission will consider appropriate options for the protection of human and animal health, including proposing to the European Parliament and to the Council appropriate adaptations to current Union legislation on trade in dogs and cats, including the introduction of compatible systems for their registration accessible across Member States.

In light of the above, the Commission will assess the feasibility and appropriateness of an extension of such registration systems to dogs and cats marked and identified in accordance with Union legislation on non-commercial movements of pet animals.

P7_TA(2013)0221

Animal health requirements governing trade in dogs, cats and ferrets ***I

European Parliament legislative resolution of 23 May 2013 on the proposal for a directive of the European Parliament and of the Council amending Council Directive 92/65/EEC as regards the animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets (COM(2012)0090 — C7-0061/2012 — 2012/0040(COD))

(Ordinary legislative procedure: first reading)

(2016/C 055/43)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2012)0090),

— 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 (C7-0061/2012),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 23 May 2012 ([1]),

— having regard to the undertaking given by the Council representative by letter of 13 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 (A7-0366/2012),

1. Adopts its position at first reading hereinafter set out;

([1]) COM(2012)0006 — Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015.

([1]) OJ C 229, 31.7.2012, p. 119.

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)0040

Position of the European Parliament adopted at first reading on 23 May 2013 with a view to the adoption of Directive 2013/…/EU of the European Parliament and of the Council amending Council Directive 92/65/EEC as regards the animal health requirements governing intra-Union trade in and imports into the Union of dogs, cats and ferrets

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/31/EU)

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