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## Information and Notices

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2013-2014 SESSION

Sittings of 7 to 10 October 2013

*The Minutes of this session have been published in OJ C 13 E, 17.1.2014.*

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*Key to symbols used*

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

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

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 7 to 10 October 2013

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TEXTS ADOPTED

Tuesday, October 8, 2013

I

*(Resolutions, recommendations and opinions)*

RESOLUTIONS

EUROPEAN PARLIAMENT

P7\_TA(2013)0394

**Corruption in the public and private sectors: the impact on human rights in third countries**

**European Parliament resolution of 8 October 2013 on corruption in the public and private sectors: the impact on human rights in third countries (2013/2074(INI))**

(2016/C 181/01)

*The European Parliament,*

- having regard to the United Nations Convention against Corruption (UNCAC), opened for signature in Merida on 9 December 2003,
- having regard to the Charter of the United Nations,
- having regard to the International Covenant on Civil and Political Rights,
- having regard to the International Covenant on Economic, Social and Cultural Rights,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Organisation for Economic Co-operation and Development (OECD) Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, opened for signature in Paris on 17 December 1997, and to the recommendations supplementing it,
- having regard to the Joint Communication of the High Representative of the Union for Foreign Affairs and Security Policy and the Commission to the European Parliament and the Council of 12 December 2011 on ‘Human Rights and Democracy at the Heart of EU External Action — Towards a more effective approach’ (COM(2011)0886),
- having regard to the EU Strategic Framework on Human Rights and Democracy and the EU Action Plan on Human Rights and Democracy as adopted at the 3179th Foreign Affairs Council meeting of 25 June 2012,
- having regard to the Commission communication to the Council and the European Parliament of 8 May 2001 on ‘The European Union’s role in promoting human rights and democratisation in third countries’ (COM(2001)0252),



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- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 October 2011 on 'A renewed EU strategy 2011-14 for Corporate Social Responsibility' (COM(2011)0681),
- having regard to the Council compilation of documents 'Mainstreaming Human Rights and Gender into European Security and Defence Policy' <sup>(1)</sup> and notably to the Council document 'Generic Standards of Behaviour for ESDP Operations' (doc.08373/3/2005),
- having regard to the United Nations Millennium Declaration of 8 September 2000,
- having regard to the Global Action Plan 'Keeping the promise: united to achieve the Millennium Development Goals', adopted by the UN General Assembly on 10 October 2010,
- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 27th February 2013 on 'A decent life for all: Ending poverty and giving the world a sustainable future' (COM(2013)0092),
- having regard to the report of the European Investment Bank (EIB) entitled 'Policy on preventing and deterring corruption, fraud, collusion, coercion, money laundering and the financing of terrorism in European Investment Bank activities' ('EIB Anti-Fraud Policy') adopted in 2008,
- having regard to the Enforcement Policy and Procedures (EPP) of the European Bank for Reconstruction and Development (EBRD), which entered into force in March 2009,
- having regard to the Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy' Framework (HR/PUB/11/04),
- having regard to its resolution of 7 July 2011 on EU external policies in favour of democratisation <sup>(2)</sup>,
- having regard to its resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy <sup>(3)</sup>,
- having regard to the EU Guidelines on Human Rights Defenders as adopted at the 2914th General Affairs Council meeting of 8 December 2008,
- having regard to the 'Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies (PMSCs) during armed conflict', adopted in Montreux on 17 September 2008,
- having regard to the Council of Europe Criminal Law Convention on Corruption, opened for signature on 27 January 1999 and the Council of Europe Civil Law Convention on Corruption, opened for signature on 4 November 1999, and to resolutions (98) 7 and (99) 5, adopted by the Council of Europe's Committee of Ministers on 5 May 1998 and 1 May 1999 respectively, establishing the Group of States against Corruption (GRECO),

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<sup>(1)</sup> Council of the European Union, 2008

<sup>(2)</sup> OJ C 33 E, 5.2.2013, p. 165.

<sup>(3)</sup> Texts adopted, P7\_TA(2012)0470.

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- having regard to the Jakarta Statement on Principles for Anti-Corruption Agencies, adopted on 26—27 November 2012,
  - having regard to the Paris Principles for national human rights institutions <sup>(1)</sup>,
  - having regard to the OECD Guidelines for Multinational Enterprises <sup>(2)</sup>,
  - having regard to the International Labour Organisation (ILO) ‘Tripartite declaration of principles concerning multinational enterprises and social policy’ <sup>(3)</sup>,
  - having regard to the UN Global Compact Initiative <sup>(4)</sup>,
  - having regard to the International Code of Conduct for Private Security Service Providers,
  - having regard to the Arms Trade Treaty, adopted at the United Nations Final Conference on the Arms Trade Treaty held in New York on 18—28 March 2013 <sup>(5)</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A7-0250/2013),
- A. whereas corruption can be defined as the abuse of entrusted power for individual or collective, direct or indirect personal gain, and whereas acts of corruption include the crimes of bribery, embezzlement, trading in influence, abuse of functions and illicit enrichment, as defined by the UNCAC; whereas fraud, extortion, blackmail, abuse of discretionary powers, favouritism, nepotism, clientelism and illegal political contributions are closely linked to corruption; whereas corruption may be linked to organised crime operating under collective leadership alongside official structures, particularly where the authorities fail to enforce the law;
- B. whereas corruption perpetuates and aggravates unequal, unjust and discriminatory outcomes with regard to the equal enjoyment of human rights, be these civil, political and economic or social and cultural rights; whereas corruption can have negative repercussions on the environment and affects disproportionately the most disadvantaged and marginalised groups in society, namely by barring them from equal access to political participation, public services, justice, safety, land, jobs, education, health and housing, and whereas corruption affects in particular progress towards ending discrimination, gender equality and women’s empowerment, by limiting women’s capacities to claim their rights;
- C. whereas corruption may undermine economic development by obstructing business and investment on occasion;
- D. whereas the fight against corruption is part of the good governance principle, as upheld and defined by articles 9(3) and 97 of the Cotonou Agreement;

<sup>(1)</sup> See UN General Assembly resolution A/RES/48/134.

<sup>(2)</sup> OECD (2011), *OECD Guidelines for Multinational Enterprises*, OECD Publishing.

<sup>(3)</sup> International Labour Organisation, 2006 ISBN 92-2-119010-2 and 978-92-2-119010-3.

<sup>(4)</sup> New York, UN Headquarters, 26 July 2000.

<sup>(5)</sup> UN General Assembly A/CONF.217/2013/L.3.

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- E. whereas acts of corruption and human rights violations typically involve the misuse of power, lack of accountability and the institutionalisation of various forms of discrimination; whereas corruption is invariably more frequent where enforcement of human rights is lacking or absent, and whereas corruption often undermines the effectiveness of the institutions and entities which normally provide checks and balances and are intended to ensure respect for democratic principles and human rights, such as parliaments, law enforcement authorities, the judiciary, legal systems and civil society;
- F. whereas corruption is generally deeply entrenched in the mentality of the societies where it permeates, and whereas all efforts to combat it should focus first and foremost on the education system, targeting people at the earliest age possible;
- G. whereas states sometimes fail to act in preventing or punishing corruption in public and private sectors, in breach of their international obligations under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other relevant international and regional human rights instruments;
- H. whereas corruption distorts the size and composition of government expenditure, seriously harming the state's capacity to harness to a maximum its available resources in order fully to realise economic, social and cultural rights, and whereas corruption diverts large amounts of funding from investment in the economy, hindering the recovery of countries in economic hardship, including EU Member States;
- I. whereas corruption in high places can seriously undermine and destabilise the countries concerned and strike at the very heart of the State;
- J. whereas, according to the World Bank, corruption represents 5 % of global GDP (USD 2,6 trillion), with over USD 1 trillion paid in bribes each year; and whereas corruption adds up to 10 % of the total cost of doing business on a global basis and 25 % of the cost of procurement contracts in developing countries <sup>(1)</sup>;
- K. whereas the World Bank estimates that each year USD 20-40 billion, corresponding to 20-40 % of official development assistance, is stolen from public budgets in developing countries and hidden overseas through high-level corruption <sup>(2)</sup>;
- L. whereas from 2000 to 2009, developing countries lost USD 8,44 trillion to illicit financial flows, ten times more than what they received in foreign aid; whereas every year for the past decade, developing countries lost USD 585,9 billion through illicit flows; whereas the money stolen through corruption each year is enough to keep the world's hungry fed 80times over, while bribes and theft swell the total cost of projects to provide safe drinking water and sanitation around the world by as much as 40 % <sup>(3)</sup>;
- M. whereas corruption, by threatening the consolidation of democracy and enforcement of human rights, remains a fundamental cause and catalyst of conflict, widespread violations of international humanitarian law and impunity in developing countries, and whereas the status quo of corruption and illicit enrichment in positions of state power has led to power-grabbing and perpetuation of power as well as to the creation of new militias and widespread violence;

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<sup>(1)</sup> CleanGovBiz Initiative, OECD 2013.

<sup>(2)</sup> CleanGovBiz Initiative, OECD 2013..

<sup>(3)</sup> Illicit Financial Flows from Developing Countries Over the Decade Ending 2009, Global Financial Integrity.

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- N. whereas corruption in the judicial sector breaches the principle of non-discrimination, access to justice and the right to a fair trial and to an effective remedy, which are instrumental in the enforcement of all other human rights, and whereas corruption seriously distorts the independence, competence and impartiality of the judiciary and of the public administration, fostering distrust in public institutions, undermining the rule of law and giving rise to violence;
- O. whereas delivery of public services enables states to fulfil their international human rights obligations, ensuring the supply of water, food, health, education, housing, security and order as elements of human development, and whereas corruption in public procurement thrives in the absence of openness, transparency, information, competition, incentives, clear rules and regulations that are strictly enforced and also where there are no independent monitoring and sanctions mechanisms;
- P. whereas widespread corruption, lack of transparency, access to information and inclusive participation in decision-making prevents citizens from holding governments and political representatives to account in order to ensure that revenue related to resource and market exploration is used to ensure their human rights; whereas it is incumbent upon governments to do everything in their power to combat corruption in public and private companies;
- Q. whereas human rights defenders, media, civil society organisations (CSOs), trade unions and investigative journalists play a crucial role in the fight against corruption by scrutinising public budgets, monitoring the activities of governments and large — in particular multinational — companies, and the financing of political parties, offering capacity-building skills and expertise and demanding transparency and accountability; whereas journalists reporting on corruption and organised crime are increasingly targeted and harassed by organised crime groups, ‘parallel powers’ and the public authorities, especially in developing countries;
- R. whereas a free and independent press and media, both online and offline, are essential in ensuring transparency and scrutiny — both necessary to combat corruption — by providing a platform for the exposure of corruption and giving citizens and society access to information;
- S. whereas open data and open government empower citizens by giving them access to information about governmental budgets and expenses;
- T. whereas whistleblowers are vital in exposing corruption, fraud, mismanagement and human rights abuses, despite high personal risk, and whereas lack of protection against retaliation, controls on information, libel and defamation laws, and inadequate investigation of whistleblowers’ claims can all deter people from speaking out, and can often compromise their personal safety as well as that of their families; whereas the EU has a duty to protect them, in particular by making the most effective use possible of cooperation instruments such as the European Instrument for Democracy and Human Rights (EIDHR);
- U. whereas emergency situations and incoming aid offer opportunities for corruption due to the nature of the activities and the complexity of actions and actors executing them, and whereas these ‘opportunities’ include bribery, obstruction, extortion faced by aid agency staff, misconduct by aid agency staff, fraud, false accounting, diversion of aid received, and exploitation of the needy, and fuel a widespread sense of despair with regard to public authorities of any kind; whereas the misappropriation of humanitarian aid is a serious violation of international humanitarian law;

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- V. whereas 25 % of all investigations initiated by the European Anti-Fraud Office (OLAF) regard European external aid to third countries, and whereas EUR 17,5 million have been recovered as a result of these investigations <sup>(1)</sup>;
- W. whereas EU aid to developing countries might be wasted without a system which does not include proper checks and balances in the beneficiary countries and the full independent monitoring of the integrity system which accompanies the use of funds;
- X. whereas the European public banks, being EU institutions (EIB) or whose majority of shareholders are EU Member States (EBRD), have allegedly been involved in corruption scandals in their operations outside of the European Union;
- Y. whereas aid donors and international financial institutions (IFIs), such as the World Bank and the International Monetary Fund (IMF), should foster effective governance reform in debtor countries and contribute to an effective fight against corruption, also by critically assessing and addressing the demonstrated risks of corruption and degradation of human rights associated with many measures imposed in the context of structural adjustment programmes (SAPs), such as the privatisation of state-owned businesses and resources;
- Z. whereas trafficking in human beings relies heavily on complex, corrupt networks that cut across all branches of government, public administration, law enforcement and the private sector in countries of origin, transit and destination of the victims, and whereas corruption weakens the actions of actors fighting trafficking, due to the corruption of police and judicial staff and in the procedures for the arrest and prosecution of traffickers and the provision of legal aid and witness protection to victims of trafficking;
- AA. whereas corruption and misconduct by armed forces, the defence sector, law enforcement authorities and peacekeeping forces causes serious risks to the lives, physical integrity, protection, liberty, and rights of citizens in developing countries, and whereas the defence sector and defence procurement continue to be characterised by unacceptable levels of corruption and are particularly shielded by secrecy on the basis of national security; whereas public procurement for the supply of security equipment should be closely scrutinised;
- AB. whereas the use of private military and security companies (PMSCs) by both public and private actors has grown exponentially over the past twenty years, and whereas, due to the nature of their activities, PMSCs are particularly vulnerable to corruption and have been accused of serious human rights abuses, despite operating mostly in a realm outside strict regulation, without the accountability to the public that is generally demanded of the armed forces;
- AC. whereas the level of implementation, use and efficiency of the mutual legal assistance and asset recovery mechanisms under Chapters IV and V of the UNCAC remain low among States Parties to the UNCAC, and whereas those States Parties are yet to fully meet their obligations under Chapter IV ('International Cooperation') and V ('Asset Recovery') of the Convention regarding international cooperation and, more specifically, are yet to sufficiently meet their mutual legal assistance obligations under Article 46 of UNCAC;
- AD. whereas the poorly regulated and opaque global trade in conventional arms and ammunition fuels conflict, corruption, poverty, human rights abuses and impunity;

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<sup>(1)</sup> OLAF Annual Report 2011

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- AE. whereas grand corruption in developing countries occurs mostly with the complicity and even the assistance of certain businesspeople, lawyers, financial institutions and public officials in developed countries, including in EU Member States, and whereas, in blatant disregard for anti-money laundering regulation at EU and international level, these institutions and corporations have provided the channels to launder the proceeds of corruption in developed and developing countries, to create opaque structures and to hide assets in the 'secrecy jurisdictions';
- AF. whereas a human rights-based approach to anti-corruption policies reinforces general awareness that, in addition to public funds, citizens' individual rights and opportunities are affected by corruption; whereas the close association of the international anti-corruption and human rights movements will raise public awareness and demand for openness, accountability and justice, and whereas linking acts of corruption to human rights violations creates new possibilities for action, especially where corruption can be challenged using existing national, regional and international mechanisms to monitor compliance with human rights;

#### *Coherence between internal and external policies*

1. Believes that the EU can only become a credible and influential leader in the fight against corruption if it addresses the problems of organised crime, corruption and money laundering within its own borders in an adequate manner; welcomes, in this regard, the 'EU Anti-corruption Report' to be issued by the Commission; hopes that the identification by the Commission of areas vulnerable to corruption in Member States will help step up anti-corruption efforts, facilitate the exchange of best practices, identify EU trends, and stimulate peer learning and further compliance with EU and international commitments; invites the Commission to present EU policy initiatives in the area of anti-corruption such as an EU Action Plan against Corruption;
2. Welcomes, in this regard, the renegotiation of the Savings Taxation Directive, meant effectively to end banking secrecy; considers that strengthening the regulation of, and transparency as regards, company registries and registers of trusts in all EU Member States is a prerequisite for dealing with corruption, both in the EU and in third countries; believes that EU rules should impose an obligation to register all legal structures and their beneficial ownership data, and to publish this information online, electronically tagged and in a searchable format, so that it can be accessed without charge;
3. Is of the opinion that the EU should follow the example of the United States in enacting the Sergei Magnitsky Rule of Law Accountability Act of 2012 and adopt similar legislation at EU level, as an emblematic and operational framework establishing the link between corruption and breaches of human rights; calls, therefore, on the Council to adopt a decision establishing a common EU list of officials involved in the death of Sergei Magnitsky, in the subsequent judicial cover-up and in the ongoing and sustained harassment of his family; adds that this Council Decision should impose targeted sanctions on those officials, such as an EU-wide visa ban and a freezing order on any financial assets that they or their immediate family may hold inside the European Union; calls on the Commission to draw up an action plan, with a view to creating a mechanism for listing and imposing similar targeted sanctions against officials of third countries (including police officers, prosecutors and judges) involved in grave human rights violations and judicial 'manipulations' against whistleblowers, journalists reporting on corruption and human rights activists in third countries; stresses that criteria of inclusion on the list should be built up on the basis of well-documented, converging and independent sources and convincing evidence, allowing for mechanisms of redress for those targeted;

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***Accountability and transparency of external aid and public budgets***

4. Fully supports the EU's commitment to embrace and mainstream throughout its development policies the concept of democratic ownership, that is, the effective and full participation of people in the design, implementation and monitoring of development strategies and policies of donors and partner governments; is of the opinion that such policy fosters involvement of programme beneficiaries and therefore contributes to greater monitoring and accountability in the fight against corruption; encourages the Commission and the Member States to apply the principle that their development aid programmes should be conditional on observance of international anti-corruption norms, and to introduce an anti-corruption clause into public procurement contracts as recommended by the OECD; requests that the Commission continue to foster high levels of aid transparency in digital, machine-readable formats and to use a common standard to ensure comparability both with other donors, and also, more particularly, in line with the needs of recipient governments;

5. Stresses that, to ensure that the blending facilities expand the effectiveness of development finance, the governance of those instruments needs to be reviewed, with the aim of granting greater transparency in project selection criteria and accountability to society as a whole; recalls that establishing a critical number of minimum requirements for project selection, monitoring and evaluation could facilitate comparability and a coherent basis for information on the performance of operations; notes that progress and development impact of projects should be systematically reported to justify the use of aid resources by blending facilities, not only to the donors and the European financial institutions involved, but also to the general public;

6. Takes the view that the Commission should impose the highest levels of integrity in the procurement processes for implementation of EU-funded projects, in particular by promoting greater accessibility to calls for tender for local organisations; stresses that a human rights-based approach to procurement benefits from the participation of a broader range of actors, namely those affected by the bidding process (such as associations of land-owners as well as disadvantaged groups); considers that a human rights-based approach to procurement also encourages authorities to empower disadvantaged groups to compete in procurement processes themselves and broaden the criteria against which companies are assessed in procurement processes; recalls that monitoring results of projects in cooperation with civil society and holding local authorities accountable is essential to determine whether EU funds are used appropriately; urges the Commission not to grant projects to contractors whose beneficial owners are not known, or who have a corporate structure that enables them to easily engage in transfer-pricing;

7. Urges the EU to further transparency by supporting the creation of a global system to track aid pledges, in order to be able to hold donor countries to their promises of aid and to hold them accountable for the projects, institutions or groups that they support;

8. Recalls, moreover, the need to prevent corrupt techniques such as inflation of project costs, payments for fictitious projects and workers, inappropriate and corrupt use of economic and/or industrial offsets, outright stealing of state funds, inflated travel expenses and bribes, among other things, in the implementation of EU-funded projects; insists, therefore, on the need to monitor the entire length of the EU-funding chain, including policy-making and regulation, planning and budgeting, financing, fiscal transfers, management and programme development, tendering and procurement, construction, operation and maintenance, and payment for services;

9. Suggests that the Commission publicise the reporting mechanisms within OLAF regarding misuse of EU funds among participants in public tenders and beneficiaries of EU aid, and produce policy guidelines on the treatment of information provided by whistleblowers regarding those abuses in third countries, allowing for a proper follow-up, feedback and protection against retaliation, paying particular attention to the situation of the most vulnerable population groups, especially women, in many developing countries as they are particularly prone to be the targets of corruption and to cooperate in exposing it, but also to be more vulnerable and stigmatised for cooperating;



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10. Stresses that the EU must emphasise the importance of implementing the right to participation and the right to access information and mechanisms of public accountability such as open data as core principles of democracy in all platforms of dialogue with third countries, including in bilateral relations and at the highest level; stresses that freedom of the press and media, both online and offline are vital in this regard; suggests that the EU finance projects in third countries to support the enforcement of these principles, especially in countries going through democratisation processes, ensuring gender mainstreaming, making sure that such processes involve civil society, especially human rights defenders, trade unions, women and particularly vulnerable groups, and assisting in the formulation of laws for the effective protection of whistleblowers;

11. Notes, in this regard, that the EU must lead by example; insists that the EU and its Member States should actively engage in international initiatives for greater budget transparency, such as the Open Government Partnership, the Open Budget Initiative and the International Aid Transparency Initiative, so as to promote such engagement from partner countries as imperatives of international human rights standards;

12. Calls on the Commission to propose an extension of the definition of human rights defenders in the EU Guidelines on Human Rights Defenders to include anti-corruption activists, investigative journalists and, notably, whistleblowers;

13. Points out that the EU, as a world leading donor, should follow and expand recent instances of linking the delivery of EU external aid to budget reforms towards greater transparency, access to data and participatory processes, and to harmonise guiding principles in this regard with other donors; is of the opinion that the EU should establish clear and public benchmarks and criteria, in an incentive-based approach, for recipient governments to open up their budget processes and incorporate transparency, public participation and oversight components into their efforts, through training or technical assistance; urges the EU to promote and support the development of an enabling environment for oversight bodies in developing countries (including parliaments, courts of auditors, CSOs and the media) to carry out their core functions and therefore fight corruption;

14. Points out, on the other hand, that the EU should use the framework of 'advanced partnerships' with third countries to press in an effective manner those regimes that suffer from endemic corruption to adopt reforms to implement the above-mentioned principles; takes the view that political dialogue, pressure and cooperation from the EU towards the need for reform should be visible and transparent, and should integrate adequate and ambitious monitoring mechanisms; takes the view that the EU should publicly condemn the enactment of laws which restrict the freedom of the media and the activities of civil society as cornerstones of accountability and that it should draw up strategies to adapt relations with those countries so as to foster reform in a visible way; stresses the need for clearly defined and observed human rights clauses in agreements with third countries that would allow any partnership agreement to be suspended in the face of gross human rights violations;

15. Supports increased transparency of decision-making on investments of European public money, namely in projects of the EIB and the EBRD which may have an adverse impact on human rights; urges the EIB and the EBRD to strengthen their anti-fraud and anti-corruption policies in order to ensure full transparency of investments outside of the European Union; stresses the need for the EIB and the EBRD to affirm their willingness to avoid risky investments, especially through financial intermediaries, and to adopt a risk-based approach and improved assessments of the human rights impact of the projects they support, in addition to conducting sound human rights and integrity due diligence of all of their clients' operations; takes the view that particular attention should be paid to ensuring public participation, as well as free prior and informed consultation of communities affected, at all stages of the planning, implementation, monitoring and evaluation of projects financed; urges the Member States and the Commission to use their influence as exclusive members of the EIB, and as major shareholders of the EBRD, to foster significant reform of these institutions to allow greater democratic scrutiny of their decisions and accountability;



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16. Considers that international financial institutions, like the IMF and the World Bank Group, should conduct a corruption risk assessment in the measures proposed to debtor countries through SAPs, in addition to an assessment of the impact of the latter on human rights; takes the view that SAPs should include reforms to improve governance and transparency; insists that adequate, well-resourced and independent systems of oversight should follow the implementation of the programmes, carrying out frequent audits and inspections; adds that particular attention should be paid to land-grabbing, forced evictions, defence procurement, separate defence budgets and the financing of military and paramilitary activities in debtor countries; calls on the Member States to use their influence as members of the IMF and the World Bank to push for greater transparency and participatory mechanisms in the negotiation of SAPs and other financing programmes and to foster greater democratic scrutiny of their decisions and accountability;

17. Calls on bilateral and multilateral financial institutions, including the World Bank Group, IMF, regional development banks, export credit agencies and private sector banks, to require extractive companies and governments to comply with the 'Publish What You Pay' requirements and/or EITI standards on transparency of payments as a pre-condition for all project support;

18. Welcomes the G20 Seoul Anti-Corruption Action Plan, and believes that the momentum created should be sustained so as to ensure a coordinated international effort meant to combat corruption in key areas;

#### ***Corruption and development policies***

19. Emphasises that the poorest people in developing countries, being heavily reliant on public services, are hurt disproportionately by petty corruption, including so-called 'quiet corruption' whereby public officials fail to deliver services or inputs that have been paid for by the government (as in the cases of absentee teachers in public schools or absentee doctors in primary clinics);

20. Stresses that corruption creates obstacles to foreign direct investment (FDI) and discourages external actors from engaging in economic cooperation with developing countries;

21. Believes that fighting corruption, including tax havens, tax evasion and illicit capital flights, is part of a broader effort to promote good governance, which is defined as one of the key priorities to enhance the effectiveness of EU development policy in the 2011 Agenda for Change (COM(2011)0637); emphasises the need for the full and immediate enforcement of the UN Convention against Corruption;

22. Points out that all efforts to combat corruption should be accompanied by support for programmes meant to prevent corruption through education and awareness-raising campaigns;

23. Recalls the commitments undertaken through the Busan Partnership for Effective Development, and calls on the EU and its Member States to implement them in order to intensify the joint efforts to fight corruption and illicit money flows;

24. Believes that ensuring the consistency of development policies is essential in order to tackle and eradicate corruption; emphasises as well that EU assistance in the areas of fiscal governance and action on tax fraud, under the Development Co-operation Instrument (DCI) and the European Development Fund (EDF), needs to be increased;

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### ***Improving Member States' jurisdiction***

25. Requests Member States amend their criminal laws, where necessary, to establish jurisdiction over individuals of any nationality found on their territory who have committed acts of bribery or embezzlement of public funds, regardless of where the crime occurred, as long as the proceeds of those criminal activities are found in the Member State in question or have been laundered there, or the person has a 'close connection' with the Member State, namely through citizenship, residence or beneficial ownership of a company headquartered or with subsidiaries in the Member State;

26. Points out, however, that Member States should exercise cautious judgement when providing information to third countries on individuals accused of corruption, embezzlement or tax evasion, so as not to implicate human rights defenders unjustly, as was done in the case of Ales Bialiatski;

27. Takes the view that defamation/libel laws may deter people from reporting corruption in third countries; urges all Member States, therefore, to lead by example and to de-penalise defamation/libel laws in their legal systems, at least for cases where allegations of organised crime, corruption and money laundering in Member States and abroad are at issue;

28. Urges the Member States, as recommended by the UNCAC, to adopt legislative and other measures to establish intentionally committed illicit enrichment — that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income — as a criminal offence;

### ***Capacity building of anti-corruption institutions***

29. Welcomes the Jakarta Statement on Principles for Anti-Corruption Agencies of November 2012; encourages the EU and Member States to go further and build momentum at international level on the need to address the lack of effectiveness in tackling corruption of the anti-corruption institutions created in many developing countries, mostly due to their institutional arrangements, lack of functional independence from the executive power, lack of political support, the sourcing of their finances, their rules for selecting and appointing officers and their enforcement powers;

30. Calls on the EU and the Member States to initiate the development of international standards on the independence and effectiveness of anti-corruption authorities, drafted intergovernmentally with the aim of final adoption by the UN General Assembly, and being equivalent to, and with the same robust scope as, the Paris Principles for national human rights institutions; emphasises that these principles should be used as benchmarks of accountability through peer review performance assessments;

31. Calls on the Commission to consolidate the cooperation pursued with other donors, and with the International Organisation of Supreme Audit Institutions, to develop capacities of Supreme Audit Institutions in aid recipient countries, in order to implement the International Standards for Supreme Audit Institutions in developing countries;

32. Urges the EU and its Member States to foster and show support for the creation of an International Commission Against Corruption established by an international treaty or by a Protocol to the UNCAC, which would give rise to an international body of criminal investigators endowed with equivalent powers of national law enforcement and prosecution authorities to investigate and prosecute crimes of corruption in domestic territories of the signatory States, and being able also to indict individuals in national criminal courts;

33. Invites the EU Member States to support the establishment of a UN Special Rapporteur on financial crime, corruption and human rights with a comprehensive mandate, including an objectives-oriented plan and a periodic evaluation of the anti-corruption measures taken by States; invites those Member States that have signed but not yet ratified the Council of Europe Criminal Law Convention on Corruption, opened for signature on 27 January 1999, to ratify it at the earliest possible date;

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**Corporate responsibility**

34. Draws attention to the existence of a handbook based on the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which allows companies to take effective internal control, and ethical and compliance measures, in order to prevent and detect cross-border corruption;

35. Requests all EU enterprises to fulfil their corporate responsibility to respect human rights in line with the UN Guiding Principles; welcomes the Commission's readiness to develop human rights guidance for small and medium-sized enterprises; calls on the EU Member States to develop their own national plans for the implementation of the UN Guiding Principles and to insist on the need for partner countries, too, to adhere to internationally recognised corporate social responsibility standards, such as the OECD Guidelines for Multinational Enterprises and the ILO Tripartite declaration of principles concerning multinational enterprises and social policy;

36. Calls for the development of more effective transparency and accountability standards for EU technology companies in connection with the export of technologies that can be used to violate human rights, to aid corruption or to act against the EU's security interests;

37. Notes that most initiatives for improving corporate practice in third countries, especially in conflict zones, such as the UN Global Compact and UN Guidelines on Business and Human Rights, do not establish common ground and proper enforcement of the guidelines, relying on companies' voluntary initiative to comply with them; calls on the EU to take the lead in international efforts to establish such normative standards, at least within EU jurisdiction, focusing on accountability for directors of transnational corporations and redress mechanisms for victims;

38. Urges the Commission to propose legislation requiring EU companies to ensure that their purchases do not support perpetrators of corruption, conflicts and grave human rights violations, namely by carrying out checks and audits on their raw materials supply chains and publishing the findings; takes the view that mandatory due diligence by EU companies, in line with the guidelines published by the OECD, would boost European businesses and make EU human rights and development policies more coherent, especially in areas plagued by conflict;

39. Re-emphasises the need for the EU and the Member States to take appropriate measures, including under criminal law, to monitor and eventually sanction companies based on their territory which are involved in corruption in third countries; calls on the Commission to formulate a public list of companies which have been convicted of corrupt practices or whose company officials are being indicted for corrupt practices in Member States or third countries; is of the opinion that such listing should prohibit those companies from participating in public procurement processes or benefit from EU funds in EU Member States or third countries in the case of conviction, and until a final court decision of exoneration; highlights the fact that 'blacklisting' can be effective in dissuading companies from engaging in corrupt activities and provides a good incentive for them to improve and reinforce their internal integrity procedures;

40. Welcomes the agreements reached between the European Parliament and the Council requiring companies in the extractive sector and loggers of primary forests to disclose payments to governments on a country and project basis; urges governments of all partner countries to require equivalent disclosure of payments of transnational companies registered or listed on financial markets in their jurisdiction; urges the EU to promote this standard of reporting in the context of its relations with partner countries; takes the view that the Commission, in the forthcoming revision of the legislation in question, should consider widening the scope of country-by-country reporting, so as to include transnational companies of all sectors and the reporting of more information, such as sales, assets, employees, profits and taxes;

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### ***Peace and stability operations***

41. Stresses that corruption often fuels crime and contributes to conflict and fragility, and takes the view that fighting corruption should be given greater weight in EU's conflict prevention efforts and in its actions to deal with situations of fragility;

42. Stresses the crucial role of high standards of integrity among peacekeeping forces within the UN and the AU, namely in the context of the African Peace Facility; supports the claims for reform of the UN integrity measures system, namely the need to consolidate all investigations of misconduct by officials — including investigations in the field — into one internal oversight entity; calls, therefore, on the UN to take steps to ensure that those who are victimised by peacekeepers have the right to remedy, and to improve reporting mechanisms and the whistleblower protection policy;

43. Stresses the need to develop and update the Generic Standards of Behaviour and the Code of Conduct for EU CSDP missions, to adequately reflect efforts against corruption both in missions and in mission areas; calls on the EU and its Member States to take steps to ensure that those who are victimised by European personnel in peace and rule of law missions have an effective right to remedy; urges the Council to set up safe and adequate reporting mechanisms and an effective whistleblower protection policy; stresses that these mechanisms must be gender-sensitive;

44. Welcomes initiatives like the Montreux Document and the International Code of Conduct for Private Security Service Providers (ICoC); welcomes the European Union's recent support for the Montreux Document and the high and growing number of endorsements by EU Member States; highlights, however, that there needs to be better enforcement of established principles; calls on all EU Member States to further develop their national law and regulation in line with the standards set out in the Montreux Document and recommends that they and the EU only enter into contracts with PMSCs that uphold the initiatives' principles; calls on the EU and its Member States to support the creation of the oversight mechanism of the ICoC, which should be a compliance body capable of handling complaints and issuing dissuasive sanctions (including modifications to contracts requiring additional constraints, issuance of official warnings, financial penalties and temporary or permanent removal of the PMSC from the ICoC system) in order to ensure compliance with, and ultimately hold PMSCs accountable for, their commitments under the ICoC;

45. Requests that the EU and the Member States support the creation of an international framework to regulate the activities of PMSCs, establishing a level playing field so that host states have the authority to regulate PMSCs and contracting states may use their power to protect human rights and prevent corruption; emphasises that such a framework must include dissuasive sanctions for violations, accountability for violators and effective access to remedies for victims, in addition to a licensing and monitoring system to require all PMSCs to submit to independent audits and participate in compulsory training of all personnel in human rights;

### ***International cooperation and assistance***

46. Recommends that Member States enhance the implementation of Chapters IV (International Cooperation) and V (Asset Recovery) of UNCAC, especially to grant more efficiency to mutual legal assistance requested by third countries, notably by interpreting domestic legislation in a way which facilitates the assistance requested, by de-linking confiscation from conviction in the requesting state for the purposes of providing mutual legal assistance, and by providing their legal systems with the requisite human and financial resources so that cases can be handled properly and swiftly; urges the EU to prioritise this issue of great relevance in third countries going through democratisation processes, namely by addressing legal barriers and the lack of willingness to cooperate from financial centres within the EU, which often maintain an unresponsive and inefficient mutual legal assistance regime;

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47. Is of the opinion that the standard human rights clause introduced in all agreements with third countries should also include a commitment towards the protection and promotion of good governance;

48. Encourages the Commission to propose in the next revision of the Cotonou Agreement the respect of good governance as an essential element of the Agreement and to widen the scope of the definition of corruption, allowing the sanctioning of breaches of the good governance clause in all serious circumstances, and not only when related to economic and sectoral policies and programmes on which the European Union is a significant partner in terms of the financial support;

49. Welcomes the decision of the EU-Egypt and EU-Tunisia Task Forces to finalise a roadmap for the return of the illicitly acquired assets which are still frozen in a number of third countries; urges the EU and its Member States to adhere fully to the existing international norms governing asset recovery, such as Chapter V of UNCAC, the asset recovery action plan as developed by the G8 Deauville Partnership with Arab Countries in Transition, and the new legislative framework developed by the Council on 26 November 2012; considers that asset-recovery provisions will support the efforts of countries to redress the worst effects of corruption, and urges the EU and its Member States to make significant efforts aimed at facilitating the return of misappropriated assets stolen by the former regimes to the people of Arab Spring countries; stresses the importance of a human rights-based approach to the treatment of asset recovery and sovereign debt by states emerging from regimes where corruption is endemic; supports initiatives for auditing external and internal sovereign debt with a view to detect corruption and its impact on human rights; calls on the Member States to support debt audit initiatives;

50. Calls on the EU and the Member States to provide legal and technical assistance to developing countries that wish to recover stolen assets (or assets accumulated illegally by dictatorships) that are held in the territory of the European Union;

51. Points out that corruption in the arms trade represents a large proportion of the corruption present in global transactions; welcomes the Arms Trade Treaty (ATT) adopted by the UNGA on 2 April 2013 establishing common binding standards and criteria to assess international weapons transfers; welcomes the commitment of the Member States to sign the Arms Trade Treaty at the earliest possible date, and calls on them to take a lead as well in the UN efforts for the rapid ratification and implementation of the International Arms Treaty by all UN member states; encourages the EU to ensure greater vigilance in relation to European arms manufacturers' exports and to combat opaqueness in the arms trade sector, especially in relation to the use of intermediaries and economic/industrial offsets, in line with the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment;

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52. Instructs its President to forward this resolution to the Council, the Commission and the European External Action Service, to the governments and parliaments of the EU Member States, of the candidate states and of associated countries, to the Council of Europe, to the African Union, to the International Monetary Fund, to the World Bank, to the European Investment Bank, to the European Bank for Reconstruction and Development and to the United Nations.

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P7\_TA(2013)0395

## Forward policy planning: budgetary implications for capacity-building

**European Parliament resolution of 8 October 2013 on forward policy planning and long-term trends: budgetary implications for capacity-building (2012/2290(INI))**

(2016/C 181/02)

*The European Parliament,*

- having regard to the European Union's general budget for the financial year 2013 <sup>(1)</sup> and, in particular to the preparatory action 'Interinstitutional system identifying long-term trends' in the 2013 budget,
  - having regard to Financial Regulation (EU, Euratom) No 966/2012, in particular Articles 54(2)(a) and (b) and 54(e) thereof, applicable to the general budget of the Union and its rules of application,
  - having regard to the ESPAS (European Strategy and Policy Analysis System) report 'Global Trends 2030 — Citizens in an Interconnected and Polycentric World', produced by the European Union Institute for Security Studies (EUISS) <sup>(2)</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgets and the opinions of the Committee on Regional Development and the Committee on Constitutional Affairs (A7-0265/2013),
- A. whereas we are living through a period of rapid transition — evident in relation to the dynamics of power, demographic change, climate change, urbanisation and technology, making it increasingly necessary for policy-makers in all jurisdictions to invest greater efforts in the study and monitoring of major global trends;
- B. whereas the 2010 EU budget provided, on Parliament's initiative, for the Commission to undertake a pilot project over two years with the aim of exploring the possibility of establishing an 'interinstitutional system identifying long-term trends on major policy issues facing the EU';
- C. whereas the 2012 EU budget authorised the project to go to the next phase as a preparatory action for the three years from 2012 to 2014, with the aim of putting in place, by the end of 2014, a fully functioning 'European Strategy and Policy Analysis System' (ESPAS) involving all relevant EU institutions, by developing 'closer working cooperation between the research departments of the various EU institutions and bodies which are devoted to the analysis of medium- and long-term policy trends' <sup>(3)</sup>;
- D. whereas the establishment of a durable interinstitutional system at administrative level for identifying and mapping major trends likely to shape the future policy context would assist and support the EU institutions in preparing and responding to challenges and defining coherent strategic options for the years ahead;

<sup>(1)</sup> OJ L 66, 8.3.2013.

<sup>(2)</sup> 27 April 2012; [http://www.iss.europa.eu/uploads/media/ESPAS\\_report\\_01.pdf](http://www.iss.europa.eu/uploads/media/ESPAS_report_01.pdf).

<sup>(3)</sup> [http://europa.eu/espas/pdf/espas-preparatory-action-amendment\\_en.pdf](http://europa.eu/espas/pdf/espas-preparatory-action-amendment_en.pdf).



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- E. whereas such a well established and acknowledged system could provide a basis for reflection in the context of preparing the EU budget and establishing political priorities on an annual and multiannual basis and linking financial resources more directly to political objectives;
- F. whereas the empowerment of women cannot be achieved without the recognition and effective implementation of their rights; whereas ESPAS could also provide an effective analysis of the challenges faced in promoting gender equality, from political empowerment to combating all kinds of discrimination against women;
- G. whereas the first ESPAS-sponsored report, 'Global Trends 2030 — Citizens in an Interconnected and Polycentric World', commissioned from the EUISS, identifies several global trends that seem likely to shape the world in coming decades;
- H. whereas these trends include, notably: the growing empowerment of the individual, fuelled in part by technological change; greater stress on sustainable development against a backdrop of growing resource scarcity and persistent poverty, and compounded by the effects of climate change; and the emergence of an international system characterised by a shift of power away from states, with growing governance gaps as the traditional mechanisms for interstate relations fail to respond adequately to public demands;
1. Believes that coherent and effective EU policy-making will depend more and more on the timely identification of those long-term global trends that have a bearing on the challenges and choices facing the Union in an increasingly complex and interdependent world;
  2. Highlights the importance of the EU institutions cooperating in an effective manner to monitor and analyse these long-term trends, as well as cooperating and networking with other actors, including the wider research community, both inside and outside the European Union, who are interested in similar issues in third countries; underlines, in this context, the importance of continuing the process of developing an effective capacity for the provision of independent, high-quality interinstitutional analysis and advice on key trends confronting policy-makers within the EU system;
  3. Points out that, in line with the principle of subsidiarity, the development of long-term socio-economic strategies and the implementation of policies in the EU is the responsibility of a variety of public organisations, such as the European institutions, government ministries, regional or local authority departments and specific agencies; highlights the fact that the economic and social partners, non-governmental organisations and other stakeholders also play a part in the development of long-term strategies alongside public bodies in the Member States and the European institutions; therefore, underlines that a multi-level governance approach should be applied;
  4. Stresses that, on account of its multiannual, long-term and horizontal character, cohesion policy is necessarily a policy with a strong forward-planning component and that, given its significant share of the EU budget, it needs to have a prominent place in all forward-looking budgetary planning;
  5. Believes that policy formulation in respect of cohesion policy and other fields depends increasingly on the timely identification of long-term global trends; notes, in this connection, various forward-looking reports such as Project Europe 2030 (the report to the European Council by the Reflection Group on the Future of the EU 2030) and 'Global Trends 2030 — Citizens in an Interconnected and Polycentric World', prepared by the European Union Institute for Security Studies (EUISS) as part of the European Strategy and Policy Analysis System (ESPAS) project; recommends closer coordination of such reporting initiatives;
  6. Calls for the integration of the gender perspective in the appraisal of long-term global trends and future reports as a means to fight human rights breaches, discrimination and poverty;

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7. Welcomes specifically the outcome so far of the administrative-level pilot project (2010-2011) and preparatory action (2012-2014) designed to develop a European Strategy and Policy Analysis System (ESPAS), in order to help identify long-term trends on major issues facing the Union, and strongly recommends that this process continue after the expiry of the current preparatory action; and considers that such a system should involve staff from all the relevant EU institutions and bodies, including the Committee of the Regions; believes that the reporting mechanism needs to be the subject of a discussion involving all relevant interest groups, businesses and non-governmental organisations;

8. Urges the four institutions and bodies currently involved in the ESPAS process — the Commission, Parliament, the Council and the European External Action Service — to elaborate and sign some form of interinstitutional agreement, ideally to be concluded in the spring of 2014, with each partner undertaking to maintain and participate in the agreement on a continuing basis;

9. Stresses the need for the participating institutions and bodies to devote the necessary staff and financial resources to the ESPAS system through each of their respective budgets, in full compliance with the Financial Regulation, and in particular Article 54(e) thereof, and in the context of the annual budgetary procedure, so as to ensure that this capability can be developed in a budgetarily neutral way in future years, underlines the need for the EU institutions to invest in staff with specific expertise to contribute fully to analysing and monitoring global trends as well as the expertise to identify options and make policy recommendations for the specific needs of each EU institution;

10. Insists that ESPAS be steered and overseen by an appropriately composed interinstitutional board, which would set the mandate and priorities of ESPAS and designate any director or other officers, and in which Parliament will, if it chooses, be represented by Members — it being understood that, within the framework of its mandate, the detailed work of ESPAS should be carried out on an independent basis.

11. Welcomes the intention to use the ESPAS process, and building upon its global network, to build up a global on-line repository of papers and material from multiple sources relating to medium- and long-term trends, freely open to policy-makers and citizens worldwide;

12. Welcomes the fact that that closer administrative cooperation between the EU institutions through the ESPAS process will lead to the presentation, as part of the preparatory action, of a foresight report analysing long-term trends and their implications for the challenges and choices facing the Union during the period 2014-2019, due to be submitted for the attention of the incoming Presidents of the institutions in 2014; considers that this exercise is successful and should be repeated on at least a five-yearly basis thereafter;

13. Believes that a permanent system — aiming to provide regular analysis of medium- and long-term trends for the EU institutions in order to encourage a more strategic approach to decision-making — should include provisions for the submission of an annual 'strategic trends report' to the institutions, in advance of the State of the Union debate, and the publication of the Commission's annual work programme in order to track and assess the changing pattern of long-term trends, and also to provide specific input to the budgetary authority in the run-up to the negotiation of a post-2020 Multiannual Financial Framework (MFF), as well as for any mid-term revision of the 2014-2020 MFF;

14. Instructs its President to forward this report to the Council, the Commission and the European External Action Service.



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P7\_TA(2013)0396

**Private international law and employment****European Parliament resolution of 8 October 2013 on improving private international law: jurisdiction rules applicable to employment (2013/2023(INI))**

(2016/C 181/03)

*The European Parliament,*

- having regard to Articles 12, 15, 16, 27, 28, 30, 31 and 33 of the Charter of Fundamental Rights of the European Union,
  - having regard to Article 3(3) of the Treaty on European Union,
  - having regard to Articles 45, 81 and 146 of the Treaty on the Functioning of the European Union,
  - having regard to the judgments of the Court of Justice of the European Union in Cases C-18/02 <sup>(1)</sup>, C-341/05 <sup>(2)</sup> and C-438/05 <sup>(3)</sup>,
  - 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 (A7-0291/2013),
- A. whereas the review of the Brussels I Regulation <sup>(4)</sup> was a great success, as it introduced considerable improvements to the rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters within the European Union;
- B. whereas the scope of that recast procedure did not include certain employment law issues;
- C. whereas the Interinstitutional Agreement of 28 November 2001 <sup>(5)</sup> provides that the recast technique is to be used for acts which are frequently amended;
- D. whereas it is important to ensure coherence between the rules governing jurisdiction over a dispute and the rules governing the law to be applied to a dispute;
- E. whereas it is also a major concern of private international law at European level to prevent forum shopping — particularly when this might occur to the detriment of the weaker party, such as employees in particular — and to ensure the greatest possible level of predictability as to jurisdiction;

<sup>(1)</sup> Judgment of the Court (Sixth Chamber) of 5 February 2004 in Case C-18/02, *Danmarks Rederiforening, acting on behalf of DFDS Torline A/S v LO Landsorganisationen i Sverige, acting on behalf of SEKO Sjöfolk Facket för Service och Kommunikation*, ECR 2004 p. I-01417.

<sup>(2)</sup> Judgment of the Court (Grand Chamber) of 18 December 2007 in Case C-341/05, *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet*, ECR 2007 p. I-11767.

<sup>(3)</sup> Judgment of the Court (Grand Chamber) of 11 December 2007 in Case C-438/05, *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti*, ECR 2007 p. I-10779.

<sup>(4)</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

<sup>(5)</sup> Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (OJ C 77, 28.3.2002, p. 1).

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- F. whereas, as a general principle, the court having the closest connection to a case should have jurisdiction;
- G. whereas a number of high-profile European court cases on jurisdiction and applicable law in relation to individual employment contracts and industrial action have led to fears that national provisions on employment law could be undermined by European rules which can lead, in certain cases, to the law of one Member State being applied by the court of another Member State <sup>(1)</sup>;
- H. whereas, in view of the major importance of employment law for the constitutional and political identities of the Member States, it is important that European law should respect national traditions in this field;
- I. whereas it is also in the interest of the proper administration of justice to align the rules on jurisdiction with the rules on applicable law to the extent possible;
- J. whereas it seems appropriate to evaluate whether there is a need for changes to be made to the rules on jurisdiction in the field of employment law;
- K. whereas, in particular, with regard to industrial action, the courts of the Member State where the industrial action is to be or has been taken should have jurisdiction;
- L. whereas, with regard to individual employment contracts, it should be ensured, to the extent desirable, that the courts of the Member State which has the closest connection with the employment relationship should have jurisdiction;
1. Congratulates the institutions on the successful review of the Brussels I Regulation;
  2. Considers that employment law issues should be further addressed by the Commission with a view to a possible future revision;
  3. Notes that one of the main principles of private international law relating to jurisdiction is the protection of the weaker party and that the objective of employee protection is spelt out in the current jurisdiction rules;
  4. Notes that employees are generally well protected by jurisdiction rules in employment matters when they are defendants in cases brought by their employers through the exclusive grounds of jurisdiction laid down in the Brussels I Regulation;
  5. Urges the Commission to assess whether the current legal framework under the Brussels I Regulation sufficiently takes into account the specificities of actions in the employment sector;
  6. Calls on the Commission to pay particular regard to the following questions:
    - (a) whether, concerning the liability of a worker or an employer or of an organisation representing the professional interests of workers or employers for damages caused by industrial action, any steps need to be taken to clarify that Article 7(2) of the recast Brussels I Regulation refers to the place where the industrial action is to be or has been taken, and whether alignment with Article 9 of the Rome II Regulation is necessary;

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<sup>(1)</sup> See, in particular, the circumstances surrounding Case C-438/05, *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti*, ECR 2007 p. I-10779.

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- (b) whether, in cases where an employee sues an employer, the fall-back clause which applies where there is no habitual place of work should be reworded so as to refer to the place of business from which the employee receives or received day-to-day instructions rather than to the engaging place of business;

7. Instructs its President to forward this resolution to the Council and the Commission, and to the European Economic and Social Committee.

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P7\_TA(2013)0400

## **Gendercide: the missing women?**

**European Parliament resolution of 8 October 2013 on Gendercide: the missing women? (2012/2273(INI))**

(2016/C 181/04)

*The European Parliament,*

- having regard to Article 3 of the Treaty on European Union (TEU) which emphasises values common to the Member States, such as pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women, and Article 8 of the Treaty on the Functioning of the European Union (TFEU) which lays down the principle of gender mainstreaming, as it states that the Union shall in all its activities aim to eliminate inequalities, and to promote equality, between men and women,
- having regard to Article 19 of the TFEU which refers to combating discrimination based on sex,
- having regard to Article 23 of the Charter of Fundamental Rights of the European Union,
- having regard to the United Nations Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995, and to its resolutions of 18 May 2000 <sup>(1)</sup>, 10 March 2005 (Beijing + 10) <sup>(2)</sup>, and 25 February 2010 (Beijing + 15) <sup>(3)</sup>,
- having regard to the Millennium Development Goals (MDGs) adopted at the Millennium Summit of the United Nations in September 2000, and in particular the MDG on promoting gender equality and empowering women as a prerequisite for overcoming hunger, poverty and disease, reaching equality at all levels of education and in all areas of work, equal control over resources and equal representation in public and political life,
- having regard to the European Pact for Gender Equality (2011-2020), adopted by the European Council in March 2011,
- having regard to the European Consensus on Development,

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<sup>(1)</sup> OJ C 59, 23.2.2001, p. 258.

<sup>(2)</sup> OJ C 320 E, 15.12.2005, p. 247.

<sup>(3)</sup> OJ C 348 E, 21.12.2010, p. 11.

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- having regard to the European Convention on Human Rights and Biomedicine,
- having regard to the European Union Guidelines on promoting compliance with international humanitarian law (IHL), on the death penalty, on torture and other cruel, inhuman or degrading treatment or punishment, and on human rights defenders, as well as on human rights dialogues with non-EU countries, on the promotion and protection of the rights of the child, and on violence against women and girls and combating all forms of discrimination against them,
- having regard to the Council Conclusions of 2 December 1998 establishing that the annual assessment of the implementation of the Beijing Platform for Action will be based on quantitative and qualitative indicators and benchmarks,
- having regard to the Council Conclusions of 2 and 3 June 2005 in which the 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 for more consistent and systematic monitoring of progress,
- having regard to the Council Conclusions of 5 and 6 December 2007 on the review of the implementation of the Beijing Platform for Action by EU institutions and the Member States, as well as to the accompanying report of the Portuguese Presidency, endorsing indicators on women and poverty,
- having regard to the Commission's 'Strategy for equality between women and men: 2010-2015', presented on 21 September 2010, and the accompanying staff working document on actions to implement the strategy,
- having regard to the Commission Staff Working Document on the EU Plan of Action on Gender Equality and Women's Empowerment in Development (2010-2015),
- having regard to the common declaration by EU ministers for gender equality of 4 February 2005, in the context of the 10-year review of the Beijing Platform for Action, reaffirming, inter alia, strong support and commitment to the full and effective implementation of the Beijing Declaration and Platform for Action,
- having regard to the conclusions adopted by the UN Commission on the Status of Women at its 57th session on 15 March 2013, which for the first time in an international text specifically acknowledge the phenomenon of gender-related killings or 'femicides',
- having regard to the 2011 interagency statement on 'Preventing gender-biased sex selection' presented by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), UN Women and the World Health Organisation (WHO),
- having regard to the Declaration and Programme of Action of the 1994 Cairo International Conference on Population and Development (ICPD), the key actions for its further implementation as well as the United Nations General Assembly Resolution 65/234 on the Follow-up to the International Conference on Population and Development beyond 2014 (December 2010),
- having regard to its resolution of 13 March 2008 on Gender Equality and Women's Empowerment in Development Cooperation <sup>(1)</sup>, in particular paragraph 37,
- having regard to its resolution of 16 December 2010 on the Annual Report on Human Rights in the World 2009 and the European Union's policy on the matter <sup>(2)</sup>, especially paragraph 76 which emphasises the need to eliminate all forms of discrimination and violence against women and girls, including the sex-selective abortion,

<sup>(1)</sup> OJ C 66 E, 20.3.2009, p. 57.

<sup>(2)</sup> OJ C 169 E, 15.6.2012, p. 81.

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- having regard to its resolution of 13 December 2012 on the annual report on human rights and democracy in the world 2011 and the European Union's policy on the matter <sup>(1)</sup>,
  - having regard to its resolution of 11 October 2007 on the murder of women (femicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon <sup>(2)</sup>;
  - 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 Development (A7-0245/2013),
- A. whereas 'gendercide' is a sex-neutral term referring to the systematic, deliberate and gender-based mass killing of people belonging to a particular sex, which is a rising but underreported problem in several countries, with lethal consequences; whereas this report specifically explores the causes, current trends, consequences and ways of combating the gender-biased sex selection practices, which also take the forms of infanticide and violence through sex selection (other terms, such as 'femicide/feminicide', for which a special Parliament report already exists <sup>(3)</sup>, have been used to refer to the killing of women and girls as the utmost expression of discrimination and violence against women);
- B. whereas, despite recent legislation against sex-selective practices, girls are to a disproportionate degree the target of ruthless sexual discrimination, often extended to include unborn, predetermined baby girl foetuses, which are aborted, abandoned or killed, for no other reason than the fact that they are female;
- C. whereas it has been estimated that, as early as 1990, more than 100 million women were demographically 'missing' from the world's population due to gendercide <sup>(4)</sup>; whereas according to recent estimates this number has increased to almost 200 million women 'missing' from the world's population <sup>(5)</sup>;
- D. whereas gendercide is a global issue of concern not only in Asia and Europe but also in North America, Africa and Latin America; whereas gendercide is committed everywhere pregnant women, on purpose or under pressure, decide not to give birth to girl foetuses because they are considered a burden to the society;
- E. whereas in Asia, and especially in China, India and Vietnam, there are particularly distorted sex ratios; whereas in 2012, 113 boys were born for every 100 girls in China, and 112 boys were born for every 100 girls in India and Vietnam <sup>(6)</sup>;
- F. whereas in Europe there are particularly distorted sex ratios in some countries, given that, in 2012, 112 boys were born for every 100 girls in Albania, Armenia, Azerbaijan and Georgia <sup>(7)</sup>;

<sup>(1)</sup> Texts adopted: P7\_TA(2012)0503.

<sup>(2)</sup> OJ C 227 E, 4.9.2008, p. 140.

<sup>(3)</sup> On 11 October 2007 European Parliament adopted a resolution on the murder of women (femicide) in Mexico and Central America and the role of the European Union (EU) in fighting the phenomenon. Parliament repeated its condemnation of femicide in its latest Annual Human Rights Report adopted in December 2010. Femicide is also mentioned in the EU Guidelines on Violence against Women, adopted by the EU Council in December 2008. In April 2009, EU Presidency issued a statement welcoming the start of the IACtHR trial, and in June 2010, the EU High Representative Catherine Ashton issued a declaration on behalf of the EU expressing her concern about femicide in Latin America, condemning 'all forms of gender violence and abhorrent crime of femicide', and welcoming the IACtHR judgment.

<sup>(4)</sup> Amartya Sen, *More Than 100 Million Women Are Missing*, The New York Review of Books, Vol. 37, No. 20, (December 20, 1990), available at: <http://www.nybooks.com/articles/3408>

<sup>(5)</sup> United Nations Fact Sheet: International Women's Day 2007, available at <http://www.un.org/events/women/iwd/2007/factsfigures.shtml>

<sup>(6)</sup> Map of the World by Sex ratio at birth, [http://en.worldstat.info/World/List\\_of\\_countries\\_by\\_Sex\\_ratio\\_at\\_birth](http://en.worldstat.info/World/List_of_countries_by_Sex_ratio_at_birth)

<sup>(7)</sup> [http://en.worldstat.info/World/List\\_of\\_countries\\_by\\_Sex\\_ratio\\_at\\_birth](http://en.worldstat.info/World/List_of_countries_by_Sex_ratio_at_birth)

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- G. whereas the practice of gendercide is most often found deeply rooted in cultures exhibiting 'son preference', gender inequality, persisting discrimination and stereotypes against daughters, and, in some cases, in countries applying coercive government policies;
- H. whereas perceptions of 'son preference' are deeply rooted and constitute part of long-standing traditions relevant to issues such as property inheritance, the reliance of ageing parents on sons for economic support and security, the continuance of the family name and lineage, and a desire to be spared traditionally high dowry costs for daughters in order to avoid financial hardship;
- I. whereas inadequate social security systems, schemes and insurance options for families in several cultures may, misleadingly, lead to 'son preference' and to sex-selective practices;
- J. whereas sex-selective practices disrupt gender balance in societies, cause skewed population sex ratios and have economic and social impacts; whereas gender imbalance in the form of 'excess men' affects long-term social stability, leading to an overall increase in criminality, frustration, violence, trafficking, sex slavery, exploitation, prostitution and rape;
- K. whereas a patriarchal culture of persistent 'son preference' not only preserves stereotypes, democratic deficits and gender inequalities but also discriminates against women, and thus presents obstacles hindering them from fully enjoying equal treatment and equal opportunities in all areas of life;
- L. whereas the occurrence of sex-selective practises, higher rates of mortality among very young girls and lower rates of school enrolment for girls than boys, may suggest that a 'son preference' culture is prevailing in some societies; it is important to investigate and diagnose whether such phenomena are accompanied by further democratic deficits against girl children, such as deterioration in their access to nutrition, education, health care, sanitation facilities, safe water, medical care and social assistance, in order to find effective ways to combat them;
- M. whereas the demographic deficits of females in many countries cannot be addressed owing to a lack of reliable statistical data for monitoring births and deaths;
- N. whereas the empowerment of women will aid in promoting the behavioural and social change needed to eradicate sex-selective practices in the long term;
- O. whereas eradicating sex-selective practices is a complex process which requires a range of inter-connected approaches and methods, including specialised training for medical staff to advice and prevent sex-selective practices in the EU and worldwide;
- P. whereas advocacy, policy measures and good practices such as the 'Care for Girls' campaign in China, aiming at raising awareness of the value of girls, and the 'Balika Samriddhi Yojana' scheme in India, providing monetary incentives for educating girls from poor families, are essential to change behavioural attitudes towards girls and women;
- Q. whereas the successful example of South Korea is notable as the country has managed to reverse a highly distorted sex ratio of 114 males born for every 100 females in 1994 to 107 males born for every 100 females in 2010 <sup>(1)</sup>;

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<sup>(1)</sup> UNFPA, Report of the International Workshop on Skewed Sex Ratios at Birth: Addressing the Issue and the Way Forward, October 2011.

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1. Stresses that gendercide remains a crime and a severe violation of human rights that necessitates effective ways to address and uproot all the fundamental causes leading to patriarchal culture;
2. Stresses that all states and governments have an obligation to promote and safeguard human rights and to prevent discrimination as a basis for eliminating all forms of violence against women;
3. Calls on governments to devise and apply measures that promote fundamental changes in people's ideas about and attitudes towards women, in order to tackle harmful beliefs and behaviour which perpetuate violence against women;
4. Calls on governments to specifically categorise femicide or gendercide as a crime and to draw up and implement legislation so that femicide cases are investigated, perpetrators tried and survivors ensured easy access to health care and long-term support;
5. Underlines that according to the Council of Europe Convention on preventing and combating violence against women and domestic violence, and to the Beijing Declaration and Platform for Action, any family or societal pressure on women to pursue sex-selective abortion is considered a form of physical and psychological violence;
6. Points out that eradicating sex-selective practices is a complex process which requires a range of inter-connected approaches and methods, from studying the root causes and cultural and socio-economic factors characteristic of countries where son/male preference exists, to campaigning for the rights and status of girls and women and introducing laws and regulations; more broadly, deems that the only sustainable way to prevent further developments in sex-selective practices is by promoting equal value of the sexes in every society;
7. Stresses the need, and calls on the Commission, to promote a thorough scientific investigation and examination of the root causes of sex-selective practices with a view to promote research into those country-specific customs and traditions that may lead to sex selection and the long-term societal consequences of sex selection;
8. Calls for detailed analysis of the underlying financial and economic reasons that contribute to sex-selective practices; calls, furthermore, on governments actively to address such burdens that are placed on families and that can lead to the phenomenon of a male surplus;
9. Stresses the importance of drafting legislation against sex selection, which should include social protection packages for women, better monitoring of the implementation of the existing legislation, and a stronger focus on the cultural and socio-economic causes of the phenomenon, in order to tackle the issue in a sustainable and holistic way, upholding gender equality and encouraging active participation on the part of civil society;
10. Calls on governments to eliminate democratic and legislative deficits, combat persisting obstacles discriminating against girl children, ensure inheritance rights for women, enforce national legislation that guarantees women equality with men before the law in all sectors of life, and provide economic, educational and political empowerment to girls and women;
11. Calls on the Commission to support and encourage all types of initiatives to increase awareness on gender-biased discrimination, including gendercide, and to find effective ways to combat it by offering guidance, assistance, appropriate policies and funding, as part of its external relations, humanitarian aid and gender mainstreaming;



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12. Points out that the failure to empower women and girls, as well as the absence of efforts to change social norms and structures, has serious legal, ethical, health and human rights implications and potentially serious longer-term consequences that are damaging to the societies concerned;

13. Stresses that, according to several studies, gender imbalance could lead to: increases in trafficking for the purposes of marriage or sexual exploitation; violence against women; child, early and forced marriages; and HIV/AIDS and other sexually transmitted diseases (STDs); stresses that gender imbalance thereby poses a threat to societal stability and security, and calls, therefore, for in-depth reviews of the possible health, economic and security consequences of this spiralling male surplus;

14. Supports relevant reforms, continued monitoring and effective implementation of gender equality and non-discrimination legislation, particularly in low- and middle-income countries and transition countries;

15. Calls on the Commission to work intensively to prevent gender-biased sex selection, not by imposing restrictions on access to reproductive health services and technology but by promoting responsible use of it, to introduce and strengthen guidelines, to provide specialised training for medical staff to advise on and prevent sex selective practices, with the rare exception of justified cases for sex-linked genetic diseases, and to prevent the use and promotion of technologies for sex-selection and/or for profit purposes;

16. Emphasises that legislation to manage or limit sex selection must protect the right of women to have access to legitimate sexual and reproductive health technologies and services without their husbands' authorisation, that such legislation must be implemented in an effective way, and that appropriate sanctions must be imposed on those breaking the law;

17. Encourages closer engagement and cooperation between governments and the medical community and calls for stricter guidelines for the self-regulation of clinics and hospitals, as an active measure to prevent sex selection as a business for financial gain;

18. Calls on the Commission and the Member States to identify clinics in Europe that conduct sex-selective abortions, provide statistics on this practice and elaborate a list of best practices for preventing them;

19. Recognises that ensuring and promoting the rights of women and girls, by offering them equal opportunities, particularly in education and employment, is vital for tackling sexism and building a society in which the principle of gender equality becomes a reality; highlights the fact that the improvement of levels of education, employment opportunities and integrated health care services, including sexual and reproductive health care services for women, plays a vitally important role in efforts to eradicate sex-selective practices — from abortion to infanticide — and to achieve overall economic growth in developing countries and reduce poverty; underlines that the empowerment of women and the involvement of men are key to fighting gender inequality and to promoting the behavioural and social change needed to eradicate sex-selective practices in the long term;

20. Calls, therefore, on the Commission to promote an educational and social environment in which both sexes are respected and treated equally, and in which both sexes receive recognition for their abilities and potential, without stereotypes and discrimination, while reinforcing gender mainstreaming, equal opportunities and equal partnership;

21. Calls on the Commission, and urges relevant international organisations, to support educational programmes that empower women, enabling them to develop self-esteem, acquire knowledge, make decisions and take responsibility for their own lives, health and employment, and allowing them to live a financially independent life;



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22. Calls on the Commission, the EEAS and the governments of third countries to devise information campaigns that promote the principle of gender equality and that seek to raise awareness of the need for each member of a couple to respect the human rights of his/her partner, particularly the rights of property, employment, appropriate health care, justice and education;
23. Recalls the Millennium Development Goals (MDGs) and stresses that access to education and healthcare, including sexual and reproductive health and rights, are basic human rights; stresses the need for making special and specific reference to gendercide and sex-selection issues in dialogues and reports on the MDGs and in other experience-sharing international fora;
24. Stresses that the ability of women to exercise of their rights is necessarily bound up with their capacity to take decisions individually and independently of their spouse, for which reason it is essential to ensure that women have access to education, work, health care, and ready access to contraception and a bank account without requiring the authorisation or consent of another person;
25. Calls on the governments of partner countries to reduce health care costs for the treatment of children, notably girls, who sometimes die as a result of the bad or inadequate care they receive;
26. Calls on governments to improve women's access to health care, in particular prenatal and maternal care, education, agriculture, credit and microloans, economic opportunities and property;
27. Calls for special emphasis to be placed on creating the conditions for solidarity in developing countries, inter alia through the establishment of pension funds, in order to reduce economic burdens on families and individuals, thus reducing their dependence on and preference towards male children;
28. Notes that sex-selection practices still persist even in prosperous regions with literate populations;
29. Encourages the development of support mechanisms for women and families that can provide information and advice to women about the dangers and damage of sex-selective practices and to provide counselling to support women who may be under pressure to eliminate female foetuses;
30. Encourages civil society and government agencies to take joint action to promote information and public awareness campaigns about the negative consequences of sex-selective practices for the mother;
31. Calls on the Commission to provide technical and financial support for innovative activities and education programmes that aim to stimulate debate and understanding of the equal value of girls and boys, using all available media and social networks, targeting and involving young people, religious and spiritual leaders, teachers, community leaders and other influential personalities, in an effort to modify the cultural perceptions of gender equality of a given society and to underscore the need for non-discriminatory behaviour;
32. Calls for the EU to include a strong gender component, and a focus on the empowerment of women, in all its partnerships and dialogues with developing countries, as called for in the European Consensus on Development; considers, furthermore, that there is a need for gender mainstreaming in all stages of budget support, inter alia by promoting dialogue with women's associations in developing countries and by introducing gender-differentiated indicators;

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33. Calls on the authorities of the countries concerned to improve the monitoring and statistical data collection of sex ratios, and to take action to address possible imbalances; calls, in this connection, for closer cooperation between the EU, UN agencies and other international partners and partner governments;

34. Calls on the Commission and all relevant stakeholders to take the necessary legislative or other measures to ensure that practicing forced abortions and sex-selective surgery to terminate pregnancy without prior and informed consent or understanding of the procedure by the women involved is criminalised;

35. Calls on governments and all relevant stakeholders to ensure that legislation on sex selection is implemented effectively and that appropriate sanctions are imposed on those breaking the law;

36. Calls on the Commission to enhance cooperation with other international organisations and bodies such as the UN, WHO, UNICEF, OHCHR, UNFPA and UN Women to tackle sex-selective practices and to combat their root causes in all countries, and to network with governments, parliaments, various stakeholders, media, non-governmental organisations, women organisations and other community bodies in order to increase awareness of gendercide and ways to prevent it;

37. Calls on the Commission and the EEAS to collaborate with the aforementioned international organisations to tackle sex-selective practices and to combat their root causes in all countries, and to network with governments, parliaments, various stakeholders, media, non-governmental organisations, women organisations and other community bodies in order to increase awareness of gendercide and ways to prevent it;

38. Calls on the Commission and the EEAS, when discussing humanitarian aid packages, to prioritise gendercide as an issue to be addressed by the third countries concerned, enjoining them to commit themselves to make the eradication of gendercide a priority, to increase awareness about this issue and to press for its prevention;

39. Calls for the EU and its partner countries to improve, through development cooperation, the monitoring and data collection of sex ratios at birth, and to take prompt action to address possible imbalances; stresses that human rights clauses relating to gender discrimination should also be included in international trade and cooperation agreements;

40. Calls on the European Union to ensure a rights-based approach encompassing all human rights, and to include a strong focus on the empowerment and the promotion, respect and fulfilment of women's and girl's rights, including their sexual and reproductive rights and gender equality as preconditions to combat gendercide, as a key issue in the post-2015 development policy agenda;

41. Asserts that, when implementing the specific clauses on the prohibition on coercion or compulsion in sexual and reproductive health matters agreed on at the Cairo International Conference on Population and Development, as well as the legally binding international human rights instruments, the *acquis communautaire* and the Union's policy competencies in those matters, Union assistance should not be provided to any authority, organisation or programme which promotes, supports or participates in the management of any action which involves such human rights abuses as coercive abortion, forced sterilisation of women or men, or determination of foetal sex resulting in prenatal sex selection or infanticide;

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

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P7\_TA(2013)0401

**Budgetary constraints for regional and local authorities regarding the EU's Structural Funds****European Parliament resolution of 8 October 2013 on effects of budgetary constraints for regional and local authorities regarding the EU's Structural Funds expenditure in the Member States (2013/2042(INI))**

(2016/C 181/05)

*The European Parliament,*

- having regard to the conclusions of the European Council of 28/29 June 2012 <sup>(1)</sup>,
- having regard to the conclusions of the European Council of 14/15 March 2013 <sup>(2)</sup>,
- having regard to the current interinstitutional negotiations on the future Cohesion Policy and the Multiannual Financial Framework,
- having regard to Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999,
- 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' <sup>(3)</sup>,
- having regard to its resolution of 23 June 2011 on the European Urban Agenda and its Future in Cohesion Policy <sup>(4)</sup>,
- having regard to its position of 12 March 2013 on the proposal for a regulation 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 <sup>(5)</sup>,
- having regard to its position of 12 March 2013 on the proposal for a regulation of the European Parliament and of the Council on the strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area <sup>(6)</sup>,
- having regard to its resolution of 11 March 2009 on Cohesion Policy: investing in the real economy <sup>(7)</sup>,
- having regard to its resolution of 13 March 2013 on the European Council conclusions of 7/8 February 2013 concerning the Multiannual Financial Framework <sup>(8)</sup>,

<sup>(1)</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/131388.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/131388.pdf).

<sup>(2)</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/136151.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/136151.pdf).

<sup>(3)</sup> Texts adopted, P7\_TA(2012)0430.

<sup>(4)</sup> OJ C 390 E, 18.12.2012, p. 10.

<sup>(5)</sup> Texts adopted, P7\_TA(2013)0070.

<sup>(6)</sup> Texts adopted, P7\_TA(2013)0069.

<sup>(7)</sup> OJ C 87 E, 1.4.2010, p. 113.

<sup>(8)</sup> Texts adopted, P7\_TA(2013)0078.

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- having regard to the draft opinion of the Committee of the Regions of 6 March 2013 on ‘Synergies between private investment and public funding at local and regional levels — partnerships for economic growth and prosperity’,
  - having regard to the opinion of the Committee of the Regions of 1 February 2013 on ‘Creating greater synergies between EU, national and subnational budgets’,
  - having regard to the memo of the Committee of the Regions of 2012 on ‘Impact of budgetary austerity on local finances and investment’,
  - having regard to the note of the European Investment Bank of 14 December 2012 on ‘The impact of the recession in 2008-2009 on EU regional convergence’ <sup>(1)</sup>,
  - having regard to the Occasional Papers of the Commission of December 2012 on ‘The Quality of Public Expenditures in the EU’ <sup>(2)</sup>,
  - having regard to the IMF’s October 2012 World Economic Outlook,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development and the opinions of the Committee on Budgets and the Committee on Employment and Social Affairs (A7-0269/2013),
- A. whereas the worldwide economic and financial crisis impaired social, economic and territorial cohesion in the EU, causing higher unemployment, lower GDP and increasing regional disparities and budgetary deficits at national, regional and local level;
- B. whereas the timing and severity of the crisis has varied to a great extent throughout the EU’s regions, emphasising pre-existing structural weaknesses and bringing a serious decline in GDP growth, record unemployment rates, major impoverishment of the most vulnerable in society and a deteriorated business climate and lowered consumer confidence;
- C. whereas banks and financial markets have become increasingly reluctant to lend, as the perceived creditworthiness of sovereign and sub-national governments has deteriorated;
- D. whereas the fiscal compact has been shown to be inappropriate in facing the challenges of the crisis and a growth compact enabling significant investment across the Community is envisaged as the most viable solution, as there is a consensus today that fiscal austerity and budgetary cuts without investments do not revitalise the economy and will not create favourable conditions for job creation and economic growth;
- E. whereas the European Structural and Investment Funds are intended to promote the economic, social and territorial cohesion across the EU, reducing regional disparities, promoting convergence and stimulating development, employment and social progress through productive investment;
- F. whereas the European Structural and Investment Funds are equally expenditures earmarked for supporting smart, inclusive and sustainable growth and competitiveness and thus positively impact on the denominator of the deficit-to-GDP ratio;
- G. whereas the EU-wide collapse in public finance triggered by the sovereign debt crisis caused austerity policies to become widespread; whereas their effects on local finances have been devastating, causing several budget lines to be reduced or moderated and heavily jeopardising the financing/co-financing capacities for productive investment of national, regional and local authorities;

<sup>(1)</sup> <http://www.eib.org/infocentre/publications/all/econ-note-2012-regional-convergence.htm>.

<sup>(2)</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/pdf/ocp125\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp125_en.pdf).

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- H. whereas only a few states continued to support local investment, while the others, faced with the sovereign debt crisis, decided to freeze or cut financial support for investment to local authorities, with a strong tendency to centralise or introduce internal stability pact rules that have strongly reduced investment;
- I. whereas major budget cuts in important fields and sectors are one of the biggest problems facing local and regional authorities in the current period;
- J. whereas sub-national governments are key regional development actors: they represent 60 % of public investment and 38 % of consolidated government spending on 'economic affairs', thus including most expenditure which can influence regional development, such as that on commercial and labour affairs, agriculture, transport or R&D;
- K. whereas in the EU, investment has acted as an adjustment variable in two out of three countries, partly owing to efforts made in 2009 to combat the crises; whereas direct investment dropped in 2011 compared to 2010 in 17 Member States, in ten of which by more than 10 % in 2011 (Austria, Latvia, the Czech Republic, Slovakia, Bulgaria, Portugal, Greece, Hungary and Spain); whereas the drop in investment which began in 2010 (investment grants by central governments plunged by - 8,7 %) is continuing and seems to be entering a negative spiral;
- L. whereas the level of indebtedness of sub-national governments is well below the level of indebtedness of national actors;
- M. whereas sub-national authorities are required to participate in the consolidation effort and reduce their deficits and debt while borrowing conditions have deteriorated for the financially weaker sub-national governments;
- N. whereas public investment is key to social inclusion and investment needs are substantial in many crucial sectors in the EU's economy, such as the labour market, infrastructure, research and innovation, SMEs;
- O. whereas, after a period of increasing convergence in the EU between 2000 and 2007, convergence slowed down substantially during the recession; whereas the regions most affected were those with unsustainable and speculative investments and those with strong export manufacturing sectors;
- P. whereas the EU Structural Fund uptake arrangements are such that the Commission can reimburse interim payments only on the basis of declarations of expenditure paid out in Member States;
- Q. whereas national public co-financing under the Structural Funds in EU-27 for the 2007-2013 programming period amounts to approximately EUR 132 billion, and whereas that figure constitutes a sine qua non for proper take-up of the Funds and for investment of a high quality serving to strengthen ownership and accountability in the use of EU funding;
- R. whereas public co-financing of the programmes supported by Cohesion Policy can be jeopardised by lack of flexibility in the application of the Stability and Growth Pact (SGP), with the result that Cohesion Policy cannot be brought to bear to such useful effect to improve competitiveness and overcome the current crisis;

### **General observations**

1. Notes with great concern the clear pattern of rising regional inequality in the EU today, with many relatively poor regions in the New Member States and Southern Europe and a majority of rich regions in Central and Northern Europe, and even within Member States and regions; underlines, in this context, the prime importance of EU's Cohesion Policy as the main tool for investment aimed at convergence and sustainable development in the EU;

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2. Stresses that the local economy is a key recovery factor for communities, and that this is important in the current crisis situation; highlights, in this context, the economic and social effects of the social economy in improving social cohesion at local level; calls on the Member States to provide funding opportunities for the social economy through the Structural Funds for the 2014-2020 period;

3. Reiterates the importance of Cohesion Policy as the Union's main investment instrument, playing a central role in fighting the crisis, reducing imbalances and engaging the EU and its regions on a path of sustainable growth; underlines the special role of the European Social Fund (ESF) in supporting social investment and implementing the Europe 2020 strategy, in particular by contributing to high levels of sustainable employment and productivity and, at the same time, effectively combating poverty and social exclusion as well as increasing social cohesion; hence underlines the importance of securing sufficient budgetary provisions in the context of the MFF negotiations to the Structural and Investment Funds, noting in particular their key share of investment in areas such as employment, innovation, sustainable development, the low-carbon economy and support to SMEs;

4. Points out that Cohesion Policy proved resilient to the crisis, adapting its programmes and funding instruments and thus providing greater flexibility and making a crucial contribution in areas where investment is needed for economic modernisation and improved competitiveness and for reducing geographical disparities;

#### ***Financing capacity of the EU's regions and synergies between regional, national and EU level***

5. Highlights the role played by several sub-national authorities in rebalancing the budget by keeping up the level of public investment and co-financing new projects and providing a leverage effect, especially when private investment is low; underlines the fact that at a time of recession and weak growth, sustainable public procurement and the capacity to finance/co-finance and incur commitments for investment are crucial in order to maintain growth potential;

6. Is concerned that the prolonged austerity measures and the strict economic governance carried out in 2011 and 2012, implying increased pressure and cuts on public budgets, risks reducing the scope for local policies targeted at fulfilling Europe 2020;

7. Stresses the need to restore and improve financial capacity, at sub-national level and to provide adequate technical assistance, especially in implementing locally led complex joint projects in order to secure public investment for programmes and projects aimed at boosting sustainable growth, combating social exclusion and restoring the social fabric, providing adequate health and social services and securing jobs, especially at regional and local level; maintains that the specific additional allocation for the outermost regions should not be subject to thematic concentration and be used to offset the additional costs linked to the characteristics and constraints referred to in Article 349 of the TFEU, that are incurred in the outermost regions; notes, furthermore, that the specific additional allocation may also be used to help finance operating aid and expenditure covering public service obligations and contracts in the outermost regions;

8. Stresses the need to further strengthen the administrative capacity of regional and local authorities, and for further efforts to reduce the red tape which also adversely affects these authorities in their role as beneficiaries and restricts their capacity to implement EU-funded projects;

9. Asks the institutions to improve the existing provisions so that regions in certain Member States that are particularly hard-hit by the financial crisis may further improve their capacity to absorb structural and cohesion funds and prevent the anticipated huge decommitments;

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10. Calls for further simplification of the rules and for increased flexibility and transparency in the programming and management of the Structural Funds, which will allow better project implementation and quicker and more appropriate responses to social challenges and threats;

11. Welcomes the Commission's 2012 Report on Public Finances in the EMU and especially the chapter on Fiscal Decentralisation in the EU, which highlights the soundness of a fiscal federalist model that devolves revenue-raising as well as expenditure responsibilities to sub-state authorities; asks the Commission to include such a chapter on the state of sub-state public finances and reforms in next year's report on Public Finances in the EMU;

12. Highlights the need for greater synergies between national, sub-national, and European public spending budgets through clear establishment of the roles and responsibilities of the different budgetary authorities at EU, Member State and sub-State level, including being clear about the role and rationale for EU policy and funding intervention, keeping to the payment periods fixed in the Late Payment Directive 2011/7/EU, respecting subsidiarity and the budgetary rights of local and regional authorities (their role in decision making and scrutiny), i.e. their democratic accountability to the communities that elect them, and ensuring the autonomy of each level of governance in determining priorities and spending; asks the Commission to provide clear factual data on how the role of the EU budget in leveraging investments at different levels could be enhanced;

13. Strongly supports increased transparency and simplification of budgetary processes at all levels of governance (including identifying sources of EU funding explicitly within national and sub-state budgets), as well as ensuring the availability of data at EU level on the spending profiles of EU funding programmes at regional level (where this is possible) but also clarifying how priorities and funding are aligned at EU, Member State and sub-state level towards agreed EU-level priorities;

14. Stresses the importance of adapting to ongoing budgetary constraints across Europe, while continuing to invest in the future; reminds Member States that the challenge is not to spend more but to spend more efficiently;

15. Welcomes the fact that the application of financial instruments is being extended under the Cohesion Policy to all thematic objectives and all European Structural and Investment Funds; asks the Commission to come up with a thorough analysis and assessment of the potential of the new means and sources of financing to support investment for growth, such as the bond market, the risk-sharing instrument and the use of innovative financial instruments; calls on the Commission and the European Investment Bank (EIB) to come up with innovative ways to finance the long-term investments of local and regional authorities including through attracting private capital; emphasises the key role played by EIB loan schemes in financing projects of European interest, and calls for greater coordination and synergy to be established between such schemes and the Structural Funds;

16. Underlines the significance of Jessica in supporting sustainable urban development and the regeneration of urban areas through financial engineering mechanisms, and calls for its wider use in the future programming period;

### ***Economic governance of the EU and investment for growth and jobs***

17. Stresses the role that local and regional authorities could play in achieving the Europe 2020 objectives of smart, sustainable and inclusive growth; reiterates the importance of the partnership between central authorities and regional and local authorities in setting priorities and providing the necessary co-financing for the implementation of programmes as a prerequisite for achieving maximum effect with limited resources in seeking to achieve these objectives; highlights, in this context, the importance of the new instrument for community-led local development, which would allow action groups at local level to develop and implement local strategies for smart, sustainable and inclusive growth; calls on the Member States to provide for such opportunities as part of the ongoing programming process, so as to make use of local action groups' great potential for innovation; emphasises the importance of local and regional authorities and, where applicable, the social partners and other relevant partners in the programming, implementation, monitoring and evaluation of the Structural Funds and the preparation of the partnership agreements, which could result in better linkages between EU, national, regional and local strategies;



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18. Expresses the belief that thematic concentration on a small number of priorities is necessary; stresses, however, that flexibility is required to allow Member States and regions to respond as effectively as possible to common targets, while also respecting territorial, economic and social specificities,

19. Strongly reiterates its opposition to the introduction of macroeconomic conditionality in the Cohesion Policy 2014-2020, which would penalise regions and social groups already weakened by the crisis, with a suspension of payments possibly having disproportionate effects in several Member States and especially in regions, despite their full participation in the efforts to equilibrate public budgets, and which would only serve to weaken states in financial difficulty and undermine solidarity efforts that are essential to preserving a macroeconomic balance within the Union; takes the view, moreover, that a punitive approach of this kind might not be understood by the public at large and could add to public distrust at a time when people are already being hit hard by the crisis and the effects of austerity policies;

20. Believes that in a period of retrenchment in public financing, there has to be a rethink regarding the principle of additionality, which should be implemented in line with the European economic governance framework, and hopes that this point will be discussed in the negotiations on Cohesion Policy after 2013;

21. Notes the IMF's recent comments that austerity weakens countries in which it is applied unthinkingly, the reason being that when the global economic outlook is poor, precipitate government deficit reduction hampers recovery in the short term by lowering tax receipts and hence further exacerbating the deficit; agrees with the IMF that the emphasis, instead of being confined to fiscal consolidation, should be broadened with a view to balancing consolidation with growth;

22. Welcomes the proposal from some Member States that the MFF negotiations should cover the subject of a 'review clause' for the years 2015 and 2016, whereby budgets could be increased while they were being implemented, in order to promote youth employment, SMEs, and other key sectors;

23. Invites the Commission and the Member States to exploit all margins of flexibility existing within the preventive arm of the Stability and Growth Pact (SGP) to balance productive and sustainable public investment needs with fiscal discipline objectives; considers that this could be done, for example, by excluding the aggregate volumes of national co-financing under the European Structural and Investment Funds from the limits imposed by the Stability and Growth Pact, by basing calculations for the purposes of the Pact on a Member State's net cash requirements, as opposed to gross requirements, that is to say, net of the taxes payable on real expenditure (most importantly VAT), or by phasing the two sources of programme financing (European and national) according to different timetables, so that the funding would be wholly European during the first years of a programme and come entirely from national sources during the final years, on the assumption that the individual Member State concerned would, by that point, have managed to achieve tangible results in terms of the policy of containing the debt-to-GDP ratio;

24. Calls on the Commission to ensure that public expenditure incurred by Member States to co-finance programmes supported by the Structural Funds is not included in the public or equivalent structural expenditure taken into account under partnership agreements for the purpose of ascertaining that the Stability and Growth Pact is being complied with, given that the latter expenditure constitutes an obligation deriving directly from the observance of additionality; calls, therefore, for public expenditure related to the implementation of programmes co-financed by the European Structural and Investment Funds to be completely excluded from the definition of SGP structural deficits because this is expenditure devoted to achieving the goals of Europe 2020 and supporting competitiveness, growth and job creation, especially where youth employment is concerned;



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25. Invites the Commission to report on the scope for possible action within the boundaries of the existing EU fiscal framework in order to address further the issue of separating current spending and investment in the budget deficit calculations so as to avoid public investments with long-term net benefits being calculated as negative;

26. Urges the Commission and the Member States to take into consideration in the context of the current negotiations on the future Economic and Monetary Union, all margins of flexibility in the macro-economic governance framework in order to allow for productive investment, in particular by rethinking the relationship between the Stability and Growth Pact and productive public investment and excluding public expenditure related to the implementation of programmes co-financed by the Structural and Investment Funds in the framework of growth-friendly policies from the budgetary surveillance rules under the Stability and Growth Pact;

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

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## **Comprehensive EU fishery strategy in the Pacific region**

**European Parliament resolution of 8 October 2013 For a comprehensive EU fishery strategy in the Pacific Region (2012/2235(INI))**

(2016/C 181/06)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union (TFEU),
- having regard to the United Nations Convention on the Law of the Sea of 10 December 1982,
- having regard to the resolutions of the UN General Assembly on fisheries, and in particular to paragraph 157 of Resolution 66/68 regarding the obligations of developed states towards least developed states and small island developing states,
- having regard to the 1995 Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,
- having regard to the FAO International Plan of Action for the Management of Fishing Capacity, endorsed by the FAO Council in November 2000 (IPOA-Capacity),
- having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU fishing) <sup>(1)</sup>,
- having regard to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing approved by the FAO Conference at its Thirty-sixth Session on 22 November 2009,

<sup>(1)</sup> OJ L 286, 29.10.2008, p. 1.

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- having regard to its resolution of 22 November 2012 on the external dimension of the Common Fisheries Policy <sup>(1)</sup>,
- having regard to the Commission's Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 21 March 2012 entitled 'Towards a renewed EU-Pacific development partnership' <sup>(2)</sup>,
- having regard to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, to which the EU has been a contracting party since 25 January 2005 by virtue of Council Decision 2005/75/EC <sup>(3)</sup>,
- having regard to Council Decision 2006/539/EC of 22 May 2006 on the conclusion, on behalf of the European Community, of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (IATTC) established by the 1949 Convention between the United States of America and the Republic of Costa Rica <sup>(4)</sup>,
- having regard to the Convention on the Conservation and Management of High Seas Fisheries Resources in the South Pacific Ocean <sup>(5)</sup>, approved on behalf of the European Union by virtue of Council Decision 2012/130/EU <sup>(6)</sup> and creating the South Pacific Regional Fisheries Management Organisation (SPRFMO),
- having regard to Council Decision 2011/144/EU of 15 February 2011 on the conclusion of the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part <sup>(7)</sup>,
- 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 <sup>(8)</sup> (the Cotonou Agreement),
- having regard to Council Regulation (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th European Development Fund <sup>(9)</sup>,
- having regard to the Partnership Agreement between the European Community and the Federated States of Micronesia on fishing in the Federated States of Micronesia <sup>(10)</sup>,
- having regard to the Fisheries Partnership Agreement between the European Community, on the one hand, and the Republic of Kiribati, on the other <sup>(11)</sup>,
- having regard to the Fisheries Partnership Agreement between the EU and Solomon Islands <sup>(12)</sup>,
- having regard to the Commission Decision of 15 November 2012 on notifying the third countries that the Commission considers as possible of being identified as non-cooperating third countries pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, <sup>(13)</sup>

<sup>(1)</sup> Texts adopted, P7\_TA(2012)0461,

<sup>(2)</sup> JOIN(2012)0006.

<sup>(3)</sup> OJ L 32, 4.2.2005, p. 1.

<sup>(4)</sup> OJ L 224, 16.8.2006, p. 22.

<sup>(5)</sup> OJ L 67, 6.3.2012, p. 3.

<sup>(6)</sup> OJ L 67, 6.3.2012, p. 1.

<sup>(7)</sup> OJ L 60, 5.3.2011, p. 2.

<sup>(8)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(9)</sup> OJ L 78, 19.3.2008, p. 1.

<sup>(10)</sup> OJ L 151, 6.6.2006, p. 3.

<sup>(11)</sup> OJ L 205, 7.8.2007, p. 3.

<sup>(12)</sup> OJ L 190, 22.7.2010, p. 3.

<sup>(13)</sup> OJ C 354, 17.11.2012, p. 1.

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- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Fisheries and the opinion of the Committee on Development (A7-0297/2013),
- A. whereas in order to implement policy coherence for development, EU policies which have an impact on fisheries in Pacific ACP (PACP) countries — i.e. fisheries, trade and development policies — should be implemented in a way that ensures that they contribute to the sustainable fisheries development objectives established by PACP countries; whereas such an approach should be incorporated in the forthcoming renewal of the Cotonou Agreement or the instruments successive to that Agreement;
- B. whereas the EU has to seek policy coherence for development on the basis of Article 208(1) TFEU, according to which ‘the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries’;
- C. whereas the EU is the second leading donor in this region after Australia, channelling its assistance through the European Development Fund (EDF), and whereas despite fisheries resources being the main source of wealth of the Pacific ACP countries and the only resource common to them all, and although the countries of the Western and Central Pacific have repeatedly expressed their intention to make tuna fishing the driver for the social and economic development of the region, only 2,3 % of assistance under the 10th EDF is devoted to fisheries-related activities;
- D. whereas bilateral and multilateral trade agreements negotiated by the EU should be preceded by impact assessments, in particular with respect to the conservation of marine living resources and the consequences of the agreements for the local populations; whereas such bilateral and multilateral agreements should be guided by the conclusions of such impact assessments;
- E. whereas, in the current negotiations on the Economic Partnership Agreement (EPA) between the EU and the ACP countries aimed at adapting the generalised system of preferences arising from the Cotonou Agreement to WTO rules, fisheries products have a crucial role as regards access both to European markets and to resources and good fisheries governance with the aim of achieving sustainable development;
- F. mindful of the danger posed by the derogation on rules of origin provided for in Article 6(6) of Protocol II on rules of origin annexed to the interim partnership agreement between the European Community and the Pacific States and the resulting risks of unfair competition in the European market for fishery products;
- G. whereas it is in the EU’s interest to develop relations with the Pacific region and to cooperate in order to achieve the goal of development, taking as a basis the conservation of fishery resources, the promotion of sustainable fisheries development and the fostering of transparent fisheries management;
- H. whereas around half the tuna caught in the world are taken in the waters of the Western and Central Pacific, of which 80 % are in the Exclusive Economic Zones (EEZs) of island states and only 20 % in international waters;
- I. whereas the most recent stock assessments conducted by the WCPFC Scientific Committee in 2012 indicate no overfishing of either skipjack tuna (*Katsuwonus pelamis*) or yellowfin tuna (*Thunnus albacares*) in its regulatory area, but indicate overfishing of big-eye tuna (*Thunnus obesus*); whereas mortality among juvenile big-eye tuna in purse seine fisheries, particularly where related to fish aggregating devices, is of great concern;
- J. whereas despite slightly improved fisheries monitoring, control and surveyance in the Pacific, the sustainability of the region’s resources is being threatened by a major rise in the number of purse-seiners (mainly from Asia and the island states), the increase in the fishing effort, and illegal fishing;

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- K. whereas the EU's approach in the field of fisheries in the Pacific should be to actively support the current regional efforts to address overcapacity and improve fisheries management;
- L. whereas the Pacific has a tradition of regional agencies and structures for the management of tuna fisheries, such as the Pacific Islands Forum Fisheries Agency (FFA) and the subregional body Parties to the Nauru Agreement (PNA);
- M. whereas the vessel day scheme (VDS) was introduced by the Parties to the Nauru Agreement in 2008 in an attempt to manage access to PNA waters, limit fishing effort in those waters and maximise the benefits derived from the fishery by Pacific small island developing states;
- N. whereas the excessive effort of the parties is a reality, and discussions are taking place within the WCPFC on a new Conservation and Management Measure for the following years, where the limits on effort are being addressed;
- O. whereas the United States signed a multilateral agreement with the Pacific States in 1988, and that agreement, which is currently being renegotiated, guarantees access to around 20 % of the fishing days in the region;
- P. whereas the vessel day scheme (VDS) needs to be fully transparent and its provisions need to be improved and implemented by all its members, to enable it to fulfil its objectives and ensure full compatibility of measures taken both in the EEZs and on the high seas;
- Q. whereas the access costs for long-distance fleets are expected to continue to increase significantly in coming years, given that they are an important source of income for countries in the area; whereas the cost of a fishing day as decided at the annual meeting of the PNA was set at a minimum of USD 6 000 for 2014;
- R. whereas the fisheries partnership agreements signed by the EU, including those with the countries of the Pacific Region, have traditionally been based on a limitation of vessel numbers with an indicative reference tonnage, and this has led to disparities owing to the introduction of the VDS by the PNA and their desire to apply the VDS to partnership agreements with the EU;
- S. whereas a well-designed and properly enforced vessel day scheme has the potential to provide the means to prevent further increases in effort in the region;
- T. whereas, in its relations with third countries, the EU has established cooperation and compliance in the field of IUU fishing as a prerequisite for the conclusion of fisheries partnership agreements; whereas Article 38(9) of Regulation (EC) No 1005/2008 on the combating of IUU fishing states that the Commission shall not enter into negotiations to conclude such partnership agreements with countries that do not cooperate in this respect;
- U. whereas EPAs should include a specific reference to the implementation of the IUU regulation, rather than simply general wording on the need to combat IUU fishing, and should not be concluded with third countries identified as 'non-cooperating';
- V. whereas the Commission, in its decision of 15 November 2012, notified Fiji and Vanuatu, among others, as possible non-cooperating countries in terms of the IUU Regulation, owing to their lack of deterrent measures and penalties against IUU vessels flagged in those countries and to their not having implemented the recommendations of the regional fisheries organisations;

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- W. whereas historically, the fishing operations of Europe's purse-seiner fleet have mainly been conducted in the Central Pacific, both in international waters and in the EEZ of Kiribati, as well as those of Tuvalu, Tokelau and Nauru, on the basis of private-sector agreements;
- X. whereas, however, besides the Fisheries Partnership Agreement with Kiribati, the EU has also negotiated such agreements with certain countries of the Western Pacific, but these have not entered into effect, as the Agreement with the Federated States of Micronesia was not ratified by that country's parliament and the negotiations to renew the Agreement with the Solomon Islands have been at a standstill since 2012;
- Y. whereas the Commission has completed prior assessments with the Cook Islands and Tuvalu with a view to launching negotiations on fisheries agreements with those countries, and whereas the corresponding memoranda of understanding have been signed as a prerequisite for requesting negotiating mandates from the Council;
- Z. whereas the European External Action Service has to date lacked fisheries staff in its delegation in Fiji;

### **Overall Strategy**

1. Urges the Commission to ensure coherence among all the Union policies affecting the Pacific region, as required by Article 208 TFEU, and specifically those on fisheries, trade and development, and to enhance potential synergies with a view to achieving a multiplier effect that maximises the benefits both for the states of the Pacific region and for the EU Member States, while also promoting the international dimension, boosting the EU's strategic presence, raising the profile of the EU in the Western and Central Pacific, and contributing to the sustainable exploitation of Pacific resources;
2. Believes that within the framework of future, post-Cotonou relations with the Pacific ACP countries, the fisheries strategy should have a regional focus that bolsters the position and role of the EU in the Western and Central Pacific region;
3. Calls on the Commission to ensure that the 11th EDF takes this strategy into account and also reflects the possibility of increasing the percentage of sector-specific assistance for addressing fishing communities' needs (including enhancing their contribution to local food security) and developing fishery infrastructure for landing and processing catches locally, since fishing is one of the region's main economic resources;
4. Welcomes the recent addition to the EU Delegation in Fiji of staff specifically responsible for fisheries matters, and hopes that this will help establish a permanent specialist link in the field of fisheries with the countries of the region;
5. Calls, also, for greater coordination and complementarity with other actors in the region in relation to development assistance, in keeping with the Cairns Compact of August 2009; welcomes the holding on 12 June 2012 of the second EU-PIF ministerial meeting, which has strengthened the EU-Pacific political dialogue, in particular in the fields of fisheries and development, thereby ensuring that actions taken in these areas by the EU and countries in the region will be more effective;
6. Stresses the need for distant water fleets to contribute, in cooperation with Pacific countries, to reducing fishing pressure on tropical tuna stocks, including by substantially reducing mortality levels for juvenile big-eye tuna, a stock of great economic importance to the region and one which is currently overfished;

### **Fisheries Strategy**

#### **A. Short term:**

7. Highlights the importance of establishing a fisheries strategy for the Western and Central Pacific, given the relevance of this region from a fisheries standpoint and its value to the Union's fleet and the EU market and fish processing industry, as well as of providing legal certainty for the vessels operating there;

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8. Notes that the EU's strategy for accessing resources in the EEZs of the countries in the region by way of fisheries cooperation agreements has not worked properly except in the case of Kiribati, and considers that a new framework for close and advantageous relations between the various parties involved is needed in order to revitalise and consolidate those agreements;

9. Considers that part of the problem is that the EU has held unsuccessful negotiations on agreements with the countries of the Western Pacific, which is where the EEZs of the Solomon Islands and the Federated States of Micronesia are located, rather than directing its efforts towards the Central Pacific, where the Union's purse-seiner fleet has traditionally centred its operations;

10. Welcomes warmly the fact that the Commission has completed prior assessments with the Cook Islands and Tuvalu with a view to launching negotiations on fisheries partnership agreements, and that the corresponding memoranda of understanding have been signed as a prerequisite for requesting negotiating mandates from the Council;

11. Considers this new negotiating approach to be more in line with the regional focus repeatedly called for by Parliament, especially with reference to fisheries of highly migratory species; calls on the Commission to ensure compliance with the WCPFC provisions in the case of negotiations with parties to the PNA and other Pacific ACP countries;

12. Notes that the EU's approach to the Pacific should assist developing states, and small island developing states in particular, in their efforts to secure a greater share of the benefits from the sustainable exploitation of straddling and highly migratory fish stocks and should also help strengthen regional efforts to sustainably conserve and manage fisheries for such stocks, as called for by the UNFSA Review Conference;

13. Expresses its concern at the existence of IUU fishing in the area, and, while acknowledging that there have been some improvements in fisheries governance, considers that insufficient progress has been made, especially as regards the introduction of basic tools to combat IUU fishing;

14. Calls on the Commission to include an explicit reference to the IUU Regulation (EC) No 1005/2008 in the provisions of the EPA negotiated with the Pacific countries;

15. Calls on the ACP states to continue to play an active part within the RFMOs, and to keep their civil societies and socio-professional organisations regularly informed about decisions concerning fisheries;

#### B. *Medium to long term*

16. Calls on the Commission to provide for the establishing of a longer-term strategy for access for the EU fleet to the EEZs of the countries of the region, based on a regional framework agreement between the EU and the countries of the Western and Central Pacific, negotiated with the Forum Fisheries Agency (FFA) and centring on the following aspects:

- (a) the agreement should outline the arrangements for access for the EU fleet, which would then be given concrete form in bilateral fisheries cooperation agreements with the countries concerned;
- (b) the agreement should establish a system of transparent governance which would in particular ensure the combating of IUU fishing and specify the tools that should be used, including the Port State Measures Agreement;
- (c) the agreement should be based on the VDS, provided that measures are adopted to ensure its transparency, improve its effectiveness and its implementation by all relevant parties, and ensure its compliance with the best available scientific advice;

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(d) the negotiation of the agreement should explore ways of channelling EDF development assistance for the region through the FFA, since the Pacific ACP countries do not have the human and technical resources to adequately utilise that funding;

17. Stresses that the final stage in this process should be exclusively regional in its focus, i.e. it should take the form of a multilateral fisheries cooperation agreement with the EPA signatory countries that grants the Union fleet access to the EEZs of those countries;

18. Recommends that the Commission bear in mind this fisheries strategy for the Pacific region and the specific characteristics of the island states when it comes to the revision of the Cotonou Agreement;

19. Underlines the need for Parliament to be adequately involved in the preparation and negotiating process and the long-term monitoring and assessment of the functioning of bilateral agreements according to the provisions of the TFEU; insists that Parliament be immediately and fully informed, on an equal footing with the Council, at all stages of the procedure related to FPAs, pursuant to Articles 13(2) and 218(10) TFEU; recalls its conviction that Parliament should be represented by observers at the Joint Committee meetings envisaged in the fisheries agreements; insists that civil society observers, including both EU and third-country fisheries representatives, should also attend those meetings;

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20. Instructs its President to forward this report to the Council, the Commission and the European External Action Service.

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P7\_TA(2013)0403

## **Fisheries restrictions and jurisdictional waters in the Mediterranean and Black Sea — conflict resolution**

**European Parliament resolution of 8 October 2013 on fisheries restrictions and jurisdictional waters in the Mediterranean and Black Sea — ways for conflict resolution (2011/2086(INI))**

(2016/C 181/07)

*The European Parliament,*

— having regard to the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS),

— having regard to the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

— having regard to the Food and Agriculture Organisation (FAO) code of conduct for responsible fisheries, adopted in October 1995 by the FAO Conference,

— having regard to the Convention on the Protection of the Black Sea against Pollution, signed in Bucharest in April 1992,



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- having regard to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols, signed in Barcelona in February 1976 and amended in Barcelona in June 1995,
- having regard to the Strategic Action Plan for the Environmental Protection and Rehabilitation of the Black Sea, adopted in Sofia in April 2009,
- having regard to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) <sup>(1)</sup>,
- having regard to the Commission proposal for a directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM(2013)0133),
- having regard to [Part VII on External Policy] of Regulation (EU) No [...]/2013 of the European Parliament and of the Council of [...] on the Common Fisheries Policy <sup>(2)</sup>,
- having regard to its resolution of 20 January 2011 on an EU strategy for the Black Sea <sup>(3)</sup>,
- having regard to its resolution of 13 September 2011 on current and future management of Black Sea fisheries <sup>(4)</sup>,
- having regard to its resolution of 22 November 2012 on the external dimension of the common fisheries policy <sup>(5)</sup>,
- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 10 October 2007 entitled 'An Integrated Maritime Policy for the European Union' (COM(2007)0575),
- having regard to its resolution of 21 October 2010 on an Integrated Maritime Policy (IMP) — Evaluation of progress made and new challenges <sup>(6)</sup>,
- having regard to the Commission communication to the Council and the European Parliament of 11 September 2009 entitled 'Towards an Integrated Maritime Policy for better governance in the Mediterranean' (COM(2009)0466),
- having regard to the European Neighbourhood Policy and related funding Instruments;
- having regard to the Commission communication to the European Parliament and the Council of 8 September 2010 entitled 'Marine Knowledge 2020 — Marine data and observation for smart and sustainable growth' (COM(2010)0461),
- having regard to the ENPI Mediterranean Sea Basin Programme for cross-border cooperation 2007–2013, adopted by the Commission on 14 August 2008,
- having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 13 September 2012 entitled 'Blue growth — Opportunities for marine and maritime sustainable growth' (COM(2012)0494),
- having regard to Rule 48 of its Rules of Procedure,

<sup>(1)</sup> OJ L 164, 25.6.2008, p. 19.

<sup>(2)</sup> See Council doc. No...

<sup>(3)</sup> OJ C 136 E, 11.5.2012, p. 81.

<sup>(4)</sup> OJ C 51 E, 22.2.2013, p. 37.

<sup>(5)</sup> Texts adopted, P7\_TA(2012)0461.

<sup>(6)</sup> OJ C 70 E, 8.3.2012, p. 70.

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- having regard to the report of the Committee on Fisheries and the opinion of the Committee on Development (A7-0288/2013),
- A. whereas by 2025 urban development in the Mediterranean may reach a level of 60 %, with a third of the population concentrated in coastal areas, thus doubling the demand on water and on fishing resources;
- B. whereas the Mediterranean Sea carries 30 % of the world's maritime traffic;
- C. whereas the Mediterranean and the Black Sea have specific characteristics from an oceanographic, fisheries, environmental and socio-economic perspective;
- D. whereas the management of maritime and coastal areas is complex and involves various private and public authorities;
- E. whereas the Mediterranean and Black Sea basins have a very low water renewal rate (80-90 years and 140 years respectively) and are therefore extremely sensitive to marine pollution;
- F. whereas approximately 75 % of the fish stocks of the Mediterranean Sea are overexploited;
- G. whereas legal regimes governing access by vessels to national fisheries vary according to the nationality of the vessel;
1. Expresses its concern over greater competition for fewer stocks and marine resources, leading to the creation of regional tensions and possible disputes between coastal states about maritime areas; calls, in that context, for increased efforts at regional, national, and EU levels towards enhancing the regulation of access to resources;
  2. Urges all littoral states to intensify their efforts to phase out overfishing in the Mediterranean and Black Sea, as dwindling fish stocks will increase the potential for conflicts in this area;
  3. Strongly believes that the peaceful settlement of disputes concerning maritime areas and the delimitation of maritime boundaries, in conformity with the rights and obligations of Member States and third countries under EU and international law, in particular the UN Convention on the Law of the Sea, is an essential element of good governance of the oceans;
  4. Believes that marine management in the Mediterranean and the Black Sea requires a greater degree of political cohesion and cooperation among the coastal states concerned; underlines the important role of bilateral cooperation and international agreements, given that the majority of the Black Sea and Mediterranean countries are not EU Member States and hence not subject to EU legislation;
  5. Welcomes the Commission's role in promoting a more solid and structured dialogue with non-Member States bordering the Mediterranean and the Black Sea for the management of shared stocks in these basins; encourages the Commission to intensify its efforts to this end following a regional approach;
  6. Believes that marine management in the Mediterranean and the Black Sea region presents opportunities for international relations and for effective governance of the region;
  7. Emphasises that the competition for reduced levels of fish stocks and marine resources may become a source of friction with third countries; urges the EU and the Member States to work together to ensure the monitoring, control, security and safety of coastal and territorial waters, exclusive economic zones (EEZs), the continental shelf, and maritime infrastructure and marine resources; notes that the EU should maintain a high political profile in this respect and should seek to preclude international discord;

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8. Urges the EU to use its diplomatic resources to promote dialogue between Member States and third countries, so as to ensure that they value the principles of the EU Common Fisheries Policy, and to monitor compliance with its rules; stresses that candidate countries to EU accession, in particular, should respect EU fisheries policy principles as well as the relevant EU and international laws applying to fishing activities;
  9. Notes that of the 21 Mediterranean states, three have neither signed nor ratified the UNCLOS; asks the Commission to urge these countries, in particular candidate countries for EU accession, to become parties to the convention and to implement UNCLOS as an integral part of the EU regulatory framework for maritime affairs;
  10. Calls on the Commission and third countries to develop a regional approach to fish conservation and fishing in Mediterranean and Black Sea waters, taking into account the cross-border dimension of fishing and the migratory nature of some species; stresses, in this regard, the significant role of the General Fisheries Commission for the Mediterranean (GFCM) in ensuring a level playing field and as a regional forum for ensuring sustainable fisheries in the Black Sea;
  11. Emphasises the need for environmental protection and sustainable development in these basins, and for enhanced efforts towards marine governance and control, in accordance with international law — in particular UNCLOS — as a means of contributing to enhanced environmental protection of coastal and marine space;
  12. Believes that an Integrated Maritime Policy, and in particular maritime spatial planning, can play a central role in preventing conflicts between EU Member States as well as with third countries;
  13. Encourages the Member States to introduce integrated coastal zone management and maritime spatial planning — as regards offshore wind power generation, the laying of underwater cables and pipelines, maritime transport, fisheries and aquaculture and the creation of restocking areas — under the Blue Growth strategy and within the framework of existing agreements with neighbouring countries, including third countries, that lie on the same regional sea;
  14. Encourages the establishment of maritime zones, in particular exclusive economic zones and protected maritime areas, which will not only improve fisheries conservation and management beyond territorial waters but will also promote sustainable fisheries resources, facilitate the control of and fight against IUU (illegal, unreported and unregulated) fishing, as well as improve marine management within these basins; stresses the need for the EU to provide adequate guidance, coordination and support to Member States in this respect;
  15. Calls on the Commission to consider these issues further in view of ensuring the coherence of relevant EU policy areas, in particular the Common Fisheries Policy and the Integrated Maritime Policy, and to promote this coherence — and a level playing field — both within the EU and with neighbouring partner countries, through enhanced cooperation and dialogue;
  16. Stresses the importance of stock assessments, and calls for enhanced cooperation among scientific institutes in both basins, including the exchange of scientific data and the sharing of information; believes that the EU should promote, stimulate and facilitate cooperation and joint work between EU scientific teams and their counterparts in other involved non-Member States; welcomes, in this respect, the 'Marine Knowledge 2020' initiative, which aims to make data on the marine environment available to a large number of potentially interested parties, including public, industrial, educational and research bodies and civil society;
  17. Calls for an enhanced system of monitoring, control and surveillance of fishing activity within an integrated perspective to enhance ecosystem conservation in both basins, in accordance with EU and international law, in particular UNCLOS, thereby contributing to the long-term sustainable exploitation of fish stocks and to combating IUU fishing in a more effective way;
  18. Instructs its President to forward this resolution to the Council and the Commission.
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P7\_TA(2013)0411

**EU-China negotiations for a bilateral investment agreement****European Parliament resolution of 9 October 2013 on the EU-China negotiations for a bilateral investment agreement (2013/2674(RSP))**

(2016/C 181/08)

*The European Parliament,*

- having regard to Articles 2, 3, 6 and 21 of the Treaty on European Union,
- having regard to Articles 153, 191, 207 and 218 of the Treaty on the Functioning of the European Union,
- having regard to Articles 12, 21, 28, 29, 31 and 32 of the Charter of Fundamental Rights of the European Union,
- having regard to the EU Strategic Framework and Action Plan on Human Rights and Democracy of 25 June 2012,
- having regard to the Protocol on the Accession of the People's Republic of China to the World Trade Organisation of 23 November 2001,
- having regard to its resolution of 23 May 2012 on 'EU and China: Unbalanced Trade?' <sup>(1)</sup> and to the report of July 2011 by its Directorate-General for External Policies on trade and economic relations with China,
- having regard to its resolution of 14 March 2013 on EU-China relations <sup>(2)</sup>,
- having regard to the generally accepted principles and practices (GAPP) known as the Santiago Principles, which were adopted in October 2008 by the International Monetary Fund's International Working Group of Sovereign Wealth Funds,
- having regard to the joint statement issued on the occasion of the 13th EU-China Summit held in Brussels on 20 September 2012,
- having regard to the Commission communication entitled 'Trade, Growth and World Affairs — Trade Policy as a core component of the EU's 2020 strategy' (COM(2010)0612) and to Parliament's resolution of 27 September 2011 on a new trade policy for Europe under the Europe 2020 strategy <sup>(3)</sup>,
- having regard to its resolution of 13 December 2011 on trade and investment barriers <sup>(4)</sup>,
- having regard to its resolution of 6 April 2011 on the future European international investment policy <sup>(5)</sup>,

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<sup>(1)</sup> OJ C 264 E, 13.9.2013, p. 33.

<sup>(2)</sup> Texts adopted, P7\_TA(2013)0097.

<sup>(3)</sup> OJ C 56 E, 26.2.2013, p. 87.

<sup>(4)</sup> OJ C 168 E, 14.6.2013, p. 1.

<sup>(5)</sup> OJ C 296 E, 2.10.2012, p. 34.

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- having regard to its resolutions of 25 November 2010 on corporate social responsibility in international trade agreements <sup>(1)</sup>, on human rights, social and environmental standards in international trade agreements <sup>(2)</sup> and on international trade policy in the context of climate change imperatives <sup>(3)</sup>,
  - having regard to the Commission communication entitled ‘EU — China: Closer partners, growing responsibilities’ (COM(2006)0631) and its accompanying policy paper ‘Competition and Partnership — A policy paper on EU-China trade and investment’ (COM(2006)0632),
  - having regard to its resolution of 5 February 2009 on enhancing the role of European SMEs in international trade <sup>(4)</sup>,
  - having regard to its recent decision introducing publishing requirements for extractive and logging industries concerning their payments to governments <sup>(5)</sup>,
  - having regard to the joint decision by the EU and China, taken at the 14th EU-China Summit held in February 2012 in Beijing, to launch negotiations on a bilateral investment agreement,
  - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas trade between the EU and China has been growing rapidly and continuously in the last three decades, reaching a peak of total trade of EUR 433,8 billion in 2012, and whereas the imbalance in bilateral trade has been in China’s favour since 1997; whereas this trade deficit amounted to EUR 146 billion in 2012, compared with EUR 49 billion in 2000;
- B. whereas the EU’s foreign investment stock in China in 2011 amounted to EUR 102 billion, while China’s foreign investment stock in the EU in the same year amounted to EUR 15 billion; whereas in 2006 China’s foreign investment stock in the EU amounted to only EUR 3,5 billion;
- C. whereas the Treaty of Lisbon made foreign direct investment (FDI) an exclusive competence of the Union;
- D. whereas 26 EU Member States have individual bilateral investment agreements in force with China; whereas the EU has not yet developed a sustainable long-term industrial policy that would be a driver for its offensive and defensive interests in the framework of its new foreign investment policy;
- E. whereas even with a rise in labour costs of 10 % per annum in recent years, China is still among the top three markets worldwide for investment;
- F. whereas the development goals expressed in China’s 12th five-year plan and the Europe 2020 strategy, respectively, include a large number of shared interests and common challenges; whereas a higher level of integration and technological exchange between the EU and the Chinese economies could lead to synergies and mutual benefits;
- G. whereas there should be a level playing-field for public and private companies;

<sup>(1)</sup> OJ C 99 E, 3.4.2012, p. 101.

<sup>(2)</sup> OJ C 99 E, 3.4.2012, p. 31.

<sup>(3)</sup> OJ C 99 E, 3.4.2012, p. 94.

<sup>(4)</sup> OJ C 67 E, 18.3.2010, p. 101.

<sup>(5)</sup> Texts adopted of 12.6.2013, P7\_TA(2013)0261 and 0262.

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- H. whereas this investment agreement is the first to be negotiated by the EU on the basis of its overall competence following the entry into force of the Treaty of Lisbon; whereas the negotiations on this investment agreement, including market access, have the potential to generate great interest as well as possible public concern, and should therefore be conducted with the highest possible level of transparency in order to enable the necessary parliamentary oversight, thus fulfilling one of the preconditions for the necessary consent of the European Parliament to the outcome of the negotiations;
- I. whereas investors must comply with both the laws of the host country and the provisions of any agreement concluded by the EU and China once it enters into force in order to benefit fully from the best possible protection of their investments;
- J. whereas the poor implementation or non-implementation by China of certain fundamental social and labour rights and environmental standards, which are, however, internationally recognised, are among the causes of the present imbalance in trade flows between the EU and China, which could be even further exacerbated by deeper investment relations if progress is not achieved in the implementation of those rights and standards; whereas the investment agreement should therefore not have the effect of further lowering social and environmental standards in China, but should, on the contrary, contribute to the improvement thereof as a precondition, leading to a more balanced and mutually beneficial trade and investment relationship;
- K. whereas an investment agreement should also include investor obligations, including with regard to respect for trade union and other labour rights, transparency and protection of the environment, as defined in the law of each of the two parties, and should be concluded in compliance with World Trade Organisation (WTO) rules and other relevant international agreements and core conventions signed and ratified by the parties; whereas investment agreements should not cover investments in specially created zones that provide for the circumvention of labour rights and standards and other legal requirements;
- L. whereas goods for export to the EU which are produced in forced labour camps, such as under the Re-education through Labour (RTL) system, generally known by the name Laogai, should not benefit from investments made under this bilateral investment agreement;
- M. whereas the Commission and the Council have committed to ensuring that EU investment policy takes account of the principles and objectives of the Union's external action, including human rights, and have committed to delivering as from 2013;
- N. whereas, since an investment agreement with China would substantially upgrade EU-China economic relations, it should also make a contribution to upgrading the EU-China political dialogue, notably on such issues as human rights — in the framework of an effective and results-oriented human rights dialogue — and the rule of law, with a view to keeping political and economic relations on a parallel track, in accordance with the spirit of the Strategic Partnership;
- O. whereas investors and investments should strive, through their management policies and practices, to be in line with the development objectives of the host states and local levels of government where the investment is located;
1. Welcomes the strengthening of economic relations between the EU and China; calls on the EU and on China to pursue a well-balanced relationship of partnership, regular high-level dialogue, and mutual benefits rather than engaging in confrontational competition;
  2. Points out that China, having acceded to the WTO in 2001, should place more emphasis on liberalising its trade and opening its market in order to ensure a more level playing-field, and should accelerate removal of the artificial impediments that companies face in accessing the Chinese market;

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3. Notes that European enterprises deplore the existence of numerous tariff and non-tariff barriers to the Chinese market, such as certain forms of discrimination against foreign operators, as well as the complexity of the tariff structure and the technical barriers to trade;
4. Welcomes the inclusion of market access in the negotiating mandate; believes that a reassurance on the part of China that market access will be included in the negotiations should constitute a precondition for launching them;
5. Stresses the need to explicitly include both FDI and portfolio investments in the negotiating process;
6. Notes that Chinese enterprises perceive the Union generally as a stable investment environment, but deplore what they see as the EU's remaining export subsidies for European agricultural products and the existence of certain trade barriers to the EU market, such as technical obstacles to trade and barriers erected to block third-country investment in certain Member States, and that they are calling for the removal of the remaining unjustified barriers and the facilitation of investment in the Member States; recalls, however, that a security review mechanism to scrutinise foreign investments was recently set up in China and that the use of such mechanisms by both parties may be based on legitimate grounds; points out that the EU and China may have legitimate security concerns that justify total or partial exclusion of some sectors from foreign investment on a temporary or long-term basis;
7. Points out that currently the main form in which foreign companies are allowed to set up in China is through joint ventures, which are often associated with the transfer of strategic technologies that promote China's competitive development to the detriment of European industry; is convinced that further openness on the part of China towards other legal regulations allowing foreign investors to set up, combined with due protection of intellectual property rights (IPRs), industrial property, brands and geographical indications of products, is crucial and would be mutually beneficial, as well as fostering a greater degree of integration of the European and Chinese economies on the basis of a more strategic approach to economic cooperation that is oriented, among other things, towards environment-friendly technology and innovation;
8. Is convinced that better protection of IPRs and effective implementation of related rules in China would greatly promote the objective of the EU and of other foreign investors of investing, sharing new technological capabilities and updating existing technologies in that country, in particular with regard to environmentally sound technologies;
9. Welcomes the efforts made by the Chinese authorities to improve respect for IPRs since China's accession to the WTO, but still deplores their inadequate protection in China and considers regrettable the lack of specific means available to European businesses, particularly SMEs, to counter IPR infringements effectively;
10. Is concerned about the unreliability of China's judicial system, which fails to enforce contractual obligations, and about the lack of transparency and uniformity in the application of the regulatory regime governing investments;
11. Urges the Commission to negotiate an ambitious and balanced EU-China investment agreement that seeks to create a better environment for EU investors in China and vice versa, including improved access to the market, in order to increase the level of reciprocal capital flows and guarantee transparency regarding governance of companies, both state-owned and private, which invest within the partner economy; recommends the Organisation for Economic Cooperation and Development (OECD) guidelines on corporate governance as a reference document; insists also on better law enforcement in order to ensure fair competition between public and private actors, curtail corruption and enhance the legal certainty and predictability of the business climate in China;
12. Underlines the importance of establishing, through this agreement, the preconditions for fair competition between the EU and China; recommends, to this end, that the Commission negotiate strong and binding provisions on transparency and fair competition so that a level playing-field also applies to state-owned enterprises and sovereign wealth funds' investment practices;



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13. Calls for the agreement currently being negotiated to cover both market access and investor protection;
14. Stresses that nothing in the investment agreement should reduce the policy space of the parties and their capability to legislate in order to pursue legitimate and justified public policy purposes while trying not to nullify the benefits accruing from the commitments of the parties; emphasises that guaranteeing the rule of law for all EU and Chinese investors and citizens must remain the priority;
15. Calls on the Commission to ensure full transparency with regard to sovereign wealth funds;
16. Notes that a clear timeframe of negotiations should be established, and reasonable and meaningful transitional periods considered;
17. Considers that the investment agreement with China should be based on best practices drawn from Member States' experiences, contribute to greater coherence and include the following standards:
  - non-discrimination (national treatment and most-favoured-nation treatment for investors and investments in like circumstances);
  - prohibition of manifest arbitrariness in decision-making;
  - prohibition of the denial of justice and disregard for the fundamental principles of due process;
  - the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings, in accordance with the principle of due process embodied in the world's principal legal systems;
  - prohibition of abusive treatment of investors, including coercion, duress and harassment;
  - protection against direct and indirect expropriation, and allowing for adequate compensation for any damage incurred in the event of expropriation;
  - respect for the principle of legality in connection with nationalisations;
18. Reaffirms that with a view to the successful conclusion of the negotiations, quality must always prevail over speed;
19. Notes that the investment protection agreement should include clear definitions of the investment and investor to be protected, and that purely speculative forms of investment should not be protected;
20. Calls for the agreement to be compatible with multilateral obligations under the General Agreement on Trade in Services (GATS) so as to fulfil the criteria for an economic integration agreement;
21. Welcomes the fact that the expected improvement in legal certainty will help SMEs to invest abroad, and stresses that SMEs' voice must be heard during the negotiations (including through the involvement of the EU's new SME Centre in China, the EU's IPR SME Helpdesk and the EU Chamber of Commerce in China), so that the agreement to be concluded fosters the internationalisation of those SMEs that are willing to access the other party's market;
22. Stresses that a precondition for the conclusion of the agreement should be the inclusion of a strong commitment by the parties to sustainable and inclusive development, in its economic, social and environmental dimensions and in relation to investment, in order to build up a more balanced trade and investment relationship between the EU and China that is not based mainly on low labour costs and poor environmental standards in China;

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23. Stresses that investment agreements concluded by the EU must not be in contradiction with the fundamental values that the EU wishes to promote through its external policies and must not undermine the capacity for public intervention, in particular when pursuing public policy objectives such as social and environmental criteria, human rights, the fight against counterfeiting, security, workers' and consumers' rights, public health and safety, industrial policy and cultural diversity; calls for the inclusion of the respective specific and binding clauses in the agreement;

24. Requests that in this agreement, as in the case of the other trade commitments into which the EU has entered, protecting public services should remain a key principle;

25. Underlines the fact that the future development of the EU-China investment agreement must be based on mutual trust and full compliance with WTO obligations; deplores the huge levels of public subsidisation of certain sectors with growth potential, including solar panels, and calls on the Commission to ensure that the injurious effects of such dumping and subsidisation are completely removed in order to speed up the negotiations;

26. Recommends, with regard to market access, that both parties commit to appropriate phasing-in periods and transitional arrangements for certain sectors in order to ease the path to full or partial liberalisation therein; acknowledges also that both parties may not be able to make commitments in certain sectors; calls, in this context, for the exclusion of cultural and audiovisual services from the negotiations on market access, in line with the relevant provisions of the EU Treaties; stresses the need to address interventionist industrial policies, inadequate protection of IPRs, ambiguities in the substance and the application of the rules, and other non-tariff and technical barriers to trade;

27. Considers that, since it is difficult to access Chinese markets owing to the preponderance of state-run companies, the agreement must, if it is to be balanced, be viewed as a key opportunity to establish a level playing-field for both state-run and private-sector companies;

28. Stresses the need for the agreement to ensure the EU's capability to exclude certain strategic sectors from Chinese investors;

29. Stresses that the agreement should allow the parties, and in the case of the EU, its individual Member States, to define and implement key policies for the promotion and protection of cultural diversity;

30. Stresses that the agreement must promote investment which is sustainable and inclusive, and respects the environment, particularly in the area of extractive industries, and encourages good-quality working conditions in the enterprises targeted by the investment;

31. Calls for a clause stating that an investor shall provide a potential host state party with any information that party may require concerning the investment in question, for purposes of decision-making in relation to the investment or solely for statistical purposes, while the state party shall protect any confidential business information from any disclosure liable to prejudice the competitive position of the investor or the investment;

32. Stresses the need for the future agreement to include provisions on the transparency and governance of state-run companies and sovereign wealth funds, based on the Santiago Principles, which were adopted under the auspices of the IMF and define the principles applicable to the governance and institutional structure of sovereign wealth funds and to the transparency of their investment strategies;

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33. Reiterates its call for an effective corporate social responsibility clause in line with the UN Guiding Principles on Business and Human Rights; affirms that investors should, respectively, apply the ILO Tripartite Declaration on Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises, as well as specific or sectoral international standards of responsible practice where these exist; calls for binding social and environmental clauses as part of a fully fledged sustainable development chapter that is subject to a dispute settlement mechanism; calls on both parties to implement a sustainable and inclusive investment strategy that includes a corporate social responsibility clause with concrete guidelines for investors, as well as an efficient assessment methodology for public authorities overseeing the resulting investments in terms of their social and environmental impact;

34. Stresses that the agreement must oblige Chinese investors in the EU to comply with European social standards and social dialogue arrangements;

35. Underlines the need for the EU-China bilateral investment agreement to deliver on both sustainable growth and job creation, and to foster synergies and positive spill-over effects with other regional trade and investment agreements to which the EU or China is a party;

36. Calls on the Commission to complement its impact assessment by also assessing the impact of the EU-China investment agreement on human rights, as it has committed to do under the Strategic Framework and Action Plan on Human Rights and Democracy;

37. Takes the view that the agreement must include a provision stating that all investors are obliged to comply fully with the law of the host party at the local, regional, national and, where applicable, supranational level, and that investors failing to respect the rule of law shall be subject to civil actions for liability in the judicial process of the relevant jurisdiction for any unlawful acts or decisions made in relation to the investment, in particular in cases where such acts or decisions lead to significant environmental damage, personal injuries or loss of life;

38. Insists that the agreement should include a clause which prohibits the watering-down of social and environmental legislation in order to attract investment, and ensures that neither party may fail to effectively enforce the relevant legislation through a sustained or recurring course of action or inaction, as an encouragement for the establishment, acquisition, expansion or retention of an investment in its territory;

39. Insists that the EU-China bilateral investment agreement must comply with the EU *acquis*, including the social and environmental legislation in force, and that neither party may fail to effectively enforce its legislation in these areas, so that all provisions of this agreement encourage the lawful establishment, acquisition, expansion or retention of an investment in the respective territory of both parties, and foster best entrepreneurial practices and business fair play;

40. Insists on the need for the agreement to require compliance by foreign investors with EU data protection standards;

41. Expresses its deep concern regarding the level of discretion of international arbitrators to make a broad interpretation of investor protection clauses, thereby leading to the ruling-out of legitimate public regulations; demands that the arbitrators appointed by the parties in the context of a dispute be independent and impartial, and that the arbitration provided follow a code of conduct based on the rules adopted by the UN Commission on International Trade Law (UNCITRAL), on those of the International Centre for Settlement of Investment Disputes (ICSID) or on any other international agreements and standards recognised and agreed to by the parties;

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42. Considers that the agreement should include, as a key priority, effective state-to-state and investor-to-state dispute settlement mechanisms in order, on the one hand, to prevent frivolous claims from leading to unjustified arbitration, and, on the other, to ensure that all investors have access to a fair trial, followed by enforcement of all arbitration awards without delay;
43. Takes the view that the agreement should provide for state-to-state dispute settlement procedures and for investor-state dispute settlement mechanisms that are set within a suitable legal framework and subject to strict transparency criteria;
44. Calls for the EU and China jointly to establish an early-warning mechanism in order to give themselves a chance to solve proactively any incipient dispute on trade or investment at the earliest possible stage using all appropriate measures, including soft power and trade diplomacy;
45. Considers also that the agreement should include provisions for out-of-court dispute settlement in order to foster swift, affordable and amicable dispute resolution between parties that freely decide to have recourse to it;
46. Suggests that precise definitions of flexible dispute-settlement mechanisms such as mediation be provided in the agreement as regards, for example, the duration, cost and implementation of the solutions agreed by the parties;
47. Expresses its view that, once concluded and fully ratified, an EU-China investment agreement would replace all existing bilateral investment agreements between individual EU Member States and China, in line with Union law;
48. Recommends that negotiations be opened only on condition that formal approval has first been given by China's State Council for market access to be included in the investment agreement;
49. Instructs its President to forward this resolution to the Council and the Commission.

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P7\_TA(2013)0412

## **EU-Taiwan trade relations**

### **European Parliament resolution of 9 October 2013 on EU-Taiwan trade relations (2013/2675(RSP))**

(2016/C 181/09)

*The European Parliament,*

- having regard to its resolution of 17 February 2011 on Europe 2020 <sup>(1)</sup>,
- having regard to Article 3(5) of the Treaty on European Union and Article 7 of the Treaty on the Functioning of the European Union, which establish, respectively, that 'in its relations with the wider world, the Union shall [...] contribute to [...] the strict observance and the development of international law' and that 'the Union shall ensure consistency between its policies and activities',

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<sup>(1)</sup> OJ C 188 E, 28.6.2012, p. 42.

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- having regard to its resolution of 11 May 2011 on the annual report from the Council to the European Parliament on the main aspects and basic choices of the Common Foreign and Security Policy (CFSP) in 2009 <sup>(1)</sup>,
- having regard to its resolution of 12 September 2012 on the annual report from the Council to the European Parliament on the Common Foreign and Security Policy <sup>(2)</sup>,
- having regard to its resolution of 14 March 2013 on EU-China Relations <sup>(3)</sup>,
- having regard its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements <sup>(4)</sup>,
- having regard to its resolution of 5 February 2009 on enhancing the role of European SMEs in international trade <sup>(5)</sup>,
- having regard to its resolution of 18 December 2008 on the impact of counterfeiting on international trade <sup>(6)</sup>,
- having regard to its resolution of 4 September 2008 on trade in services <sup>(7)</sup>,
- having regard to its resolution of 20 May 2008 on trade in raw materials and commodities <sup>(8)</sup>,
- having regard to its resolution of 19 February 2008 on the EU's strategy to deliver market access for European companies <sup>(9)</sup>,
- having regard to its resolution of 22 May 2007 on Global Europe — external aspects of competitiveness <sup>(10)</sup>,
- having regard to its resolution of 7 July 2005 on relations between the EU, China and Taiwan and security in the Far East <sup>(11)</sup>,
- having regard the Communication from the Commission entitled 'Trade, Growth and World Affairs — Trade Policy as a core component of the EU's 2020 strategy' (COM(2010)0612),
- having regard to the Communication from the Commission entitled 'Global Europe: competing in the world. A contribution to the EU's Growth and Jobs Strategy' (COM(2006)0567),
- having regard to the Commission's Trade and Investment Barriers Report 2013, published on 28 February 2013 (COM(2013)0103),
- having regard to the question to the Commission on EU-Taiwan trade relations (O-000093/2013 — B7-0509/2013),
- having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

<sup>(1)</sup> OJ C 377 E, 7.12.2012, p. 35.

<sup>(2)</sup> Texts adopted, P7\_TA(2012)0334.

<sup>(3)</sup> Texts adopted, P7\_TA(2013)0097.

<sup>(4)</sup> OJ C 99 E, 3.4.2012, p. 31.

<sup>(5)</sup> OJ C 67 E, 18.3.2010, p. 101.

<sup>(6)</sup> OJ C 45 E, 23.2.2010, p. 47.

<sup>(7)</sup> OJ C 295 E, 4.12.2009, p. 67.

<sup>(8)</sup> OJ C 279 E, 19.11.2009, p. 5.

<sup>(9)</sup> OJ C 184 E, 6.8.2009, p. 16.

<sup>(10)</sup> OJ C 102 E, 24.4.2008, p. 128.

<sup>(11)</sup> OJ C 157 E, 6.7.2006, p. 471.

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- A. whereas the rule-based multilateral trading system, established through the World Trade Organisation (WTO), is the most suitable framework to achieve open and fair trade worldwide; whereas it is essential, however, to understand that bilateral agreements are also part of the same common international affairs toolbox;
- B. whereas the EU remains fully committed to achieving a balanced and fair outcome for the Doha Development Agenda (DDA) as its preferred approach, and whereas progressing in parallel with bilateral trade agreements with other industrialised countries is also a valid option;
- C. whereas the total amount of bilateral trade between EU and Taiwan has increased more than twelvefold in the past two decades, exceeding EUR 40 billion in 2011;
- D. whereas Taiwan is the EU's seventh largest trading partner in Asia and 23rd largest trading partner in the world;
- E. whereas in 2010 the EU accounted for 31,5 % of all foreign direct investment (FDI) flows and 21 % of FDI stocks in Taiwan, and was the largest foreign investor in the country;
- F. whereas the overall trade relationship between the EU and Taiwan is currently performing well below its potential;
- G. whereas open and fair trade is a powerful means of creating more growth and well-being, building on the comparative advantages of each economy and the potential synergies flowing from greater economic integration and new inputs into knowledge-driven economies;
- H. whereas duties are already at generally low levels between the two trade partners; whereas the EU and Taiwan have a regular structured dialogue addressing trade and investment matters of common interest and concern; whereas, within this framework, four technical working groups have been set up to deal with IPR-, TBT- and SPS-related issues and the pharmaceutical sector;
- I. whereas, despite relatively low tariffs, bilateral trade volumes between the EU and Taiwan lag behind the bulk of the EU's trade exchanges with its other main trading partners;
- J. whereas the ICT industry is a high-added-value sector and a source of growth in both the EU and Taiwan, especially with respect to further development of smart products and services;
- K. whereas the EU and Taiwan can further deepen their economic relations in a way that is genuinely of mutual benefit, also with a view to tackling common societal challenges;
- L. whereas Taiwan has been a full member of the World Trade Organisation (WTO) since 2002 and is also a full member of Asia-Pacific Economic Cooperation (APEC) and the Asian Development Bank;

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- M. whereas Taiwan's accession to the WTO Government Procurement Agreement (GPA) in July 2009 was a substantial and positive step, which will enable it not only to benefit from reciprocal opening-up of GPA markets but also to improve efficiencies on its home market;
- N. whereas Taiwan and the People's Republic of China (PRC) have adopted a constructive approach contributing to the conclusion of 19 agreements signed between the Straits Exchange Foundation — for Taiwan — and the Association for Relations Across the Taiwan Straits — for the PRC; whereas these agreements include the Cross-Straits Economic Cooperation Framework Agreement (ECFA) and Intellectual Property Rights (IPR) Agreement signed on 29 June 2010 as well as Investment Agreement and Customs Cooperation Agreement signed on 9 August 2012;
- O. whereas other constructive alternatives have led Taiwan to conclude 31 Bilateral Investment Agreements (BIAs) with third countries, including with Japan on 22 September 2011, and an Economic Cooperation Agreement with New Zealand on 10 July 2013, to resume its talks on a Trade and Investment Framework Agreement (TIFA) with the United States on 10 March 2013, and to be currently negotiating an investment agreement with the Republic of Korea and a free trade agreement with Singapore (ASTEP);
- P. whereas the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan have agreed on Joint Statements on Principles for International Investment and on ICT services; whereas, similarly, Taiwan has concluded comprehensive income tax agreements with 25 countries, including nine EU Member States;
- Q. whereas closer economic ties with Taiwan do not in any way contradict the EU's 'one China' policy, given that China and Taiwan respectively joined the APEC in 1991 and acceded to the WTO in 2002;
1. Considers that the multilateral trading system, embodied by the WTO, remains by far the most effective framework for achieving open and fair trade worldwide; believes that the EU and Taiwan should contribute to the advancement of multilateral trade negotiations;
  2. Considers that, while the EU is working on upgrading its economic relations with China, it should consider the possibility of doing the same with Taiwan in order to consistently pursue the path of giving support to Taiwan's democratic system, social pluralism and good record in respecting human rights and the rule of law;
  3. Considers, therefore, that the EU should respond positively to Taiwan's willingness to launch parallel negotiations for bilateral agreements on investment protection and market access in order to strengthen further the legal certainty of investments, and increase the volume and quality of investment flows;
  4. Believes that the decision to start such negotiations with Taiwan should be based on economic reasons, and should not be interlinked with an assessment of relations between the EU and the People's Republic of China;
  5. Underlines the fact that Parliament is in favour of agreements on investment protection and market access with Taiwan, which would lead to deepening the existing economic relations between the EU and Taiwan;
  6. Considers that EU-Taiwan agreements on investment protection and market access have the true potential to lead to a win-win situation, which will be beneficial to both economies;



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7. Notes that any agreement should duly take into account SMEs and improve their ability to invest abroad;
8. Recalls also that the EU and Taiwan already have a well integrated economic relationship, generally low customs duties on both sides and a well structured dialogue, involving regular meetings to solve bilateral trade and investment issues;
9. Stresses that the agreement should include a strong commitment by the parties to sustainable and inclusive development in economic, social and environmental terms, with regard to investment;
10. Stresses that investment agreements concluded by the EU must respect the capacity for public intervention, in particular when pursuing public policy objectives such as social and environmental standards, human rights, security, workers' and consumers' rights, public health and safety and cultural diversity; calls for specific clauses on these objectives to be included in the agreement;
11. Recommends that, with regard to market access, both parties be allowed to exclude certain sectors from their liberalisation commitments in order to protect strategic national interests;
12. Reiterates its call for an effective corporate social responsibility clause and effective social and environmental clauses;
13. Stresses that the agreement must oblige foreign investors in the EU to abide by European social standards and social dialogue requirements;
14. Calls on the Commission to start talks for such agreements between the EU and Taiwan;
15. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, and the Taiwanese Government and Legislative Yuan.

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P7\_TA(2013)0414

## **EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria**

**European Parliament resolution of 9 October 2013 on EU and Member State measures to tackle the flow of refugees as a result of the conflict in Syria (2013/2837(RSP))**

(2016/C 181/10)

*The European Parliament,*

- having regard to its previous resolutions on Syria, in particular those of 16 February 2012 <sup>(1)</sup>, 13 September 2012 <sup>(2)</sup>, 23 May 2013 <sup>(3)</sup> and 12 September 2013 <sup>(4)</sup>, and on refugees fleeing armed conflict,
- having regard to the Foreign Affairs Council conclusions on Syria of 23 January, 18 February, 11 March, 22 April, 27 May, 24 June, 9 July and 22 July 2013; having regard to the European Council conclusions on Syria of 8 February 2013,

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<sup>(1)</sup> OJ C 249 E, 30.8.2013, p. 37.

<sup>(2)</sup> Texts adopted, P7\_TA(2012)0351.

<sup>(3)</sup> Texts adopted, P7\_TA(2013)0223.

<sup>(4)</sup> Texts adopted, P7\_TA(2013)0378.

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- 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, of 21 August 2013 on the latest reports of use of chemical weapons in Damascus, of 23 August 2013 on the high urgency of a political solution to the Syrian conflict (reflecting the agreed position of the EU on Syria of 7 September 2013), of 10 September 2013 on the proposal to place Syria's chemical weapons under international control, and of 14 September 2013 following the US-Russian agreement on chemical weapons in Syria, as well as to the statements made by the VP/HR during Parliament's plenary debate in Strasbourg on 11 September 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 3 September 2013 on the latest figure regarding refugees fleeing from the Syrian crisis, and to the ECHO (Humanitarian Aid and Civil Protection) situation reports and factsheets on Syria,
  - having regard to the remarks made by the UN High Commissioner for Refugees, António Guterres, at the Informal Meeting of the Justice and Home Affairs Council in Vilnius, on 18 July 2013 <sup>(1)</sup>,
  - 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 joint statement of the Ministerial Meeting of Syria Bordering Countries organised by the UN High Commissioner for Refugees on 4 September 2013,
  - having regard to the UN Human Rights Council resolutions on Syria,
  - having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms,
  - having regard to the Universal Declaration of Human Rights of 1948,
  - 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 Articles 78, 79 and 80 of the Treaty on the Functioning of the European Union,
  - having regard to the Geneva Conventions of 1949 and the additional protocols thereto,
  - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas up to 20 September 2013 the Office of the UN High Commissioner for Refugees (UNHCR) had registered a total of 1 929 227 Syrian refugees in neighbouring countries and in North Africa; whereas the total number of refugees, including those unregistered, is estimated at 2 102 582; whereas according to the same sources 76 % of the Syrian refugee population are women and children; whereas 410 000 Syrian refugee children are of primary school age (between 5 and 11); whereas according to the UN Office for the Coordination of Humanitarian Affairs (OCHA) the number of internally displaced persons (IDPs) as at 9 September 2013 was 4,25 million;

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<sup>(1)</sup> <http://www.unhcr.org/51b7149c9.html>

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- B. whereas according to the UNHCR the number of refugees (including those awaiting registration) present in receiving countries as at 20 September 2013 was as follows: Turkey, 492 687; Lebanon, 748 608; Jordan, 531 768; Iraq, 190 857; Egypt, 124 373; Morocco, Algeria and Libya, 14 289 (registered); whereas thousands of Syrians are fleeing on a daily basis to neighbouring countries and the UN Syria Regional Response Plan is projecting a total of 3,5 million refugees from Syria by the end of 2013;
- C. whereas asylum claims in the EU from Syrians have continued to increase in 2013, with a total of 52 037 asylum claims having been made since the beginning of the conflict in 2011 in the EU and its closest neighbours (Switzerland and Norway);
- D. whereas, within the EU-28, Germany (14 842) and Sweden (14 083) have received 59 % of the claims lodged; whereas, while other countries have experienced significant increases in applications, only one other Member State has received more than 2 000 claims (the UK, with 2 634);
- E. whereas there is a lack of fully accurate and reliable data about the total number of Syrians coming to Europe, and of information on the numbers seeking asylum in European countries and the number present overall; whereas, according to the UNHCR, despite these gaps, and the fact that statistics and data on adjudication practices in respect of asylum claims in EU Member States have flaws, there are indications that gaps in the protection of Syrians within the EU persist;
- F. whereas the Syrian refugee crisis constitutes a first test for the newly revised Common European Asylum System (CEAS);
- G. whereas EU legislation already provides some tools, such as the Visa Code <sup>(1)</sup> and the Schengen Borders Code <sup>(2)</sup>, making it possible to grant humanitarian visas;
- H. whereas the Member States should be encouraged to make use of the funds that will be available under the Asylum and Migration Fund and of the funds available under the Preparatory Action 'Enable the resettlement of refugees during emergency situations', which covers, among other things, the following measures: supporting persons already recognised as refugees by the UNHCR; supporting emergency action in the case of groups of refugees, identified as priorities, who are under armed attack and who face conjunctures of extreme vulnerability and of a life-threatening nature; providing, where needed, extra financial support during emergencies to the UNHCR and to its liaison organisations in the Member States and at EU level;
- I. whereas the latest tragedy off Lampedusa, on 3 October 2013, left 130 migrants dead, with hundreds of others missing; whereas tens of thousands of migrants have died trying to reach the EU; pointing once more to the need to do everything possible to save the lives of people in danger and to the need for Member States to abide by their international sea-rescue obligations;
1. Is deeply concerned about the ongoing humanitarian crisis in Syria and the heavy strain it is putting on neighbouring countries; expresses concern that the exodus of refugees continues to accelerate with no sign of the outflow ending soon;
  2. Praises the efforts and solidarity of the authorities of those countries and the generosity of their populations in assisting refugees from Syria;

<sup>(1)</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

<sup>(2)</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

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3. Welcomes the open-door policy of Syria's neighbouring countries and urges them to keep their borders open to all refugees fleeing Syria;
4. Expresses concern that a growing number of Syrians are risking their lives by embarking on dangerous boat crossings across the Mediterranean to the EU;
5. Welcomes the fact that the EU and its Member States have committed more than EUR 1 billion in humanitarian and non-humanitarian assistance to Syrians inside and outside Syria; notes that the EU is the largest humanitarian donor to the Syrian crisis; calls also on the EU to monitor the distribution of that funding;
6. Calls for the EU to continue its generous funding of humanitarian and non-humanitarian efforts in response to the needs of people in Syria and refugees from Syria in neighbouring countries;
7. Encourages the Member States to address acute needs through resettlement in addition to existing national quotas and through humanitarian admission; encourages the Member States to make use of the funds still available under the preparatory action/pilot project on resettlement;
8. Calls for the international community, the EU and the Member States to continue providing support in response to this exceptional humanitarian crisis and to commit themselves to providing effective assistance to Syria's neighbouring countries;
9. Calls for the EU to convene a humanitarian conference on the Syrian refugee crisis, with priority being given to actions directed at host countries in the region (in particular Lebanon, Jordan, Turkey and Iraq) in order to support them in their effort to host ever-growing refugee populations and maintain an open-door policy; stresses that such a conference should involve all EU institutions and civil society organisations and focus on humanitarian efforts and on strengthening the EU's role and involvement in the diplomatic efforts to help end the conflict in Syria;
10. Stresses the importance at this stage of exploring concretely whether, how and when Member States could do more to reinforce their protection response to Syria; points to the need for solidarity and for proactive strengthening of the overall protection response in the EU through enhanced cooperation, information sharing, capacity building and policy dialogue;
11. Welcomes the general consensus existing among Member States that Syrian nationals should not be returned to Syria; stresses, however, that a more coherent approach and greater solidarity with Member States facing particular pressure are needed in the reception of refugees from Syria; calls on the Member States to make sure that all the provisions of the different instruments of the CEAS are correctly implemented;
12. Calls on the Member States to explore all existing EU laws and procedures for providing safe entry into the EU in order to temporarily admit Syrians fleeing their country; notes that legal entry into the EU is preferable to more dangerous irregular entry, which could entail human trafficking risks; notes that some of the Member States have granted Syrians either permanent residency (e.g. Sweden) or temporary admission (e.g. Germany);
13. Reminds the Member States that Syrians fleeing the conflict who are seeking international protection should be referred to competent national asylum authorities and have access to fair and efficient asylum procedures;

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14. Calls for the EU to take appropriate, responsible measures regarding a possible influx of refugees into its Member States; calls on the Commission and the Member States to continue monitoring the current situation and to work on contingency planning, including the possibility of applying the Temporary Protection Directive<sup>(1)</sup>, if and when conditions demand it;
  15. Points out that the Member States are required to come to the assistance of migrants at sea, and calls on Member States which have failed to abide by their international obligations to stop turning back boats with migrants on board;
  16. Calls on the Member States to respect the principle of non-refoulement, in compliance with existing international and EU law; calls on the Member States to put an immediate end to any improper and extended detention practices in violation of international and European law, and points out that measures to detain migrants must always be subject to an administrative decision, and must be duly substantiated and temporary;
  17. Calls on its relevant committees to continue monitoring the situation in Syria and neighbouring countries and the measures taken by the Member States in this respect;
  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 parliaments and governments of the Member States, the Secretary-General of the United Nations, the UN High Commissioner for Refugees, the Secretary-General of the Arab League, the Parliament and Government of the Syrian Arab Republic, and the parliaments and governments of those countries neighbouring Syria and all the parties involved in the conflict in Syria.
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<sup>(1)</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

Thursday, October 10, 2013

P7\_TA(2013)0418

**Alleged transportation and illegal detention of prisoners in European countries by the CIA****European Parliament resolution of 10 October 2013 on alleged transportation and illegal detention of prisoners in European countries by the CIA (2013/2702(RSP))**

(2016/C 181/11)

*The European Parliament,*

- having regard to the European Court of Human Rights (ECtHR) ruling of 13 December 2012 which condemns the Former Yugoslav Republic of Macedonia (FYROM) for the ‘extreme seriousness’ of its violations of the European Convention on Human Rights (Articles 3, 5, 8 and 13) during the extraordinary rendition of Khaled El-Masri,
- having regard to the following cases pending before the ECtHR: *Al Nashiri v Poland*, *Abu Zubaydah v Lithuania*, *Abu Zubaydah v Poland* and *Nasr and Ghali v Italy*; having regard to the application filed by Mr Al Nashiri against Romania in August 2012 and to the application filed by the Human Rights Monitoring Institute (HRMI) and the Open Society Justice Initiative against Lithuania in December 2012 for violation of their right to information and right to an effective remedy,
- having regard to the Italian Supreme Court ruling of September 2012 upholding the conviction of 23 US nationals in connection with the 2003 abduction of Abu Omar, including the former CIA Milan station chief, Robert Seldon Lady, who was sentenced to nine years in prison,
- having regard to the Milan Appeal Court decision of February 2013 sentencing three other CIA agents<sup>(1)</sup> previously considered to be covered by diplomatic immunity to six to seven years in prison; having regard to the same court’s decision also to sentence Nicolò Pollari, the former head of the Italian Military Intelligence and Security Service (SISMI), to 10 years in prison, the former SISMI deputy head, Marco Mancini, to 9 years, and three SISMI agents to 6 years each,
- having regard to the Italian President’s decision of 5 April 2013 to pardon US Colonel Joseph Romano, who had been convicted in Italy for his responsibility in the abduction of Abu Omar in that country;
- having regard to its resolution of 11 September 2012 on ‘alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report’<sup>(2)</sup>,
- having regard to the documents forwarded to the rapporteur by the Commission, including non-country-specific letters sent in March 2013 to all the Member States, to which only a few Member States (Finland, Hungary, Spain and Lithuania) replied,
- having regard to its resolutions on Guantánamo, the most recent being that of 23 May 2013 on ‘Guantánamo: hunger strike by prisoners’<sup>(3)</sup>,
- having regard to its resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010-2011)<sup>(4)</sup>,
- having regard to the flight data received from Eurocontrol up to September 2012,

<sup>(1)</sup> Including Jeffrey W. Castelli, former CIA station chief in Rome.

<sup>(2)</sup> Texts adopted, P7\_TA(2012)0309.

<sup>(3)</sup> Texts adopted, P7\_TA(2013)0231.

<sup>(4)</sup> Texts adopted, P7\_TA(2012)0500.

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- having regard to the request sent by the rapporteur in April 2013 to the Agency for Aerial Navigation Safety in Africa and Madagascar (ASECNA) for cooperation on disclosure of flight data, and to the positive reply received in June 2013,
  - having regard to the Council conclusions on fundamental rights and the rule of law and on the Commission's 2012 report on the application of the Charter of Fundamental Rights of the European Union (Luxembourg, 6–7 June 2013),
  - having regard to the 'Stockholm Programme — An open and secure Europe serving and protecting citizens (2010-2014)',
  - having regard to the numerous media reports and acts of investigative journalism, in particular — but not limited to — the investigative work broadcast on Romania's Antena 1 television channel in April 2013,
  - having regard to the research and investigations carried out notably by Interights, Redress and Reprieve, and to the reports produced since the adoption of its aforementioned resolution of 11 September 2012, by independent researchers, civil society organisations and national and international non-governmental organisations, in particular the Open Society Justice Initiative's report on 'Globalising Torture: CIA Secret Detention and Extraordinary Rendition' (February 2013), the independent bipartisan study conducted in the US by the Constitution Project's Task Force on Detainee Treatment (April 2013), the Rendition Flights Database published by the British academic website The Rendition Project (May 2013), the Amnesty International report 'Unlock the truth: Poland's involvement in CIA secret detention' (June 2013), and the letter sent by Human Rights Watch to the Lithuanian authorities (June 2013),
  - having regard to questions raised by its Committee on Civil Liberties, Justice and Home Affairs and its Committee on Foreign Affairs (O-000079/2013 — B7-0215/2013 and O-000080/2013 — B7-0216/2013),
  - having regard to Rules 115(5) and 110(4) of its Rules of Procedure,
- A. whereas respect for fundamental rights is an essential element in successful counter-terrorism policies;
- B. whereas Parliament has condemned the US-led CIA rendition and secret detention programmes involving multiple human rights violations, including unlawful and arbitrary detention, torture and other ill-treatment, violations of the non-refoulement principle, and enforced disappearance through the use of European airspace and territory by the CIA; whereas Parliament has repeatedly called for full investigations into the collaboration of national governments and agencies with the CIA programmes;
- C. whereas Parliament undertook to continue fulfilling the mandate given to it by the Temporary Committee, pursuant to Articles 2, 6 and 7 of the Treaty on European Union, and instructed its relevant committees to address Parliament in plenary on the matter a year after the adoption of the aforementioned resolution of 11 September 2012, as it considered it essential to assess the extent to which the recommendations adopted by Parliament had been implemented;
- D. whereas accountability for renditions is essential in order to protect and promote human rights effectively in the EU's internal and external policies, and to ensure legitimate and effective security policies based on the rule of law; whereas the EU institutions have recently engaged in a debate on how the EU can better protect and promote fundamental rights and the rule of law;
- E. whereas there have been no substantive replies from the Council or the Commission to Parliament's recommendations;



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- F. whereas the Lithuanian authorities have reiterated their commitment to reopening the criminal investigation into Lithuania's involvement in the CIA programme if new elements emerge, but still have not done so; whereas in their observations to the ECtHR in the case of Abu Zubaydah, the Lithuanian authorities demonstrated critical shortcomings in their investigations and a failure to grasp the meaning of the new information; whereas Lithuania holds the presidency of the Council of the European Union in the second half of 2013; whereas a complaint was submitted on 13 September 2013 to the Lithuanian Prosecutor General, calling for an investigation into allegations that Mustafa al-Hawsawi, who is currently facing trial by military commission at Guantánamo Bay, had been illegally transferred to, and secretly detained and tortured in, Lithuania as part of a CIA-led programme;
- G. whereas the in-depth investigative work broadcast on the Antena 1 television channel in April 2013 provided further indications of Romania's central role in the prison network; whereas former national security advisor Ioan Talpeş stated that Romania provided logistical support for the CIA; whereas a former Romanian senator admitted the limitations of the previous parliamentary inquiry and called for prosecutors to initiate judicial proceedings;
- H. whereas a request was filed with Polish prosecutors on 11 June 2013 for a third man, Yemenite Walid Mohammed Bin Attash, to be officially recognised as a victim after he was illegally arrested in Pakistan in 2003, kept in a secret prison in Poland from June to September 2003 and subsequently moved to Guantánamo, where he remains; whereas Polish prosecutors have extended until October 2013 an ongoing criminal investigation;
- I. whereas the British authorities are raising procedural obstacles to the civil claim brought in the UK by Libyan Abdel Hakim Belhadj, allegedly rendered to torture in Libya by the CIA with British assistance, and have expressed their intention to seek to have evidence heard in secret proceedings;
- J. whereas in December 2012 Italy issued an international arrest warrant against Robert Seldon Lady, who was arrested in Panama in July 2013; whereas the extradition request subsequently made by Italy was not accepted by Panama, and Robert Seldon Lady was returned to the US in July 2013; whereas the Italian President decided on 5 April 2013 to pardon US Colonel Joseph Romano, who had been convicted by an Italian court for his responsibility in the abduction of Abu Omar in Italy;
- K. whereas in November 2012 the Parliamentary Ombudsman of Finland initiated an investigation into the use of Finnish territory, airspace and flight records systems in the CIA rendition programme, sent detailed written requests for information to 15 government agencies and asked the Lithuanian authorities for specific information on related flights;
- L. whereas the inquiry carried out by Denmark up to May 2012 does not constitute an independent, impartial, thorough and effective investigation as required by international human rights law and standards, given its lack of sufficient powers and its limited scope;
- M. whereas only two Member States (Germany and the United Kingdom) have replied to the follow-up letters sent to eight Member States (France, Germany, Italy, Lithuania, Poland, Romania, Sweden and the United Kingdom) by the UN Special Procedures, requesting additional information following the UN Joint Study on global practices in relation to secret detention in the context of countering terrorism<sup>(1)</sup>;
- N. whereas US President Obama has reiterated his commitment to close Guantánamo, announcing on 23 May 2013 that he would restart the release of detainees and would lift a moratorium on releasing Yemeni prisoners who had already been deemed safe to transfer back to Yemen, despite resistance in the US Congress; whereas the US authorities must honour their international obligations by prosecuting Robert Seldon Lady;

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<sup>(1)</sup> A/HRC/13/42.

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- O. whereas, in the opening statement which she delivered at the 23rd session of the Human Rights Council (Geneva, May 2013), the UN High Commissioner for Human Rights, Navi Pillay, quoted Parliament's aforementioned resolution of 11 September 2012, asked for 'credible and independent investigations' as 'a vital first step towards accountability' and '[called] on States to make this a priority';
- P. whereas, in his 2013 annual report<sup>(1)</sup>, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, cited Parliament's work and endorsed some of the recommendations made in its aforementioned resolution of 11 September 2012;
1. Deeply deplores the failure to implement the recommendations contained in its aforementioned resolution of 11 September 2012, notably by the Council, the Commission, the governments of the Member States, the candidate states and the associated countries, NATO, and the United States authorities, especially in the light of the serious fundamental rights violations suffered by the victims of the CIA programmes;
2. Considers that the climate of impunity regarding the CIA programmes has enabled the continuation of fundamental rights violations in the counter-terrorism policies of the EU and the US, as further revealed by the mass surveillance programmes of the US National Security Agency and surveillance bodies in various Member States, which are currently being investigated by Parliament;

#### ***Accountability process in the Member States***

3. Reiterates its call on those Member States which have not fulfilled their positive obligation to conduct independent and effective inquiries to investigate human rights violations, taking into account all the new evidence that has come to light, and to disclose all necessary information on all suspect planes associated with the CIA and their territory; calls in particular on the Member States to investigate whether operations have taken place whereby people have been held under the CIA programme in secret facilities on their territory; calls on the Member States concerned (France, Italy, Lithuania, Poland, Romania and Sweden) to respond to the letters sent by the UN Special Procedures;
4. Urges Lithuania to reopen its criminal investigation into CIA secret detention facilities and to conduct a rigorous investigation considering all the factual evidence that has been disclosed, notably regarding the ECtHR case of *Abu Zubaydah v Lithuania*; asks Lithuania to allow the investigators to carry out a comprehensive examination of the renditions flight network and contact persons publicly known to have organised or participated in the flights in question; asks the Lithuanian authorities to carry out forensic examination of the prison site and analysis of phone records; urges them to cooperate fully with the ECtHR in the cases of *Abu Zubaydah v Lithuania* and *HRMI v Lithuania*; calls on Lithuania, in the context of reopening the criminal investigation, to consider applications for status/participation in the investigation from other possible victims; urges Lithuania to respond in full to requests for information from other EU Member States, in particular the request for information from the Finnish Ombudsman regarding a flight or flights that could link Finland and Lithuania to a possible rendition route; urges the Lithuanian Prosecutor General to carry out a criminal investigation into Mustafa al-Hawsawi's complaint;
5. Urges the Romanian authorities to swiftly open an independent, impartial, thorough and effective investigation, to locate missing parliamentary inquiry documents and to cooperate fully with the ECtHR in the case of *Al Nashiri v Romania*; calls on Romania to comply fully with its fundamental rights obligations;
6. Asks Poland to continue its investigation on a basis of greater transparency, in particular by offering evidence of concrete actions taken, allowing victims' representatives to meaningfully represent their clients by giving them their rightful access to all relevant classified material, and acting on the material that has been collected; calls on the Polish authorities to prosecute any implicated state actor; urges the Polish General Prosecutor, as a matter of urgency, to review the application of Walid Bin Attash and come to a decision; calls on Poland to cooperate in full with the ECtHR regarding the cases of *Al Nashiri v Poland* and *Abu Zubaydah v Poland*;

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<sup>(1)</sup> Framework Principles for securing the accountability of public officials for gross or systematic human rights violations committed in the context of State counter-terrorism initiatives, A/HRC/22/52, 1 March 2013.

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7. Calls on the British authorities to cooperate fully with ongoing criminal investigations and to allow civil claims to proceed in full transparency in order to conclude those investigations and claims concerning the rendition of foreign nationals overseas; asks the British authorities to establish a human-rights-compliant inquiry into the rendition, torture and ill-treatment of detainees abroad;

8. Encourages the Italian authorities to continue their efforts to obtain justice regarding human rights violations by the CIA on Italian territory, by insisting on the extradition of Robert Seldon Lady and requesting the extradition of the other 22 US nationals convicted in Italy;

9. Encourages the Finnish Ombudsman to complete his investigation on a basis of transparency and accountability and, to this end, urges all national authorities to cooperate fully; asks Finland to pursue any leads that implicate Finnish state actors in the rendition programme;

### ***Response of the EU institutions***

10. Is highly disappointed by the Commission's refusal to respond in substance to Parliament's recommendations, and deems the letters sent by the Commission to the Member States to be insufficient for achieving accountability on account of their generic nature;

11. Reiterates its specific recommendations to the Commission:

- to investigate whether EU provisions, in particular those on asylum and judicial cooperation, have been breached by collaboration with the CIA programme,
- to facilitate and support human-rights-compliant mutual legal assistance and judicial cooperation between investigating authorities and cooperation between lawyers involved in accountability work in Member States,
- to adopt a framework, including reporting requirements for the Member States, for monitoring and supporting national accountability processes,
- to adopt measures aimed at strengthening the EU's capacity to prevent, and provide redress for, human rights violations at EU level and to provide for the strengthening of Parliament's role,
- to put forward proposals for developing arrangements for democratic oversight of cross-border intelligence activities in the context of EU counter-terrorism policies;

12. Urges the Lithuanian authorities to seize the opportunity of their country's EU Council presidency to ensure the full implementation of the recommendations contained in Parliament's report and thus to put the issue on the Justice and Home Affairs (JHA) Council agenda before the end of the Lithuanian presidency;

13. Reiterates its specific recommendations to the Council:

- to present apologies for having violated the principle enshrined in the Treaties of loyal cooperation between the Union institutions when it incorrectly attempted to persuade Parliament to accept the provision of deliberately shortened versions of the minutes of the meetings of COJUR and COTRA with senior US officials,
- to issue a declaration acknowledging Member States' involvement in the CIA programme and the difficulties encountered by Member States in the context of inquiries,

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- to give its full support to the truth-finding and accountability processes in the Member States by formally addressing the issue at JHA meetings, sharing all information, providing assistance to inquiries and, in particular, acceding to requests for access to documents,
- to hold hearings with relevant EU security agencies to clarify their knowledge of Member States' involvement in the CIA programme and the EU's response,
- to propose safeguards so as to guarantee respect for human rights in intelligence-sharing, and a strict delimitation of roles between intelligence and law-enforcement activities so that intelligence agencies are not permitted to assume powers of arrest and detention;

14. Calls on the Council and the Commission to include, in their respective multiannual programmes succeeding the Stockholm Programme, specific measures to ensure the rule of law and accountability for fundamental rights violations, especially by intelligence services and law enforcement authorities; asks the Commission to include the issue of accountability on the agenda for the 'Assises de la Justice' to be held in November 2013;

15. Recalls that it is essential, in order to ensure Parliament's credibility, to substantially reinforce its rights of inquiry for investigating fundamental rights violations in the EU, which should include full power to hear under oath the people involved, including government ministers <sup>(1)</sup>;

16. Asks Eurocontrol to recognise, as does the American Federal Aviation Authority, that flight route data should in no way be considered confidential and to release such data as are necessary for achieving effective investigations;

17. Expects its inquiry into the US National Security Agency surveillance programme and surveillance bodies in various Member States to propose measures for effective democratic parliamentary oversight of intelligence services, considering that democratic scrutiny of those bodies and their activities through appropriate internal, executive, independent judicial and parliamentary oversight is essential;

18. Expresses regret that no progress has been made by EU Member States towards accession to the International Convention for the Protection of All Persons from Enforced Disappearance, with the exception of its ratification by Lithuania in August 2013; calls on the 21 Member States which have yet to ratify that convention to do so as a matter of urgency;

19. Calls on Belgium, Finland, Greece, Ireland, Latvia, Lithuania and Slovakia to ratify the Optional Protocol to the UN Convention against Torture (OPCAT) as a matter of priority; considers regrettable the very limited support provided to the UN-managed OPCAT Special Fund, and calls on the EU Member States and the Commission to support the Special Fund's work through substantial voluntary contributions; urges the European External Action Service (EEAS) and the Commission to step up their efforts to facilitate the establishment and functioning of National Preventive Mechanisms under the OPCAT in third countries;

20. Asks the EU to review carefully FYROM's progress in implementing the ECtHR decision in the case of *El-Masri v the former Yugoslav Republic of Macedonia*, which the Committee of Ministers has now subjected to its enhanced procedure, in the context of FYROM's bid for accession; urges the FYROM authorities to open a criminal investigation into state actors' complicity in the *El-Masri* case and to hold those responsible to account;

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<sup>(1)</sup> See: Proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry and repealing Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission, OJ C 264 E, 13.9.2013, p. 41.

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21. Calls on the US Government to cooperate with all requests from EU Member States for information or extradition in connection with the CIA programme; urges it to stop using draconian protective orders which prevent lawyers acting for Guantánamo Bay detainees from disclosing information regarding any detail of their secret detention in Europe; encourages it to complete its plan to close the Guantánamo Bay prison promptly;

22. Urges the Member States to step up their efforts to resettle non-European detainees released from Guantánamo who cannot be repatriated to their home states because they are under threat of death, torture or cruel and inhumane treatment<sup>(1)</sup>; asks the EU to revive the joint initiatives of 2009 by providing a framework for the resettlement of Guantánamo detainees in EU Member States and to engage in a dialogue on concrete plans for cooperation with the new US Special Envoy on detainee transfers out of Guantánamo, Clifford Sloan;

23. Calls on the Agency for Aerial Navigation Safety in Africa and Madagascar to start its cooperation with Parliament promptly by providing the requested information on flight data;

24. Calls on the next Parliament (2014-2019) to continue to fulfil and implement the mandate given by the Temporary Committee and consequently to ensure that its recommendations are followed up, to examine new elements that may emerge and to make full use of, and develop, its rights of inquiry;

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

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P7\_TA(2013)0419

## **Strengthening cross-border law-enforcement cooperation in the EU**

**European Parliament resolution of 10 October 2013 on strengthening cross-border law-enforcement cooperation in the EU: the implementation of the 'Prüm Decision' and the European Information Exchange Model (2013/2586 (RSP))**

(2016/C 181/12)

*The European Parliament,*

— having regard to the Commission Communication of 7 December 2012 on strengthening law enforcement cooperation in the EU: the European Information Exchange Model (EIXM) (COM(2012)0735),

— having regard to the Commission report of 7 December 2012 on the implementation of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the 'Prüm Decision') (COM(2012)0732),

— having regard to the Stockholm Programme, the Internal Security Strategy and the Information Management Strategy for EU internal security,

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<sup>(1)</sup> European Parliament 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, OJ C 258 E, 7.9.2013, p. 8.

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- having regard to its resolution of 22 May 2012 on the European Union's Internal Security Strategy <sup>(1)</sup>,
  - having regard to the Treaty on the Functioning of the European Union, and in particular Article 87 thereof,
  - having regard to the question to the Commission on strengthening cross-border law-enforcement cooperation in the EU: the implementation of the 'Prüm Decision' and the European Information Exchange Model (EIXM) (O-000067/2013 — B7-0501/2013),
  - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Stockholm Programme acknowledged the need for more coherence and consolidation in the extensive toolbox for collecting, processing and sharing information between law-enforcement authorities in the EU in order to enhance the security of EU citizens;
- B. whereas the Internal Security Strategy called for the development of a comprehensive model for information exchange;
- C. whereas the exchange of information on criminal activities across borders is the basis for law enforcement cooperation in the EU and is particularly relevant in an area without internal border controls; whereas cross-border crime is on the increase in the EU, thus placing ever more emphasis on the need for an efficient and secure exchange of law enforcement information that respects data protection and fundamental rights;
1. Notes that the Communications take stock of the different existing cross-border law enforcement information exchange instruments, channels and tools in the EU; believes that the current 'landscape' of the different instruments, channels and tools is complicated and scattered, leading to an inefficient use of the instruments and inadequate democratic oversight at EU level, as well as in some cases to 'function and access creep';
  2. Calls on the Commission to perform a mapping exercise of EU and national legislation, including (bilateral) international agreements, regulating the cross-border exchange of law enforcement information; agrees with the Commission that more meaningful statistics are necessary to measure the real value of instruments and calls for an independent, external evaluation of the existing instruments for EU law enforcement information exchange in order to assess their measurable impact;
  3. Supports the Commission's recommendations to streamline the use of existing instruments and channels (such as the default use of the Europol channel and the creation of national integrated Single Point of Contacts) and to improve training and awareness on cross-border information exchange; is disappointed, however, that the Commission did not provide for a more ambitious, future-oriented vision, as was called for in the Stockholm Programme and the Internal Security Strategy, that could be a starting point for a political debate on how to shape and to optimise law enforcement data sharing in the EU, while guaranteeing a robust level of data protection and privacy; strongly encourages the Commission to come forward with this vision, setting a well-tailored framework for EU law enforcement information exchange based on principles such as necessity, quality, proportionality, efficiency and accountability and including a proper assessment of the availability principle and the concept of cross-matching;
  4. Calls on the Commission to explore the possibility of automating the manual procedures for implementing the existing instruments in order to ensure greater effectiveness along the lines set out in the DAPIX study conducted by a number of Member States, and to consider establishing a universal information exchange format so as to speed up the processing of approved requests;

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<sup>(1)</sup> OJ C 264 E, 13.9.2013, p. 1.

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5. Points out that the different instruments of cross-border law enforcement information exchange, including providing cross-border access to national databases, lead to a scattered and unclear data protection regime which is often based on the lowest common denominator and follows a piecemeal approach; in this respect, reiterates its position that the proposed Data Protection Directive should be adopted as soon as possible;
6. Calls on the Commission, with a view to consolidating and improving the information exchange system, to take measures aimed at underpinning an effective system serving also to guarantee data protection, as described in the opinion of the European Data Protection Supervisor (EDPS), using the reference framework provided by the proposal for a regulation of the European Parliament and of the Council on Europol repealing Decision 2009/371/JHA;
7. Takes note that, for a growing group of Member States, Prüm has become a routine tool in cross-border police cooperation and crime investigation; regrets the considerable delays in the implementation of the Prüm Decision in several Member States; agrees with the Commission that further development of the instrument should not be considered before full implementation has been achieved; calls on the Member States concerned to implement the Prüm Decision fully and properly so that it can be used to its maximum extent;
8. Points out that the Prüm Decision was adopted under the former third pillar and that its implementation is lacking proper democratic oversight and control by Parliament; calls on the Commission to speedily bring forward proposals to bring the existing cross-border police cooperation instruments adopted under the former third pillar — such as the Prüm Decision and the Swedish Initiative — within the legal framework of the Lisbon Treaty;
9. Points out that European police training helps to strengthen mutual trust between police forces, thereby making for better information exchange and cross-border cooperation, and therefore needs to be preserved and expanded;
10. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States.

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P7\_TA(2013)0420

## **Caste-based discrimination**

### **European Parliament resolution of 10 October 2013 on caste-based discrimination (2013/2676(RSP))**

(2016/C 181/13)

*The European Parliament,*

- having regard to its resolutions of 13 December 2012 on caste discrimination in India<sup>(1)</sup>, of 17 January 2013 on violence against women in India<sup>(2)</sup>, of 1 February 2007 on the Human Rights Situation of the Dalits in India<sup>(3)</sup> and 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<sup>(4)</sup>,
- having regard to international human rights conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and General Recommendation XXIX of the Committee on the Elimination of Racial Discrimination,

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<sup>(1)</sup> Texts adopted, P7\_TA(2012)0512.

<sup>(2)</sup> Texts adopted, P7\_TA(2013)0031.

<sup>(3)</sup> OJ C 250 E, 25.10.2007, p. 87.

<sup>(4)</sup> OJ C 258 E, 7.9.2013, p. 8.



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- having regard to the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent <sup>(1)</sup>, published by the Human Rights Council,
  - having regard to the serious concerns, observations and recommendations of the UN High Commissioner for Human Rights with regard to caste discrimination,
  - having regard to recent recommendations by UN treaty bodies and UN Special Procedures mandate-holders on the topic of caste-based discrimination,
  - having regard to the report of 24 May 2011 of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance <sup>(2)</sup>, and to the reports of the Universal Periodic Reviews of caste-affected countries,
  - having regard to the Parliament study entitled ‘A human rights and poverty review: EU action in addressing caste-based discrimination’,
  - having regard to the oral question to the Commission on caste-based discrimination (O-000091/2013 — B7-0507/2013),
  - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas caste denotes a socio-religious context, as in Asia, where those who fall outside the caste system are considered ‘impure’ and ‘untouchable’ by nature, but also, more broadly, a system of rigid social stratification into ranked groups defined by descent and occupation; whereas discrimination based on work and descent, being the more encompassing term preferred by the UN, is a form of discrimination prohibited by international human rights law as proclaimed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the CERD, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and International Labour Organisation Convention No 111;
- B. whereas in June 2011 Githu Muigai, the UN Special Rapporteur on racism, stressed that it is essential to avoid establishing any hierarchy among the different manifestations of discrimination, even though they may vary in nature and degree depending on the historical, geographical and cultural context, including ‘the Roma community in Europe and victims of caste systems in Africa, Asia and the Middle East’;
- C. whereas despite the steps taken by the governments of some caste-affected countries to provide constitutional and legislative protection and introduce special measures against caste discrimination and untouchability, caste discrimination continues to be widespread and persistent, affecting an estimated 260 million people worldwide;
- D. whereas caste-based discrimination exists in numerous countries across the globe, with the highest number of victims being found in South Asia; whereas, however, there are large concentrations of victims in other areas, including Africa, the Middle East and the diaspora community;
- E. whereas non-implementation of legislation and policies and the lack of effective remedies and effectively functioning state institutions, the judiciary and police included, remain major obstacles to eliminating caste-based discrimination;
- F. whereas the provision of disaggregated data and the need for special legislation and measures to protect against caste discrimination remain unaddressed in many affected countries;

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<sup>(1)</sup> A/HRC/11/CRP.3.

<sup>(2)</sup> A/HRC/17/40.

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- G. whereas despite the efforts of governments and, increasingly, of some international agencies, castes continue to suffer from severe forms of social exclusion, poverty, violence, segregation, physical and verbal abuse linked to prejudices and a concept of purity and pollution;
- H. whereas untouchability practices remain widespread and are taking on modern forms; whereas affected communities face restricted political participation and serious discrimination in the labour market;
- I. whereas in a few countries, such as India, mandatory affirmative action has to some extent contributed to the inclusion of Dalits in the public sector, but whereas the lack of protective non-discrimination measures in the labour market and the private sector adds to exclusion and growing inequalities;
- J. whereas the ILO estimates that the overwhelming majority of bonded labour victims in South Asia are from the Scheduled Castes and Scheduled Tribes; whereas forced and bonded labour is particularly widespread in the agriculture, mining and garment production sectors, which supply products to a number of multinational and European companies;
- K. whereas non-discrimination in employment is one of the four fundamental labour rights and is included in international guidelines and frameworks for business such as the UN Guiding Principles for Business and Human Rights, the OECD Guidelines and the ISO 26000 Guidance on Social Responsibility, which specifically mentions caste-based discrimination as a serious form of discrimination;
- L. whereas the governments and authorities of caste-affected countries are urged to take note of the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, to take all necessary measures to eliminate and prevent caste-based discrimination, to address any implementation gaps at federal, state, regional and local level and to implement, amend or introduce special legislation and policy measures for the protection and promotion of the rights of Dalits and similarly caste-affected groups;
1. Condemns the continuing human rights violations committed against people suffering from caste hierarchies and caste-based discrimination, including the denial of equality and of access to the legal system and to employment, continued segregation and caste-induced barriers to the achievement of basic human rights and development;
  2. Considers that identity cards should avoid references to caste, as these are contrary to the principles of equality and social mobility;
  3. Welcomes the report by Githu Muigai, the UN Special Rapporteur on racism, and stresses that all victims of caste discrimination throughout the world should receive the same attention and protection; stresses, more broadly, that all forms of racism and discrimination should be addressed with the same emphasis and determination, including in Europe;
  4. Expresses its serious concern that the social exclusion of Dalits and similarly affected communities leads to high levels of poverty among affected population groups and to exclusion, or reduced benefits, from development processes; stresses, furthermore, that it precludes their involvement in decision-making and governance and their meaningful participation in public and civil life;
  5. Remains alarmed at the persistently large number of reported and unreported cases of atrocities and untouchability practices in caste-affected countries, including India, and at the widespread impunity enjoyed by perpetrators of crimes against Dalits and other victims of caste-based human rights violations; recalls that in certain countries perpetrators of such discrimination hold high-level government positions;

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6. Reiterates its serious concern about the violence perpetrated against Dalit women and other women from similarly affected communities in societies with caste systems, who often do not report such violence for fear of threats to their personal safety or of social exclusion, and about the multiple and intersecting forms of discrimination based on caste, gender and religion affecting Dalit women and women from minority communities, leading to forced conversions, abductions, forced prostitution, and sexual abuse by members of dominant castes;
7. Stresses the need to promote an enabling environment for civil society and human rights defenders working with people affected by caste discrimination in order to ensure their security and avoid any impediments to, or stigmatisation or restriction of, their work; stresses that such an environment should include access to funding, cooperation with UN human rights bodies and Economic and Social Council (Ecosoc) accreditation;
8. Calls for the EU to promote the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent as a guiding framework for eliminating caste discrimination, and to promote their endorsement by the UN Human Rights Council;
9. Calls on the Commission to recognise caste as a distinct form of discrimination rooted in the social and/or religious context, which must be tackled together with other grounds of discrimination, i.e. ethnicity, race, descent, religion, gender and sexuality, in EU efforts to fight all forms of discrimination; calls for the EU, in its policies and programmes, to consider people affected by caste-based discrimination as an identifiable group;
10. Urges the Commission and the European External Action Service (EEAS) to mainstream the fight against caste-based discrimination in EU legislation, policies and programming documents and to adopt operational guidelines for its implementation; calls on the EEAS to enhance monitoring and evaluation mechanisms in order to assess effectively the impact of EU action on the situation of people affected by this form of discrimination;
11. Recommends that the EU carry out a systematic assessment of the impact of trade and/or investment agreements on groups affected by caste discrimination, and address these issues with industry representatives, government authorities and relevant civil society organisations;
12. Calls for the inclusion of caste-based discrimination as a human rights issue in future EU human rights policies, strategies and action plans;
13. Calls on the Commission to provide stronger support for development projects combating caste-based discrimination as a serious human rights violation that exacerbates poverty, and to take this form of discrimination into account in all projects with a focus on education, women, access to justice, political participation or labour in relevant countries;
14. Calls on the Commission to develop and apply caste-sensitive approaches in times of humanitarian crisis and ensure that humanitarian aid is delivered to all marginalised groups, including people suffering from caste-based discrimination;
15. Urges the EU to raise the issue of caste-based discrimination at the highest level with the governments of affected countries during bilateral summits and other international meetings;
16. Encourages the EEAS to strengthen its policy and human rights dialogues and promote joint initiatives to eliminate caste discrimination with the governments of states, such as India, Nepal, Pakistan, Bangladesh and Sri Lanka, where caste-affected communities are subjected to so-called 'untouchability practices', and, more broadly, to combat discrimination based on work and descent, which occurs in various countries, including Yemen, Mauritania, Nigeria, Senegal and Somalia; recalls that caste discrimination has gone unmentioned in agreements with many of these states;

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17. Calls on the Commission and the EEAS to include, where relevant, a 'caste-based discrimination clause' in all trade and association agreements;
18. Recommends that the EU promote non-discriminatory and inclusive policies and procedures in business operations with caste-affected countries, including affirmative action for Dalits and similarly affected people in the labour market and the private sector;
19. Calls for the EU to promote regular, broad consultation with civil society on caste-based discrimination and to allocate adequate resources to civil society organisations for fighting caste discrimination;
20. Calls for the EU to promote a caste-sensitive post-2015 development agenda, with the reduction of inequalities based on or aggravated by caste as a crucial and measurable goal, ensuring that caste discrimination is explicitly addressed as a major structural factor underlying poverty, and as a root cause of structural inequalities;
21. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the Secretary-General of the United Nations and the United Nations Human Rights Council.

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P7\_TA(2013)0421

## **Annual report on the activities of the Committee on Petitions 2012**

**European Parliament resolution of 10 October 2013 on the activities of the Committee on Petitions 2012 (2013/2013(INI))**

(2016/C 181/14)

*The European Parliament,*

- having regard to previous resolutions on the deliberations of the Committee on Petitions,
  - having regard to Articles 10 and 11 of the Treaty on European Union (TEU),
  - having regard to Articles 24, 227, 228, 258 and 260 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to Rules 48 and 202(8) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A7-0299/2013),
- A. whereas, subject to Protocol 30 of the Treaty, the Charter of Fundamental Rights of the European Union has already acquired legally binding force through the entry into force of the Treaty of Lisbon; whereas the same Treaty also establishes the legal basis for the EU to accede to the European Convention on Human Rights and to introduce the European Citizens' Initiative;
  - B. whereas the Committee on Petitions has a duty to review constantly and, where possible, to enhance its role, notably with regard to the development of democratic principles, such as the increased participation of citizens in the EU decision-making process and the enhancement of transparency and accountability; whereas, in its regular activity, the Committee works closely with Member States, the Commission, the European Ombudsman and other bodies in order to ensure that EU law is fully respected in both letter and spirit;

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- C. whereas in 2012 the Committee on Petitions registered 1 986 petitions, mostly referring to the themes of fundamental rights, the environmentthe internal market, and economic and social crisis; whereas 1 406 petitions were declared admissible, and of those 853 were forwarded to the Commission for further investigation pursuant to Articles 258 and 260 of the Treaty, and 580 petitions were declared inadmissible; whereas the subject matters of at least five petitions submitted in 2012 were brought before the Court of Justice pursuant to Articles 258 and 260 of the Treaty; whereas the Judgment of 14 September 2011 in Case T-308/07 made it clear that procedural decisions by Parliament in petition cases are also subject to judicial review; whereas, regarding the statistical analysis contained in this report, the highest number of petitions refer to the EU as a whole (27,3 %), followed by Spanish (15,0 %), German (12,5 %) and Italian (8,6 %) cases;
- D. whereas, in the field of fundamental rights, the Committee devoted much attention in 2012 to the rights of persons with disabilities, the rights of children, consumer rights, property rights, the rights of free movement without discrimination on any grounds, protecting freedom of expression and privacy, and the right of access to documents and information, as well as the rights to freedom of political association and to join a trade union; whereas the situation of economic crisis has prompted a number of petitions concerning social problems, such as housing, employment and banking sector malpractices towards savers;
- E. whereas petitions submitted by citizens give evidence that there is persisting discrimination against citizens as a result of disability, belonging to a minority or certain ethnic group, gender, age or sexual orientation;
- F. whereas EU initiatives to fight discrimination, such as the 2011 EU Framework for National Roma Integration Strategies, must be promptly adopted into national strategies and continuously reviewed and monitored in light of evolving economic and social situations;
- G. whereas, in relation to the protection of the environment, the threat posed by pollution and environmental malpractice can never be overstated, due to the ensuing risks to biodiversity and ecosystems, as well as public health risks, all of which are long-lasting and often life-threatening; whereas regarding biodiversity, some Member States have not yet determined the totality of minimum Natura 2000 protection areas nor fully implemented their effective protection; whereas due account should be taken of the aims of combating pollution and climate change; whereas the Committee devoted much attention in 2012 to the implementation of legislation on waste and water, as well as to the assessment of the impact of projects and activities on the environment and on public health;
- H. whereas we must conserve our natural resources with a view to safeguarding the earth's future; whereas the precautionary principle must be applied in respect of technological innovations such as GMOs and nanotechnology;
- I. whereas on the waste management issue, the fact-finding visit to Italy highlighted the urgent need for all Italian authorities involved to find a sustainable solution for the waste management needs of the province of Rome ensuring respect for citizens' health and dignity; whereas, despite the end of the emergency situation in the city of Naples, many challenges on a comprehensive approach to waste management remain in the Campania region in connection with the waste hierarchy set in Directive 2008/98/EC (the Waste Framework Directive) and the CJEU ruling of March 2010;
- J. whereas, although the Commission can fully check compliance with EU law only when a final decision has been taken by national authorities, it is important — particularly in relation to environmental matters — to verify at an early stage that local, regional and national authorities correctly apply all relevant procedural requirements under EU law, including implementation of the precautionary principle;

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- K. whereas the work of the committee has led to water being declared a public good by Parliament; whereas the European Citizens' Initiative 'Right to water' has been the first to reach the threshold of one million signatures from European citizens;
- L. whereas further irreparable losses of biodiversity must be averted, especially inside Natura 2000 designated sites; whereas Member States have undertaken to ensure the protection of special conservation areas under Directive 92/43/EEC (the Habitats Directive) and Directive 79/409/EEC (the Birds Directive);
- M. whereas in its resolution of 13 December 2012 on a new sustainable and competitive steel industry, based on a petition received<sup>(1)</sup>, Parliament advocated the 'polluter pays' principle;
- N. whereas in spite of the Interinstitutional Agreement between Parliament and the Commission, the latter appears reluctant to provide prompt information on the nature of its deliberations, as well as decisions taken, in infringement proceedings related to petitions and concerning the implementation of environmental legislation; whereas this is a major source of concern given the irreversible damage and destruction that could be inflicted on our ecosystems and health; whereas the European institutions ought to supply more information and be more transparent with regard to EU citizens;
- O. whereas 2013 has been designated the European Year of Citizens, and it is precisely the citizens and residents of the EU, individually or in association with others, who are well placed both to assess the effectiveness of European legislation as it is applied, and to signal possible loopholes which impair the proper implementation of legislation and the full exercise of rights; whereas due account should be taken of the contents of the 'European Consumer Agenda to boost confidence and growth'; whereas a fundamental precondition for this is that information about European legislation should be made available to citizens in a practical fashion;
- P. whereas, for that reason, the Committee on Petitions devoted a great amount of time and effort in 2012 to discussing the meaning of European citizenship, which is closely associated with a complete freedom of movement and residence within the EU, as defined in Part III TFEU, but which also comprises many other rights and is of benefit to citizens who do not leave their home country; whereas petitions give evidence that Union citizens and residents still face widespread and tangible obstacles to exercising their cross-border rights in particular, a situation which has a direct and daily impact on the lives and welfare of thousands of households;
- Q. whereas the petitions process can be complementary to other European instruments available to citizens, such as the option to address complaints to the European Ombudsman or to the Commission; whereas the Committee on Petitions works closely with the European Ombudsman, other Parliament committees, European bodies, agents and networks, and Member States;
- R. whereas the petitions process can, and should, remain complementary to other mechanisms of redress available to citizens, such as lodging complaints with the Commission or the European Ombudsman; whereas SOLVIT, in particular, is an important tool which may be used by EU citizens in order to find speedy solutions to problems caused by the misapplication of internal market law by public authorities; whereas progress must therefore be made in jointly resolving legal cases brought by consumers and their associations; whereas the single web portal 'Exercise your rights' contains important information for citizens who wish to lodge complaints on the rightful application of EU law;

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<sup>(1)</sup> Texts adopted, P7\_TA(2012)0510.

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- S. whereas the field of action, and the modus operandi, of the right to petition granted to all EU citizens and residents under the terms of the Treaty differs from other remedies available to citizens, such as, for instance, the submission of complaints to the Commission or to the Ombudsman;
- T. whereas it is necessary to increase citizen participation in the EU decision-making process, with a view to reinforcing its legitimacy and accountability;
- U. whereas a new instrument for a participatory democracy, the 'European Citizens Initiative', entered into force on 1 April 2012 and registered a total of sixteen initiatives during the course of the year; whereas relevant concerns have been raised by various initiators of European Citizens' Initiatives on the technical barriers encountered for the actual collection of signatures; whereas the Committee on Petitions will play a primordial role in the organisation of the public hearings for successful initiatives;
- V. whereas it remains evident that there is both a lack of clearly structured and widely publicised information and a lack of awareness amongst EU citizens about their rights; whereas these constitute decisive obstacles to exercising active EU citizenship; whereas, in this connection, the Member States should comply in a more comprehensive manner with their obligation to provide information and cultivate awareness;
- W. whereas European citizens and residents are legitimately entitled to expect that the issues they raise with the Committee on Petitions may find a solution without undue delay within the legal framework of the European Union, and in particular that the Members of the committee will defend the petitioner's natural environment, health, freedom of movement, dignity and fundamental rights and freedoms; whereas the efficiency of the committee's work is largely the result of swiftness of operation and thoroughness of its Secretariat, and this could be improved further, in particular by optimising the time taken to process petitions and by systematising the procedure for their assessment; whereas, in view of the ever-increasing number of petitions received annually, more resources and increased committee-meeting time should be devoted for this purpose; whereas there is a need for continuity in processing petitions, despite the changes in legislative periods and the resulting changes in personnel; whereas several petitions have been submitted by victims of the Franco regime and concerning abducted children in Spain;
- X. whereas certain petitions are pending between the Commission, Parliament, the European Court of Justice and national authorities without any solution found, leaving the petitioners on uncertain ground with no sign of a conclusion;
- Y. Whereas there has been a considerable increase in the number of petitions concerned with violations of the principles of fundamental democratic rights and the rule of law protected by the Treaty on European Union in the Member States, which shows that European citizens have increasing faith in the Community institutions to uphold their fundamental rights;
- Z. whereas individuals and local communities, as well as voluntary organisations and businesses, are well placed to assess the effectiveness of European legislation as it applies to them, and to signal possible loopholes that need to be analysed in order to ensure better, more uniform and comparable implementation of EU law in all the Member States;
- 1. Takes note that petitions received in 2012 from European Union citizens and residents focused on alleged breaches of EU law in the fields of fundamental rights, the environment, the internal market and property rights; considers that petitions give evidence that there are still frequent and widespread instances of incomplete transposition or of misapplication of EU law;



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2. Notes that fundamental rights remain a key subject of the petitions submitted, notably raising issues related to the rights of persons with disabilities, children's rights, property rights, the right of free movement, including the portability of social security entitlements, without encountering any form of discrimination on any grounds, the protection of freedom of expression and privacy, freedom of association, and the right of access to documents and information; calls on Member States to apply correctly and respect those rights as set out in the Treaty and calls on the Commission to take the necessary measures to oblige non-compliant Member States to close the gap between national laws and the fundamental rights of EU citizens; considers that special attention should be given to the right to historical memory and the rights to truth, justice and redress for families which suffered under Franco's dictatorship, as well as to the right of Spain's abducted children to know the identity of their biological parents;
3. Considers that an interactive guide to be placed on the internet by the European Parliament, in line with what the European Ombudsman has placed on the Internet, could reduce the number of petitions submitted relating to subject matter which does not fall within the field of activity of the EU;
4. Confirms the key role of the Committee on Petitions in identifying non-judicial remedies for citizens, thereby providing a reality check on the way in which the European Union is seen by the people of Europe, enabling conclusions to be drawn regarding whether European legislation actually delivers the expected results and responds to the expectations people have of the Union;
5. Calls on the Committee on Petitions to examine the effects on the admissibility of petitions of the Equal Rights Trust case law of the Court of Justice of the European Union, which gives, even in the case of purely national law, Union citizens a higher level of protection in the event of a national ruling having a bearing on the exercise of their EU-citizenship rights; calls for an investigation of the obstacles which actually exist for Union citizens in obtaining a reliable interpretation of European legislation in cases before national courts by applying for a preliminary ruling from the Court;
6. As part of the efforts to improve the work of the Committee, calls for a procedure involving fact-finding missions which on the one hand ensures the right of all members of a fact-finding mission to present the facts from their point of view, while also guaranteeing all committee members the opportunity to participate in the decision-making process with regard to the conclusions to be drawn by the Committee on Petitions;
7. Is determined to make the petition procedure more efficient, transparent, and impartial, while preserving the participatory rights of the members of the Committee on Petitions, so that the handling of petitions will stand up to judicial review even at a procedural level;
8. Draws attention to persisting discrimination against citizens on the grounds of religion or belief, disability, belonging to a minority group, age or sexual orientation; warns, in particular, that the Roma population across the EU continues to face obstacles to inclusion; calls, therefore, on the Commission to facilitate intergovernmental cooperation in this area, to provide adequate funding for the implementation of national strategies for Roma inclusion, and to monitor actively whether these strategies are being effectively implemented in Member States;
9. Calls on the Commission to come up with a proposal for legislation to solve finally the problems relating to the mutual recognition by Member States of civil status documents and their effects, while at the same time respecting the social policy traditions of the individual Member States in accordance with the subsidiarity principle;

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10. Repeats its previous calls to Member States to ensure freedom of movement for all EU citizens and their families, without discrimination on grounds of sexual orientation or nationality; repeats its call to Member States to implement fully the rights granted under Articles 2 and 3 of Directive 2004/38/EC not only to different-sex spouses, but also to the registered partner, member of the household or partner with whom an EU citizen has a duly attested, stable relationship, including members of same-sex couples, on the basis of the principles of mutual recognition, equality, non-discrimination, dignity and respect for private and family life; calls on the Commission, in that connection, to ensure that the directive is strictly applied and ultimately reviewed accordingly for this purpose, if necessary, and to ensure that Treaty infringement proceedings are brought where necessary against Member States which fail to apply it;

11. Observes that the environment remains another key subject of petitions, giving evidence that public authorities in the Member States repeatedly fail to ensure the preservation of biodiversity, natural resources and ecosystems, and that the highest standards of public health are guaranteed; points, in particular, to the numerous petitions submitted on waste management, on water, on the possible dangers of nuclear energy and genetic engineering, on protected species, and on the assessment of the impact of projects and activities on the environment and on public health, such as shale gas extraction by means of fracking; urges the Commission to strengthen the environmental legislative framework on the environment and combating climate change and, specifically, its correct implementation; regrets that some Member States, despite their efforts, have not been able to find sustainable solutions for problems related to waste management;

12. Urges the Commission to take action to ensure that the Member States understand that water is a public good; takes the view that the precautionary principle must be stringently applied in respect of the use of biotechnology and nanotechnology in products that could seriously affect the health of consumers;

13. Expects that the reviewed Environmental Impact Assessment Directive, revising Directive 2011/92/EU, will not only be strengthened by providing clearer parameters but will, above all, be duly implemented by the Member States,

14. Takes the view that procedures must be developed for urgent petitions whereby fact-finding missions can also be carried out in the long 'white' period with no parliamentary business during the European elections and also — if the nature of the petition suggests— during the 'white' period in summer (e.g. Damùls, where the summer months were the only possible time for a fact-finding mission);

15. Welcomes the end of the emergency situation in Naples city and the new initiatives concerning waste management and expects that the persisting challenges in the Campania region will be duly addressed, namely by means of a comprehensive regional waste management plant in accordance with the EU Waste Framework Directive hierarchy and the CJEU ruling of 2010; still has serious concerns over the waste management approach in the Lazio Region, in particular regarding the follow-up to the close-down of the Malagrotta landfill site;

16. Notes, in addition, that citizens in the European Union continue to face barriers within the internal market, notably while exercising their freedom of movement as individuals, as providers and consumers of goods and services and as workers, such as, for instance, in the case of Romanian and Bulgarian workers who continue to face restrictions on the labour market in some Member States; signals, in particular, that cross-border judicial cooperation and effectiveness remains an area of primary concern; concludes, overall, that strengthened cross-border cooperation and harmonisation provides marked benefits for the protection of citizens' rights and economic stimulation;

17. Urges the Commission to take action to facilitate consumer access to information and communications technology, ensuring that the requisite security and transparency guarantees are in place, and in particular to make sure that the websites of public sector bodies are accessible;

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18. Points to the efforts made by this Committee to convey the request by many citizens for an EU legal framework that offers more thorough protection and improvements in animal welfare, including for pets and stray animals;

19. Stresses the importance of the creation of the Spanish Coastal Law Working Group, which could pave the way for other such initiatives, and which has been closely studying related petitions and the modification of the law; reiterates the importance of direct contact with the Spanish national authorities in this respect and stresses the urgent need for further intensified cooperation to find a better balance between property rights and their social function, and better solutions when the ultimate goal of the protection of the environment requires expropriation; expresses its fears that the new coastal law approved by the Spanish Parliament is not succeeding in resolving the concerns of petitioners, nor are there any plans for the further environmental protection of Spain's coastal areas;

20. Stresses the need to regulate coastal protection effectively, but notes that the coastal law is not consistent with the objectives sought, since it is affecting historic heritage and traditional communities, impacting negatively on the inhabitants of coastal villages who have always coexisted sustainably with the sea and its ecosystems;

21. Welcomes the Committee's conclusions from the fact-finding visit to Berlin on youth and family welfare matters, particularly in cross-border custody cases; notes, however, based on the continuing inflow of petitions of this nature, that it is clear the issue of cross-border custody cases is ongoing, and that similar cases have also been brought to the Committee's attention from other Member States, notably Denmark; further notes that in Denmark some of these cases have involved foreign nationals living in the country itself and that there have been proven instances of child abduction there (including from outside Denmark);

22. Takes the view that better governance and more efficient redress mechanisms are directly linked with transparency and access to information in accordance with Regulation (EC) No 1049/2001;

23. Considers it important to enhance cooperation with Member States' parliaments and governments, based on reciprocity and, where necessary, to encourage Member States' authorities to transpose and apply EU legislation with full transparency; stresses the importance of the Commission's cooperation with the Member States and deplores the negligence of some Member States with regard to transposing and enforcing European environmental legislation;

24. Draws attention, in that regard, to the Eurobarometer of public opinion which indicates that only 36 % of EU citizens consider themselves well informed about their rights and only 24 % feel well informed about what they can do if their rights are not respected; stresses, therefore, the urgent need for improved access to information and for a clearer distinction between the functions of the various national and European institutions, so that petitions and complaints can be addressed to the right bodies;

25. Calls specifically on the Commission to make the 'Exercise your rights' web portal more user-friendly and to raise awareness amongst EU citizens of its existence;

26. Is determined to put in place a more practical and visible petitions web portal by the end of 2013, in order to facilitate access to the petitions process and to provide valuable information on petitions, its public dissemination and an interactive approach to the petitions process, as well as on other redress mechanisms; calls for the right of petition to be given greater visibility on the Parliament website homepage;

27. Emphasises that the Committee on Petitions, along with other institutions, bodies and instruments such as the European Citizens' Initiative, the European Ombudsman, the Commission, and the committees of inquiry, play an independent and clearly defined role as points of contact for each individual citizen; further stresses that the Committee on Petitions must continue to be a point of reference for citizens whose rights are allegedly being infringed;

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28. Welcomes the constructive cooperation between the Committee and the European Ombudsman, as for instance in the case of the Ombudsman's Special Report on Vienna Airport, regarding the appropriate application of the Environmental Impact Assessment Directive; supports the activities of the Ombudsman concerning instances of maladministration in the activities of EU institutions, bodies, offices and agencies; expects this task to be continued on the grounds of full independence, as has been the case until now;

29. Points out that not all EU citizens have a national ombudsman with extensive powers, which means that not all EU citizens have the same access to redress; believes that with a national ombudsman in each Member State, the European Network of Ombudsmen would provide considerable support for the European Ombudsman;

30. Welcomes the continued cooperation with the Commission with regard to the examination of petitions in the field of the application of EU law by Member States; stresses, nevertheless, that the Committee expects to be kept well and promptly informed about developments concerning infringement proceedings; asks the Commission to give equal consideration to petitions and complaints as regards the functioning of infringement procedures; calls, in addition, upon the Commission also to provide the Committee with details and a statistical analysis of all complaints it investigates; stresses that, for the right of petition to be fully respected, a thorough analysis and answer from the Commission is fundamental when requested, providing an assessment not only of the formal or procedural issues but also on the essential content of the matter;

31. Emphasises that access to information held by the EU institutions, as specified by Regulation (EC) No 1049/2001, is the primary interest of citizens aiming to understand better the decision-making process particularly when it concerns projects with an impact on the environment; takes the view that greater access to information on investigations and infringement files could be provided by the Commission without jeopardising the purpose of the investigations and that an overriding public interest might well justify access to these files, particularly in cases where fundamental rights, human or animal health and the protection of the environment against irreversible damage may be at stake, or where proceedings are under way regarding discrimination against a minority or violations of human dignity, as long as protection of trade secrets and sensitive information relating to court cases, competition cases and personnel files are safeguarded;

32. Asks for a precautionary and preventive approach by the Commission when assessing projects with a potential negative environmental or public health impact, in early cooperation with the Member States concerned; notes the possibility of injunction measures to be established during deliberations in cases where irreversible damage is anticipated;

33. Takes note, in particular, of the important contribution of the SOLVIT network in uncovering and resolving issues related to the implementation of internal market legislation; encourages the enhancement of this EU tool by ensuring that Member States provide adequate staffing to the SOLVIT National Centres; adds that collective action is needed to resolve disputes brought by consumers and their associations;

34. Underlines that, as confirmed by the Legal Service in its Opinion of 29 February 2012, the fields of activity of the European Union institutions, as contained in the Treaty, are wider than the mere sum of the competences exercised by the Union; takes into account the view of Parliament's Legal Service that Parliament is entitled to adopt internal administrative decisions which aim to establish a procedure for the processing of submissions from citizens; regrets in this respect the failure of the appropriate Parliament service to follow through on Parliament's Resolution of 21 November 2012 on the activities of the Committee on Petitions 2011 <sup>(1)</sup>; takes note, finally, of the legal ruling by the Court of Justice of the European Union (Case T-280/09), specifying that a petition must be drafted in a sufficiently clear and precise manner so as to be properly understood, in light of the conditions set out in Article 227 TFEU;

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<sup>(1)</sup> Texts adopted, P7\_TA(2012)0445.

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35. Urges Member States to transpose and apply EU legislation in full transparency and, with that objective in mind, considers it indispensable to improve the Commission's early cooperation with Member States' parliaments and governments, on a reciprocal basis;

36. Deplores the bureaucratic obstacles placed before European Citizens' Initiatives due to a lack of IT support; regrets, above all, that such a tool for citizens is being used so disparately in the various administrations, due to varying operating procedures in the Member States;

37. Welcomes the Year of European Citizenship in 2013; calls on all institutions and bodies both of the European Union and of the Member States to enhance and advertise more widely their service to European citizens and residents during this year, in light of the principles contained in the Treaties and the facts revealed in this report;

38. Notes that the petitions mechanism is not merely a service, but a right for all European citizens and residents; pledges to make the petition procedure more efficient, transparent, and impartial, while preserving the participatory rights of the Members of the Committee on Petitions, so that the handling of petitions stands up to judicial review even at a procedural level;

39. Emphasises the essential role of fact-finding visits in the petitions procedure, not just as a participatory parliamentary right, but also as an obligation in relation to petitioners; reaffirms, as already stated in this Committee's previous report, the need for more precise, written, procedural rules in relation to the preparation, implementation and evaluation of visits, ensuring on the one hand that all members of a fact-finding visit have the right to present the facts from their point of view while, on the other hand, guaranteeing all Committee Members the opportunity to participate in the decision-making process concerning the conclusions and recommendations to be drawn by the Committee on Petitions;

40. Calls on Parliament's Conference of Presidents to reinforce this Committee's investigatory role;

41. Considers the organisation of public hearings a useful way of studying issues raised by petitioners in depth; wishes to bring attention, for instance, to the public hearing held on the exploration and exploitation of unconventional energy sources, which took note of the concerns raised in this respect by EU citizens through their petitions; recognises Member States' right to choose their energy mix and the need for better EU-wide coordination when realising the threefold objectives of EU energy policy as a whole, namely competitiveness, sustainability and security of supply;

42. Looks forward to organising public hearings for successful European Citizens' Initiatives, alongside the legislative Committee responsible in accordance with Rule 197A of the European Parliament's Rules of Procedure; reaffirms its belief that this new tool will strengthen the democratic institutions of the Union and will give meaning to the notion of European citizenship;

43. Is nevertheless concerned about the red tape and technical obstacles which have emerged during the first months of the practical application of the European Citizens' Initiative; calls, therefore, on the Commission to consider seriously bringing forward the date of the review prescribed in Article 22 of Regulation (EU) No 211/2011;

44. Stresses the need for regular review of the state of play with the European Citizens' Initiatives, with the aim of improving the procedure and enabling effective solutions to be found as swiftly as possible to any obstacles at every stage of the procedure;

45. Believes that the role and responsibilities of the Petitions Committee would be best performed, and its visibility, efficiency, accountability and transparency best enhanced, by improving its means for bringing issues of importance to European citizens to plenary, and upgrading its abilities to call witnesses, conduct investigations and organise hearings;

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46. Resolves to examine the extent to which amendments to the Rules of Procedure would be appropriate for the implementation of the above formal requirements concerning fact-finding visits and plenary resolutions under Article 202 of its Rules of Procedure;

47. Instructs its President to forward this resolution and the report of the Committee on Petitions to the Council, the Commission and the European Ombudsman, and to the governments and parliaments of the Member States, their committees on petitions and their ombudsmen or similar competent bodies.

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P7\_TA(2013)0422

### **Recent cases of violence and persecution against Christians, notably in Maaloula (Syria) and Peshawar (Pakistan) and the case of Pastor Saeed Abedini (Iran)**

**European Parliament resolution of 10 October 2013 on recent cases of violence and persecution against Christians, notably in Maaloula (Syria) and Peshawar (Pakistan) and the case of Pastor Saeed Abedini (Iran) (2013/2872(RSP))**

(2016/C 181/15)

*The European Parliament,*

- having regard to its resolutions of 15 November 2007 on serious events which compromise Christian communities' existence and those of other religious communities<sup>(1)</sup>, of 21 January 2010 on recent attacks on Christian communities<sup>(2)</sup>, of 6 May 2010 on the mass atrocities in Jos, Nigeria<sup>(3)</sup>, of 20 May 2010 on religious freedom in Pakistan<sup>(4)</sup>, of 25 November 2010 on Iraq: the death penalty (notably the case of Tariq Aziz) and attacks against Christian communities<sup>(5)</sup>, of 20 January 2011 on the situation of Christians in the context of freedom of religion<sup>(6)</sup>, of 27 October 2011 on the situation in Egypt and Syria, in particular of Christian communities<sup>(7)</sup>, and of 13 December 2012 on the annual report on Human Rights and Democracy in the World 2011 and the European Union's policy on the matter<sup>(8)</sup>,
- having regard to its recommendation to the Council of 13 June 2013 on the draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief<sup>(9)</sup>,
- having regard to the EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief,
- having regard to the statement of 23 September 2013 by Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission, condemning the attack on the Christian community in Peshawar, Pakistan,
- having regard to the Council conclusions of 21 February 2011 on intolerance, discrimination and violence on the basis of religion or belief, as well as the Council conclusions of 16 November 2009 underlining the strategic importance of freedom of religion or belief and of countering religious intolerance,

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<sup>(1)</sup> OJ C 282 E, 6.11.2008, p. 474.

<sup>(2)</sup> OJ C 305 E, 11.11.2010, p. 7.

<sup>(3)</sup> OJ C 81 E, 15.3.2011, p. 143.

<sup>(4)</sup> OJ C 161 E, 31.5.2011, p. 147.

<sup>(5)</sup> OJ C 99 E, 3.4.2012, p. 115.

<sup>(6)</sup> OJ C 136 E, 11.5.2012, p. 53.

<sup>(7)</sup> OJ C 131 E, 8.5.2013, p. 108.

<sup>(8)</sup> Texts adopted, P7\_TA(2012)0503.

<sup>(9)</sup> Texts adopted, P7\_TA(2013)0279.



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- having regard to Article 18 of the Universal Declaration of Human Rights of 1948,
  - having regard to Article 18 of the International Covenant on Civil and Political Rights of 1966,
  - having regard to the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief of 1981,
  - having regard to the reports of the UN Special Rapporteur on freedom of religion or belief,
  - having regard to Rules 122(5) and 110(4) of its Rules of Procedure,
- A. whereas the European Union has repeatedly expressed its commitment to freedom of religion, freedom of conscience and freedom of thought, and has stressed that governments have a duty to guarantee these freedoms throughout the world; whereas political and religious leaders have a duty at all levels to combat extremism and promote mutual respect among individuals and religious groups; whereas the development of human rights, democracy and civil liberties is the common base on which the European Union builds its relations with third countries and has been provided for by the democracy clause in the agreements between the EU and third countries;
- B. whereas, according to international human rights law and Article 18 of the International Covenant on Civil and Political Rights in particular, everyone has the right to freedom of thought, conscience and religion; whereas this right includes freedom to change one's religion or belief, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching; whereas, according to the UN Human Rights Committee, the freedom of religion or belief protects all beliefs, including theistic, non-theistic and atheistic beliefs;
- C. whereas several UNHRC resolutions call on 'all States, within their national legal framework, in conformity with international human rights instruments, to take all appropriate measures to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance, including attacks on religious places, and to encourage understanding, tolerance and respect in matters relating to freedom of belief or religion';
- D. whereas according to various reports, government repression and social hostility against individuals and groups from various religious or belief backgrounds are on the increase, in particular in Pakistan, Arab Spring countries and parts of Africa; whereas in some cases the situation facing Christian communities is such as to endanger their future existence and, if they were to disappear, this would entail the loss of a significant part of the religious heritage of the countries concerned;

***Maaloula, Syria***

- E. whereas on 4 September 2013, militants from Jabhat al-Nusra, a group with ties to al-Qaeda, launched an assault on the Syrian village of Maaloula;
- F. whereas Maaloula is a symbol of Christian presence in Syria and has been home to different religious communities who have lived in peaceful coexistence for centuries; whereas every September Syrians of all religions have participated in the Day of the Cross festival in this town; whereas Maaloula is one of the three towns and villages in the country where Aramaic is still spoken by the local population;



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- G. whereas the violent clashes in Maaloula are the first attacks specifically targeting a notable Christian community since the beginning of the violent crisis in Syria; whereas at least four people — Michael Thaalab, Antoine Thaalab, Sarkis Zakem and Zaki Jabra — were killed in these clashes while others — Shadi Thaalab, Jihad Thaalab, Moussa Shannis, Ghassan Shannis, Daoud Milaneh and Atef Kalloumeh — were kidnapped or disappeared; whereas since fighting began in the town, most of its 5 000 residents have fled to neighbouring villages or to Damascus; whereas events in Maaloula are evidence of the further sectarianisation of the Syrian conflict;
- H. whereas the Convent of St Tekla (Mar Takla) has historically been home to nuns and to orphans of both the Christian and Muslim religions; whereas around 40 nuns and orphans have stayed in Maaloula despite the intense fighting and are trapped in the convent under deteriorating conditions due to the lack of water and other supplies;

***Peshawar, Pakistan***

- I. whereas on 22 September 2013, in a double suicide bomb attack on the All Saints Church in Kohati Gate, a suburb of Peshawar, at least 82 people were killed and over 120 injured;
- J. whereas the Islamist group Jundullah with links to Tehrik-i-Talibaan Pakistan claimed responsibility for the attack, saying it would continue with attacks on Christians and non-Muslims because they are enemies of Islam and would not stop until US drone attacks in Pakistan cease; whereas Tehrik-i-Talibaan Pakistan denied any involvement in the blast and having any links with Jundullah;
- K. whereas Pakistan's Prime Minister, Nawaz Sharif, condemned the attack, saying that targeting innocent people is against the teachings of Islam;
- L. whereas Christians, who represent about 1,6 % of the population in the Islamic Republic of Pakistan, suffer from prejudice and sporadic bouts of mob violence;
- M. whereas the majority of Pakistani Christians lead a precarious existence, often fearful of allegations of blasphemy, a subject which can provoke outbursts of public violence;
- N. whereas on 9 March 2013, Muslims in Lahore torched more than 150 Christian homes and two churches in response to an allegation of blasphemy;
- O. whereas Pakistan's blasphemy laws make it dangerous for religious minorities to express themselves freely or engage openly in religious activities;

***The case of Pastor Saeed Abedini, Iran***

- P. whereas Saeed Abedini, an Iranian-American pastor imprisoned in Iran since 26 September 2012, was sentenced on 27 January 2013 by a revolutionary court in Iran to an eight-year prison term on charges of disturbing national security by creating a network of Christian churches in private homes; whereas it is reported that Saeed Abedini has suffered physical and psychological abuse in prison;
- Q. whereas the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran asserts that Christians should not face sanctions for manifesting and practising their faith, and therefore remains concerned that Christians are reportedly being arrested and prosecuted on the grounds of vaguely worded national security crimes for exercising their beliefs;

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1. Strongly condemns the recent attacks against Christians and expresses its solidarity with the families of the victims; expresses once again its deep concerns about the proliferation of episodes of intolerance, repression and violent events directed against Christian communities, particularly in the countries of Africa, Asia and the Middle East; urges the governments concerned to ensure that the perpetrators of these crimes and all persons responsible for the attacks, as well as for other violent acts against Christians or other religious minorities, are brought to justice and tried by due process;
2. Strongly condemns all forms of discrimination and intolerance based on religion and belief, and acts of violence against all religious communities; stresses once again that the right to freedom of thought, conscience and religion is a fundamental human right;
3. Reiterates its concern about the exodus of Christians from various countries, especially Middle Eastern countries, in recent years;

#### ***Maaloula, Syria***

4. Is worried about the current situation facing Christians in Syria; condemns the actions of Jabhat al-Nusra and associated militants in Maaloula and the surrounding area; notes that until now Christians and Muslims used to coexist peacefully in this village, even during the conflict, and agreed that the town must remain a place of peace; recognises that the attack on Maaloula is only one aspect of the Syrian civil war;
5. Emphasises that the monasteries of Maaloula have to be protected in order to preserve life, religious activities and architectural treasures, and to allow Christians and Muslims to live peacefully together;
6. Calls for immediate support and humanitarian assistance to the nuns and orphans trapped in the Convent of St Tekla (Mar Takla); calls on all sides involved in the conflict to allow access to the convent to humanitarian groups;
7. Is concerned about the consequences of these attacks and the possible risks to the Christian community; is aware that Christian and other communities are being caught in the crossfire and are being forced to take sides in a war that continues to sectarianise;
8. Stresses that all actors have a duty to protect all the different minorities present in Syria, including Shias, Alawites, Kurds, Druzes and Christians;

#### ***Peshawar, Pakistan***

9. Strongly condemns the attack on the All Saints Church in Peshawar and the other recent terrorist attacks;
10. Welcomes the widespread condemnation of the attacks by political players and sections of Pakistan's civil society;
11. Urges the Government of Pakistan to do everything in its power to bring the perpetrators of the attack on the All Saints Church in Peshawar to justice; calls for stronger action to ensure the protection of all Pakistani citizens — regardless of their religion or belief — and to bring to justice all groups and individuals responsible for inciting and carrying out acts of terror;
12. Calls on the Government of Pakistan to take action to protect victims of religiously motivated mob violence, to actively address religious hostility by societal actors, to combat religious intolerance, acts of violence and intimidation, and to act against the perception of impunity;

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13. Is deeply worried about the growing danger for Christians in Pakistan, given the recent rise in attacks on this minority, such as the persecution of hundreds of Christians by Islamic zealots in March in Lahore over allegations of blasphemy against Islam;

14. Is deeply concerned about the general situation facing religious minorities in Pakistan, and especially the Christian churches, which have received threats from the Taliban and other extremist groups;

15. Expresses its deep concern that the controversial blasphemy laws are open to misuse that can affect people of all faiths in Pakistan; expresses its particular concern that use of the blasphemy laws, which were publicly opposed by the late Minister Shahbaz Bhatti and by the late Governor Salman Taseer, is currently on the rise to target Christians in Pakistan;

16. Calls on the Government of Pakistan to carry out a thorough review of the blasphemy laws and their current application, in particular Sections 295 B and C of the Penal Code, which prescribe mandatory life sentences (295 B and C) or even the death penalty (295 C) for alleged acts of blasphemy;

17. Recalls that freedom of religion and minority rights are guaranteed by Pakistan's constitution; encourages all Pakistanis to work together to promote and ensure tolerance and mutual understanding;

18. Welcomes the measures taken in the interest of religious minorities by the Government of Pakistan since November 2008, such as establishing a five per cent quota for minorities in the federal job sector, recognising non-Muslim public holidays and declaring a National Minorities Day;

#### ***The case of Pastor Saeed Abedini, Iran***

19. Is deeply concerned about the fate of Pastor Saeed Abedini, who has been detained for over a year and was sentenced to eight years of prison in Iran on charges related to his religious beliefs;

20. Calls on the Government of Iran to exonerate and immediately release Saeed Abedini and all other individuals held or charged on account of their religion;

21. Reiterates its call on Iran to take steps to ensure that full respect is shown for the right to freedom of religion or belief, including by ensuring that its legislation and practices fully conform to Article 18 of the ICCPR; points out that this also requires that the right of everyone to change his or her religion, if he or she so chooses, be unconditionally and fully guaranteed;

22. Welcomes the talk of moderation and religious tolerance from Iran's new president, Hassan Rouhani; believes that the EU should engage in a human rights dialogue with Iran;

23. Reiterates its call on the Council, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission to pay greater attention to the subject of freedom of religion or belief and to the situation of religious communities, including Christians, in agreements and cooperation arrangements with third countries, as well as in human rights reports;

24. Welcomes the adoption by the Council on 24 June 2013 of the EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief; urges the Commission, the EEAS and the Member States to fully implement these guidelines and to make full use of any tools and suggestions presented therein;

Thursday, October 10, 2013

25. Supports all initiatives aimed at promoting dialogue and mutual respect between communities; calls on all religious authorities to promote tolerance and to take initiatives against hatred and violent and extremist radicalisation;

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26. Instructs its President to forward this resolution to the Council, the European External Action Service, the Vice-President of the European 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 Secretary-General of the UN, the UN Human Rights Council, UN Women, the Government of Syria, the Syrian National Council, the Government and Parliament of Pakistan, and the Government and Parliament of Iran.

P7\_TA(2013)0423

### **Clashes in Sudan and subsequent media censorship**

**European Parliament resolution of 10 October 2013 on clashes in Sudan and subsequent media censorship (2013/2873(RSP))**

(2016/C 181/16)

*The European Parliament,*

- having regard to its previous resolutions on Sudan and South Sudan,
- having regard to the statement of 30 September 2013 by the Spokesperson of the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on the violence in the current protests in Sudan,
- having regard to the statement of 27 September 2013 by the Spokesperson for the Office of the UN High Commissioner for Human Rights, urging restraint as death toll in Sudan fuel protests rises,
- having regard to the report of the UN Human Rights Council Independent Expert on the situation of human rights in the Sudan, of 18 September 2013,
- having regard to the statement of 6 September 2013 by the Spokesperson of the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on the Summit between the Presidents of Sudan and South Sudan in Khartoum in Sudan,
- having regard to the agreed outcome of the Government of Sudan, African Union and United Nations Tripartite Coordination Mechanism meeting on UNAMID held on 28 September 2013,
- having regard to the Roadmap for Sudan and South Sudan set out in the communiqué issued by the African Union Peace and Security Council on 24 April 2012, which is fully supported by the EU,
- having regard to the 1948 Universal Declaration of Human Rights,

Thursday, October 10, 2013

- having regard to the 1966 International Covenant on Civil and Political Rights,
  - having regard to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,
  - having regard to the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information, UN Doc. E/CN.4/1996/39 (1996),
  - having regard to the Sudanese Comprehensive Peace Agreement (CPA) of 2005,
  - having regards to the African Charter on Human and Peoples' Rights,
  - having regard to Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou (Benin) on 23 June 2000 and revised successively in 2005 and 2010,
  - having regard to its resolution of 11 December 2012 on a digital freedom strategy in EU foreign policy <sup>(1)</sup>,
  - having regard to its resolution of 13 June 2013 on the freedom of press and media in the world <sup>(2)</sup>,
  - having regard to Rules 122(5) and 110(4) of its Rules of Procedure,
- A. whereas Sudan is experiencing increasing waves of popular protests and the political situation in the country is fragile;
- B. whereas on 23 September 2013 demonstrations and protests erupted throughout Sudan following President Omar Al-Bashir's announcement of cuts to fuel subsidies in a bid to reform the economy, which resulted in a sharp 75 % increase in the price of petrol and gas;
- C. whereas in protest thousands of demonstrators took to the streets of cities throughout the country, including Wad Madani, Khartoum, Omdurman, Port Sudan, Atbara, Gedarif, Nyala, Kosti, and Sinnar, as the austerity measures introduced by the government, together with the virtual doubling of fuel prices, hit the poor hardest;
- D. whereas the economic situation in Sudan remains extremely difficult, marked as it is by rising inflation, a weakened currency and a severe shortage of dollars to pay for imports since South Sudan gained independence two years ago, taking with it about 75 % of the formerly united country's crude oil production;
- E. whereas the lack of agreement on transitional economic arrangements between Sudan and South Sudan, including on the use of oil, has been used as a threat by both parties, contributing significantly to the current crisis; whereas the distrust between the two neighbouring countries over the division of national debt and how much the land-locked South should pay to transport its oil through Sudan is one of the unsettled issues;
- F. whereas, according to reports, at least 800 activists, including members of opposition parties and journalists, have been arrested amid ongoing demonstrations, in which up to 100 people were reportedly killed by security forces, a toll that prompted the Office of the UN High Commissioner for Human Rights (OHCHR) to call for 'utmost restraint' from law enforcement officials; whereas, according to reports, the majority of persons killed are between the ages of 15 and 25, but children as young as 10 to 12 have also been shot by security forces;
- G. whereas the education ministry has stated that schools will remain closed until 20 October 2013;

<sup>(1)</sup> Texts adopted, P7\_TA(2012)0470.

<sup>(2)</sup> Texts adopted, P7\_TA(2013)0274.

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- H. whereas the violent crackdown by the Sudanese Government includes the use of live ammunition against peaceful protesters and large-scale detentions; whereas a number of activists, opposition party members and civil society leaders, including teachers, and students, were arrested at their homes or held incommunicado, and their homes were searched by National Intelligence Security Services (NISS) agents; whereas there have been summary trials, such as that following the arrest of Majdi Saleem, a well-known human rights defender, and since the end of September, there has been an information blackout through high censorship of the print media and an internet shutdown;
- I. whereas Sudan is ranked among the worst countries in the world as regards respect for freedom of information; whereas on 25 September 2013 the NISS brought this to a whole new level by prohibiting the editors of the main newspapers from publishing any information about the protests that did not come from government sources;
- J. whereas there have been numerous violations of the freedom of the press, such as disconnection of the internet, the seizing of newspapers, harassment of journalists and the censoring of news websites; whereas the offices of Al-Arabiya and the Sky News Arabic Service television stations have been closed; whereas daily newspapers such as Al-Sudani, Al-Meghar, Al Gareeda, Almash'had Alaan, Al-Siyasi and the pro-government Al-Intibaha were banned from publication on 19 September 2013, and issues of three newspapers, including Al-Intibaha, were seized as they came off the press;
- K. whereas uncensored access to the open internet, mobile phones and ICTs have a positive impact on human rights and fundamental freedoms, by expanding the scope for freedom of expression, access to information and freedom of assembly across the world; whereas the digital collection and dissemination of evidence of human rights violations can contribute to the global fight against impunity;
- L. whereas access to the internet is a fundamental right, equal to other basic human rights, recognised by the UN Human Rights Council (UNHRC), and should be defended and maintained accordingly;
- M. whereas the state's regulatory authority has established a special unit to monitor and implement filtering, and the Sudanese authorities openly acknowledge that they filter content that transgresses public morality and ethics, or poses a threat to order;
- N. whereas on 25 September 2013 the authorities disconnected the internet throughout the country for more than 24 hours in a blackout on a scale that had not been seen since the uprisings in Egypt in 2011; whereas the internet was slowed down drastically in June 2012 during a series of protests;
- O. whereas, in the Freedom House report '2013 Freedom on the Net' released on 3 October 2013, Sudan is rated as 'not free' and ranked 63rd out of 100 countries; whereas Sudan is ranked 170th out of 179 countries in the Reporters Without Borders 2013 Press Freedom Index; whereas Reporters Without Borders has condemned measures undertaken by the government;
- P. whereas most activists rely on the use of internet to communicate with each other, transfer information out of the country and voice their opinions and concerns; whereas citizens have reported that even the text-messaging service was interrupted during the blackout;
- Q. whereas in the general election held in April 2010 — the first multiparty election held in Sudan since 1986 — Omar al-Bashir was re-elected President of Sudan; whereas the EU Election Observation Mission, which found many irregularities and deficiencies in the electoral process, said that the election did not meet international standards;

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- R. whereas two arrest warrants for President al-Bashir were issued in 2009 and 2010 by the International Criminal Court (ICC), accusing him of responsibility for war crimes, crimes against humanity and acts of genocide, and whereas, although Sudan is not a state party to the Rome Statute, UN Security Council Resolution 1593 (2005) requires it to cooperate with the ICC, and Sudan must therefore comply with the ICC arrest warrant;
- S. whereas according to UN estimates 50 % of the population of Sudan (totalling 34 million) are younger than 15, and about 46 % of the population live under the poverty line;
- T. whereas conflict in transitional areas of Sudan has affected over 900 000 people, including over 220 000 who have taken refuge in Ethiopia and South Sudan, and whereas since early 2013 an estimated 300 000 people have been newly displaced as a result of the fighting among tribes in Darfur;
- U. whereas in 2012-2013 the EU has allocated more than EUR 76 million in humanitarian aid for Sudan (figure as at 20 August 2013); whereas Sudan has not ratified the 2005 revised Cotonou Agreement and cannot therefore receive financial support through the 10th European Development Fund;
1. Expresses its deep concern at the deteriorating political, economic and social situation in Sudan, marked by violence and loss of life during the protests which have recently swept through the country;
  2. Condemns the killings, the violence against demonstrators, the media censorship, the political intimidation and the harassment and arbitrary arrest of human rights and political activists and journalists;
  3. Calls on the Government of Sudan to end the harassment and immediately release all peaceful demonstrators, political activists, members of the opposition, human rights defenders, medical personnel, bloggers and journalists arrested while exercising their right to freedom of speech and assembly; stresses that all detainees must be given the opportunity for a fair trial based on a credible investigation, the right to an attorney and respect for the presumption of innocence, and that the government must allow the detainees access to their families and medical care;
  4. Deplores the use of live ammunition against protesters, resulting in unlawful killings, disproportionate force and allegations of the intentional killing of protestors by security forces; urges the Sudanese Government immediately to put a stop to the crackdown and to end the impunity enjoyed by NISS members; calls for the draconian 2010 National Security Act to be scrapped;
  5. Calls on Sudanese security forces to respect the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which set out the conditions in which force may lawfully be used without violating human rights, including the right to life;
  6. Calls on the Sudanese authorities to restore and respect human rights and fundamental freedoms under international law, including freedom of expression, both online and offline, freedom of assembly, freedom of religion, women's rights and gender equality, and to immediately end all restrictions on access to information and communication technologies;
  7. Urges the Sudanese Government to cease all forms of repression against those who exercise their right to freedom of expression, both online and offline, and to protect journalists; emphasises the role played by the media in providing citizens with information and a platform to voice their legitimate concerns, and therefore strongly condemns the blackout of 22 September 2013 and the intimidation operation led by the NISS;



Thursday, October 10, 2013

8. Urges the Sudanese Government to allow its population free access to the internet at all times; stresses that access to the internet is a fundamental right, recognised by the UNHRC, which should be maintained and defended like all other human rights;

9. Calls on the Sudanese Government to continue implementing the necessary political reforms to provide solutions to the country's chronic economic mismanagement, poverty, rising levels of corruption and insecurity in the west and south, and recommends that the Sudanese authorities and all regional and international partners implement programmes for young people in order to promote education, training and employment;

10. Calls on the Sudanese authorities to engage in a genuine process of comprehensive national dialogue with the opposition, especially in Darfur; strongly urges the Governments of Sudan and South Sudan to reach an agreement on the unsolved transitional economic arrangements between the two countries, including the use of oil, which has contributed to the current unrest in Sudan;

11. Recalls the June 2008 GAERC conclusions addressing the continued failure of the Government of Sudan to cooperate with the International Criminal Court (ICC) and pointing out that the Government of Sudan has an obligation, and the capacity, to cooperate and that any arrest warrant issued by the ICC should be respected; urges Omar al-Bashir to comply with international law and to appear before the ICC for war crimes, crimes against humanity and genocide;

12. Calls on the Sudanese Government to review its National Security Act, which allows the detention of suspects for up to four-and-a-half months without any form of judicial review, and calls also on the Sudanese Government to reform its legal system in accordance with international human rights standards;

13. Calls on the Sudanese Government to repeal the death penalty, which is still in force, and to commute death sentences to appropriate alternative sanctions;

14. Calls on the authorities, while welcoming their decision to set up an investigation committee in order to bring to justice those responsible for killings, to proceed with a comprehensive, independent investigation into all reported killings;

15. Calls on the African Union, in close coordination with the special procedures of the United Nations Human Rights Council, to send an urgent commission of inquiry to investigate allegations of excessive and intentional use of lethal force by the Sudanese authorities and the circumstances leading to the deaths of protestors, including human rights defenders;

16. Calls on the Commission, as a matter of urgency, to legally restrict the export of mass surveillance technologies from the EU to countries where they are likely to be used to violate digital freedoms and other human rights;

17. Regrets the decision taken by the EU High Representative to terminate the mandate of the EU Special Representative for Sudan/South Sudan, given the severe political unrest in Sudan and armed conflicts during which Sudanese forces and government-sponsored militias continue to engage in war crimes with impunity; considers that without a designated EU Special Representative for Sudan/South Sudan the EU will be left on the sidelines of international negotiations and efforts, especially in view of the fact that the US, Russia and China all have special envoys for Sudan; calls therefore on the High Representative to reverse this decision and extend the mandate of the Special Representative for Sudan/South Sudan;

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18. Instructs its President to forward this resolution to the Council, the Commission, the Government of Sudan, the African Union, the United Nations Secretary-General, the Co-Presidents of the ACP-EU Joint Parliamentary Assembly and the Pan-African Parliament (PAP).

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P7\_TA(2013)0424

## Recent violence in Iraq

### European Parliament resolution of 10 October 2013 on recent violence in Iraq (2013/2874(RSP))

(2016/C 181/17)

*The European Parliament,*

- having regard to its previous resolutions on Iraq, notably that of 14 March 2013 on 'Iraq: the plight of minority groups, including the Iraqi Turkmen' <sup>(1)</sup>,
- having regard to the Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part, and to its resolution of 17 January 2013 on the EU-Iraq Partnership and Cooperation Agreement <sup>(2)</sup>,
- having regard to the Commission's Joint Strategy Paper for Iraq (2011-2013),
- having regard to the 'Report on Human Rights in Iraq: January to June 2012', presented jointly by the United Nations Assistance Mission for Iraq (UNAMI) and the UN Office of the High Commissioner for Human Rights on 19 December 2012,
- having regard to the International Crisis Group's Middle East Report N°144 of 14 August 2013 entitled 'Make or Break: Iraq's Sunnis and the State'
- having regard to the UN casualty figures for September, released on 1 October 2013,
- having regard to the statement of 29 July 2013 by UN Secretary-General Ban Ki-moon, urging leaders to pull Iraq 'back from the brink',
- having regard to the statement of 1 September 2013 by UN Secretary-General Ban Ki-moon on the tragic events in Camp Ashraf which killed 52 people,
- having regard to the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,
- having regard to the 1966 International Covenant on Civil and Political Rights, to which Iraq is a party,
- having regard to the statement of 5 September 2013 by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, on the recent violence in Iraq,
- having regard to Rules 122(5) and 110(4) of its Rules of Procedure,

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<sup>(1)</sup> P7\_TA(2013)0101.

<sup>(2)</sup> P7\_TA(2013)0022.

Thursday, October 10, 2013

- A. whereas Iraq continues to face serious political, security and socioeconomic challenges, and whereas its political scene is extremely fragmented and plagued by violence and sectarian politics, to the severe detriment of the legitimate aspirations of the Iraqi people for peace, prosperity and a genuine transition to democracy;
- B. whereas, according to casualty figures released by the UNAMI, a total of 979 Iraqis were killed, and another 2 133 wounded, in acts of terrorism and violence in September 2013; whereas Baghdad was the worst-affected governorate in September 2013, with 1 429 civilian casualties (418 killed and 1 011 injured), followed by Ninewa, Diyala, Salahuddin and Anbar; whereas Kirkuk, Erbil, Babil, Wasit, Dhi-Qar and Basra also reported casualties;
- C. whereas the impact of violence on civilians remains disturbingly high and is still growing, with up to 5 000 civilians having been killed, and up to 10 000 injured, since the beginning of 2013 — the highest figure in the last five years;
- D. whereas serious social and economic problems — widespread poverty, high unemployment, economic stagnation, environmental degradation and a lack of basic public services — continue to affect a large proportion of the population; whereas numerous peaceful demonstrations demanding more social, economic and political rights continue to result in very systematic repression by the security forces, carried out with impunity;
- E. whereas the Iraqi constitution guarantees equality before the law for all citizens, along with the ‘administrative, political, cultural and educational rights of the various nationalities’;
- F. whereas the EU-Iraq Partnership and Cooperation Agreement, in particular its human rights clause, emphasises that the EU-Iraq political dialogue should focus on human rights and strengthening democratic institutions;
1. Strongly condemns the recent acts of terrorism and heightened sectarian violence, which carries the danger that the country will fall back into sectarian strife and is generating fears of wider sectarian conflict across the region; points out that although violence occurs along sectarian lines, its causes are political rather than religious;
  2. Extends its condolences to the families and friends of the deceased and injured;
  3. Condemns the recent attacks of: 3 September 2013, in which at least 60 people were killed in mainly Shia districts of Baghdad; 15 September 2013, in which more than 40 people were killed in blasts across Iraq, mostly targeting Shia areas; 21 September 2013, in which at least 60 people were killed at a funeral in Sadr City, Baghdad; 30 September 2013, in which at least 54 people were killed in car bomb blasts in mainly Shia areas of Baghdad; 5 October 2013, in which at least 51 people were killed and more than 70 injured in an attack in Baghdad by a suicide bomber targeting Shia pilgrims in the al-Adhamiya district, while at least 12 people were killed and at least 25 others wounded when another suicide bomber struck a café in Balad, north of Baghdad, on the same day; 6 October 2013, in which at least 12 children aged between 6 and 12 were killed, and many more injured, by a suicide bomber who struck next to a primary school in the Shia Turkmen village of Qabak; 7 October 2013, in which at least 22 people were killed in a fresh wave of explosions in Baghdad; and 8 October 2013, in which at least 9 people were killed by a car bomb in Baghdad and attacks on security forces in the north of the country;
  4. Strongly condemns the attack on Camp Ashraf of 1 September 2013 by Iraqi forces, in which 52 Iranian refugees were killed, and 7 residents abducted, including 6 women who, as stated by Vice-President/High Representative Catherine Ashton, are believed to be held in Baghdad, and calls for their immediate and unconditional release; expresses its support for the work of the UNAMI, which is trying to relocate the 3 000 or so residents outside of Iraq;
  5. Expresses its grave concern over the new surge of instability and calls on all Iraqi political leaders, from all ethnic and religious backgrounds, to work together to put an end to sectarian violence and distrust and to bring the Iraqi people together;

**Thursday, October 10, 2013**

6. Calls on both the Government of Iraq and the regional governments to condemn the attacks and to facilitate a full and swift independent international investigation into the recent terrorist attacks in the region, and calls on the Iraqi Government to cooperate fully with that investigation in order to bring those responsible to justice;
  7. Is concerned about the spill-over of violence from the conflict in Syria to Iraq, where jihadist rebels linked to the Islamic State of Iraq, a Sunni militant umbrella group that includes al-Qaeda, have risen to prominence;
  8. Calls, as a matter of urgency, on political, religious and civil leaders and the security forces to start to work together to end the bloodshed and ensure that all Iraqi citizens feel equally protected;
  9. Calls on the Iraqi Government and on all political leaders to take the necessary measures to provide security and protection for all people in Iraq, in particular members of vulnerable minorities; calls on the Iraqi Government to ensure that the security forces comply with the rule of law and international standards;
  10. Calls on the international community and the EU to support the Iraqi Government by promoting initiatives for national dialogue, consolidation of the rule of law and the provision of basic services, with the goal of creating a secure, stable, unified, prosperous and democratic Iraq, in which the human and political rights of all people are protected;
  11. Calls on the Iraqi authorities, given that the security situation has exacerbated problems for more vulnerable groups such as women, youth and fundamental rights activists, including trade unionists, to take urgent action to direct more resources towards programmes aimed at improving the situation;
  12. Encourages religious dialogue between Sunni and Shia clerics as a necessary tool for conflict resolution; considers that the recent talks between the US and Iran also afford an opportunity for Iraq to act as a bridge, given that it is one of the few countries to have strong relations with both parties; calls on Iranian leaders to engage constructively in the stabilisation of the region;
  13. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the Government and Council of Representatives of Iraq, the Regional Government of Kurdistan, the Secretary-General of the United Nations and the United Nations Human Rights Council.
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Wednesday, October 9, 2013

## II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN PARLIAMENT

P7\_TA(2013)0404

**Interinstitutional Agreement between the European Parliament and the ECB on cooperation on procedures related to the Single Supervisory Mechanism****European Parliament decision of 9 October 2013 on the conclusion of an Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism (2013/2198(ACI))**

(2016/C 181/18)

*The European Parliament,*

- having regard to the letter from its President of 12 September 2013,
- having regard to the draft Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism,
- having regard to the Treaty on European Union,
- having regard to the Treaty on the Functioning of the European Union, in particular Article 127(6), the second paragraph of Article 284(3) and Article 295 thereof,
- having regard to its position, adopted on 12 September 2013, with a view to the adoption of a Council regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions<sup>(1)</sup> and to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Constitutional Affairs on a proposal for such regulation<sup>(2)</sup>,
- having regard to the declaration of the President of the European Parliament and of the President of the European Central Bank of 12 September 2013, on the occasion of Parliament's vote for the adoption of a Council regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions<sup>(3)</sup>,

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<sup>(1)</sup> Texts adopted, P7\_TA(2013)0372.

<sup>(2)</sup> A7-0392/2012 (rapporteur: Marianne Thyssen and rapporteur for opinion: Andrew Duff).

<sup>(3)</sup> See the Annex to Parliament's legislative resolution of 12 September 2013 on a proposal for such regulation (Texts adopted, P7\_TA(2013)0372).

Wednesday, October 9, 2013

- having regard to Rule 127(1) and Rule 46(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs (A7-0302/2013),
1. Approves conclusion of the agreement below and, taking into account the substance of the agreement, decides to annex it to its Rules of Procedure;
  2. Instructs its President to sign the agreement with the President of the European Central Bank and to arrange for its publication in the Official Journal of the European Union;
  3. Instructs its President to forward this decision, including its annex, to the Council, the Commission, the European Central Bank and the national parliaments.

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ANNEX

**Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism**

*(The text of this annex is not reproduced here since it corresponds to the interinstitutional agreement as published in OJ L 320 of 30 November 2013, p. 1.)*

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P7\_TA(2013)0405

**Number and numerical strength of the interparliamentary delegations, delegations to joint parliamentary committees and delegations to parliamentary cooperation committees and multilateral Parliamentary Assemblies**

**European Parliament decision of 9 October 2013 on the number and numerical strength of the interparliamentary delegations, delegations to joint parliamentary committees and delegations to parliamentary cooperation committees and multilateral Parliamentary Assemblies (2013/2853(RSO))**

(2016/C 181/19)

*The European Parliament,*

- having regard to the proposal by the Conference of Presidents,
- having regard to its decisions of 6 May 2009 <sup>(1)</sup>, 14 September 2009 <sup>(2)</sup>, 15 June 2010 <sup>(3)</sup> and 14 December 2011 <sup>(4)</sup> on the number and numerical strength of the interparliamentary delegations, delegations to joint parliamentary committees and delegations to parliamentary cooperation committees and multilateral Parliamentary Assemblies,
- having regard to Rule 198 of its Rules of Procedure,

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<sup>(1)</sup> OJ C 212 E, 5.8.2010, p. 136.

<sup>(2)</sup> OJ C 224 E, 19.8.2010, p. 36.

<sup>(3)</sup> OJ C 236 E, 12.8.2011, p. 159.

<sup>(4)</sup> OJ C 168 E, 14.6.2013, p. 132.

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**Wednesday, October 9, 2013**

1. Decides that, following Croatia's accession to the European Union, the Delegation to the EU–Croatia Joint Parliamentary Committee shall cease to exist;
  2. Decides to amend as follows the numerical strength of the following interparliamentary delegations:
    - Delegation for relations with Albania, Bosnia and Herzegovina, Serbia, Montenegro and Kosovo: 30 members
    - Delegation for relations with the Arab Peninsula: 19 members
    - Delegation for relations with the United States: 57 members
    - Delegation for relations with Canada: 21 members
    - Delegation for relations with the countries of Central America: 16 members
    - Delegation for relations with Japan: 26 members
    - Delegation for relations with the People's Republic of China: 42 members
    - Delegation for relations with India: 29 members
    - Delegation for relations with the countries of Southeast Asia and the Association of Southeast Asian Nations (ASEAN): 25 members
    - Delegation for relations with Australia and New Zealand: 19 members
    - Delegation for relations with South Africa: 21 members;
  3. Instructs its President to forward this decision to the Council and the Commission, for information.
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Tuesday, October 8, 2013

### III

(Preparatory acts)

## EUROPEAN PARLIAMENT

P7\_TA(2013)0391

### **EU-Ukraine Cooperation Agreement: Civil Global Navigation Satellite System (GNSS) \*\*\***

**European Parliament legislative resolution of 8 October 2013 on the draft Council decision on the conclusion of the Cooperation Agreement on a Civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and Ukraine (06373/2013 — C7-0070/2013 — 2012/0274(NLE))**

(Consent)

(2016/C 181/20)

*The European Parliament,*

- having regard to the draft Council decision (06373/2013),
  - having regard to the draft cooperation agreement between the European Union and Ukraine (13242/2005),
  - having regard to the request for consent submitted by the Council in accordance with Article 172 and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0070/2013),
  - having regard to Rules 81, 90(7) and 46(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Industry, Research and Energy (A7-0298/2013),
1. Consents to the conclusion of the Agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Ukraine.

P7\_TA(2013)0392

### **Mobilisation of the European Globalisation Adjustment Fund: application EGF/2011/025 IT/Lombardy — Italy**

**European Parliament resolution of 8 October 2013 on the proposal for a decision of the European Parliament and of the Council on mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2011/025 IT/Lombardia from Italy) (COM(2013)0470 — C7-0206/2013 — 2013/2138(BUD))**

(2016/C 181/21)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0470 — C7-0206/2013),

Tuesday, October 8, 2013

- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (IIA of 17 May 2006) <sup>(1)</sup>, and in particular point 28 thereof,
  - having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund (EGF Regulation) <sup>(2)</sup>,
  - having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,
  - having regard to the letter of the Committee on Employment and Social Affairs,
  - having regard to the letter of the Committee on Regional Development,
  - having regard to the report of the Committee on Budgets (A7-0294/2013),
- A. whereas the Union has set up legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market;
- B. whereas the scope of the European Globalisation Adjustment Fund (EGF) was broadened for applications submitted from 1 May 2009 to 31 December 2011 to include support for workers made redundant as a direct result of the global financial and economic crisis;
- C. whereas the Union's financial assistance to workers made redundant should be dynamic and made available as quickly and as efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;
- D. whereas Italy submitted application EGF/2011/025 IT/Lombardia for a financial contribution from the EGF, following 529 redundancies in Lombardia with 480 workers targeted for EGF co-funded measures, during the reference period from 20 March 2011 to 20 December 2011;
- E. whereas the application fulfils the eligibility criteria set up by the EGF Regulation;
1. Agrees with the Commission that the conditions set out in Article 2(b) of the EGF Regulation are met and that Italy is therefore entitled to a financial contribution under that Regulation;
  2. Notes with regret that the Italian authorities submitted the application for the EGF financial contribution on 30 December 2011 and that its assessment was made available by the Commission on 28 June 2013; regrets the lengthy evaluation period of 18 months;
  3. Notes that Lombardia, Italy's most prosperous region, producing one fifth of Italy's GDP, needs to tackle major structural challenges aggravated by the economic and financial crisis; welcomes the fact that Lombardia for the second time avails of the EGF to help deal with economic and social difficulties;

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<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> OJ L 406, 30.12.2006, p. 1.

**Tuesday, October 8, 2013**

4. Calls on the Italian authorities to use the EGF support to its full potential and to encourage the maximum number of workers to participate in the measures; recalls that early EGF interventions in Italy suffered from a relatively low rate of budget implementation, mainly due to low participation rates;
5. Stresses that the Commission has already recognised the impact of the economic and financial crisis on the information and communications technology (ICT) sector and that the EGF has supported workers dismissed in this sector (cases: EGF/2011/016 IT/Agile and EGF/2010/012 NL/Noord Holland);
6. Notes that the Italian ICT sector has been suffering from strong competition from low-cost countries over the past decade; acknowledges the need to reorganise the sector because of the rapid emergence of new technologies such as cloud computing, various types of e-services and social networks, which have been recognised as a challenge for some years; notes that the digital gap between Italy and leading European countries, as well as other countries in the world, has further widened because of the economic slow-down caused by the crisis; notes that all of those developments have led to the downsizing of ICT personnel in Italian businesses since 2009;
7. Welcomes the fact that in order to provide workers with timely assistance, the Italian authorities decided to initiate the implementation of the personalised measures on 1 March 2012, well ahead of the final decision on granting EGF support for the proposed coordinated package;
8. Notes that in order to limit the social impact of the dismissals in the ICT sector, extensive use was made of social safety nets such as the wage compensation fund (CIG) which provided financial benefits to workers as compensation for salary payments; notes with satisfaction that the Italian authorities have not requested any EGF support to finance subsistence allowances;
9. Notes that the coordinated package of personalised services to be co-funded includes measures for the reintegration of 480 workers into employment such as interview techniques, profiling of skills, pathway definition, monitoring, coordination and management of the personal intervention plan, tutoring and occupational guidance, exploration of job opportunities with new employers, matching of skills and jobs, mentoring during the first phase of a new employment, advice and support towards self-employment and tutoring and support during traineeship;
10. Notes that training and re-training measures are not included in the coordinated package of personalised services given the fact that those measures will be financed through regional sources;
11. Welcomes the fact that the social partners, and in particular trade unions at local level (CGIL, CISL, UIL, CISAL) <sup>(1)</sup>, were consulted on the design of the measures of the coordinated EGF package; notes that a policy of equality between women and men, as well as the principle of non-discrimination, will be applied during the various stages of the implementation of and access to the EGF;
12. Recalls the importance of improving the employability of all workers by means of adapted training and the recognition of skills and competences gained throughout a worker's professional career; expects the training on offer in the coordinated package to be adapted not only to the needs of the dismissed workers but also to the actual business environment;
13. Notes that the coordinated package of personalised services, after consultation with the social partners, contains measures relating to career advice and planning, mentoring, matching of skills and jobs as well as support for self-employment and traineeship;

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<sup>(1)</sup> CGIL (Confederazione generale italiana del lavoro), CISL (Confederazione italiana sindacati lavoratori), UIL (Unione italiana del lavoro), CISAL (Confederazione Italiana Sindacati Autonomi Lavoratori)

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14. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on complementarity with actions funded by the Structural Funds; stresses that the Italian authorities confirm that the eligible actions do not receive assistance from other Union financial instruments; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports in order to ensure full respect of the existing regulations and that no duplication of Union-funded services can occur;

15. Requests that the institutions involved make the necessary efforts to improve procedural arrangements in order to accelerate the mobilisation of the EGF; appreciates the improved procedure put in place by the Commission, following Parliament's request for the accelerated release of grants, aimed at presenting to the budgetary authority the Commission's assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be integrated and that greater efficiency, transparency and visibility of the EGF will be achieved;

16. Stresses that in accordance with Article 6 of the EGF Regulation, it shall be ensured that the EGF supports the reintegration of individual redundant workers into stable employment; stresses, furthermore, that EGF assistance can co-finance only active labour market measures which lead to durable, long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements nor measures restructuring companies or sectors;

17. Welcomes the agreement reached in the Council on reintroducing in the EGF regulation, for the period 2014-2020, the crisis mobilisation criterion, which allows for the provision of financial assistance to workers made redundant as a result of the current financial and economic crisis in addition to those losing their job because of changes in global trade patterns;

18. Approves the decision annexed to this resolution;

19. Instructs its President to sign the decision with the President of the Council and arrange for its publication in the *Official Journal of the European Union*;

20. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

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ANNEX

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2011/025 IT/Lombardia from Italy)**

*(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/526/EU.)*

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Tuesday, October 8, 2013

P7\_TA(2013)0393

## **Mobilisation of the European Globalisation Adjustment Fund: application EGF/2012/008 IT/De Tomaso Automobili — Italy**

**European Parliament resolution of 8 October 2013 on the proposal for a decision of the European Parliament and of the Council on mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2012/008 IT/De Tomaso Automobili from Italy) (COM(2013)0469 — C7-0207/2013 — 2013/2139(BUD))**

(2016/C 181/22)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2013)0469 — C7-0207/2013),
  - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(1)</sup> (IIA of 17 May 2006), and in particular point 28 thereof,
  - having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund <sup>(2)</sup> (EGF Regulation),
  - having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,
  - having regard to the letter of the Committee on Employment and Social Affairs,
  - having regard to the letter of the Committee on Regional Development,
  - having regard to the report of the Committee on Budgets (A7-0292/2013),
- A. whereas the Union has set up legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market;
- B. whereas the scope of the European Globalisation Adjustment Fund (EGF) was broadened for applications submitted from 1 May 2009 to 31 December 2011 to include support for workers made redundant as a direct result of the global financial and economic crisis;
- C. whereas the Union's financial assistance to workers made redundant should be dynamic and made available as quickly and as efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF;

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> OJ L 406, 30.12.2006, p. 1.

Tuesday, October 8, 2013

- D. whereas Italy submitted application EGF/2012/008 IT/De Tomaso Automobili for a financial contribution from the EGF, following 1 030 redundancies in De Tomaso Automobili S.p.A. with 1 010 workers targeted for EFG co-funded measures, during the reference period from 5 July 2012 to 28 August 2012;
- E. whereas the application fulfils the eligibility criteria set up by the EGF Regulation;
1. Agrees with the Commission that the conditions set out in Article 2(a) of the EGF Regulation are met and that Italy is, therefore, entitled to a financial contribution under that Regulation;
  2. Notes that the Italian authorities submitted the application for EGF financial contribution on 5 November 2012 and that its assessment was made available by the Commission on 28 June 2013; welcomes the relatively quick evaluation period of 7 months;
  3. Notes that the 1 030 redundancies in De Tomaso Automobili S.p.A., an automobile manufacturer in Italy, were caused by changes in the geographical patterns of consumption; notes that rapid growth in Asian markets from which Union producers are less able to benefit, being traditionally less well positioned in those markets than elsewhere, together with the tightening of credit which followed the economic and financial crisis, has put an extra burden on the enterprise which was unable to find a profitable solution and entered into liquidation proceedings in April 2012;
  4. Stresses that the Commission has already recognised the impact of the economic and financial crisis on the automotive sector and that this sector had the largest number of applications (16) for EGF support, of which 7 are based on trade related globalisation <sup>(1)</sup>;
  5. Calls on the Italian authorities to use the EGF support to its full potential and to encourage the maximum number of workers to participate in the measures, recalls that early EGF interventions in Italy suffered from a relatively low rate of budget implementation mainly due to low participation rates;
  6. Emphasises the fact that the De Tomaso Automobili redundancies are spread across the regions of Piemonte and Toscana, and in particular the provinces of Torino and Livorno where the production plants of De Tomaso Automobili S.p. A. were located;
  7. Welcomes the fact that in order to provide workers with timely assistance, the Italian authorities decided to initiate the implementation of the personalised measures on 15 January 2013, well ahead of the final decision on granting EGF support for the proposed coordinated package;
  8. Notes that the dismissals were covered by the wage compensation fund (CIG), an Italian social safety net, which provided financial benefits to workers as compensation for salary payments; notes, however, that the Italian authorities have requested EGF support in order to finance subsistence allowances, in addition to the usual welfare payments made available under Italian labour law for the unemployed;
  9. Recalls that the EGF should in the future be primarily allocated to training and job searches, as well as occupational orientation programs; notes that its financial contribution to allowances should always be of an additional nature and in parallel with what is available to dismissed workers by virtue of national law or collective agreements; recalls in this context the conclusion of the Court of Auditors in Special Report No 7/2013 on the EGF that ‘one third of EGF funding compensates national workers’ income support schemes, with no EU added value’ and the recommendation that such measures should be limited in the future;

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<sup>(1)</sup> EGF/2012/008 De Tomaso Automobili (the case object of this proposal for decision), EGF/2012/005 Saab Automotive COM(2012) 0622, EGF/2009/013 Karmann COM(2010)0007, EGF/2008/004 Castilla y Leon Aragon COM(2009)0150, EGF/2008/002 Delphi COM(2008)0547, EGF/2007/010 Lisboa Alentejo COM(2008)0094, EGF/2007/001 PSA Suppliers COM(2007)0415.

**Tuesday, October 8, 2013**

10. Notes that the coordinated package of personalised services to be co-funded includes measures for the reintegration of 1 010 workers into employment such as vocational guidance, outplacement and job search assistance, training, re-training and vocational training, accompanying measures towards business creation, contribution to business start-up, hiring benefit, job-search allowance, contributions towards special expenses such as contribution for carers of dependent persons and contributions to commuting expenses;

11. Welcomes the fact that the social partners, and in particular trade unions at local level, were consulted on the design of the measures of the coordinated EGF package; notes that a policy of equality between women and men as well as the principle of non-discrimination will be applied during the various stages of the implementation of and access to the EGF;

12. Welcomes the fact that the social partners were consulted on the design of the package; welcomes the fact that a steering committee will monitor the implementation of the package;

13. Recalls the importance of improving the employability of all workers by means of adapted training and the recognition of skills and competences gained throughout a worker's professional career; expects the training on offer in the coordinated package to be adapted not only to the needs of the dismissed workers but also to the actual business environment;

14. Calls on the Member States to include in future applications the following information concerning the training measures to be supported by EGF: types of training provided, in which sectors training is provided, if the offer matches the anticipated skills needs in the region/locality and if is aligned with the future economic prospects of the region;

15. Notes that the information provided on the coordinated package of personalised services to be funded by the EGF includes information on complementarity with actions funded by the Structural Funds; stresses that the Italian authorities confirm that the eligible actions do not receive assistance from other Union financial instruments; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports in order to ensure full respect of the existing regulations and guarantee that no duplication of Union-funded services can occur;

16. Requests that the institutions involved make the necessary efforts to improve procedural arrangements to accelerate the mobilisation of the EGF; appreciates the improved procedure put in place by the Commission, following Parliament's request for the accelerated release of grants, aimed at presenting to the budgetary authority the Commission's assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be integrated in the new Regulation on European Globalisation Adjustment Fund (2014–2020) and that greater efficiency, transparency and visibility of the EGF will be achieved;

17. Stresses that, in accordance with Article 6 of the EGF Regulation, it shall be ensured that the EGF supports the reintegration of individual redundant workers into stable employment; stresses, furthermore, that EGF assistance can co-finance only active labour market measures which lead to durable, long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors;

18. Approves the decision annexed to this resolution;

19. Welcomes the agreement reached in the Council on reintroducing in the EGF regulation, for the period 2014-2020, the crisis mobilisation criterion, which allows for the provision of financial assistance to workers made redundant as a result of the current financial and economic crisis in addition to those losing their job because of changes in global trade patterns;



Tuesday, October 8, 2013

20. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the *Official Journal of the European Union*;
21. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

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ANNEX

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2012/008 IT/De Tomaso Automobili from Italy)**

*(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2013/514/EU.)*

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P7\_TA(2013)0397

**Flag State responsibilities for the enforcement of Council Directive 2009/13/EC implementing the Agreement on the Maritime Labour Convention \*\*\*I**

**European Parliament legislative resolution of 8 October 2013 on the proposal for a directive of the European Parliament and of the Council concerning flag State responsibilities for the enforcement of Council Directive 2009/13/EC implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (COM(2012)0134 — C7-0083/2012 — 2012/0065(COD))**

**(Ordinary legislative procedure: first reading)**

(2016/C 181/23)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0134),
- having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0083/2012),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 11 July 2012 <sup>(1)</sup>,
- after consulting the Committee of the Regions,
- having regard to the undertaking given by the Council representative by letter of 12 June 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union;

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<sup>(1)</sup> OJ C 299, 4.10.2012, p. 153.

Tuesday, October 8, 2013

- having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Transport (A7-0037/2013),
1. Adopts its position at first reading hereinafter set out <sup>(1)</sup>;
  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)0065

**Position of the European Parliament adopted at first reading on 8 October 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/54/EU.)*

P7\_TA(2013)0398

### **Manufacture, presentation and sale of tobacco and related products \*\*\*I**

**Amendments adopted by the European Parliament on 8 October 2013 on the proposal for a directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM(2012)0788 — C7-0420/2012 — 2012/0366(COD)) <sup>(1)</sup>**

**(Ordinary legislative procedure: first reading)**

(2016/C 181/24)

#### **Amendment 1**

#### **Proposal for a directive**

#### **Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

- (3a) **Health warnings serve as part of an organised, effective and long term anti-smoking strategy, with well defined scope and objectives.**

<sup>(1)</sup> This position replaces the amendments adopted on 13 March 2013 (Texts adopted P7\_TA(2013)0080).

<sup>(1)</sup> The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0276/2013).

Tuesday, October 8, 2013

**Amendment 2**  
**Proposal for a directive**

**Recital 6**

*Text proposed by the Commission*

- (6) The size of the internal market in tobacco and related products, the increasing tendency of manufacturers of tobacco products to concentrate production for the whole of the Union in only a small number of production plants within the Member States and the resulting significant cross-border trade of tobacco and related products calls for legislative action at Union **rather than national** level to achieve the smooth operation of the internal market.

*Amendment*

- (6) The size of the internal market in tobacco and related products, the increasing tendency of manufacturers of tobacco products to concentrate production for the whole of the Union in only a small number of production plants within the Member States and the resulting significant cross-border trade of tobacco and related products calls for **stronger** legislative action at Union level to achieve the smooth operation of the internal market.

**Amendment 3**  
**Proposal for a directive**

**Recital 7**

*Text proposed by the Commission*

- (7) Legislative action at Union level is also necessary to implement the WHO Framework Convention on Tobacco Control (hereinafter: 'FCTC') of May 2003 **to which** the European Union **and its Member States are Parties**. Of **relevance are in** particular its Articles 9 (regulation of the contents of tobacco products), 10 (regulation of tobacco product disclosures), 11 (packaging and labelling of tobacco products), 13 (advertising) and 15 (illicit trade in tobacco products). A set of guidelines for the implementation of FCTC provisions was adopted by consensus during various Conferences of the Parties to the FCTC with the support of the Union and the Member States.

*Amendment*

- (7) Legislative action at Union level is also necessary to implement the **landmark** WHO Framework Convention on Tobacco Control ('FCTC') of May 2003. **All Member States, and the European Union itself, have signed and ratified the FCTC and as a result are bound under international law by its provisions**. Of particular **relevance are** Articles 9 (regulation of the contents of tobacco products), 10 (regulation of tobacco product disclosures), 11 (packaging and labelling of tobacco products), 13 (advertising) and 15 (illicit trade in tobacco products). A set of guidelines for the implementation of FCTC provisions was adopted by consensus during various Conferences of the Parties to the FCTC with the support of the Union and the Member States.

Tuesday, October 8, 2013

**Amendment 4**  
**Proposal for a directive**

**Recital 8**

*Text proposed by the Commission*

- (8) In accordance with Article 114(3) of the Treaty of the Functioning of the European Union (hereinafter: 'Treaty'), a high level of health protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts. Tobacco products are not ordinary commodities and in view of the particularly harmful effects of tobacco, health protection should be given high importance, in particular to reduce smoking prevalence among young people.

*Amendment*

- (8) In accordance with Article 114(3) of the Treaty of the Functioning of the European Union ('Treaty'), a high level of health protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts. Tobacco products are not ordinary commodities and in view of the particularly harmful effects of tobacco, health protection should be given high importance, in particular to reduce smoking prevalence among young people. ***To that end, Member States should promote smoking prevention campaigns, especially in schools and through the media. In accordance with the principle of producer responsibility, manufacturers of tobacco products should be made responsible for all health costs arising as a consequence of tobacco consumption.***

**Amendment 5**  
**Proposal for a directive**

**Recital 9 a (new)**

*Text proposed by the Commission*

- (9a) *Given that in many Member States large percentages of smokers are unlikely to stop smoking entirely, legislation should take into account their right to know objectively the impact the possible use of tobacco has on their health — information which they also receive through the packaging of the product they are likely to use.*

*Amendment*

- (9a) ***Given that in many Member States large percentages of smokers are unlikely to stop smoking entirely, legislation should take into account their right to know objectively the impact the possible use of tobacco has on their health — information which they also receive through the packaging of the product they are likely to use.***

**Amendment 6**  
**Proposal for a directive**

**Recital 10**

*Text proposed by the Commission*

- (10) For measuring the tar, nicotine and carbon monoxide yields of cigarettes, reference should be made to ISO standards 4387, 10315 and 8454, which are internationally recognised standards. For other emissions there are no internationally agreed standards or tests for quantifying the yields, but efforts are ongoing to develop ***them.***

*Amendment*

- (10) For measuring the tar, nicotine and carbon monoxide yields of cigarettes, reference should be made to ISO standards 4387, 10315 and 8454, which are internationally recognised standards. For other emissions there are no internationally agreed standards or tests for quantifying the yields, but ***Member States and the Commission should actively encourage ongoing efforts at international level to develop such standards or tests.***

Tuesday, October 8, 2013

**Amendment 7**  
**Proposal for a directive**  
**Recital 10 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (10a) *Polonium 210 has been shown to be a significant carcinogen in tobacco. Its presence in cigarettes could be eliminated almost completely by a combination of simple measures. It is thus appropriate to set a maximum yield for Polonium 210 that would result in a reduction of 95 % of the current average content of Polonium 210 in cigarettes. An ISO standard to measure Polonium 210 in tobacco should be developed.*

**Amendment 8**  
**Proposal for a directive**  
**Recital 11**

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*Text proposed by the Commission*

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*Amendment*

- (11) In relation to the fixing of maximum yields, it might be necessary and appropriate at a later date to **adapt** the yields fixed or to fix maximum thresholds for emissions, taking into consideration their toxicity or addictiveness.

- (11) In relation to the fixing of maximum yields, it might be necessary and appropriate at a later date to **reduce** the yields fixed or to fix maximum thresholds for emissions, taking into consideration their toxicity or addictiveness.

**Amendment 9**  
**Proposal for a directive**  
**Recital 13**

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*Text proposed by the Commission*

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*Amendment*

- (13) The current use of different reporting formats makes it difficult for manufacturers and importers to fulfil their reporting obligations and burdensome for the Member States and the Commission to compare, analyse and draw conclusions from the information received. In this light there should be a common mandatory format for the reporting of ingredients and emissions. The greatest possible transparency of product information should be ensured for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products.

- (13) The current use of different reporting formats makes it difficult for manufacturers and importers to fulfil their reporting obligations and burdensome for the Member States and the Commission to compare, analyse and draw conclusions from the information received. In this light there should be a common mandatory format for the reporting of ingredients and emissions. The greatest possible transparency of product information should be ensured for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products, **in particular the rights of small and medium sized enterprises (SMEs).**

Tuesday, October 8, 2013

**Amendment 10**  
**Proposal for a directive**

**Recital 14**

*Text proposed by the Commission*

- (14) The lack of a harmonised approach on ingredients regulation affects the functioning of the internal market and impacts on the free movement of goods across the EU. Some Member States have adopted legislation or entered into binding agreements with the industry allowing or prohibiting certain ingredients. As a result, some ingredients are regulated in some Member States, but not in others. Member States are also taking different approaches as regards additives integrated in the filter of cigarettes as well as additives colouring the tobacco smoke. Without harmonisation, the obstacles on the internal market are expected to increase in the coming years taking into account the implementation of the FCTC and its guidelines and considering experience gained in other jurisdictions outside the Union. The guidelines on Articles 9 and 10 FCTC call in particular for the removal of ingredients that increase palatability, create the impression that the tobacco products have health benefits, are associated with energy and vitality or have colouring properties.

*Amendment*

- (14) The lack of a harmonised approach on ingredients regulation affects the functioning of the internal market and impacts on the free movement of goods across the EU. Some Member States have adopted legislation or entered into binding agreements with the industry allowing or prohibiting certain ingredients. As a result, some ingredients are regulated in some Member States, but not in others. Member States are also taking different approaches as regards additives integrated in the filter of cigarettes as well as additives colouring the tobacco smoke. Without harmonisation, the obstacles on the internal market are expected to increase in the coming years taking into account the implementation of the FCTC and its guidelines and considering experience gained in other jurisdictions outside the Union. The guidelines on Articles 9 and 10 FCTC call in particular for the removal of ingredients that increase palatability, create the impression that the tobacco products have health benefits, are associated with energy and vitality or have colouring properties. ***Ingredients that increase addictiveness and toxicity should also be removed.***

**Amendment 11**  
**Proposal for a directive**

**Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

- (14a) ***In order to protect human health, an assessment should be carried out on the safety of additives for use in tobacco products. Additives should only be allowed in tobacco products if they are included in a Union list of authorised additives. That list should also indicate any conditions or restrictions on the use of allowed additives. Tobacco products containing additives not included in the Union list or used in a manner that does not comply with this Directive should not be placed on the Union market.***

Tuesday, October 8, 2013

**Amendment 12**  
**Proposal for a directive**  
**Recital 14 b (new)**

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*Text proposed by the Commission*

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*Amendment*

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(14b) *It is important not only to consider the properties of additives as such, but also of their combustion products. Additives as well as their combustion products should not be such that they meet the criteria for classification as hazardous in accordance with Regulation (EC) no 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures <sup>(1)</sup>.*

<sup>(1)</sup> OJ L 353, 31.12.2008, p. 1.

**Amendment 13**  
**Proposal for a directive**  
**Recital 15**

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*Text proposed by the Commission*

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*Amendment*

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(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, **including smokeless tobacco products**, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.



Tuesday, October 8, 2013

**Amendment 14**  
**Proposal for a directive**  
**Recital 16**

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*Text proposed by the Commission*

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*Amendment*

- (16) *The prohibition of tobacco products with characterising flavours does not prohibit the use of individual additives altogether, but obliges the manufactures to reduce the additive or the combination of additives to such an extent that the additives no longer result in a characterising flavour. The use of additives necessary for manufacturing of tobacco products should be allowed, as long as they do not result in a characterising flavour.. The Commission should ensure uniform conditions for the implementation of the provision on characterising flavour. Independent panels should be used by the Member States and by the Commission to assist in such decision making. The application of this Directive should not discriminate between different tobacco varieties.*

*deleted*

**Amendment 15**  
**Proposal for a directive**  
**Recital 17**

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*Text proposed by the Commission*

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*Amendment*

- (17) Certain additives are used to create the impression that tobacco products have health benefits, present reduced health hazards or increase mental alertness and physical performance. ***These additives should be prohibited*** in order to ensure uniform rules and a high level of health protection.

- (17) Certain additives are used to create the impression that tobacco products have health benefits, present reduced health hazards or increase mental alertness and physical performance. ***In*** order to ensure uniform rules and a high level of health protection, ***those additives should not be approved. In addition, additives which impart a characterising flavour should not be approved. This should not result in prohibiting the use of individual additives altogether. Manufactures should, however, be required to reduce the use of an additive or of a combination of additives to such an extent that the additives no longer result in a characterising flavour. It should be possible to approve the use of additives that are essential for manufacturing of tobacco products, as long as those additives do not result in a characterising flavour and are not linked to the attractiveness of such products.***

Tuesday, October 8, 2013

**Amendment 16**  
**Proposal for a directive**  
**Recital 17 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (17a) *An increasing number of people, most of them children, suffer from asthma and various allergies. Not all causes of asthma are understood, as indicated by WHO, but it is necessary for risk factors including allergens, tobacco and chemical irritants to be prevented in order to improve people's quality of life.*

**Amendment 17**  
**Proposal for a directive**  
**Recital 18**

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*Text proposed by the Commission*

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*Amendment*

- (18) Considering the Directive's focus on young people, tobacco products other than cigarettes, roll-your-own tobacco and **smokeless** tobacco which are mainly consumed by older consumers, should be granted an exemption from certain ingredients requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people.

- (18) Considering the Directive's focus on young people, tobacco products other than cigarettes, roll-your-own tobacco and **water-pipe** tobacco which are mainly consumed by older consumers, should be granted an exemption from certain ingredients requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people.

**Amendment 18**  
**Proposal for a directive**  
**Recital 18 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (18a) *Member States should be encouraged, if they have not already done so, to formulate their national laws on the protection of young people in such a way that tobacco products may not be sold to, or consumed by, young people under the age of 18. Member States should also ensure that such prohibitions are respected.*

Tuesday, October 8, 2013

**Amendment 19**  
**Proposal for a directive**  
**Recital 18 b (new)**

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*Text proposed by the Commission*

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*Amendment*

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- (18b) *Article 16 of the FCTC points to the responsibility of Parties to the Convention to address products aimed at underage consumers, such as food products and toys in the form of tobacco products that may be appealing to minors. In recent years, several products, such as shisha vaping sticks, have been placed on the market that do not contain nicotine but have the form of cigarettes and try to imitate the smoking process through vaporising substances, the harmless nature of which is not yet scientifically proven, and through an electric light imitating the burning process of a cigarette. Such products are clearly produced to be appealing to young and underage consumers, and are increasingly popular with minors in several Member States. Increasing concern is expressed at the habits created in young consumers and minors by the use of such imitation cigarettes.*

**Amendment 20**  
**Proposal for a directive**  
**Recital 20**

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*Text proposed by the Commission*

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*Amendment*

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- (20) Such disparities are liable to constitute a barrier to trade and to impede the operation of the internal market in tobacco products, and should therefore be eliminated. Also, consumers in some Member States may be better informed about the health risks of tobacco products than in others. Without further action at Union level, the existing disparities are likely to increase in the coming years.

- (20) Such disparities are liable to constitute a barrier to trade and to impede the operation of the internal market in tobacco products, and should therefore be eliminated. Also, consumers in some Member States may be better informed about the health risks of tobacco products than in others. Without further **harmonising** action at Union level, the existing disparities are likely to increase in the coming years.

Tuesday, October 8, 2013

**Amendment 21**  
**Proposal for a directive**

**Recital 22**

*Text proposed by the Commission*

- (22) The labelling provisions also need to be adapted to new scientific evidence. For example the indication of the yields for tar, nicotine and carbon monoxide on cigarette packets have proven to be misleading as it makes consumers believe that certain cigarettes are less harmful than others. Evidence also suggests that large combined health warnings are more effective than text-only warnings. In this light combined health warnings should become mandatory throughout the Union and cover significant and visible parts of the packet surface. A minimum size should be set for all health warnings to ensure their visibility and effectiveness.

*Amendment*

- (22) The labelling provisions also need to be adapted to new scientific evidence. For example the indication of the yields for tar, nicotine and carbon monoxide on cigarette packets have proven to be misleading as it makes consumers believe that certain cigarettes are less harmful than others. Evidence also suggests that large combined **picture and text** health warnings are more effective than text-only warnings. In this light combined health warnings should become mandatory throughout the Union and cover significant and visible parts **on the field of vision** of the packet surface. A minimum size should be set for all health warnings to ensure their visibility and effectiveness.

**Amendment 22**  
**Proposal for a directive**

**Recital 23**

*Text proposed by the Commission*

- (23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, **including the opening mechanism**. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as 'low-tar', 'light', 'ultra-light', 'mild', 'natural', 'organic', 'without additives', 'without flavours', 'slim', names, pictures, and figurative or other signs. Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.

*Amendment*

- (23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as 'low-tar', 'light', 'ultra-light', 'mild', 'natural', 'organic', 'without additives', 'without flavours', 'slim', names, pictures, and figurative or other signs. Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.

Tuesday, October 8, 2013

**Amendment 23**  
**Proposal for a directive**  
**Recital 23 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (23a) *Tobacco products have been shown to contain and emit many noxious substances and known carcinogens hazardous to human health when burnt. Scientific studies have clearly proven that passive smoking is a cause of death, illness and disability and that passive smoking is dangerous in particular to unborn children and infants. It can cause or aggravate respiratory problems in persons inhaling smoke. Health warnings should therefore also draw attention to the dangers to health of passive smoking.*

**Amendment 24**  
**Proposal for a directive**  
**Recital 24**

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*Text proposed by the Commission*

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*Amendment*

- (24) Tobacco products for smoking, other than cigarettes **and** roll-your-own tobacco products, which are mainly consumed by older consumers, should be granted an exemption from certain labelling requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people. The labelling of these other tobacco products should follow specific rules. The visibility of the health warnings on smokeless tobacco products needs to be ensured. Warnings should therefore be placed on the two main surfaces of smokeless tobacco product packaging.

- (24) Tobacco products for smoking, other than cigarettes, roll-your-own tobacco products **and water pipe tobacco**, which are mainly consumed by older consumers, should be granted an exemption from certain labelling requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people. The labelling of these other tobacco products should follow specific rules. The visibility of the health warnings on smokeless tobacco products needs to be ensured. Warnings should therefore be placed on the two main surfaces of smokeless tobacco product packaging.

Tuesday, October 8, 2013

**Amendment 25**  
**Proposal for a directive**

**Recital 26**

*Text proposed by the Commission*

- (26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union and their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security features that will facilitate the verification of whether or not products are authentic.

*Amendment*

- (26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets **and any outside transport packaging** of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union and their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security features that will facilitate the verification of whether or not products are authentic, **and to ensure that the unique identifiers of unit packets are linked to the unique identifier on the outside transport packaging.**

**Amendment 26**  
**Proposal for a directive**

**Recital 28**

*Text proposed by the Commission*

- (28) In order to ensure independence and transparency, manufacturers of tobacco products should conclude data storage contracts with independent third parties, **under the auspices of** an external auditor. The data related to the tracking and tracing system should be kept separate from other company related data and be under the control of and accessible at all times by the competent authorities from Member States and the Commission.

*Amendment*

- (28) In order to ensure independence and transparency, manufacturers of tobacco products should conclude data storage contracts with independent third parties. **The suitability of such contracts should be approved and monitored by the Commission, assisted by an independent** external auditor. The data related to the tracking and tracing system should be kept separate from other company related data and be under the control of and accessible at all times by the competent authorities from Member States and the Commission.

Tuesday, October 8, 2013

**Amendment 27****Proposal for a directive****Recital 29***Text proposed by the Commission*

- (29) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use prohibited the sale in the Member States of certain types of tobacco for oral use. Directive 2001/37/EC confirmed this prohibition. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden derogation from this prohibition. The prohibition of the sale of oral tobacco should be maintained in order to prevent the introduction to the internal market of a product that is addictive, has adverse health effects and is attractive to young people. **For other smokeless tobacco products that are not produced for the mass market, a strict labelling and ingredients regulation is considered sufficient to contain market expansion beyond their traditional use.**

*Amendment*

- (29) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use prohibited the sale in the Member States of certain types of tobacco for oral use. Directive 2001/37/EC confirmed this prohibition. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden derogation from this prohibition. The prohibition of the sale of oral tobacco should be maintained in order to prevent the introduction to the internal market of a product that is addictive, has adverse health effects and is attractive to young people.

**Amendment 28****Proposal for a directive****Recital 29 a (new)***Text proposed by the Commission**Amendment*

- (29a) **Given the general prohibition of the sale of oral tobacco (snus) in the Union, there is no cross-border interest in regulating the content of snus. The responsibility for regulating the content of snus thus lies with the Member State where the sale of snus is permitted in accordance with Article 151 of the Act of Accession of Austria, Finland and Sweden. Snus should therefore be exempt from the provisions of Article 6 of this Directive.**



Tuesday, October 8, 2013

**Amendment 29**  
**Proposal for a directive**

**Recital 30**

*Text proposed by the Commission*

- (30) Cross-border distance sales of tobacco facilitate access to tobacco products **of young people** and risk **to undermine** compliance with the requirements **provided for by tobacco control legislation and in particular by** this Directive. **Common rules on a notification system are necessary to ensure that this Directive achieves its full potential. The provision on notification of cross-border distance sales of tobacco in this Directive should apply notwithstanding the notification procedure set out in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services. Business to consumer distance sale of tobacco products is further regulated by Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, which will be replaced by Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights, as of 13 June 2014.**

*Amendment*

- (30) Cross-border distance sales of tobacco **should be prohibited as they** facilitate **young people's** access to tobacco products and risk **undermining** compliance with the requirements **of** this Directive.

**Amendment 30**

**Proposal for a directive**

**Recital 30 a (new)**

*Text proposed by the Commission*

*Amendment*

- (30a) **Directive 2003/33/EC on advertising and sponsorship of tobacco products already prohibits the free distribution of such products in the context of the sponsorship of events. This Directive, which regulates aspects relating to the presentation and sale of tobacco and aims to achieve a high level of health protection and prevention of tobacco consumption among young people, extends the scope of the ban on free distribution to public places and specifically prohibits the distribution of printed material, discount coupons and similar special offers inside packages and wrappings.**

Tuesday, October 8, 2013

**Amendment 31**  
**Proposal for a directive**  
**Recital 30 b (new)**

Text proposed by the Commission

Amendment

- (30b) *The Commission and the Member States should commit themselves to the effective implementation of the Protocol to the FCTC to eliminate illicit trade in tobacco products. Efforts should be made to prevent and improve the control of illegal trafficking of tobacco products manufactured in third countries.*

**Amendment 32**  
**Proposal for a directive**  
**Recital 31**

Text proposed by the Commission

Amendment

- (31) All tobacco products have the potential to cause mortality, morbidity and disability and their consumption should be **contained**. It is therefore important to monitor developments as regards novel tobacco products. A notification obligation for novel tobacco products should be put on manufacturers and importers, without prejudice to the power of the Member States to ban or to authorise them. The Commission should monitor the development and submit a report **5** years after the transposition deadline of this Directive, in order to assess whether amendments to this Directive are necessary.

- (31) All tobacco products have the potential to cause mortality, morbidity and disability and their **manufacture, distribution and** consumption should be **regulated**. It is therefore important to monitor developments as regards novel tobacco products. A notification obligation for novel tobacco products should be put on manufacturers and importers, without prejudice to the power of the Member States to ban or to authorise them. The Commission should monitor the development and submit a report **three** years after the transposition deadline of this Directive, in order to assess whether amendments to this Directive are necessary.

**Amendment 165**  
**Proposal for a directive**  
**Recital 33**

Text proposed by the Commission

Amendment

- (33) Nicotine-containing **products** are sold on the Union market. **The different regulatory approaches** taken by **Member States** to address health and safety concerns associated with these products **have a negative impact on the functioning of the internal market, in particular considering that these products are subject to significant cross-border distance sales including via the internet.**

- (33) Nicotine-containing products - **including e-cigarettes** - are sold on the Union market. **However Member States have taken different regulatory approaches** to address health and safety concerns associated with these products. **There is a need for harmonized rules, therefore all nicotine-containing products should be regulated under this Directive as a related tobacco product. Given the potential of nicotine-containing products to aid smoking cessation, Member States should ensure that they can be made available as widely as tobacco products.**

Tuesday, October 8, 2013

## Amendments 118 and 137/REV

## Proposal for a directive

## Recital 34

Text proposed by the Commission

Amendment

(34) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use<sup>(1)</sup> provides a legal framework to assess the quality, safety and efficacy of medicinal products including nicotine containing products. A significant number of nicotine-containing products were already authorised under this regulatory regime. The authorisation takes into account the nicotine content of the product in question. Subjecting all nicotine-containing products, whose nicotine content equals or exceeds the content of a nicotine containing product previously authorised under Directive 2001/83/EC, to the same legal framework clarifies the legal situation, levels out differences between national legislations, ensures equal treatment of all nicotine containing products usable for smoking cessation purposes and creates incentives for research and innovation in smoking cessation. This should be without prejudice to the application of Directive 2001/83/EC to other products covered by this Directive if the conditions set by Directive 2001/83/EC are fulfilled.

deleted

<sup>(1)</sup> OJ L 311, 28.11.2001, p. 67, as last amended by Directive 2011/62/EU, OJ L 174, 1.7.2011, p. 74.

## Amendment 35

## Proposal for a directive

## Recital 35

Text proposed by the Commission

Amendment

(35) Labelling provisions should be introduced for nicotine containing products below the threshold set out in this Directive drawing the attention of consumers to potential health risks.

deleted

## Amendment 36

## Proposal for a directive

## Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) Member States should ensure that nicotine-containing products are not sold to persons below the age required for purchasing tobacco products or related products.

Tuesday, October 8, 2013

**Amendment 37**  
**Proposal for a directive**

**Recital 37**

*Text proposed by the Commission*

- (37) In order to ensure uniform conditions for the implementation of this Directive, in particular concerning the format of ingredients reporting, **the determination of products with characterising flavours or with increased levels of toxicity and addictiveness and the methodology for determining whether a tobacco product has characterising flavour**, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

*Amendment*

- (37) In order to ensure uniform conditions for the implementation of this Directive, in particular concerning the format of ingredients reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

**Amendment 38**  
**Proposal for a directive**

**Recital 38**

*Text proposed by the Commission*

- (38) In order to make this Directive fully operational and to keep up with technical, scientific and international developments in tobacco manufacture, consumption and regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, in particular in respect of adopting and adapting maximum yields for emissions and their measurement methods, setting maximum levels for **ingredients that increase toxicity, addictiveness or attractiveness**, the use of health warnings, unique identifiers and security features in the labelling and packaging, defining key elements for contracts on data storage with independent third parties, reviewing certain exemptions granted to tobacco products other than cigarettes, roll-your-own tobacco **and smokeless tobacco products and reviewing the nicotine levels for nicotine containing products**. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

*Amendment*

- (38) In order to make this Directive fully operational and to keep up with technical, scientific and international developments in tobacco manufacture, consumption and regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, in particular in respect of adopting and adapting maximum yields for emissions and their measurement methods, **approving additives and** setting maximum levels for **additives as necessary**, the use of health warnings, unique identifiers and security features in the labelling and packaging, defining key elements for contracts on data storage with independent third parties, **and** reviewing certain exemptions granted to tobacco products other than cigarettes, roll-your-own tobacco and **water pipe tobacco**. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Tuesday, October 8, 2013

**Amendment 39**  
**Proposal for a directive**

**Recital 39**

*Text proposed by the Commission*

- (39) The Commission should monitor the developments and submit a report **5** years after the date of transposition of this Directive, in order to assess whether amendments to this Directive are necessary.

*Amendment*

- (39) The Commission should monitor the developments and submit a report **three** years after the date of transposition of this Directive, in order to assess whether amendments to this Directive are necessary, **in particular as regards packaging**.

**Amendment 40**  
**Proposal for a directive**

**Recital 39 a (new)**

*Text proposed by the Commission*

- (39a) **Member States have an important responsibility in protecting public health and taking preventive action, providing public guarantees, monitoring and advice for young people, and carrying out preventive public anti-smoking campaigns, particularly in schools. Universal free access to smoking cessation consultations and corresponding treatments is considered vital.**

*Amendment*

- (39a) **Member States have an important responsibility in protecting public health and taking preventive action, providing public guarantees, monitoring and advice for young people, and carrying out preventive public anti-smoking campaigns, particularly in schools. Universal free access to smoking cessation consultations and corresponding treatments is considered vital.**

**Amendment 41**  
**Proposal for a directive**

**Recital 40**

*Text proposed by the Commission*

- (40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, **on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to all products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.** Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

*Amendment*

- (40) A Member State that deems it necessary to maintain **or introduce** more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, **insofar as such measures are compatible with the TFEU.** Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

Tuesday, October 8, 2013

**Amendment 42**  
**Proposal for a directive**

**Recital 42**

*Text proposed by the Commission*

- (42) Member States should ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

*Amendment*

- (42) Member States should ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. ***It is essential that national data protection provisions also be taken into account.***

**Amendment 43**  
**Proposal for a directive**

**Recital 45**

*Text proposed by the Commission*

- (45) The proposal affects several fundamental rights as laid down in the Charter of Fundamental Rights of the European Union, notably the protection of personal data (Article 8), the freedom of expression and information (Article 11), freedom of economic operators to conduct business (Article 16), and the right to property (Article 17). ***The*** obligations imposed on manufacturers, importers and distributors of tobacco products ***are necessary to improve the functioning of the internal market while ensuring*** a high level of health and consumer protection ***as set out in Articles 35 and 38 of the Charter of Fundamental Rights of the European Union.*** The application of this Directive should respect the EU law and relevant international obligations.

*Amendment*

- (45) The proposal affects several fundamental rights as laid down in the Charter of Fundamental Rights of the European Union, notably the protection of personal data (Article 8), the freedom of expression and information (Article 11), freedom of economic operators to conduct business (Article 16), and the right to property ***of trademark holders*** (Article 17). ***It is therefore necessary to ensure that the*** obligations imposed on manufacturers, importers and distributors of tobacco products ***not only guarantee*** a high level of health and consumer protection, ***but also protect all other fundamental rights and are proportionate with respect to the functioning of the internal market.*** The application of this Directive should respect the Union law and relevant international obligations.

Tuesday, October 8, 2013

**Amendment 44**  
**Proposal for a directive**  
**Recital 45 a (new)**

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*Text proposed by the Commission*

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*Amendment*

**(45a) Member States should respect the right to clean air within the spirit of Article 7 (b) and Article 12 of the International Covenant on Economic, Social and Cultural Rights providing for rights for safe and healthy working conditions and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This is within the aim of Article 37 of the Charter of Fundamental rights where a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union.**

**Amendment 45**  
**Proposal for a directive**  
**Article 1**

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*Text proposed by the Commission*

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*Amendment*

The aim of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning:

The aim of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning:

(a) the ingredients and emissions of tobacco products and related reporting obligations including the maximum yields for tar, nicotine and carbon monoxide for cigarettes;

(a) the ingredients and emissions of tobacco products and related reporting obligations including the maximum yields for tar, nicotine and carbon monoxide for cigarettes;

(b) the labelling and packaging of tobacco products including the health warnings to appear on unit packets of tobacco products and any outside packaging as well as traceability and security features to ensure compliance with this Directive;

(b) the labelling and packaging of tobacco products including the health warnings to appear on unit packets of tobacco products and any outside packaging as well as traceability and security features to ensure compliance with this Directive;

(c) the prohibition to place on the market tobacco for oral use;

(c) the prohibition to place on the market tobacco for oral use;

(d) cross-border distance sales of tobacco products;

(d) **the prohibition of** cross-border distance sales of tobacco products;

(e) the notification obligation for novel tobacco products;

(e) the notification obligation for novel tobacco products;



Tuesday, October 8, 2013

*Text proposed by the Commission*

(f) the placing on the market and the labelling of certain products, which are related to tobacco products, namely nicotine-containing products and herbal products for smoking;

in order to facilitate the functioning of the internal market in tobacco and related products, taking as a basis a high level of health protection.

*Amendment*

(f) the placing on the market and the labelling of certain products, which are related to tobacco products, namely nicotine-containing products and herbal products for smoking;

in order to **meet obligations under the WHO Framework Convention for Tobacco Control and in order** to facilitate the functioning of the internal market in tobacco and related products, taking as a **base** a high level of health protection, **especially for young people**.

**Amendment 46**  
**Proposal for a directive**  
**Article 2**

*Text proposed by the Commission*

For the purposes of this Directive, the following definitions shall apply:

- (1) 'addictiveness' means the pharmacological potential of a substance to cause addiction, a state which affects an individual's ability to control behaviour typically by instilling a reward or a relief from withdrawal symptoms, or both;
- (2) 'additive' means substance contained in a tobacco product, its unit packet or any outside packaging with the exception of tobacco leaves and other natural or unprocessed parts of tobacco plants;
- (3) 'age verification system' means a computing system that unambiguously confirms the consumer's age in electronic form according to national requirements;
- (4) 'characterising flavour' means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or upon **intended** use of the tobacco product;
- (5) 'chewing tobacco' means a smokeless tobacco product exclusively designed for the purpose of chewing;

*Amendment*

For the purposes of this Directive, the following definitions shall apply:

- (1) 'addictiveness' means the pharmacological potential of a substance to cause addiction, a state which affects an individual's ability to control behaviour typically by instilling a reward or a relief from withdrawal symptoms, or both;
- (2) 'additive' means substance contained in a tobacco product, its unit packet or any outside packaging with the exception of tobacco leaves and other natural or unprocessed parts of tobacco plants;
- (3) 'age verification system' means a computing system that unambiguously confirms the consumer's age in electronic form according to national requirements;
- (4) 'characterising flavour' means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla **which is** observable before or upon use of the tobacco product;
- (5) 'chewing tobacco' means a smokeless tobacco product exclusively designed for the purpose of chewing;

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## Text proposed by the Commission

- (6) 'cigar' means a roll of tobacco consumed via a combustion process and further defined in Article 4(1) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco;
- (7) 'cigarette' means a roll of tobacco consumed via a combustion process and further defined in Article 3(1) of Council Directive 2011/64/EU;
- (8) 'cigarillo' means a small type of cigar **with a diameter of up to 8 mm**;
- (9) 'combined health warning' means a health warning provided for in this Directive and consisting of a combination of a text warning and a corresponding photograph or illustration;
- (10) 'consumer' means a natural person who is acting for purposes which are outside his trade, business, craft or profession;
- (11) 'cross-border distance sales' means a distance sales service where, at the time the consumer orders the product, the consumer is located in a Member State other than the Member State or the third country where the retail outlet is established; a retail outlet is deemed to be established in a Member State:
- (a) in the case of a natural person — if he/she has his/her place of business in that Member State;
- (b) in other cases — if it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment in that Member State;
- (12) 'emissions' means substances that are released when a tobacco product is used as intended, such as substances found in smoke, or substances released during the process of using smokeless tobacco products;
- (13) 'flavouring' means an additive that imparts aroma and/or taste;

## Amendment

- (6) 'cigar' means a roll of tobacco consumed via a combustion process and further defined in Article 4(1) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco;
- (7) 'cigarette' means a roll of tobacco consumed via a combustion process and further defined in Article 3(1) of Council Directive 2011/64/EU;
- (8) 'cigarillo' means a small type of cigar **and is further defined in Article 8 (1) of Council Directive 2007/74/EC**;
- (9) 'combined health warning' means a health warning provided for in this Directive and consisting of a combination of a text warning and a corresponding photograph or illustration;
- (10) 'consumer' means a natural person who is acting for purposes which are outside his trade, business, craft or profession;
- (11) 'cross-border distance sales' means a distance sales service where, at the time the consumer orders the product, the consumer is located in a Member State other than the Member State or the third country where the retail outlet is established; a retail outlet is deemed to be established in a Member State:
- (a) in the case of a natural person — if he/she has his/her place of business in that Member State;
- (b) in other cases — if it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment in that Member State;
- (12) 'emissions' means substances that are released when a tobacco product is used as intended, such as substances found in smoke, or substances released during the process of using smokeless tobacco products;
- (13) 'flavouring' means an additive that imparts aroma and/or taste;

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*Text proposed by the Commission*

- (14) 'health warning' means a warning provided for in this Directive, including text warnings, combined health warnings, general warnings and information messages;
- (15) 'herbal product for smoking' means a product based on plants or herbs which contains no tobacco and is consumed via a combustion process;
- (16) 'import of tobacco and related products' means the entry into the territory of the Union of such products unless the products upon their entry into the Union are placed under a customs suspensive procedure or arrangement, as well as their release from a customs suspensive procedure or arrangement;
- (17) 'importer of tobacco and related products' means the owner or a person having the right of disposal over tobacco and related products that have been brought into the territory of the Union;
- (18) 'ingredient' means an additive, tobacco (***leaves and other natural, processed or unprocessed parts of tobacco plants including expanded and reconstituted tobacco***), as well as any substance present in a finished tobacco product including paper, filter, inks, capsules and adhesives;
- (19) 'maximum level' or 'maximum yield' means the maximum content or emission, including 0, of a substance in a tobacco product measured in grams;
- (20) 'nasal tobacco' means a smokeless tobacco product consumed via the nose;
- (21) 'nicotine' means nicotinic alkaloids;
- (22) 'nicotine-containing product' means a product usable for consumption by consumers via inhalation, ingestion or in other forms and to which nicotine is either added during the manufacturing process or self-administered by the user before or during consumption;

*Amendment*

- (14) 'health warning' means a warning provided for in this Directive, including text warnings, combined health warnings, general warnings and information messages;
- (15) 'herbal product for smoking' means a product based on plants or herbs which contains no tobacco and is consumed via a combustion process;
- (16) 'import of tobacco and related products' means the entry into the territory of the Union of such products unless the products upon their entry into the Union are placed under a customs suspensive procedure or arrangement, as well as their release from a customs suspensive procedure or arrangement;
- (17) 'importer of tobacco and related products' means the owner or a person having the right of disposal over tobacco and related products that have been brought into the territory of the Union;
- (18) 'ingredient' means an additive, tobacco, as well as any substance present in a finished tobacco product including paper, filter, inks, capsules and adhesives;
- (18a) 'tobacco' means leaves and other natural processed or unprocessed parts of tobacco plants, including expanded and reconstituted tobacco;**
- (19) 'maximum level' or 'maximum yield' means the maximum content or emission, including 0, of a substance in a tobacco product measured in grams;
- (20) 'nasal tobacco' means a smokeless tobacco product consumed via the nose;
- (21) 'nicotine' means nicotinic alkaloids;
- (22) 'nicotine-containing product' means a product usable for consumption by consumers via inhalation, ingestion or in other forms and to which nicotine is either added during the manufacturing process or self-administered by the user before or during consumption;

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*Text proposed by the Commission*

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- (23) 'novel tobacco product' means a tobacco product other than a cigarette, roll-your-own tobacco, pipe tobacco, water-pipe tobacco, cigar, cigarillo, chewing tobacco, nasal tobacco or tobacco for oral use placed on the market after entry into force of this Directive;
- (24) 'outside packaging' means any packaging in which products are placed on the market and which include a unit packet or an aggregation of unit packets; transparent wrappers are not regarded as outside packaging;
- (25) 'place on the market' means to make products available to consumers located in the Union, with or without payment, including by means of distance sale; in case of cross-border distance sales the product is deemed to be placed on the market in the Member State where the consumer is located;
- (26) 'pipe tobacco' means tobacco consumed via a combustion process and exclusively designed for the purpose of being used in a pipe;
- (27) 'retail outlet' means any outlet where tobacco products are placed on the market including by a natural person;
- (28) 'roll-your-own tobacco' means tobacco which can be used for making cigarettes by consumers or retail outlets;

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*Amendment*

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- (23) 'novel tobacco product' means a tobacco product other than a cigarette, roll-your-own tobacco, pipe tobacco, water-pipe tobacco, cigar, cigarillo, chewing tobacco, nasal tobacco or tobacco for oral use placed on the market after entry into force of this Directive;
- (24) 'outside packaging' means any packaging in which products are placed on the market and which include a unit packet or an aggregation of unit packets; transparent wrappers are not regarded as outside packaging;
- (24a) 'outside transport packaging' means any packaging, consisting of an aggregation of unit packets, in which tobacco products are transported from the manufacturer to the subsequent economic operators before being placed on the market, such as cartons, master cases and pallets;**
- (25) 'place on the market' means to make products available to consumers located in the Union, with or without payment, including by means of distance sale; in case of cross-border distance sales the product is deemed to be placed on the market in the Member State where the consumer is located;
- (26) 'pipe tobacco' means tobacco consumed via a combustion process and exclusively designed for the purpose of being used in a pipe;
- (26a) 'water pipe tobacco' means tobacco intended solely for use in a water pipe;**
- (27) 'retail outlet' means any outlet where tobacco products are placed on the market including by a natural person;
- (28) 'roll-your-own tobacco' means tobacco which can be used for making cigarettes by consumers or retail outlets;

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*Text proposed by the Commission*

- (29) 'smokeless tobacco product' means a tobacco product not involving a combustion process, including chewing tobacco, nasal tobacco and tobacco for oral use;
- (30) 'substantial change of circumstances' means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least 10 % in at least **10** Member States based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least **10** Member States for the respective product category based on \_\_\_\_ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;
- (31) 'tar' means the raw anhydrous nicotine-free condensate of smoke;
- (32) 'tobacco for oral use' means all products for oral use, except those intended to be inhaled or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets;
- (33) 'tobacco for smoking' means a tobacco product other than a smokeless tobacco product;
- (34) 'tobacco products' means products usable for consumption by consumers and consisting of, even partly, tobacco, whether genetically modified or not;
- (35) 'toxicity' means the degree to which a substance can cause harmful effects in the human organism, including effects occurring over time, usually upon repeated or continuous consumption or exposure;
- (36) 'unit packet' means the smallest individual packaging of a product that is placed on the market.

*Amendment*

- (29) 'smokeless tobacco product' means a tobacco product not involving a combustion process, including chewing tobacco, nasal tobacco and tobacco for oral use;
- (30) 'substantial change of circumstances' means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least 10 % in at least **five** Member States based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least **five** Member States for the respective product category based on \_\_\_\_ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;
- (31) 'tar' means the raw anhydrous nicotine-free condensate of smoke;
- (32) 'tobacco for oral use' means all products for oral use, except those intended to be inhaled or chewed, made wholly or partly of tobacco, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets;
- (33) 'tobacco for smoking' means a tobacco product other than a smokeless tobacco product;
- (34) 'tobacco products' means products usable for consumption by consumers and consisting of, even partly, tobacco, whether genetically modified or not;
- (35) 'toxicity' means the degree to which a substance can cause harmful effects in the human organism, including effects occurring over time, usually upon repeated or continuous consumption or exposure;
- (36) 'unit packet' means the smallest individual packaging of a product that is placed on the market.
- (36a) '**passive smoking**' means the involuntary inhalation of smoke from the combustion of cigarettes or cigars or from the exhalation of one or more smokers.

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**Amendments 89 and 149****Proposal for a directive****Article 3 — paragraph 2***Text proposed by the Commission**Amendment*

**2. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the maximum yields laid down in paragraph 1, taking into account scientific development and internationally agreed standards.**

*deleted***Amendment 90****Proposal for a directive****Article 3 — paragraph 3***Text proposed by the Commission**Amendment*

**3. Member States shall notify the Commission of the maximum yields that they set for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. Taking into account internationally agreed standards, where available, and based on scientific evidence and on the yields notified by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adopt and adapt maximum yields for other emissions of cigarettes and for emissions of tobacco products other than cigarettes that increase in an appreciable manner the toxic or addictive effect of tobacco products beyond the threshold of toxicity and addictiveness stemming from the yields of tar, nicotine and carbon monoxide fixed in paragraph 1.**

*deleted***Amendment 48****Proposal for a directive****Article 4***Text proposed by the Commission**Amendment*

**1. The tar, nicotine and carbon monoxide yields of cigarettes shall be measured on the basis of ISO standards 4387 for tar, 10315 for nicotine, and 8454 for carbon monoxide.**

**1. The tar, nicotine and carbon monoxide yields of cigarettes shall be measured on the basis of ISO standards 4387 for tar, 10315 for nicotine, and 8454 for carbon monoxide.**

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*Text proposed by the Commission*

The accuracy of the tar **and** nicotine indications shall be verified in accordance with ISO standard 8243.

2. The measurement referred to in paragraph 1 shall be carried out or verified by testing laboratories which are approved and monitored by the competent authorities of the Member States.

Member States shall send the Commission a list of approved laboratories, specifying the criteria used for approval and the methods of monitoring applied, and update it whenever any change is made. The Commission shall make the list of approved laboratories as indicated by Member States publicly available.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to **adapt** the methods of measurement of the tar, nicotine and carbon monoxide yields, taking into account scientific and technical developments and internationally agreed standards.

4. Member States shall notify the Commission of the methods of measurement that they use for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. Based on these methods, and taking into account scientific and technical developments as well as internationally agreed standards the Commission shall **be empowered** to adopt delegated acts in accordance with Article 22 to **adopt and adapt** methods of measurement.

*Amendment*

The accuracy of the tar, nicotine **and carbon monoxide** indications shall be verified in accordance with ISO standard 8243.

2. The measurement referred to in paragraph 1 shall be carried out or verified by **independent** testing laboratories which are approved and monitored by the competent authorities of the Member States.

Member States shall send the Commission a list of approved laboratories, specifying the criteria used for approval, and the methods of monitoring applied, and update it whenever any change is made. The Commission shall make the list of approved laboratories as indicated by Member States publicly available.

**2a. Tests verifying the validity of the result supplied by the tobacco companies shall be done on a regular basis by independent testing laboratories monitored by the competent authorities of the Member States.**

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to **supplement or amend** the methods of measurement of the tar, nicotine and carbon monoxide yields, taking into account scientific and technical developments and internationally agreed standards.

4. Member States shall notify the Commission of the methods of measurement that they use for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. The Commission shall adopt delegated acts in accordance with Article 22 to **integrate into Union law methods agreed by the Parties to the FCTC or WHO.**

**4a. The accuracy of the indications for the other emissions of other combustible tobacco products shall be verified in accordance with ISO standard 8243.**



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**Amendments 91, 92 and 49****Proposal for a directive****Article 5***Text proposed by the Commission*

1. Member States shall require manufacturers and importers of tobacco products to submit to their competent authorities a list of all ingredients, and quantities thereof, used in the manufacture of the tobacco products by brand name and type, as well as their emissions and yields. Manufacturers or importers shall also inform the competent authorities of the concerned Member States if the composition of a product is modified affecting the information provided under this Article. Information required under this Article shall be submitted prior to the placing of the market of a new or modified tobacco product.

The list shall be accompanied by a statement setting out the reasons for the inclusion of such ingredients in those tobacco products. The list shall indicate their status, including whether the ingredients have been registered under Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)<sup>47</sup> as well as their classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures<sup>48</sup>. The list shall also be accompanied by the toxicological data available to the manufacturer or importer regarding these ingredients in burnt or unburnt form as appropriate, referring in particular to their effects on health of consumers and taking into account, inter alia, any addictive effects. The list shall be established in descending order of the weight of each ingredient included in the product. Other than for tar, nicotine and carbon monoxide and for emissions referred to in Article 4 paragraph 4, the manufacturers and importers shall indicate the measurement methods used. Member States may also require manufacturers or importers to carry out other tests as may be laid down by the competent national authorities in order to assess the effects of substances on health, taking into account, inter alia, their addictiveness and toxicity.

*Amendment*

1. Member States shall require manufacturers and importers of tobacco products to submit to their competent authorities a list of all ingredients, and quantities thereof, used in the manufacture of the tobacco products by brand name and type, as well as their emissions and yields **resulting from intended use**. Manufacturers or importers shall also inform the competent authorities of the concerned Member States if the composition of a product is modified affecting the information provided under this Article. Information required under this Article shall be submitted prior to the placing of the market of a new or modified tobacco product.

The list shall be accompanied by a statement setting out the reasons for the inclusion of such ingredients in those tobacco products. The list shall indicate their status, including whether the ingredients have been registered under Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)<sup>47</sup> as well as their classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures<sup>48</sup>. The list shall also be accompanied by the toxicological data available to the manufacturer or importer regarding these ingredients in burnt or unburnt form as appropriate, **and that is at least sufficient to classify those substances pursuant to Regulation (EC) No 1272/2008**, referring in particular to their effects on health of consumers and taking into account, inter alia, any addictive effects. The list shall be established in descending order of the weight of each ingredient included in the product. Other than for tar, nicotine and carbon monoxide and for emissions referred to in Article 4 paragraph 4, the manufacturers and importers shall indicate the measurement methods used. Member States may also require manufacturers or importers to carry out other tests as may be laid down by the competent national authorities in order to assess the effects of substances on health, taking into account, inter alia, their addictiveness and toxicity.

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Text proposed by the Commission

2. Member States shall ensure the dissemination of information submitted in accordance with paragraph 1 on a **dedicated** website, which is available to the general public. In doing so Member States shall take due account of the need to protect information which constitutes a trade secret.

3. The Commission shall, by means of implementing acts, lay down and if necessary update the format for the submission and dissemination of the information specified in paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

4. Member States shall require manufacturers and importers to submit internal and external studies available to them on market research and preferences of various consumer groups, including young people, relating to ingredients and emissions. Member States shall also require manufacturers and importers to report the sales volume data per product, reported in sticks or kilograms, and per Member State on a yearly basis starting from the full calendar year following that of the entry into force of this Directive. Member States shall provide alternative or additional sales data, as appropriate, to ensure that information on sales volume requested under this paragraph is reliable and complete.

5. All data and information to be provided to and by Member States under this Article shall be provided in electronic form. Member States shall store the information electronically and shall ensure that the Commission has access to the information at all times. Other Member States shall have access to this information upon justified request. Member States and the Commission shall ensure that trade secrets and other confidential information are treated in a confidential manner.

Amendment

2. Member States shall ensure the dissemination of information submitted in accordance with paragraph 1 on a website, which is available to the general public. In doing so Member States shall take due account of the need to protect information which constitutes a trade secret.

3. The Commission shall, by means of implementing acts, lay down and if necessary update the format for the submission and dissemination of the information specified in paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

4. Member States shall require manufacturers and importers to submit internal and external studies available to them on market research and preferences of various consumer groups, including young people **and chronic heavy smokers**, relating to ingredients and emissions, **as well as working summaries of any market surveys they carry out when launching new products**. Member States shall also require manufacturers and importers to report the sales volume data per product, reported in sticks or kilograms, and per Member State on a yearly basis starting from the full calendar year following that of the entry into force of this Directive. Member States shall provide alternative or additional sales data, as appropriate, to ensure that information on sales volume requested under this paragraph is reliable and complete.

5. All data and information to be provided to and by Member States under this Article shall be provided in electronic form. Member States shall store the information electronically and shall ensure that the Commission has access to the information at all times. Other Member States shall have access to this information upon justified request. Member States and the Commission shall ensure that trade secrets and other confidential information are treated in a confidential manner.

**5a. The Commission shall analyse all the information made available under this Article (particularly information relating to the addictiveness and toxicity of ingredients, market research and sales data) and shall produce a regular report to the European Parliament and the Council summarising the main findings.**

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Text proposed by the Commission

Amendment

6. **Fees** charged by Member States for receiving, storing, handling, analysing and publishing the information submitted to them under this Article, **if any, shall not exceed the cost attributable to those activities.**

**5b. The information collected pursuant to this Article shall be taken into account for the purpose of the approval of additives in accordance with Article 6(10a).**

6. **Proportionate fees may be** charged by Member States for receiving, storing, handling, analysing and publishing the information submitted to them under this Article.

### Amendments 50, 87 and 95

#### Proposal for a directive

#### Article 6

Text proposed by the Commission

Amendment

1. **Member States shall prohibit the placing on the market of tobacco products with a characterising flavour.**

1. **Additives shall not be used in tobacco products unless they are approved in accordance with this Directive. Approved additives shall be included in the list set out in Annex [-I]. Any conditions or restrictions on use of approved additives shall also be indicated in the list. The placing on the market of tobacco products containing additives not listed in Annex [-I] or used not in compliance with any conditions or restrictions laid down in that Annex to this Directive shall be prohibited.**

**The following additives may not be approved:**

- (a) **vitamins and other additives that create the impression that a tobacco product has a health benefit or presents reduced health hazards;**
- (b) **caffeine and taurine and other additives and stimulant compounds that are associated with energy and vitality;**
- (c) **additives having colouring properties for emissions;**
- (d) **additives that meet the criteria for classification as hazardous substances in accordance with Regulation (EC) No 1272/2008, or that result in such substances upon combustion;**
- (e) **additives which, when used, may impart a characterising flavour.**
- (f) **additives that increase at the stage of consumption the toxic or addictive effect of a tobacco product.**

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Text proposed by the Commission

Amendment

**Member States shall not prohibit the use of additives** which are essential for the manufacture of tobacco products, as long as the additives do not result in a product with a characterising flavour.

**Member States shall notify the Commission of measures taken pursuant to this paragraph.**

2. **The Commission shall at the request of a Member State or may on its own initiative determine by means of implementing acts whether a tobacco product falls within the scope of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.**

**The Commission shall adopt by means of implementing acts uniform rules on the procedures for determining whether a tobacco product falls within the scope of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.**

3. **In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives or combination of additives that cause the characterising flavour.**

**Notwithstanding point (e) of the previous subparagraph, where a certain additive or combination thereof typically imparts a characterising flavour only when it exceeds a certain level of presence or concentration, the additive or additives in question may be approved provided that maximum allowed levels are set.**

**Notwithstanding point (f) of the second subparagraph, where a certain additive amplifies at the stage of consumption the toxic or addictive effect of a tobacco product only when it exceeds a certain level of presence or concentration, including standard safety margins, the additive in question may be approved provided that maximum allowed levels are set.**

**Additives** which are essential for the manufacture of tobacco products **may be approved** as long as the additives do not result in a product with a characterising flavour. **The reconstitution of sugar compounds in tobacco products up to the levels present in tobacco leaves prior to cutting shall be deemed as not resulting in a characterising flavour.**

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Text proposed by the Commission

Amendment

4. **Member States shall prohibit the use of the following additives in tobacco products:**

- (a) **vitamins and other additives that create the impression that a tobacco product has a health benefit or presents reduced health hazards, or**
- (b) **caffeine and taurine and other additives and stimulant compounds that are associated with energy and vitality, or**
- (c) **additives having colouring properties for emissions.**

5. **Member States shall prohibit the** use of flavourings in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.

6. **Member States shall ensure that provisions or conditions set out under Regulation (EC) No 1907/2006 are applied to tobacco products as appropriate.**

7. **Member States shall, based on scientific evidence, prohibit the placing on the market of tobacco products with additives in quantities that increase in an appreciable manner at the stage of consumption the toxic or addictive effect of a tobacco product.**

**Member States shall notify to the Commission measures taken pursuant to this paragraph.**

8. **The Commission shall at the request of a Member State or may on its own initiative determine by means of an implementing act whether a tobacco product falls within the scope of paragraph 7. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21 and shall be based on the latest scientific evidence.**

9. **In case scientific evidence and the experience gained in the application of paragraphs 7 and 8 shows that a certain additive or a certain quantity thereof amplify in an appreciable manner at the stage of consumption the toxic or addictive effect of a tobacco product the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives.**

5. The use of flavourings in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity **shall be prohibited**. Filters and capsules shall not contain tobacco.

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*Text proposed by the Commission*

10. Tobacco products other than cigarettes, roll-your-own tobacco and **smokeless tobacco products** shall be exempted from the prohibitions laid down in **paragraphs 1 and 5**. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.

*Amendment*

10. Tobacco products other than cigarettes, roll-your-own tobacco and **water pipe tobacco** shall be exempted from the **application of point (e) of the second subparagraph of paragraph 1, and** paragraph 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.

**10a. In order to obtain the approval of an additive, manufacturers and importers shall make an application to the Commission. The application shall be accompanied by the following particulars:**

- (a) name or corporate name and permanent address of the applicant;**
- (b) chemical name of the additive;**
- (c) function of the additive and maximum quantity to be used per cigarette;**
- (d) clear evidence supported by scientific data that the additive does not fall under any of the exclusion criteria listed in this Article.**

**The Commission may ask the relevant scientific committee whether the additive concerned falls under any of the exclusion criteria listed in this Article as such, or only as of a certain concentration. The Commission shall take a decision on the application after receiving the application.**

**The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to approve the additive, with allowed maximum levels where relevant, and amend Annex [-I] accordingly.**

**10b. The use of menthol in all its commercial forms known on the date of publication of this Directive shall be exempted from the application of this Article for a period of five years from the date referred to in Article 25(1).**

**10c. Oral tobacco (snus) shall be exempt from the provisions of this Article.**

**10d. This Article shall be without prejudice to the application to tobacco products of the relevant provisions of Regulation (EC) No 1907/2006 or of any conditions set pursuant to that Regulation.**

Tuesday, October 8, 2013

Text proposed by the Commission

Amendment

**10e. This Article shall apply as from ... (\*)****(\*) 36 months from the entry into force of this Directive****Amendment 51****Proposal for a directive****Article 7**

Text proposed by the Commission

Amendment

1. Each unit packet of tobacco products and any outside packaging shall carry health warnings in the official language or languages of the Member State where the product is placed on the market.

1. Each unit packet of tobacco products and any outside packaging shall carry health warnings in the official language or languages of the Member State where the product is placed on the market.

2. Health warnings shall occupy the entire surface reserved for them and they shall not be commented on, paraphrased or referred to in any form.

2. Health warnings shall occupy the entire surface reserved for them and they shall not be commented on, paraphrased or referred to in any form.

3. In order to ensure their graphic integrity and visibility, health warnings shall be irremovably printed, indelible and in no way hidden or interrupted, including by tax stamps, price marks, tracking and tracing marks, security features or by any type of wrapper, pouch, jacket, box or other device or by the opening of the unit packet.

3. In order to ensure their graphic integrity and visibility, health warnings shall be irremovably printed, indelible and in no way hidden or interrupted, including by tax stamps, price marks, tracking and tracing marks, security features or by any type of wrapper, pouch, jacket, box or other device or by the opening of the unit packet. **In the case of tobacco products other than cigarettes, roll-your-own, water-pipe tobacco and smokeless tobacco products, health warnings may be affixed by means of stickers, provided that such stickers cannot be removed.**

4. Member States shall ensure that the health warnings **of the main surface** of the unit packet and any outside packaging are fully visible, including not being partially or totally hidden or interrupted by wrappers, pouches, jacket, boxes or other devices when tobacco products are placed on the market.

4. Member States shall ensure that the health warnings **on the fields of vision on all sides** of the unit packet and any outside packaging are fully visible, including not being partially or totally hidden or interrupted by wrappers, pouches, jacket, boxes or other devices when tobacco products are placed on the market.

5. The health warnings shall in no way hide or interrupt the tax stamps, price marks, tracking and tracing marks, or security features on unit packets.

5. The health warnings shall in no way hide or interrupt the tax stamps, price marks, tracking and tracing marks, or security features on unit packets.



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*Text proposed by the Commission*

6. Member States shall not increase the size of the health warnings including by introduction of an obligation to surround the health warnings by a border. The actual size of the health warnings shall be calculated in relation to the surface on which they are placed before the unit packet is opened.

7. Images of unit packets and any outside packaging targeting consumers in the Union shall comply with the provisions of this chapter.

*Amendment*

6. Member States shall not increase the size of the health warnings including by introduction of an obligation to surround the health warnings by a border. The actual size of the health warnings shall be calculated in relation to the surface on which they are placed before the unit packet is opened.

7. Images of unit packets and any outside packaging targeting consumers in the Union shall comply with the provisions of this chapter.

**7a. The regulation of other aspects of the packet falls outside the scope of this Directive.**

**7b. The unit packet and its surrounding packaging shall not include printed vouchers offering discounts, free distribution, two-for-one or other similar offers involving any type of tobacco product covered by this Directive.**

#### Amendment 52

##### Proposal for a directive

##### Article 8 — paragraphs 1 to 3

*Text proposed by the Commission*

1. Each unit packet and any outside packaging of tobacco for smoking shall carry the following general warning:

Smoking kills — quit now

2. Each unit packet and any outside packaging of tobacco for smoking shall carry the following information message:

Tobacco smoke contains over 70 substances known to cause cancer

*Amendment*

1. Each unit packet and any outside packaging of tobacco for smoking shall carry the following general warning:

Smoking kills — quit now

2. Each unit packet and any outside packaging of tobacco for smoking shall carry the following information message:

Tobacco smoke contains over 70 substances known to cause cancer

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Text proposed by the Commission

3. For cigarette packets the general warning and the information message shall be printed on the lateral sides of the unit packets. These warnings shall have a width of not less than 20 mm **and a height of not less than 43 mm**. For roll-your-own tobacco the information message shall be printed on the surface that becomes visible when opening the unit packet. Both the general warning and the information message shall cover 50 % of the surface on which they are printed.

Amendment

3. For cigarette packets the general warning and the information message shall be printed on the lateral sides of the unit packets **in black Helvetica bold type on a white background**. These warnings shall have a width of not less than 20 mm. For roll-your-own tobacco **in pouches** the information message shall be printed on the surface that becomes visible when opening the unit packet, **for cylindrical containers the warnings shall be printed on the lid, and for cuboid containers the warnings shall be printed on the lateral sides**. Both the general warning and the information message shall cover 50 % of the surface on which they are printed.

## Amendment 96

## Proposal for a directive

## Article 8 — paragraph 4 — point b

Text proposed by the Commission

(b) *to define the position, format, layout and design of the health warnings laid down in this Article, including their font type and background colour.*

Amendment

deleted

## Amendments 168 and 181

## Proposal for a directive

## Article 9 — paragraph 1 — point c

Text proposed by the Commission

(c) cover **75** % of the external area of both the front and back surface of the unit packet and any outside packaging;

Amendment

(c) cover **65** % of the external area of both the front and back surface of the unit packet and any outside packaging;

## Amendment 111

## Proposal for a directive

## Article 9 — paragraph 1 — point g — point i

Text proposed by the Commission

(i) height: not less than **64** mm;

Amendment

(i) height: not less than **50** mm;

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**Amendments 100, 112, 141 and 182****Proposal for a directive****Article 9 — paragraphs 1 — point g — point ii***Text proposed by the Commission**Amendment*(ii) width: not less than **55** mm.(ii) width: not less than **52** mm.**Amendment 54****Proposal for a directive****Article 9 — paragraph 2***Text proposed by the Commission**Amendment*

2. The combined health warnings shall be divided into three sets rotating on an annual basis. Member States shall ensure that each combined health warning is displayed as nearly as possible on equal numbers of each brand.

2. The combined health warnings shall be divided into three sets rotating on an annual basis. Member States shall ensure that each combined health warning **available for use in any one year** is displayed as nearly as possible on equal numbers of each brand.

**Amendment 101****Proposal for a directive****Article 9 — paragraph 3 — point c***Text proposed by the Commission**Amendment*

(c) **define the position, format, layout, design, rotation and proportions of the health warnings;**

*deleted***Amendment 55****Proposal for a directive****Article 9 — paragraph 3 — point d***Text proposed by the Commission**Amendment*

(d) **by way of derogation from Article 7(3), lay down the conditions under which health warnings may be broken during unit packet opening in a manner that ensures the graphical integrity and visibility of the text, photographs and cessation information**

*deleted*

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## Amendment 56

## Proposal for a directive

## Article 10 — paragraphs 1 to 4

*Text proposed by the Commission*

Labelling of tobacco for smoking other than cigarettes and roll-your-own tobacco

1. Tobacco for smoking other than cigarettes **and** roll-your-own tobacco shall be exempted from the obligations to carry the information message laid down in Article 8(2) and the combined health warnings in Article 9. In addition to the general warning specified in Article 8(1), each unit packet and any outside packaging of these products shall carry a text warning listed in Annex I. The general warning specified in Article 8(1) shall include a reference to the cessation services in accordance with Article 9(1)(b).

The general warning shall be printed on the most visible surface of the unit packet and any outside packaging. The text warnings listed in Annex I shall be rotated in such a way as to guarantee their regular appearance. These warnings shall be printed on the other most visible surface of the unit packet and any outside packaging.

2. The general warning referred to in paragraph 1 shall cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **three** official languages.

3. The text warning referred to in paragraph 1 shall cover 40 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 45 % for Member States with two official languages and 50 % for Member States with **three** official languages.

*Amendment*

Labelling of tobacco for smoking other than cigarettes, roll-your-own, **and water-pipe** tobacco

1. Tobacco for smoking other than cigarettes, roll-your-own tobacco **and water-pipe tobacco** shall be exempted from the obligations to carry the information message laid down in Article 8(2) and the combined health warnings in Article 9. In addition to the general warning specified in Article 8(1), each unit packet and any outside packaging of these products shall carry a text warning listed in Annex I. The general warning specified in Article 8(1) shall include a reference to the cessation services in accordance with Article 9(1)(b).

The general warning shall be printed on the most visible surface of the unit packet and any outside packaging. The text warnings listed in Annex I shall be rotated in such a way as to guarantee their regular appearance. These warnings shall be printed on the other most visible surface of the unit packet and any outside packaging.

2. The general warning referred to in paragraph 1 shall cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **more than two** official languages.

3. The text warning referred to in paragraph 1 shall cover 40 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 45 % for Member States with two official languages and 50 % for Member States with **more than two** official languages.

**3a. In the case of packets whose most visible side has an area exceeding 75 cm<sup>2</sup>, the warnings referred to in paragraphs 2 and 3 must, however, cover an area of at least 22,5 cm<sup>2</sup> on each side. That area shall be increased to 24 cm<sup>2</sup> for Member States with two official languages and 26,25 cm<sup>2</sup> for Member States with three official languages.**

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Text proposed by the Commission

4. The general warning and the text warning referred to in paragraph 1 shall be:

(a) printed in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

(b) centred in the area in which they are required to be printed, parallel to the top edge of the unit packet and any outside packaging;

(c) surrounded by a black border not less than 3 mm and not more than 4 mm in width inside the surface reserved for the text of the warning.

Amendment

4. The general warning and the text warning referred to in paragraph 1 shall be:

(a) printed in black Helvetica bold type on a white background. ***The warnings may be affixed by means of stickers, provided that such stickers are irremovable.*** In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

(b) centred in the area in which they are required to be printed, parallel to the top edge of the unit packet and any outside packaging;

(c) surrounded by a black border not less than 3 mm and not more than 4 mm in width inside the surface reserved for the text of the warning.

#### Amendment 102

##### Proposal for a directive

##### Article 10 — paragraph 5

Text proposed by the Commission

5. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report.***

Amendment

***deleted***

#### Amendment 58

##### Proposal for a directive

##### Article 11 — paragraphs 1 and 2

Text proposed by the Commission

1. Each unit packet and any outside packaging of smokeless tobacco products shall carry the following health warning:

Amendment

1. Each unit packet and any outside packaging of smokeless tobacco products shall carry the following health warning:

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*Text proposed by the Commission**Amendment*

This tobacco product **can damage** your health and is addictive

This tobacco product **damages** your health and is addictive

2. The health warning laid down in paragraph 1 shall comply with the requirements specified in Article 10(4). In addition, it shall:

2. The health warning laid down in paragraph 1 shall comply with the requirements specified in Article 10(4). In addition, it shall:

(a) be printed on the two largest surfaces of the unit packet and any outside packaging;

(a) be printed on the two largest surfaces of the unit packet and any outside packaging;

(b) cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **three** official languages.

(b) cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **more than two** official languages

#### Amendment 59

##### Proposal for a directive

##### Article 11 — paragraph 3

*Text proposed by the Commission**Amendment*

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 1 **and 2** taking into account scientific and market developments.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraph 1 taking into account scientific and market developments.

#### Amendments 60, 103 and 153

##### Proposal for a directive

##### Article 12 — paragraph 1

*Text proposed by the Commission**Amendment*

1. The labelling of a unit packet and any outside packaging and the tobacco product itself shall not include any element or feature that:

1. The labelling of a unit packet and any outside packaging and the tobacco product itself **and/or its brand name** shall not include any element or feature that:

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Text proposed by the Commission

- (a) promotes a tobacco product by means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
- (b) suggests that a particular tobacco product is less harmful than others or has vitalising, energetic, healing, rejuvenating, natural, organic or otherwise positive health **or social** effects;
- (c) refers to flavour, taste, any flavourings or other additives or the absence thereof;
- (d) resembles a food product.

Amendment

- (a) promotes a tobacco product **and encourages its consumption** by means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. **Labels shall not include any information about nicotine, tar or carbon monoxide content;**
- (b) suggests that a particular tobacco product is less harmful than others or has vitalising, energetic, healing, rejuvenating, natural, organic or otherwise positive health effects;
- (c) refers to flavour, taste, any flavourings or other additives or the absence thereof;
- (d) resembles a food **or a cosmetic** product;
- (da) **aims to reduce the effect of some harmful components of smoke or increase the biodegradability of tobacco products.**

#### Amendments 104, 121 and 148

##### Proposal for a directive

##### Article 12 — paragraph 2

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. **Cigarettes with a diameter of less than 7,5 mm shall be deemed to be misleading.**

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself.

#### Amendment 61

##### Proposal for a directive

##### Article 12 — paragraph 2 — subparagraph 1 a (new)

Text proposed by the Commission

Amendment

**In the case of filter cigarettes, the tipping paper shall afford sufficient protection against product counterfeiting by means of its complexity. To this end it shall, at least possess the following characteristics:**



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Text proposed by the Commission

Amendment

- (a) *several visible print colours and production using gravure printing;*
- (b) *all white areas are coated;*
- (c) *complex printing with partially thin structures;*
- (d) *printing on white base paper;*
- (e) *pre-perforation situated sufficiently far from the end of the cigarette.*

**Amendment 62****Proposal for a directive****Article 12 — paragraph 2 — subparagraph 1 b (new)**

Text proposed by the Commission

Amendment

***The cigarette paper shall include watermarks.***

**Amendment 63****Proposal for a directive****Article 12 — paragraph 2 a (new)**

Text proposed by the Commission

Amendment

***2a. The variety of tobacco used to manufacture the product, its country of origin, or both, may be indicated on the unit packet.***

**Amendment 105****Proposal for a directive****Article 13 — paragraph 1**

Text proposed by the Commission

Amendment

***1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with a flap that covers the opening. The flap of the pouch shall cover at least 70 % of the front of the packet.*** A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least **40 g**.

1. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least **20 g**.

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**Amendment 66**  
**Proposal for a directive**  
**Article 13 — paragraph 3**

*Text proposed by the Commission*

3. *The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.*

*Amendment*

*deleted*

**Amendments 107, 125 and 154**

**Proposal for a directive**  
**Article 13 — paragraph 4**

*Text proposed by the Commission*

4. *The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindrical shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report.*

*Amendment*

*deleted*

**Amendments 156, 67, 185, 189 and 108**

**Proposal for a directive**  
**Article 14**

*Text proposed by the Commission*

1. Member States shall ensure that all unit packets of tobacco products shall be marked with a unique identifier. In order to ensure their integrity, unique identifiers shall be irremovably printed/affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

*Amendment*

1. Member States shall ensure that all unit packets **and any outside transport packaging** of tobacco products shall be marked with a unique identifier **with the aim to trace the products through the whole supply chain**. In order to ensure their integrity, unique identifiers shall be **secure**, irremovably printed/affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

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Text proposed by the Commission

Amendment

- 1a. Member States shall ensure that the unique identifiers of unit packets are linked to the unique identifier on the outside transport packaging. Any changes in links between unit packs and the outside transport packaging shall be recorded in the database mentioned in paragraph 6.**
2. The unique identifier shall allow determining:
- (a) the date and place of manufacturing;
  - (b) the manufacturing facility;
  - (c) the machine used to manufacture the products;
  - (d) the production shift or time of manufacture;
  - (e) the product **name**;
  - (f) the intended market of retail sale;
  - (g) the intended shipment route;
  - (h) where applicable, the importer into the Union;
  - (i) **the actual shipment route from manufacturing to the first retail outlet, including all warehouses used;**
  - (j) the identity of all purchasers from manufacturing to the first retail outlet;
  - (k) the invoice, order number and payment records of all purchasers from manufacturing to the first retail outlet.
2. The unique identifier shall allow determining:
- (a) the date and place of manufacturing;
  - (b) the manufacturing facility;
  - (c) the machine used to manufacture the products;
  - (d) the production shift or time of manufacture;
  - (e) the product **description**;
  - (f) the intended market of retail sale;
  - (g) the intended **and actual** shipment route **from the place of manufacturing to the first retail outlet, including all warehouses used, the shipment date, shipment destination, consignee and point of departure;**
  - (h) where applicable, the importer into the Union;
  - (j) the identity of all purchasers from manufacturing to the first retail outlet;
  - (k) the invoice, order number and payment records of all purchasers from manufacturing to the first retail outlet.

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*Text proposed by the Commission*

*Amendment*

3. Member States shall ensure that all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, record the entry of all unit packets into their possession, as well as all intermediate movements and the final exit from their possession. This obligation can be fulfilled by recording in aggregated form, e.g. of outside packaging, **provided that tracking and tracing of unit packets remains possible.**

3. Member States shall ensure that all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, record the entry of all unit **and outside** packets into their possession, as well as all intermediate movements and the final exit from their possession, **and transmit the data electronically to a data storage facility pursuant to paragraph 6.** This obligation can be fulfilled by recording in aggregated form, e.g. of outside packaging.

**3a. The technology used for tracking and tracing should belong to and be operated by economic entities without any legal or commercial link to the tobacco industry.**

4. Member States shall ensure that manufacturers of tobacco products provide all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, including importers, warehouses and transporting companies with the necessary equipment allowing for the recording of the tobacco products purchased, sold, stored, transported or otherwise handled. The equipment shall be able to read and transmit the data electronically to a data storage facility pursuant to paragraph 6.

4. Member States shall ensure that manufacturers of tobacco products provide all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, including importers, warehouses and transporting companies with the necessary equipment, **as determined by those Member States,** allowing for the recording of the tobacco products purchased, sold, stored, transported or otherwise handled. The equipment shall be able to read and transmit the data electronically to a data storage facility pursuant to paragraph 6.

5. Recorded data cannot be modified or deleted by any economic operator involved in the trade of tobacco products, but the economic operator that introduced the data and other economic operators directly concerned by the transaction such as the supplier or the recipient can comment on previously introduced data. The economic operator concerned shall add the correct data and a reference to the previous entry which requires rectification in their view. In exceptional circumstances and upon submission of adequate evidence, the competent authority in the Member State in which the recording took place or if the recording took place outside the Union the competent authority in the Member State of importation, can authorise the modification or deletion of data previously registered.

5. Recorded data cannot be modified or deleted by any economic operator involved in the trade of tobacco products, but the economic operator that introduced the data and other economic operators directly concerned by the transaction such as the supplier or the recipient can comment on previously introduced data. The economic operator concerned shall add the correct data and a reference to the previous entry which requires rectification in their view. In exceptional circumstances and upon submission of adequate evidence, the competent authority in the Member State in which the recording took place or if the recording took place outside the Union the competent authority in the Member State of importation, can authorise the modification or deletion of data previously registered.

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Text proposed by the Commission

Amendment

6. Member States shall **ensure** that manufacturers and importers of tobacco products conclude data storage contracts with an independent third party, which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored by an external auditor, who is **proposed and** paid by the tobacco manufacturer and approved by the Commission. Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected in conformity with the relevant national and Union legislations.

7. Member States shall ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC.

8. In addition to the unique identifier, Member States shall require that all unit packets of tobacco products which are placed on the market carry a visible, tamper proof security feature of at least 1 cm<sup>2</sup>, which shall be irremovably printed or affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or other elements mandated by legislation.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 22:

6. Member States shall **verify** that manufacturers and importers of tobacco products conclude data storage contracts with an independent third party which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. **The independent third party shall be free from commercial and other vested interests of the tobacco industry and other related industries.** The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored **by the Commission, assisted by an independent** external auditor, who is paid by the tobacco manufacturer and approved by the Commission. Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected in conformity with the relevant national and Union legislations.

7. Member States shall ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC.

8. In addition to the unique identifier, Member States shall require that all unit packets of tobacco products which are placed on the market carry a visible **and invisible**, tamper proof security feature of at least 1 cm<sup>2</sup>, which shall be irremovably printed or affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or other elements mandated by legislation. **In those Member States where tax stamps are applied on tobacco products and the tax stamps applied comply with the requirements of this paragraph, no additional security feature is required.**

9. **Taking into consideration the practices, technologies and existing commercial operating aspects, as well as global standards of tracking, tracing and authentication of consumer goods and the corresponding requirements set by the WHO Protocol on Illicit Trade of Tobacco Products,** the Commission shall be empowered to adopt delegated acts in accordance with Article 22:

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Text proposed by the Commission

Amendment

(a) to define the key elements (such as duration, renewability, expertise required, confidentiality) of the contract referred to in paragraph 6, including its regular monitoring and evaluation;

(a) to define the key elements (such as duration, renewability, expertise required, confidentiality) of the contract referred to in paragraph 6, including its regular monitoring and evaluation;

(b) to define the technical standards to ensure that the systems used for the unique identifiers and the related functions are fully compatible with each other across the Union and

(b) to define the technical standards to ensure that the systems used for the unique identifiers and the related functions are fully compatible with each other across the Union and **in line with international standards.**

(c) **to define the technical standards for the security feature and their possible rotation and to adapt them to scientific, market and technical development.**

10. Tobacco products other than cigarettes and roll-your-own tobacco shall be exempted from the application of paragraph 1 to 8 during a period of 5 years following the date referred to in paragraph 1 of Article 25.

10. Tobacco products other than cigarettes and roll-your-own tobacco shall be exempted from the application of paragraph 1 to 8 during a period of **seven** years following the date referred to in paragraph 1 of Article 25.

### Amendment 68

#### Proposal for a directive

#### Article 16

Text proposed by the Commission

Amendment

Chapter IV: **Cross-border** distance sales of tobacco products

Chapter IV: **Promotional distribution** and distance sales of tobacco products

Article 16

Article 16

**Cross-border distance** sales of tobacco products

**Distance** sales of tobacco products

1. Member States shall **oblige** retail outlets intending to engage in cross-border distance sales **to consumers located in the Union to register with the competent authorities in the Member State where the retail outlet is established and in the Member State where the actual or potential consumer is located. Retail outlets established outside the Union have to register with the competent authorities in the Member State where the actual or potential consumer is located. All retail outlets intending to engage in cross-border distance sales shall submit at least the following information to the competent authorities:**

1. Member States shall **prohibit** retail outlets **established on their territory** from engaging in cross border distance sales.

(a) **name or corporate name and permanent address of the place of activity from where the tobacco products are supplied;**

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Text proposed by the Commission

Amendment

(b) *the starting date of the activity of offering tobacco products for cross-border distance sales to the public by means of information society ©vices;*

(c) *the address of the website/-s used for that purpose and all relevant information necessary to identify the website.*

*1a. Member States shall retain the power to decide whether to widen the scope of the above-mentioned prohibition to include national distance sales. Where Member States allow national distance sales, they shall ensure that retail outlets are equipped with an age verification system.*

*1b. A Member State may, for public health reasons, impose restrictions on imports of tobacco for personal use. A Member State must be able to apply such restrictions in particular when the price in the Member State where the product is purchased is significantly lower than the price in the Member State of origin or if the health warnings are not in its official language(s).*

*2. The competent authorities of the Member States shall publish the complete list of all retail outlets registered with them in accordance with the rules and safeguards laid down in Directive 95/46/EC. Retail outlets may only start placing tobacco products on the market in form of distance sales as of the moment the name of the retail outlet is published in the relevant Member States.*

*2. Member States which have implemented a national anti-smoking strategy may set quantitative limits on cross-border movements.*

*3. If it is necessary in order to ensure compliance and facilitate enforcement, Member States of destination may require that the retail outlet nominates a natural person who is responsible for verifying the tobacco products before reaching the consumer comply with the national provisions adopted pursuant to this Directive in the Member State of destination.*

*4. Retail outlets engaged in distance sales shall be equipped with an age verification system, which verifies at the time of sale, that the purchasing consumer respects the minimum age foreseen under the national legislation of the Member State of destination. The retailer or nominated natural person shall report to the competent authorities a description of the details and functioning of the age verification system.*



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Text proposed by the Commission

Amendment

5. **Personal data of the consumer shall only be processed in accordance with Directive 95/46/EC and not be disclosed to the manufacturer of tobacco products or companies forming part of the same group of companies or to any other third parties. Personal data shall not be used or transferred beyond the purpose of this actual purchase. This also applies if the retail outlet forms part of a manufacturer of tobacco products.**

#### Amendment 69

#### Proposal for a directive

#### Article 16 a (new)

Text proposed by the Commission

Amendment

#### Article 16a

**Member States shall prohibit retail outlets established on their territory from distributing free or discounted tobacco products through cross border distance channels or through any other channel.**

#### Amendment 70

#### Proposal for a directive

#### Article 17

Text proposed by the Commission

Amendment

#### Notification of novel tobacco products

#### Notification of novel tobacco products

1. Member States shall require that manufacturers and importers of tobacco products notify the competent authorities of Member States of any novel tobacco product they intend to place on the markets of the Member States concerned. The notification shall be submitted in electronic form six months before the intended placing on the market and shall be accompanied by a detailed description of the product in question as well as information on ingredients and emissions in accordance with Article 5. The manufacturers and importers notifying a novel tobacco product shall also provide the competent authorities in question with:

- (a) available scientific studies on toxicity, addictiveness and attractiveness of the product, in particular as regards its ingredients and emissions;

1. Member States shall require that manufacturers and importers of tobacco products notify the competent authorities of Member States of any novel tobacco product they intend to place on the markets of the Member States concerned. The notification shall be submitted in electronic form six months before the intended placing on the market and shall be accompanied by a detailed description of the product in question as well as **any proposed labelling, instructions for use, details of the product's composition, the manufacturing process and associated controls and** information on ingredients and emissions in accordance with Article 5. The manufacturers and importers notifying a novel tobacco product shall also provide the competent authorities in question with:

- (a) available scientific studies on toxicity, addictiveness and attractiveness of the product, in particular as regards its ingredients and emissions;

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Text proposed by the Commission

- (b) available studies and market research on preferences of various consumer groups, including young people and
- (c) other available and relevant information, including a risk/benefit analysis of the product, the expected effects on cessation of tobacco consumption, the expected effects on initiation of tobacco consumption and other predicted consumer perception.

2. Member States shall require that manufacturers and importers of tobacco products inform their competent authorities of any new or updated information referred to in point (a) to (c) of paragraph 1. Member States shall be entitled to require tobacco manufacturers or importers to carry out additional tests or submit additional information. Member States shall make available to the Commission all information received pursuant to this Article. Member States shall be entitled to introduce an authorisation system and charge a proportionate fee.

3. Novel tobacco products placed on the market shall respect the requirements set out in this Directive. The provisions applicable depend on whether the products fall under the definition of smokeless tobacco product in point (29) of Article 2 or tobacco for smoking in point (33) of Article 2.

Amendment

- (b) **working summaries of the** available studies and market research on preferences of various consumer groups, including young people and **chronic heavy smokers;**
- (c) other available and relevant information, including a risk/benefit analysis of the product, the expected effects on cessation of tobacco consumption, the expected effects on initiation of tobacco consumption and other predicted consumer perception.

2. **After the placing on the market of a tobacco product,** Member States shall require that manufacturers and importers of tobacco products inform their competent authorities of any new or updated information referred to in point (a) to (c) of paragraph 1. Member States shall be entitled to require tobacco manufacturers or importers to carry out additional tests or submit additional information. Member States shall make available to the Commission all information received pursuant to this Article. Member States shall be entitled to introduce an authorisation system and charge a proportionate fee.

3. Novel tobacco products placed on the market shall respect the requirements set out in this Directive. The provisions applicable depend on whether the products fall under the definition of smokeless tobacco product in point (29) of Article 2 or tobacco for smoking in point (33) of Article 2.

#### Amendment 170

#### Proposal for a directive

#### Article 18

Text proposed by the Commission

1. **The following** nicotine-containing products may only be placed on the market **if they were authorised pursuant to Directive 2001/83/EC:**

- (a) **products with a nicotine level exceeding 2 mg per unit, or**
- (b) **products with a nicotine concentration exceeding 4 mg per ml or**

Amendment

1. Nicotine-containing products may only be placed on the market **in accordance with the notification procedure set out in Article 17 of this Directive.**

**Member States shall ensure that nicotine-containing products comply with all relevant Union legislation, and in particular with Directive 2001/95/EC on general product safety.**

Tuesday, October 8, 2013

Text proposed by the Commission

Amendment

(c) *products whose intended use results in a mean maximum peak plasma concentration exceeding 4 ng of nicotine per ml.*

2. *The Commission shall be empowered to adopt delegated acts in accordance with*

*Article 22 to update the nicotine quantities set out in paragraph 1 taking into account scientific developments and marketing authorisations granted to nicotine-containing products pursuant to Directive 2001/83/EC.*

3. Each unit packet and any outside packaging of nicotine containing products ***below the thresholds set out in paragraph 1 shall*** carry the following health warning:

'This product contains nicotine ***and can damage your health***'.

2. *Nicotine-containing products that are presented as having properties for treating or preventing disease may only be placed on the market if they were authorised pursuant to Directive 2001/83/EC.*

3. *As regards nicotine-containing products to be placed on the market in accordance with paragraph 1, Member States shall ensure that:*

(a) *nicotine-containing products with a nicotine level exceeding 30 mg/ml are not placed on the market;*

(b) *manufacturers and importers of nicotine-containing products submit to the competent authorities a list of all ingredients contained in and emissions resulting from the use of the product, by brand name and type, including quantities thereof, as well as any changes. Member States shall then ensure the dissemination of this information on a website with due regard to the protection of trade secrets. Manufacturers and importers shall also report to the authorities about national sales volumes by brand name and type;*

(c) *nicotine-containing products with additives listed in Article 6(4) are not placed on the market;*

(d) *the unit packet of nicotine-containing products includes a leaflet with instructions for use, including that the reference that the product is not recommended for use by non-smokers, contra-indications, warnings for specific risk groups, reporting of adverse reactions, place of manufacture and contact details of the manufacturer or importer;*

(e) *each unit packet and any outside packaging of nicotine-containing products carry the following health warning:*

*'This product is intended for use by existing smokers. It contains nicotine which is a highly addictive substance';*

(f) *the sale of the product is restricted in line with the legal age for sale of tobacco products in the relevant Member State; in any case it should not be allowed under the age of 18;*

Tuesday, October 8, 2013

Text proposed by the Commission

Amendment

4. The health warning referred to in **paragraph 3** shall comply with the requirements specified in **Article 10(4)**. **In addition, it shall:**

- (a) *be printed on the two largest surfaces of the unit packet and any outside packaging;*
- (b) *cover 30 % of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with three official languages.*

5. *The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 3 and 4 taking into account scientific and market developments and to adopt and adapt the position, format, layout, design and rotation of the health warnings*

(g) *the products are available to be sold outside pharmacies;*

(h) *flavourings are allowed in the products;*

(i) *the limitations on advertising, sponsorship, audiovisual commercial communication and product placement for tobacco products as set out in Directive 2003/33/EC and Directive 2010/13/EC shall apply to nicotine-containing products;*

(j) *cross-border distance sales of nicotine-containing products are regulated in accordance with Article 16;*

(k) *tobacco trademarks, brand names and symbols are not used on nicotine-containing products.*

4. The health warning referred to in **paragraph 3(e)** shall comply with the requirements specified in **Article 10**.

5. *Member States shall monitor the development of the nicotine-containing products market, including any evidence of gateway use among young people and report their findings to the Commission. Based on the evidence submitted as well as scientific studies the Commission shall submit a report to the European Parliament and the Council on nicotine-containing products five years after entry into force of this Directive. The report shall assess if amendments to this Directive or any further legislation are necessary.*

## Amendment 72

### Proposal for a directive

#### Article 19

Text proposed by the Commission

Amendment

Herbal products for smoking

Herbal products for smoking

1. Each unit packet and any outside packaging of herbal products for smoking shall carry the following health warning:

1. Each unit packet and any outside packaging of herbal products for smoking shall carry the following health warning:

Tuesday, October 8, 2013

*Text proposed by the Commission*

This product can damage your health

2. The health warning shall be printed on the front and back external surface of the unit packet and on any outside packaging.

3. The health warning shall comply with the requirements laid down in Article 10(4). It shall cover not less than 30 % of the area of the corresponding surface of the unit packet and of any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **three** official languages.

*Amendment*

This product can damage your health

2. The health warning shall be printed on the front and back external surface of the unit packet and on any outside packaging.

3. The health warning shall comply with the requirements laid down in Article 10(4). It shall cover not less than 30 % of the area of the corresponding surface of the unit packet and of any outside packaging. That proportion shall be increased to 32 % for Member States with two official languages and 35 % for Member States with **more than two** official languages.

#### Amendment 73

#### Proposal for a directive

#### Article 19 a (new)

*Text proposed by the Commission*

*Amendment*

#### Article 19a

#### **Imitation tobacco products**

***Imitation tobacco products which appeal to minors and consequently form a potential gateway to using tobacco products shall be prohibited.***

#### Amendment 74

#### Proposal for a directive

#### Article 20 — Paragraph 3

*Text proposed by the Commission*

3. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced. The penalties provided for shall be effective, proportionate and dissuasive.

*Amendment*

3. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are enforced. The penalties provided for shall be effective, proportionate and dissuasive. ***Any financial penalties applicable to intentional infringements shall be such as to offset the economic advantage sought through the infringement.***

Tuesday, October 8, 2013

**Amendment 75**  
**Proposal for a directive**

**Article 22**

*Text proposed by the Commission*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3 (2), 3(3), 4(3), 4(4), **6(3), 6(9), 6(10)**, 8(4), 9(3), 10(5), 11(3), **13(3)**, 13(4), 14(9), **18(2) and 18(5)** shall be conferred on the Commission for **an indeterminate** period of time from [Office of Publications: please insert the date of the entry into force of this Directive].

3. The delegation of powers referred to in Articles 3(2), 3(3), 4(3), 4(4), **6(3), 6(9), 6(10)**, 8(4), 9(3), 10(5), 11(3), **13(3)**, 13(4), 14(9), **18(2) and 18(5)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

*Amendment*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3 (2), 3(3), 4(3), 4(4), 6(**10a**), 8(4), 9(3), 10(5), 11(3), 13(4) **and** 14 (9) shall be conferred on the Commission for **a** period of **five years** from [Office of Publications: please insert the date of the entry into force of this Directive]. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of five-year period. The delegation of power shall be tacitly extended for periods of identical duration unless the European Parliament or Council opposes such an extension not later than three months before the end of each period.**

3. The delegation of powers referred to in Articles 3(2), 3(3), 4(3), 4(4), 6(**10a**), 8(4), 9(3), 10(5), 11(3), 13(4) **and** 14(9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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*Text proposed by the Commission*

5. A delegated act pursuant to Articles 3(2), 3(3), 4(3), 4(4), **6(3), 6(9), 6(10)**, 8(4), 9(3), 10(5), 11(3), **13(3)**, 13(4), 14(9), **18(2) and 18(5)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Amendment*

5. A delegated act pursuant to Articles 3(2), 3(3), 4(3), 4(4), **6(10a)**, 8(4), 9(3), 10(5), 11(3), 13(4) **and** 14(9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Amendment 76

##### Proposal for a directive

##### Article 23 — paragraph 1 — subparagraph 1

*Text proposed by the Commission*

No later than **five** years from the date specified in Article 25 paragraph 1, the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on the application of this Directive.

*Amendment*

No later than **three** years from the date specified in Article 25 paragraph 1, the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on the application of this Directive.

#### Amendment 77

##### Proposal for a directive

##### Article 23 — paragraph 2 — subparagraph 1 — point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) evaluation of the addictive effects of those ingredients which encourage addiction;**

#### Amendment 78

##### Proposal for a directive

##### Article 23 — paragraph 2 — subparagraph 1 — point c b (new)

*Text proposed by the Commission*

*Amendment*

**(cb) development of standardised testing methods to measure the yields of constituents in cigarette smoke other than tar, nicotine and carbon monoxide;**



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**Amendment 79****Proposal for a directive****Article 23 — paragraph 2 — subparagraph 1 — point c c (new)**

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*Text proposed by the Commission*

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*Amendment*

(cc) ***toxicological data to be required from manufacturers on ingredients and the manner in which they should be tested in order to allow public health authorities to assess their use;***

**Amendment 80****Proposal for a directive****Article 23 — paragraph 2 — subparagraph 1 — point c d (new)**

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*Text proposed by the Commission*

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*Amendment*

(cd) ***development of standards concerning products other than cigarettes.***

**Amendment 81****Proposal for a directive****Article 23 — paragraph 3 a (new)**

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*Text proposed by the Commission*

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*Amendment*

***3a. Member States shall report every two years to the Commission on the enforcement of the measures taken pursuant to Council Recommendation 2003/54/EC of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control, in particular with regard to age limits set in national legislation, as well as their plans to increase the age limit to achieve the goal of a ‘smoke-free generation’.***

**Amendment 82****Proposal for a directive****Article 24**

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*Text proposed by the Commission*

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*Amendment*

1. Member States shall not prohibit or restrict the import, sale or consumption of tobacco or related products which comply with this Directive.

1. ***Subject to paragraphs 2 and 3,*** Member States shall not prohibit or restrict the import, sale or consumption of tobacco or related products which comply with this Directive.

Tuesday, October 8, 2013

Text proposed by the Commission

2. However, a Member State may maintain more stringent national provisions, **applicable to all products alike**, in areas covered by the Directive, **on grounds of overriding needs relating to the protection of public health**. A Member State may also introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

3. This Directive shall not affect the right of Member States to maintain or introduce, **in accordance with the Treaty**, national provisions concerning aspects not regulated by this Directive. **These national provisions must be justified by overriding reasons of public interest and be necessary and proportionate to their aim**. They must not be a means of arbitrary discrimination or a disguised restriction on trade between the Member States and must not jeopardise the full application of this Directive.

Amendment

2. However, a Member State may maintain **or introduce** more stringent national provisions in areas covered by the Directive, **insofar as such measures are compatible with the Treaty**. Such national provisions **shall apply equally to all products, including those imported from another Member State or a third country**. They shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

3. This Directive shall not affect the right of Member States to maintain or introduce national provisions concerning aspects not regulated by this Directive, **insofar as they are compatible with the Treaty**. They **shall apply equally to all products, including those imported from another Member State or a third country**, must not be a means of arbitrary discrimination or a disguised restriction on trade between the Member States, and must not jeopardise the full application of this Directive.

### Amendment 83

#### Proposal for a directive

#### Article 25 — paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Publications Office, please insert the exact date: entry into force + 18 months] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... (\*) **and in the case of Article 6 by...** (\*\*) at the latest. They shall forthwith communicate to the Commission the text of those provisions.

(\*) Entry into force + 18 months.

(\*\*) Entry into force + 36 months

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**Amendment 84**  
**Proposal for a directive**

**Article 26**

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>Transitional provision</p> <p>Member States may allow the following products, which are not in compliance with this Directive, to be placed on the market until [Publications Office, please insert the exact date: entry into force + 24 months]:</p> <p>(a) tobacco products;</p> <p><b>(b) nicotine containing products below the threshold set out in Article 18(1);</b></p> <p>(c) herbal products for smoking.</p>	<p>Transitional provision</p> <p>Member States may allow the following products, which are not in compliance with this Directive, to be placed on the market until ... (*):</p> <p>(a) tobacco products;</p> <p><b>(b) herbal products for smoking.</b></p> <p><b>Member States may allow nicotine containing products which are not in compliance with this Directive to be placed on the market until ... (**):</b></p> <hr style="width: 20%; margin-left: 0;"/> <p>(*) Entry into force + 24 months. (**) <b>Entry into force + 36 months.</b></p>

**Amendment 85**  
**Proposal for a directive**  
**Annex I (new)**

<i>Text proposed by the Commission</i>	<i>Amendment</i>
	<p><b>Annex I</b></p> <p><b>Additives approved for use in tobacco products</b></p> <p><b>Chemical name of the additive — function — maximum level permitted</b></p>

**Amendment 86**  
**Proposal for a directive**  
**Annex I**

<i>Text proposed by the Commission</i>	<i>Amendment</i>
<p>List of text warnings</p> <p>(referred to in Article 9 and Article 10(1))</p> <p>(1) Smoking causes 9 out of 10 lung cancers</p>	<p>List of text warnings</p> <p>(referred to in Article 9 and Article 10(1))</p> <p>(1) Smoking causes 9 out of 10 lung cancers</p>

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<i>Text proposed by the Commission</i>	<i>Amendment</i>
(2) Smoking causes mouth and throat cancer	(2) Smoking causes mouth and throat cancer
	<b>(2a) Smoking causes bladder cancer</b>
(3) Smoking damages your lungs	(3) Smoking damages your lungs
(4) Smoking causes heart attacks	(4) Smoking causes heart attacks
(5) Smoking causes strokes and disability	(5) Smoking causes strokes and disability
(6) Smoking clogs your arteries	(6) Smoking clogs your arteries
(7) Smoking increases the risk of blindness	(7) Smoking increases the risk of blindness
(8) Smoking damages your teeth and gums	(8) Smoking damages your teeth and gums
(9) Smoking can kill your unborn child	(9) Smoking can kill your unborn child
10) Your smoke harms your children, family and friends	10) Your smoke harms your children, family and friends
(11) Smokers' children are more likely to start smoking	(11) Smokers' children are more likely to start smoking
(12) Quit smoking — stay alive for those close to you	(12) Quit smoking — stay alive for those close to you
(13) Smoking reduces fertility	(13) Smoking reduces fertility
(14) Smoking increases the risk of impotence	(14) Smoking increases the risk of impotence
	<b>(14a) Smoking can cause cot death</b>
	<b>(14b) Smoking during pregnancy causes premature birth</b>
	<b>(14c) Passive smoking can worsen asthma or meningitis in children.</b>

P7\_TA(2013)0399

### **EU-Mauritania fishing opportunities and financial contribution protocol \*\*\***

**European Parliament legislative resolution of 8 October 2013 on a draft Council decision on the conclusion of the Protocol setting out fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania for a period of two years (15777/2012 — C7-0419/2012 — 2012/0258(NLE))**

(Consent)

(2016/C 181/25)

*The European Parliament,*

— having regard to the draft Council decision (15777/2012),

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**Tuesday, October 8, 2013**

- having regard to the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania for a period of two years (15781/2012),
  - having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0419/2012),
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Fisheries and the opinions of the Committee on Development and the Committee on Budgets (A7-0184/2013),
1. Consents to the conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and of the Islamic Republic of Mauritania.
-

Wednesday, October 9, 2013

P7\_TA(2013)0407

## **Recreational craft and personal watercraft \*\*\*I**

**European Parliament legislative resolution of 9 October 2013 on the proposal for a directive of the European Parliament and of the Council on recreational craft and personal watercraft (COM(2011)0456 — C7-0212/2011 — 2011/0197(COD))**

**(Ordinary legislative procedure: first reading)**

(2016/C 181/26)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0456),
  - 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 (C7-0212/2011),
  - 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 8 December 2011 <sup>(1)</sup>,
  - having regard to the undertaking given by the Council representative by letter of 31 May 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on the Environment, Public Health and Food Safety and the Committee on Transport and Tourism (A7-0213/2012),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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**P7\_TC1-COD(2011)0197**

**Position of the European Parliament adopted at first reading on 9 October 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council on recreational craft and personal watercraft and repealing Directive 94/25/EC**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/53/EU.)*

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<sup>(1)</sup> OJ C 43, 15.2.2012, p. 30.

Wednesday, October 9, 2013

P7\_TA(2013)0408

**Recognition of professional qualifications and administrative cooperation through the Internal Market Information System \*\*\*I**

**European Parliament legislative resolution of 9 October 2013 on the proposal for a directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System (COM(2011)0883 — C7-0512/2011 — 2011/0435(COD))**

**(Ordinary legislative procedure: first reading)**

(2016/C 181/27)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0883),
  - having regard to Article 294(2), Article 46, Article 53(1), and Articles 62 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0512/2011),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Article 294(3), Article 46, Article 53(1) and Article 62 of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of 26 April 2012 of the European Economic and Social Committee <sup>(1)</sup>,
  - having regard to the undertaking given by the Council representative by letter of 26 June 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rules 55 and 37 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and to the opinions of the Committee on Employment and Social Affairs and the Committee on Environment, Public Health and Food Safety (A7-0038/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Takes note of the Commission statement annexed to this resolution;
  3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

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<sup>(1)</sup> OJ C 191, 29.6.2012, p. 103.



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4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.
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#### **P7\_TC1-COD(2011)0435**

**Position of the European Parliament adopted at first reading on 9 October 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation')**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/55/EU.)*

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#### ANNEX TO THE LEGISLATIVE RESOLUTION

##### **Commission statement**

The Commission will, when preparing the delegated acts referred to in Article 57c(2), ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council, and will carry out appropriate and transparent consultations well in advance, in particular with experts from competent authorities and bodies, professional associations and educational establishments of all the Member States, and where appropriate with experts from social partners.

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P7\_TA(2013)0409

#### **EU-Armenia Agreement: facilitation of the issuance of visas \*\*\***

**European Parliament legislative resolution of 9 October 2013 on the draft Council decision concerning the conclusion of the Agreement between the European Union and the Republic of Armenia on the facilitation of the issuance of visas (05835/2013 — C7-0112/2013 — 2012/0334(NLE))**

**(Consent)**

(2016/C 181/28)

*The European Parliament,*

- having regard to the draft Council decision (05835/2013),
- having regard to the draft Agreement between the European Union and the Republic of Armenia on the facilitation of the issuance of visas (16913/2012),
- having regard to the request for consent submitted by the Council in accordance with Article 77(2), point (a) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0112/2013),

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- having regard to Rules 81 and 90(7) of its Rules of Procedure,
  
  - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0290/2013),
1. Consents to the conclusion of the Agreement;
  
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Armenia.

P7\_TA(2013)0410

**EU-Armenia Agreement: readmission of persons residing without authorisation \*\*\*****European Parliament legislative resolution of 9 October 2013 on the draft Council decision on the conclusion of the Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation (05859/2013 — C7-0113/2013 — 2012/0332(NLE))****(Consent)**

(2016/C 181/29)

*The European Parliament,*

- having regard to the draft Council decision (05859/2013),
  
  - having regard to the draft Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation (05860/2013),
  
  - having regard to the request for consent submitted by the Council in accordance with Article 79(3) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0113/2013),
  
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  
  - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A7-0289/2013),
1. Consents to the conclusion of the Agreement;
  
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Republic of Armenia.

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P7\_TA(2013)0413

## Assessment of the effects of certain public and private projects on the environment \*\*\*I

Amendments adopted by the European Parliament on 9 October 2013 on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment (COM(2012)0628 — C7-0367/2012 — 2012/0297 (COD)) <sup>(1)</sup>

(Ordinary legislative procedure: first reading)

(2016/C 181/30)

### Amendment 1

#### Proposal for a directive

##### Recital 1

*Text proposed by the Commission*

- (1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health.

*Amendment*

- (1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health. **The Member States should be permitted to lay down more stringent rules to protect the environment and human health.**

<sup>(1)</sup> The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0277/2013).

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**Amendment 2**  
**Proposal for a directive**

**Recital 3**

*Text proposed by the Commission*

- (3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of the procedure and enhance coherence and synergies with other Union legislation and policies, as well as strategies and policies developed by Member States in areas of national competence.

*Amendment*

- (3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of the procedure, **align the procedure with the principles of smart regulation** and enhance coherence and synergies with other Union legislation and policies, as well as strategies and policies developed by Member States in areas of national competence. **The ultimate purpose of amending this Directive is to bring about more effective implementation at Member State level. In many cases administrative procedures became too complicated and protracted, causing delays and creating additional risks for the protection of the environment. In this respect, simplification and harmonisation of the proceedings should be one of the aims of this Directive. The suitability of creating a one-stop shop is to be taken into account with a view to allowing coordinated assessment or joint procedures when several environment impact assessments (EIAs) are required, for instance in cases of cross-border projects, as well as to defining more specific criteria for mandatory assessments.**

**Amendment 3**  
**Proposal for a directive**

**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

- (3a) **In order to guarantee harmonised application and equal protection of the environment across the Union, the Commission should, in its role as the guardian of the Treaties, ensure qualitative as well as procedural compliance with the provisions of Directive 2011/92/EU, including those on public consultation and participation.**

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**Amendment 4**  
**Proposal for a directive**  
**Recital 3 b (new)**

*Text proposed by the Commission*

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*Amendment*

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- (3b) *In the case of projects which could have cross-border effects on the environment, the Member States concerned should set up, on the basis of equal representation, a joint liaison body responsible for dealing with all the stages in the procedure. The consent of all the Member States concerned should be required for final authorisation of the project.*

**Amendment 5**  
**Proposal for a directive**  
**Recital 3 c (new)**

*Text proposed by the Commission*

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*Amendment*

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- (3c) *Directive 2011/92/EU should also be revised in a way that ensures that environmental protection is improved, resource efficiency increased and sustainable growth supported in Europe. To this end, the procedures it lays down should be simplified and harmonised.*

**Amendment 6**  
**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

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*Amendment*

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- (4) Over the last decade, environmental issues, such as resource efficiency, biodiversity, climate change, and disaster risks, have become more important in policy making **and** should therefore also constitute **critical** elements in assessment and decision-making processes, especially for infrastructure projects.

- (4) Over the last decade, environmental issues, such as resource efficiency **and sustainability**, biodiversity **protection, land use**, climate change, and **natural and man-made** disaster risks, have become more important in policy making. **They** should therefore also constitute **important** elements in assessment and decision-making processes **for any public or private project likely to have a significant impact on the environment**, especially for infrastructure projects **and, as the Commission has not established guidelines for the application of Directive 2011/92/EU on conservation of Historical and Cultural Heritage, the Commission should propose a list of criteria and indications, including in relation to visual impact, with a view to a better implementation of the Directive.**

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**Amendment 7**  
**Proposal for a directive**  
**Recital 4 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (4a) *Stipulating that it is necessary to take greater account of environmental criteria in all projects could also prove counter-productive if it served to add to the complexity of the procedures involved and to lengthen the time needed to authorise and validate each stage. This could increase costs and even, in itself, come to pose a threat to the environment if infrastructure projects take a very long time to complete.*

**Amendment 8**  
**Proposal for a directive**  
**Recital 4 b (new)**

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*Text proposed by the Commission*

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*Amendment*

- (4b) *It is essential that environmental issues relating to infrastructure projects do not divert attention from the fact that any project will inevitably have an impact on the environment, and it is necessary that the focus be on the balance between the value of a project and its environmental impact.*

**Amendment 9**  
**Proposal for a directive**  
**Recital 5**

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*Text proposed by the Commission*

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*Amendment*

- (5) In its Communication entitled 'Roadmap to a Resource Efficient Europe', the Commission committed itself to including broader resource efficiency considerations in the context of the revision of Directive 2011/92/EU.

- (5) In its Communication entitled 'Roadmap to a Resource Efficient Europe', the Commission committed itself to including broader resource efficiency **and sustainability** considerations in the context of the revision of Directive 2011/92/EU.

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**Amendment 10**  
**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

- (11) Protection and promotion of cultural heritage and landscapes, which are an integral part of the cultural diversity that the Union is committed to respect and promote in accordance with Article 167(4) of the Treaty on the Functioning of the European Union, can usefully build on definitions and principles developed in relevant Council of Europe Conventions, in particular the Convention for the Protection of the Architectural Heritage of Europe, the European Landscape Convention **and** the Framework Convention on the Value of Cultural Heritage for Society.

*Amendment*

- (11) Protection and promotion of cultural heritage and landscapes, which are an integral part of the cultural diversity that the Union is committed to respect and promote in accordance with Article 167(4) of the Treaty on the Functioning of the European Union, can usefully build on definitions and principles developed in relevant Council of Europe Conventions, in particular the Convention for the Protection of the Architectural Heritage of Europe, the European Landscape Convention, the Framework Convention on the Value of Cultural Heritage for Society **and the International Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas adopted in Nairobi in 1976 by UNESCO.**

**Amendment 11**  
**Proposal for a directive**

**Recital 11 a (new)**

*Text proposed by the Commission*

- (11a) *Visual impact is a key criterion in environmental impact assessment in terms of the preservation of historical and cultural heritage, of natural landscapes and of urban areas; this is another factor that should be applied in assessments.*

*Amendment*

- (11a) **Visual impact is a key criterion in environmental impact assessment in terms of the preservation of historical and cultural heritage, of natural landscapes and of urban areas; this is another factor that should be applied in assessments.**

**Amendment 12**  
**Proposal for a directive**

**Recital 12**

*Text proposed by the Commission*

- (12) When applying Directive 2011/92/EU, it is necessary to ensure **a competitive business environment, especially for small and medium enterprises, in order to generate** smart, sustainable and inclusive growth, in line with the objectives set out in the Commission's Communication entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth'.

*Amendment*

- (12) When applying Directive 2011/92/EU, it is necessary to ensure smart, sustainable and inclusive growth, in line with the objectives set out in the Commission's Communication entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth'.

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**Amendment 13**  
**Proposal for a directive**  
**Recital 12 a (new)**

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Text proposed by the Commission

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Amendment

- (12a) *With a view to strengthening public access and transparency, a central portal providing timely environmental information with regard to the implementation of this Directive electronically should be made available in each Member State.*

**Amendment 14**  
**Proposal for a directive**  
**Recital 12 b (new)**

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Text proposed by the Commission

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Amendment

- (12b) *In order to reduce the administrative burden, facilitate the decision-making process and reduce project costs, the necessary steps should be taken towards standardisation of the criteria in line with Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation <sup>(1)</sup>, with the aim of being able to support the use of best available technologies (BAT), improve competitiveness and prevent standards from being interpreted differently.*

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<sup>(1)</sup> OJ L 316, 14.11.2012, p. 12.

**Amendment 15**  
**Proposal for a directive**  
**Recital 12 c (new)**

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Text proposed by the Commission

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Amendment

- (12c) *Again with a view to further simplifying and facilitating the work of the competent administrations, guidance criteria should be drawn up that take into account the characteristics of the various sectors of economic or industrial activity. This should be based on the instructions under Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora <sup>(1)</sup>.*

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<sup>(1)</sup> OJ L 206, 22.7.1992, p. 7.



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**Amendment 16**  
**Proposal for a directive**  
**Recital 12 d (new)**

Text proposed by the Commission

Amendment

- (12d) ***In order to ensure the best possible preservation of historical and cultural heritage, guidance criteria should be drawn up by the Commission and/or the Member States.***

**Amendment 17**  
**Proposal for a directive**  
**Recital 13**

Text proposed by the Commission

Amendment

- (13) Experience has shown that **in** cases of civil emergency compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should therefore be made to authorise Member States not to apply that Directive in **appropriate** cases.

- (13) Experience has shown that, ***as regards projects having as their sole purpose the response given to*** cases of civil emergency, compliance with the provisions of Directive 2011/92/EU may have adverse effects ***on that purpose***, and provision should therefore be made to authorise Member States not to apply that Directive in ***those exceptional*** cases. ***In this respect, the Directive should take into account the provisions of the UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context, which, in cases of cross-border projects, oblige the participating States to notify and consult each other. In such cross-border projects, the Commission should, where appropriate and possible, play a more pro-active and facilitating role.***

**Amendment 18**  
**Proposal for a directive**  
**Recital 13 a (new)**

Text proposed by the Commission

Amendment

- (13a) ***Article 1(4) of Directive 2011/92/EU, which lays down that that Directive does not apply to projects adopted by a specific act of national legislation, provides for an open-door derogation with limited procedural guarantees and could substantially circumvent the implementation of that Directive.***

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**Amendment 19**  
**Proposal for a directive**  
**Recital 13 b (new)**

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*Text proposed by the Commission*

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*Amendment*

- (13b) *Experience has shown that specific rules need to be introduced to avoid the conflict of interest that can arise between the developer of a project that is subject to environmental impact assessment and the competent authorities referred to in Article 1(2)(f) of Directive 2011/92/EU. In particular, the competent authorities should not also be the developer nor in any way be dependent on, linked to or subordinate to the developer. For the same reasons, an authority that has been designated as a competent authority under Directive 2011/92/EU should not be able to play that role in relation to projects that are subject to environmental impact assessment which the authority itself has commissioned.*

**Amendment 20**  
**Proposal for a directive**  
**Recital 13 c (new)**

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*Text proposed by the Commission*

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*Amendment*

- (13c) *Proportionality is to be taken into account in the environmental impact assessment of the projects. The requirements that are asked for in the environmental impact assessment of a project should be proportionate to its size and stage.*

**Amendment 21**  
**Proposal for a directive**  
**Recital 16**

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*Text proposed by the Commission*

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*Amendment*

- (16) When determining whether significant environmental effects are likely to be caused, the competent authorities **should identify** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively. In this regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

- (16) When determining whether significant environmental effects are likely to be caused, the competent authorities **should define clearly and strictly** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively **and transparently**. In this regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

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**Amendment 22**  
**Proposal for a directive**  
**Recital 16 a (new)**

*Text proposed by the Commission*

*Amendment*

- (16a) *In order to avoid unnecessary efforts and expenditure, the projects under Annex II should include a statement of intent that never exceeds 30 pages and the projects' characteristics and information on the location of the project to be subject to screening, which should consist of an initial assessment of its viability. That screening should be public and reflect the factors set out in Article 3. It should show the significant direct and indirect effects of the project.*

**Amendment 23**  
**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

*Amendment*

- (17) The competent authorities should ***be required to determine*** the scope and level of detail of the environmental information to be submitted in the form of an environmental report (scoping). In order to improve the quality of the assessment and streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.
- (17) The competent authorities should, ***when they deem it necessary or if the developer so requests, issue an opinion determining*** the scope and level of detail of the environmental information to be submitted in the form of an environmental report (scoping). In order to improve the quality of the assessment, ***to simplify the procedures*** and ***to*** streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.

**Amendment 24**  
**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

*Amendment*

- (18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the assessment process and to allow integrating environmental considerations at an early stage in the project's design.
- (18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the ***comparative*** assessment process and to allow integrating environmental considerations at an early stage in the project's design, ***in order to enable the choice that is most sustainable and has the least environmental impact to be made.***

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**Amendment 25**  
**Proposal for a directive**

**Recital 19**

*Text proposed by the Commission*

- (19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality. **With a view to avoiding duplication of the assessment, Member States should take account of the fact that environmental assessments may be carried out at different levels or by different instruments.**

*Amendment*

- (19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality.

**Amendment 102**  
**Proposal for a directive**  
**Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

- (19a) ***It should be ensured that the persons who check the environmental reports have, due to their qualifications and experience, the necessary technical expertise to carry out the tasks set out in Directive 2011/92/EU in a scientifically objective manner and in total independence from the developer and the competent authorities themselves.***

**Amendment 27**  
**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

*Amendment*

- (20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered.

- (20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate ***comprehensively and in detail*** its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out ***with the public concerned*** and ***all*** the relevant information gathered. ***Should that condition not be met, the public concerned should have the right to appeal against the decision.***

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**Amendment 28**  
**Proposal for a directive**

**Recital 21**

*Text proposed by the Commission*

- (21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the **construction** and **operation** of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation.

*Amendment*

- (21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the **implementation** and **management** of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation. ***Where the outcome of the monitoring indicates the presence of unforeseen adverse effects, provision should be made for appropriate corrective action to remedy the problem, in the form of additional mitigation and/or compensation measures.***

**Amendment 29**  
**Proposal for a directive**

**Recital 22**

*Text proposed by the Commission*

- (22) Time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice.

*Amendment*

- (22) ***Reasonable and predictable*** time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice, ***and any extensions should be granted only in exceptional cases.***

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**Amendment 30**  
**Proposal for a directive**  
**Recital 22 a (new)**

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Text proposed by the Commission

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Amendment

(22a) *One of the objectives of the UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Århus Convention), which the Union has ratified and transposed into Union law<sup>(1)</sup>, is to ensure the right of the public to participate in decision-making in environmental matters. Therefore, that participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should continue to be fostered. Moreover, Article 9(2) and (4) of the Århus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions involving public participation. Elements of this Directive should also be strengthened in cross-border transport projects, making use of existing structures for the development of transport corridors and of tools to identify the potential impact on the environment.*

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<sup>(1)</sup> Council Decision 2005/370/EC of 17 February 2005 (OJ L 124, 17.5.2005, p. 1).

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**Amendment 31**  
**Proposal for a directive**  
**Recital 23 a (new)**

*Text proposed by the Commission*

*Amendment*

- (23a) *The production thresholds laid down for crude oil and natural gas in Annex I to Directive 2011/92/EU do not take into account the specificity of daily production levels of non-conventional hydrocarbons, which are often highly variable and lower. Accordingly, despite their environmental impact, projects concerning such hydrocarbons are not subject to compulsory environmental impact assessment. In accordance with the precautionary principle, as called for by the European Parliament resolution of 21 November 2012 on the environmental impacts of shale gas and shale oil extraction activities, it would be appropriate to include non-conventional hydrocarbons (shale gas and oil, 'tight gas, 'coal bed methane'), defined according to their geological characteristics, in Annex I to Directive 2011/92/EU, regardless of the amount extracted, so that projects concerning such hydrocarbons are systematically made subject to environmental impact assessment.*

**Amendment 32**  
**Proposal for a directive**  
**Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

- (24a) *Member States and other project promoters should ensure that assessments of cross border projects are carried out efficiently, avoiding unnecessary delays.*

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**Amendment 33**  
**Proposal for a directive**

**Recital 26**

*Text proposed by the Commission*

- (26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

*Amendment*

- (26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. **The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.**

**Amendment 34**  
**Proposal for a directive**

**Recital 27**

*Text proposed by the Commission*

- (27) **The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.**

*Amendment*

*deleted*

**Amendment 36**  
**Proposal for a directive**

**Article 1 — point 1 — point a a (new)**

Directive 2011/92/EU

Article 1 — paragraph 2 — point a — indent 2

*Text proposed by the Commission*

*Amendment*

(aa) **in point (a) of paragraph 2, the second indent is replaced by the following:**

‘— **other interventions in the natural surroundings and landscape including those involving the research and extraction of mineral resources;**’



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**Amendment 37**

**Proposal for a directive**

**Article 1 — point 1 — point a b (new)**

Directive 2011/92/EU

Article 1 — paragraph 2 — point c

Text proposed by the Commission

Amendment

(ab) point (c) of paragraph 2 is replaced by the following:

‘(c) “development consent” means the decision of the competent authority or authorities which entitles the developer to start the project;’

**Amendment 38**

**Proposal for a directive**

**Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2

Text proposed by the Commission

Amendment

(b) in paragraph 2, the following **definition is** added:

(b) in paragraph 2, the following **definitions are** added:

**Amendment 39**

**Proposal for a directive**

**Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g

Text proposed by the Commission

Amendment

(g) ‘environmental impact assessment’ shall mean the process of preparing an environmental report, carrying out consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority, taking into account the environmental report and the results of the consultations in the development consent procedure as well as the provision of information on the decision in accordance with Articles 5 to 10.

(g) ‘environmental impact assessment’ shall mean the process of preparing an environmental report **by the developer**, carrying out **the** consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority **and/or by the authorities referred to in Article 6(1)**, taking into account the environmental report, **including data concerning pollution from emissions**, and the results of the consultations in the development consent procedure as well as the provision of information on the decision in accordance with Articles 5 to 10;

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**Amendment 41****Proposal for a directive****Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g b (new)

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*Text proposed by the Commission*

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*Amendment*

**(gb)** *‘cross-border section’ means the section which ensures the continuity of a project of common interest between the nearest urban nodes on both sides of the border of two Member States or between a Member State and a neighbouring country;*

**Amendment 42****Proposal for a directive****Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g c (new)

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*Text proposed by the Commission*

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*Amendment*

**(gc)** *‘standard’ means a technical specification, adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory, and which is one of the following:*

- (i)** *‘international standard’ means a standard adopted by an international standardisation body;*
- (ii)** *‘European standard’ means a standard adopted by a European standardisation organisation;*
- (iii)** *‘harmonised standard’ means a European standard adopted on the basis of a request made by the Commission for the application of Union harmonisation legislation;*
- (iv)** *‘national standard’ means a standard adopted by a national standardisation body;*

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**Amendment 43**

**Proposal for a directive**

**Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g d (new)

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*Text proposed by the Commission*

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*Amendment*

**(gd)** *'Urban historical sites' are part of a wider totality, comprising the natural and the built environment and the everyday living experience of their dwellers as well. Within this wider environment, enriched with values of remote or recent origin and permanently undergoing a dynamic process of successive transformations, new urban spaces may be considered as environmental evidence in their formative stages;*

**Amendment 44**

**Proposal for a directive**

**Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g e (new)

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*Text proposed by the Commission*

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*Amendment*

**(ge)** *'corrective action' means further mitigation and/or compensation measures that may be undertaken by the developer to redress unforeseen adverse effects or any net biodiversity loss identified by project implementation, such as may arise from deficiencies in mitigation of impacts arising from project construction or operation, for which development consent has already been granted;*

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**Amendment 45****Proposal for a directive****Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g f (new)

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*Text proposed by the Commission*

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*Amendment*

- (gf) ***‘Visual Impact Assessment’***: Visual impact is defined as a change in the appearance, or view, of the built or natural landscape and urban areas resulting from the development which can be positive (improvement) or negative (deterioration). Visual impact Assessment also covers the demolition of constructions that are protected or those with a strategic role in the traditional image of a place or a landscape. It shall cover obvious change to geological topography and any other obstacle such as buildings or walls that limit the view of nature as well as the landscape’s harmony. Visual impact is assessed largely by qualitative judgements, involving human appreciation of, and interaction with, landscape and the value they give to a place (*genius loci*);

**Amendment 46****Proposal for a directive****Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g g (new)

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*Text proposed by the Commission*

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*Amendment*

- (gg) ***‘Joint Procedure’***: Under the Joint Procedure the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities without prejudice to other provisions of other relevant Union legislation;

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**Amendment 47**

**Proposal for a directive**

**Article 1 — point 1 — point b**

Directive 2011/92/EU

Article 1 — paragraph 2 — point g h (new)

Text proposed by the Commission

Amendment

**(gh) ‘Simplification’ means the reduction of forms and administrative procedures, the creation of joint procedures or coordination tools to integrate the assessments made by many authorities. It means to establish shared criteria, to make the submission of reports shorter and to strengthen objective and scientific evaluations.**

**Amendment 48**

**Proposal for a directive**

**Article 1 — point 1 — point c**

Directive 2011/92/EU

Article 1 — paragraph 3

Text proposed by the Commission

Amendment

(c) **paragraphs 3 and 4 are** replaced by the following:

(c) **paragraph 3 is** replaced by the following:

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence **or the response to civil emergencies**, if they deem that such application would have an adverse effect on those purposes.

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence, if they deem that such application would have an adverse effect on those purposes.

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**Amendment 49****Proposal for a directive****Article 1 — point 1 — point c**

Directive 2011/92/EU

Article 1 — paragraph 4

Text proposed by the Commission

Amendment

**4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, provided that the objectives of this Directive, including that of supplying information, are achieved through the legislative process. Every two years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive], Member States shall inform the Commission of any application which they have made of this provision.**

**deleted****Amendment 50****Proposal for a directive****Article 1 — point 1 — point c a (new)**

Directive 2011/92/EU

Article 1 — paragraph 4 a (new)

Text proposed by the Commission

Amendment

**(ca) the following paragraph is added:**

**'4a. Member States shall designate the competent authority or authorities in such a way as to ensure their full independence in the performance of the duties assigned to them under this Directive. In particular, the competent authority or authorities shall be designated in such a way as to avoid any relationship of dependence, any links or subordination between them or their members and the developer. A competent authority may not perform its duties under this Directive in relation to a project which it has commissioned itself.'**

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### Amendment 51

#### Proposal for a directive

#### Article 1 — point 1 a (new)

Directive 2011/92/EU

Article 2 — paragraph 1

Text proposed by the Commission

Amendment

(1a) In Article 2, paragraph 1 is replaced by the following:

**'1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects after having consulted the public. Measures to monitor significant adverse environmental effects and mitigation and compensation measures shall be taken, if appropriate, by the competent authority when development consent is given. Those projects are defined in Article 4.'**

### Amendment 52

#### Proposal for a directive

#### Article 1 — point 2

Directive 2011/92/EU

Article 2 — paragraph 3

Text proposed by the Commission

Amendment

3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation.

**Under** the coordinated procedure, the competent authority shall coordinate the various individual assessments required by the Union legislation concerned and issued by **several** authorities, without prejudice to **any provisions to the contrary contained in** other relevant Union legislation.

**Under** the joint procedure, the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities, without prejudice to **any provisions to the contrary contained in** other relevant Union legislation.

Member States **shall** appoint one authority, **which shall be** responsible for facilitating the development consent procedure for each project.

3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation, **except in cases where the Member States deem that the application of those procedures would be disproportionate.**

**For projects subject to** the coordinated procedure, the competent authority shall coordinate the various individual assessments required by the Union legislation concerned and issued by **the various** authorities, without prejudice to other relevant Union legislation.

**For projects subject to** the joint procedure, the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities, without prejudice to other relevant Union legislation.

Member States **may** appoint one authority responsible for facilitating the development consent procedure for each project.

Wednesday, October 9, 2013

Text proposed by the Commission

Amendment

*At the request of a Member State, the Commission shall provide the necessary assistance in order to define and implement the coordinated or joint procedures pursuant to this Article.*

*In all environmental impact assessments the developer shall demonstrate in the environmental report that they have had regard to any other Union legislation relevant to the proposed development for which individual assessments of environmental impact are required.*

### Amendment 53

#### Proposal for a directive

#### Article 1 — point 2 a (new)

Directive 2011/92/EU

Article 2 — paragraph 4

Text proposed by the Commission

Amendment

*(2a) In Article 2, paragraph 4 is replaced by the following:*

*'4. Without prejudice to Article 7, Member States may, in exceptional cases if so provided under national law, exempt a specific project having as its sole purpose the response to civil emergencies in whole or in part from the provisions laid down in this Directive, if such application would have an adverse effect on these purposes.*

*In that event, the Member States may inform and consult the public concerned and shall:*

- (a) consider whether another form of assessment would be appropriate;*
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the decision granting exemption and the reasons for granting it;*
- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.*

*The Commission shall immediately forward the documents received to the other Member States.*

*The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph.'*



Wednesday, October 9, 2013

**Amendment 54**  
**Proposal for a directive**

**Article 1 — point 3**

Directive 2011/92/EU

Article 3

<i>Text proposed by the Commission</i>	<i>Amendment</i>
Article 3	Article 3
<p>The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:</p> <p>(a) population, human health, and biodiversity, with particular attention to species and habitats protected under <b>Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council</b>;</p> <p>(b) land, soil, water, air and climate <b>change</b>;</p> <p>(c) material assets, cultural heritage and the landscape;</p> <p>(d) the interaction between the factors referred to in points (a), (b) and (c);</p> <p>(e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to natural and man-made disaster risks.</p>	<p>The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:</p> <p>(a) population, human health, and biodiversity <b>including flora and fauna</b>, with particular attention to species and habitats protected under <b>Directives 92/43/EEC, 2000/60/EC and 2009/147/EC</b>;</p> <p>(b) land, soil, water, air and climate;</p> <p>(c) material assets, cultural heritage and the landscape;</p> <p>(d) the interaction between the factors referred to in points (a), (b) and (c);</p> <p>(e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to <b>likely</b> natural and man-made disaster risks.</p>

**Amendments 55 and 127/REV**

**Proposal for a directive**

**Article 1 — point 4**

Directive 2011/92/EU

Article 4 — paragraphs 3, 4, 5 and 6

<i>Text proposed by the Commission</i>	<i>Amendment</i>
(4) Article 4 is amended as follows:	(4) Article 4 is amended as follows:
(a) paragraphs 3 and 4 are replaced by the following:	(a) paragraphs 3 and 4 are replaced by the following:

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Text proposed by the Commission

Amendment

'3. For projects listed in Annex II, the developer shall provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A.

4. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the competent authority shall take account of selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria **to be used** is specified in Annex III.'

(b) The following paragraphs 5 and 6 are added:

'5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the developer and taking into account, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

(a) **state how the criteria in Annex III have been taken into account;**

(b) include the reasons for requiring or not requiring an environmental impact assessment pursuant to Articles 5 to 10;

(c) include a description of the measures envisaged to avoid, prevent and reduce any significant effects on the environment, where it is decided that no environmental impact assessment needs to be carried out pursuant to Articles 5 to 10;

(d) be made available to the public.

'3. For projects listed in Annex II, **and when it is considered of relevance by the Member State**, the developer shall provide **summary** information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A. **The amount of information to be provided by the developer shall be kept to a minimum and limited to the key aspects that allow the competent authority to make its decision pursuant to paragraph 2.**

4. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the competent authority shall take account of **the relevant** selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria is specified in Annex III.'

(b) The following paragraphs 5 and 6 are added:

'5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the developer **pursuant to paragraph 3** and taking into account, where relevant, **the comments made by the public and the local authorities concerned**, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

(b) include the reasons for requiring or not requiring an environmental impact assessment pursuant to Articles 5 to 10, **in particular with reference to the relevant criteria listed in Annex III;**

(c) include a description of the measures envisaged to avoid, prevent and reduce any significant effects on the environment, where it is decided that no environmental impact assessment needs to be carried out pursuant to Articles 5 to 10;

(d) be made available to the public.

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Text proposed by the Commission

6. The competent authority shall make its decision pursuant to paragraph 2 within **three months** from the request for development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by a further **3 months**; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its determination is expected.

Where the project is made subject to an environmental impact assessment in accordance with Articles 5 to 10, the decision pursuant to paragraph 2 of this Article shall include the **information** set out in Article 5(2).'

Amendment

6. The competent authority shall make its decision pursuant to paragraph 2 within **a period of time established by the Member State not exceeding 90 days** from the request for development consent and provided that the developer has submitted all the requisite information **pursuant to paragraph 3**. Depending on the nature, complexity, location and size of the proposed project, the competent authority may **exceptionally** extend that deadline **once** by a further **period of time established by the Member State not exceeding 60 days**; in that case, the competent authority shall inform the developer **in writing** of the reasons justifying the extension and of the date when its determination is expected, **making available to the public the information referred to in Article 6(2)**.

Where the project is made subject to an environmental impact assessment in accordance with Articles 5 to 10, the decision pursuant to paragraph 2 of this Article shall include the **opinion** set out in Article 5(2), **if such an opinion was requested in accordance with that Article**.'

#### Amendment 56

##### Proposal for a directive

##### Article 1 — point 5

Directive 2011/92/EU

Article 5 — paragraph 1

Text proposed by the Commission

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall **prepare** an environmental report. The environmental report shall be based on the **determination** pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact, alternatives to the proposed project **and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements**. The detailed list of information to be provided in the environmental report is specified in Annex IV.

Amendment

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall **submit** an environmental report. The environmental report shall be based on the **opinion** pursuant to paragraph 2 of this Article, **if such an opinion was issued**, and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project **and** the characteristics of the potential impact. **The environmental report shall also include reasonable alternatives considered by the developer, which are relevant to the proposed project and its specific characteristics**. The detailed list of information to be provided in the environmental report is specified in Annex IV. **A non-technical summary of the information provided shall be included in the environmental report**.

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**Amendment 57****Proposal for a directive****Article 1 — point 5**

Directive 2011/92/EU

Article 5 — paragraph 2

*Text proposed by the Commission*

2. The competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall **determine** the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. **In particular, it shall determine:**

- (a) **the decisions and opinions to be obtained;**
- (b) the authorities and the public likely to be concerned;
- (c) the individual stages of the procedure and their duration;
- (d) reasonable alternatives relevant to the proposed project **and** its specific characteristics;
- (e) **the environmental features referred to in Article 3 likely to be significantly affected;**
- (f) the information to be submitted relevant to the specific characteristics of a particular project or type of project;
- (g) the information and knowledge available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used.

The competent authority may also seek assistance from **accredited** and technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

*Amendment*

2. **Where the developer so requests**, the competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall **issue an opinion determining** the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article, **including in particular:**

- (b) the authorities and the public likely to be concerned;
- (c) the individual stages of the procedure and **timeframes for** their duration;
- (d) reasonable alternatives **that may be considered by the developer, which are** relevant to the proposed project, its specific characteristics **and its significant impacts on the environment;**
- (f) the information to be submitted relevant to the specific characteristics of a particular project or type of project;
- (g) the information and knowledge available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used.

The competent authority may also seek assistance from **independent, qualified** and technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

**Amendment 106****Proposal for a directive****Article 1 — point 5**

Directive 2011/92/EU

Article 5 — paragraph 3

*Text proposed by the Commission*

3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):

*Amendment*

3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):

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Text proposed by the Commission

- (a) the developer shall ensure that the environmental report is prepared by **accredited and technically** competent experts **or**
- (b) the competent authority shall ensure that the environmental report is verified by **accredited and technically** competent experts and/or committees of national experts.

Where **accredited and technically** competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

The detailed arrangements for the use and selection of **accredited and technically** competent experts (for example qualifications required, assignment of evaluation, licensing, and disqualification), shall be determined by the Member States.

Amendment

- (a) the developer shall ensure that the environmental report is prepared by competent experts; **and**
- (b) the competent authority shall ensure that the environmental report is verified by competent experts and/or committees of national experts **whose names shall be made public.**

Where competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

The detailed arrangements for the use and selection of competent experts (for example qualifications **and experience** required, assignment of evaluation, licensing, and disqualification) shall be determined by the Member States.

**The Authority that reviews the Environmental Impact Assessment is asked not to have any interest or relation with the file in order to avoid any conflict of interest.**

#### Amendment 59

##### Proposal for a directive

##### Article 1 — point 5 a (new)

Directive 2011/92/EU

Article 5 a (new)

Text proposed by the Commission

Amendment

**(5a) The following Article is inserted:**

##### **'Article 5a**

**For cross-border projects, the Member States and neighbouring countries involved shall take all measures necessary to ensure that respective competent authorities cooperate in order to provide jointly for one integrated and coherent cross-border environmental impact assessment from an early planning stage, in accordance with applicable legislation on Union co-funding.**

**In the case of European transport network transport projects, the potential impact on the Natura 2000 network shall be identified using the Commission's TENTec system and Natura 2000 software and possible alternatives.'**

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**Amendment 61****Proposal for a directive****Article 1 — point 6 — point -a (new)**

Directive 2011/92/EU

Article 6 — paragraph 1

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*Text proposed by the Commission*

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*Amendment***(-a) paragraph 1 is replaced by the following:**

***‘1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local jurisdiction are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.’;***

**Amendment 107****Proposal for a directive****Article 1 — point 6 — point -a a (new)**

Directive 2011/92/EU

Article 6 — paragraph 2

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*Text proposed by the Commission*

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*Amendment***(-aa) paragraph 2 is replaced by the following:**

***‘2. The public shall be informed through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information\*, by public notices and other appropriate means such as electronic media, early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided.’***

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### Amendment 63

#### Proposal for a directive

#### Article 1 — point 6 — point -a b (new)

Directive 2011/92/EU

Article 6 — paragraph 3

Text proposed by the Commission

Amendment

**(-ab) paragraph 3 is replaced by the following:**

**‘3. Member States shall ensure that, within reasonable time-frames, the following is made available at least through a central portal which is accessible to the public electronically:**

- (a) any information gathered pursuant to Article 5;**
- (b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;**
- (c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 of this Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article.’;**

### Amendment 108

#### Proposal for a directive

#### Article 1 — point 6 — point -a c (new)

Directive 2011/92/EU

Article 6 — paragraph 5

Text proposed by the Commission

Amendment

**(-ac) paragraph 5 is replaced by the following:**

**‘5. The detailed arrangements for informing the public [...] and for consulting the public concerned [...] shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is provided through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC.’;**

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**Amendment 65****Proposal for a directive****Article 1 — point 6 — point b**

Directive 2011/92/EU

Article 6 — paragraph 7

*Text proposed by the Commission*

7. The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the competent authority may extend this time-frame by **a further** 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension.

*Amendment*

7. The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the nature, complexity, location or size of the proposed project so require, the competent authority may extend this time-frame by **up to** 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension..

**Amendment 66****Proposal for a directive****Article 1 — paragraph 1 — point 6 — point b a (new)**

Directive 2011/92/EU

Article 6 — paragraph 7 a (new)

*Text proposed by the Commission**Amendment***(ba) the following paragraph is added:**

**'7a. In order to ensure the effective participation of the public concerned in the decision-making procedures, Member States shall ensure that contact information of and easy and quick access to the authority or authorities responsible for performing the duties arising from this Directive be available to the public at any time and regardless of any ongoing specific project subject to an environmental impact assessment, and that due attention is paid to the comments made and opinions expressed by the public.'**



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### Amendment 67

#### Proposal for a directive

#### Article 1 — paragraph 1 — point 7 a (new)

Directive 2011/92/EU

Article 7 — paragraph 5 a (new)

Text proposed by the Commission

Amendment

(7a) In Article 7, the following paragraph is added:

**‘5a. In the case of cross-border projects of common interest in the field of transport included in one of the corridors set out in Annex I of the Regulation... (\*) establishing the Connecting Europe Facility, Member States shall be involved in coordinating the work of the public consultations. The coordinator shall ensure that an extensive public consultation process takes place with all stakeholders and civil society during the planning of new infrastructure. In any event, the coordinator may propose ways of developing the corridor plan and implementing it in a balanced manner.’**

(\*) Number, date and title of the Regulation establishing the Connecting Europe Facility (2011/0302(COD)).

### Amendments 109, 93 and 130

#### Proposal for a directive

#### Article 1 — point 8

Directive 2011/92/EU

Article 8

Text proposed by the Commission

Amendment

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be **taken into consideration** in the development consent procedure. **To this end**, the decision to grant development consent shall **contain** the following information:

(a) the environmental assessment of the competent authority referred to in Article 3 and the environmental conditions attached to the decision, including a description of the main measures to avoid, reduce and, if possible, offset significant adverse effects;

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be **given due account and assessed in detail** in the development consent procedure. **When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public** the following information:

(a) **the results of** the environmental assessment of the competent authority referred to in Article 3, **including a summary of the observations and opinions received pursuant to Articles 6 and 7**, and the environmental conditions attached to the decision, including a description of the main measures to avoid, reduce and, if possible, offset significant adverse effects;

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Text proposed by the Commission

Amendment

- (b) **the main reasons for choosing the project as adopted, in the light of the other alternatives considered, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario);**
- (c) **a summary of the comments received pursuant to Articles 6 and 7;**
- (d) a statement summarising how environmental considerations have been integrated into the development consent and how the results of the consultations and the information gathered pursuant to Articles 5, 6 and 7 have been incorporated or otherwise addressed.

For projects likely to have significant adverse transboundary effects, the competent authority shall provide information for not having taken into account comments received by the affected Member State during the consultations carried out pursuant to Article 7.

2. **If the consultations and the information gathered pursuant to Articles 5, 6 and 7 conclude that a project will have significant adverse environmental effects,** the competent authority, as early as possible and **in close cooperation with** the authorities referred to in Article 6(1) and the developer, shall consider whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed.

If the competent authority decides to grant development consent, it shall ensure that the development consent includes measures to monitor the significant adverse environmental effects, **in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any unforeseeable adverse effects.**

**The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.**

**Existing monitoring arrangements resulting from other Union legislation may be used if appropriate.**

- (b) **an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;**
- (d) a statement summarising how environmental considerations have been integrated into the development consent and how **the environmental report and** the results of the consultations and the information gathered pursuant to Articles 5, 6 and 7 have been incorporated or otherwise addressed.

For projects likely to have significant adverse transboundary effects, the competent authority shall provide information for not having taken into account comments received by the affected Member State during the consultations carried out pursuant to Article 7.

2. The competent authority, as early as possible and **after having consulted** the authorities referred to in Article 6(1) and the developer, shall consider **whether to refuse development consent or** whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed **on the basis of the relevant legislation.**

If the competent authority decides to grant development consent, it shall, **on the basis of the relevant legislation,** ensure that the development consent includes measures to monitor the significant adverse environmental effects.

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Text proposed by the Commission

3. When all necessary information gathered pursuant to Articles 5, 6 and 7 has been provided to the competent authority, including, where relevant, specific assessments required under other Union legislation, and the consultations referred to in Articles 6 and 7 have been completed, the competent authority shall conclude its environmental impact assessment of the project within **three months**.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by a further **3 months**; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its decision is expected.

**4. Before a decision to grant or refuse development consent is taken, the competent authority shall verify whether the information in the environmental report referred to in Article 5 (1) is up to date, in particular concerning the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects.**

Amendment

3. When all necessary information gathered pursuant to Articles 5, 6 and 7 has been provided to the competent authority, including, where relevant, specific assessments required under other Union legislation, and the consultations referred to in Articles 6 and 7 have been completed, the competent authority shall conclude its environmental impact assessment of the project within **a period of time established by the Member State not exceeding 90 days**.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may, **exceptionally**, extend that deadline by **a further period of time established by the Member State not exceeding 90 days**; in that case, the competent authority shall inform the developer, **in writing**, of the reasons justifying the extension and of the date when its decision is expected.

**4a. The decision to grant development consent may also be taken by adopting a specific act of national legislation, provided that the competent authority has carried out all elements of the environmental impact assessment in accordance with the provisions of this Directive.**

\* OJ L 312, 22.11.2008, p. 3

#### Amendment 69

##### Proposal for a directive

##### Article 1 — point 9 — point a

Directive 2011/92/EU

Article 9 — paragraph 1

Text proposed by the Commission

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public and the authorities referred to in Article 6(1) thereof, in accordance with the **appropriate** procedures, and shall make available to the public **the following** information:

Amendment

1. When a decision to grant or refuse development consent, **or other decision issued for the purpose of fulfilling the requirements of this Directive**, has been taken, the competent authority or authorities shall inform the public and the authorities referred to in Article 6(1) thereof **as soon as possible**, in accordance with the **national** procedures, and **at the latest within 10 working days**. **The competent authority or authorities** shall make **the decision** available to the public **and to the authorities referred to in Article 6(1) in accordance with Directive 2003/4/EC**.

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Text proposed by the Commission

Amendment

- (a) *the content of the decision and any conditions attached thereto;*
- (b) *having examined the environmental report and the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;*
- (c) *a description of the main measures to avoid, reduce and, if possible, offset the significant adverse effects;*
- (d) *a description, where appropriate, of the monitoring measures referred to in Article 8(2).*

**Amendment 120****Proposal for a directive****Article 1 — point 9 a (new)**

Directive 2011/92/EU

Article 9 a (new)

Text proposed by the Commission

Amendment

**(9a) The following article is added after Article 9:****'Article 9a**

*Member States shall ensure that the competent authority or authorities, when performing the duties arising from this Directive, do not find themselves in a conflict of interest pursuant to any legislation binding upon them.'*

**Amendment 72****Proposal for a directive****Article 1 — point 9 b (new)**

Directive 2011/92/EU

Article 10 — paragraph 1

Text proposed by the Commission

Amendment

**(9b) In Article 10 paragraph 1 is replaced by the following:**

*'The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national laws, regulations and administrative provisions, and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest, provided that they comply with Directive 2003/4/EC.'*

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**Amendment 73**

**Proposal for a directive**

**Article 1 — point 9 c (new)**

Directive 2011/92/EU

Article 10 a (new)

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Text proposed by the Commission

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Amendment

**(9c) The following Article is inserted:**

**'Article 10a**

*Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.'*

**Amendment 75**

**Proposal for a directive**

**Article 1 — point 9 d (new)**

Directive 2011/92/EU

Article 11 — paragraph 4 — subparagraph 2

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Text proposed by the Commission

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Amendment

**(9d) In Article 11, the second subparagraph of paragraph 4 is replaced by the following:**

*'Any such procedure shall be adequate and effective, allow for applications for injunctive relief, and be fair, equitable, timely and not prohibitively expensive.'*

**Amendment 76**

**Proposal for a directive**

**Article 1 — point 11**

Directive 2011/92/EU

Article 12 b — paragraph 5 a (new)

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Text proposed by the Commission

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Amendment

**5a. Where, owing to the specific characteristics of given sectors of economic activity, this is deemed appropriate in the interests of a correct environmental impact assessment, the Commission shall, in conjunction with the Member States and the sector concerned, draw up sector-specific guidelines and criteria to be followed in such a way that simplifies, and facilitates standardisation of, the environmental impact assessment.**

Wednesday, October 9, 2013

**Amendment 77****Proposal for a directive****Article 2 — paragraph 1 — subparagraph 1***Text proposed by the Commission*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [DATE] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

*Amendment*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... (\*) at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

(\*) 24 months from the entry into force of this Directive.

**Amendment 110****Proposal for a directive****Article 3***Text proposed by the Commission*

Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1) and for which the environmental impact assessment has not been concluded before that date shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.

*Amendment*

Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1) and for which the environmental impact assessment has not been concluded before that date shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive, **if the developer requests to continue the environmental impact assessment for his project in accordance with the amended provisions.**

**Amendments 79, 112 and 126****Proposal for a directive****Annex — point - 1 (new)**

Directive 2011/92/EU

Annex I

*Text proposed by the Commission**Amendment*

**(-1) Annex I is amended as follows:**

**(a) the title is replaced by the following:**

**‘PROJECTS REFERRED TO IN ARTICLE 4(1)  
(PROJECTS SUBJECT TO MANDATORY ENVIRONMENTAL IMPACT ASSESSMENT)’**

**(b) the following point is inserted:**

**‘4a. Open-cast mining and similar open-air extractive industries.’**

Wednesday, October 9, 2013

Text proposed by the Commission

Amendment

(c) in point 7, point (a) is replaced by the following:

‘(a) construction of lines for long-distance railway traffic and of airports [...];’

(d) the following points are inserted:

“14a. Exploration, limited to the phase involving the application of hydraulic fracturing, and extraction of crude oil and/or natural gas trapped in gas-bearing strata of shale or in other sedimentary rock formations of equal or lesser permeability and porosity, regardless of the amount extracted.

14b. Exploration, limited to the phase involving the application of hydraulic fracturing, and extraction of natural gas from coal beds, regardless of the amount extracted.

(e) point 19 is replaced by the following:

‘19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, gold mines which use processes involving cyanide ponds, or peat extraction, where the surface of the site exceeds 150 hectares.’

(f) the following point is added:

‘24a. Theme parks and golf courses planned for areas of water shortage or at high risk of desertification or drought.’

#### Amendment 80

##### Proposal for a directive

##### Annex — point - 1 a (new)

Directive 2011/92/EU

Annex II

Text proposed by the Commission

Amendment

(-1a) Annex II is amended as follows:

(a) the title is replaced by the following:

‘PROJECTS REFERRED TO IN ARTICLE 4(2) (PROJECTS SUBJECT TO ENVIRONMENTAL IMPACT ASSESSMENT AT THE DISCRETION OF THE MEMBER STATES);’

(b) the following point is inserted in paragraph 1:

‘(fa) Wild capture fishing activities;’

Wednesday, October 9, 2013

Text proposed by the Commission

Amendment

(c) **point (c) of paragraph 2 is replaced by the following:****‘(c) Research and exploration of minerals and extraction of minerals by marine or fluvial dredging;’;**(d) **point (d) of paragraph 10 is deleted.**(e) **the following point is inserted in paragraph 13:****‘(aa) Any demolition of projects listed in Annex I or this Annex, which may have significant adverse effects on the environment.’.****Amendment 81****Proposal for a directive****Annex — point 1**

Directive 2011/92/EU

Annex II.A

Text proposed by the Commission

Amendment

ANNEX II.A — INFORMATION REFERRED TO IN ARTICLE 4  
(3)ANNEX II.A — INFORMATION REFERRED TO IN ARTICLE 4  
(3) **(SUMMARY INFORMATION PROVIDED BY THE DEVELOPER ON THE PROJECTS LISTED IN ANNEX II)**1. A description of the project, including **in particular**:(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, during the construction **and** operational phases;

(b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.

2. A description of the aspects of the environment likely to be significantly affected by the proposed project.

3. A description of the likely significant effects of the proposed project on the environment resulting from:

(a) the expected residues and emissions and the production of waste;

1. A description of the project, including:

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface **and underground**, during the construction, operational **and demolition** phases;

(b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.

2. A description of the aspects of the environment likely to be significantly affected by the proposed project.

3. A description of the likely significant effects of the proposed project on the environment, **including risks to the health of the population concerned and the effects on the landscape and cultural heritage**, resulting from:(a) the expected residues and emissions and the production of waste **where relevant**;



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*Text proposed by the Commission*

*Amendment*

- (b) the use of natural resources, in particular soil, land, water, and biodiversity, including hydromorphological changes.
4. A description of the measures envisaged to avoid, prevent or reduce **any** significant adverse effects on the environment.

- (b) the use of natural resources, in particular soil, land, water, and biodiversity (including hydromorphological changes).
4. A description of the measures envisaged to avoid, prevent or reduce **the** significant adverse effects on the environment, **in particular when they are considered irreversible**.

#### Amendment 124

##### Proposal for a directive

##### Annex — point 2

Directive 2011/92/EU

Annex III — point 2 — - point c — point ii

*Text proposed by the Commission*

*Amendment*

- (ii) coastal zones;

- (ii) coastal zones **and marine environment**;

#### Amendments 83 and 129/REV

##### Proposal for a directive

##### Annex — point 2

Directive 2011/92/EU

Annex IV

*Text proposed by the Commission*

*Amendment*

ANNEX IV — INFORMATION REFERRED TO IN ARTICLE 5(1)

ANNEX IV — INFORMATION REFERRED TO IN ARTICLE 5(1)  
**(INFORMATION TO BE PROVIDED BY THE DEVELOPER  
IN THE ENVIRONMENTAL REPORT)**

1. Description of the project, including in particular:

1. Description of the project including in particular:

**(-a) a description of the location of the project;**

- (a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, and the water use and land-use requirements during the construction **and** operational phases;

- (a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, and the water use and land-use requirements during the construction, operational **and where relevant demolition** phases;

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Text proposed by the Commission

Amendment

- (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, land, soil and biodiversity) used;
- (c) an estimate, by type and quantity, of expected residues and emissions (water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. A description, of the technical, locational or other aspects (e. g. in terms of project design, technical capacity, size and scale) of the alternatives considered, **including the identification of the least environmentally impacting one**, and an indication of the main reasons for the choice made, **taking into account the environmental effects**.
3. A description of the relevant aspects of the **existing** state of the environment and the likely evolution thereof without implementation of the project (**baseline scenario**). This description should cover any existing environmental problems relevant to the project, including, in particular, those relating to any areas of a particular environmental importance and the use of natural resources.
4. A description of the **aspects** of the environment likely to be significantly affected by the proposed project, including, in particular, population, human health, fauna, flora, biodiversity **and the ecosystem services it provides**, land (land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air, climatic factors, climate **change** (greenhouse gas emissions, including from land use, land use change and forestry, mitigation potential, impacts relevant to adaptation, if the project takes into account risks associated with climate change), material assets, cultural heritage, including architectural and archaeological ones, landscape; such a description should include the inter-relationship between the above factors, as well as the exposure, vulnerability and resilience of the above factors to natural and man-made disaster risks.
- (aa) a description of the energy costs, the costs of recycling waste caused by demolition, the consumption of additional natural resources when a demolition project is undertaken;**
- (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, land, soil and biodiversity) used;
- (c) an estimate, by type and quantity, of expected residues and emissions (water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.
2. A description, of the technical, locational or other aspects (e. g. in terms of project design, technical capacity, size and scale) of the **reasonable** alternatives considered **by the developer, which are relevant to the proposed project and its specific characteristics** and an indication of the main reasons for the choice made.
3. A description of the relevant aspects of the **current** state of the environment (**baseline scenario**) and the likely evolution thereof without implementation of the project, **where the natural or social changes from the baseline scenario can be reasonably predicted**. This description should cover any existing environmental problems relevant to the project, including, in particular, those relating to any areas of a particular environmental importance and the use of natural resources.
4. A description of the **factors** of the environment likely to be significantly affected by the proposed project, including, in particular, population, human health, fauna, flora, biodiversity **through its fauna and flora**, land (land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air, climatic factors, climate (greenhouse gas emissions, including from land use, land use change and forestry, mitigation potential, impacts relevant to adaptation, if the project takes into account risks associated with climate change), material assets, cultural heritage, including architectural and archaeological ones, landscape; such a description should include the inter-relationship between the above factors, as well as the exposure, vulnerability and resilience of the above factors to natural and man-made disaster risks.

Wednesday, October 9, 2013

Text proposed by the Commission

5. A description of the likely significant effects of the proposed project on the environment resulting from, inter alia:

- (a) the existence of the project;
- (b) the use of natural resources, in particular land, soil, water, biodiversity **and the ecosystem services it provides, considering as far possible the availability of these resources also in the light of changing climatic conditions;**
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination of waste;
- (d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters);
- (e) the cumulation of effects with other projects and activities;
- (f) the greenhouse gas emissions, including from land use, land use change and forestry;
- (g) the technologies and the substances used;
- (h) hydromorphological changes.

The description of the likely significant effects should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at EU or Member State level which are relevant to the project.

6. The description of the forecasting methods used to assess the effects on the environment referred to in point 5, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

Amendment

5. A description of the likely significant effects of the proposed project on the environment resulting from, inter alia:

- (a) the existence of the project;
- (b) the use of natural resources, in particular land, soil, water, biodiversity **including flora and fauna;**
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination of waste;
- (d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters) **reasonably regarded as characteristic to the nature of the project;**
- (e) the cumulation of effects with other **existing and/or approved** projects and activities, **to the extent situated in the geographical area likely to be affected and not yet constructed or operational, without being obliged to take other information than existing or publicly available information into account;**
- (f) the greenhouse gas emissions, including from land use, land use change and forestry;
- (g) the technologies and the substances used;
- (h) hydromorphological changes.

The description of the likely significant effects should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project.

6. The description of the forecasting methods used to assess the effects on the environment referred to in point 5, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

Wednesday, October 9, 2013

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*Text proposed by the Commission*

7. A description of the measures envisaged to prevent, reduce and, **where possible**, offset any significant adverse effects on the environment referred to in point 5 and, where appropriate, of any proposed monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are reduced or offset and should cover both the construction and operational phases.
8. An assessment of the natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a description of the measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive **96/82/EC as amended**).
9. A non-technical summary of the information provided under the above headings.
10. An indication of any difficulties (technical deficiencies or lack of knowhow) encountered by the developer in compiling the required information and of the sources used for the descriptions and assessments made, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

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*Amendment*

7. A description of the measures envisaged to, **as a priority**, prevent **and** reduce and, **as a last resort**, offset any significant adverse effects on the environment referred to in point 5 and, where appropriate, of any proposed monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are **prevented**, reduced or offset and should cover both the construction and operational phases.
  8. An assessment of the **likely** natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a description of the measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive **2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, or requirements arising from other Union legislation or international conventions**).
  9. A non-technical summary of the information provided under the above headings.
  10. An indication of any difficulties (technical deficiencies or lack of knowhow) encountered by the developer in compiling the required information and of the sources used for the descriptions and assessments made, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.
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Thursday, October 10, 2013

P7\_TA(2013)0415

### **Participation of Jordan in Union programmes \*\*\***

**European Parliament legislative resolution of 10 October 2013 on the draft Council decision on the conclusion of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, on a Framework Agreement between the European Union and the Hashemite Kingdom of Jordan on the general principles for the participation of the Hashemite Kingdom of Jordan in Union programmes (12138/2012 — C7-0008/2013 — 2012/0108(NLE))**

(Consent)

(2016/C 181/31)

*The European Parliament,*

- having regard to the draft Council decision (12138/2012),
  - having regard to the draft Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, on a Framework Agreement between the European Union and the Hashemite Kingdom of Jordan on the general principles for the participation of the Hashemite Kingdom of Jordan in Union programmes (12135/2012),
  - having regard to the request for consent submitted by the Council in accordance with Article 217 in conjunction with point (a) of the second subparagraph of Article 218(6) and the first subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (C7-0008/2013),
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Foreign Affairs (A7-0305/2013),
1. Consents to conclusion of the Protocol;
  2. Stresses the importance of continuing to promote close cooperation and dialogue with the Hashemite Kingdom of Jordan within the framework of the European Neighbourhood Policy and of furthering political and economic dialogue between the Union and Jordan;
  3. Recalls that, according to estimates by the Jordanian authorities, more than 500 000 refugees from Syria have sought refuge in Jordan and that the Syrian crisis is having a severe impact on Jordan's economy and on Jordan's budget on account of the financial resources required to provide humanitarian assistance to the refugees; regrets, however, that the Jordanian border has been closed to Palestinian refugees from Syria since August 2012;
  4. Stresses, therefore, the importance of providing adequate financial, technical and humanitarian support to Jordan;
  5. Greatly appreciates the commitment shown by H.M. King Abdullah II of Jordan in promoting a very wide-ranging process of reforms for the benefit of Jordan and its people; stresses the importance of achieving sustainable results through these reforms, especially in terms of social justice;
  6. Welcomes and supports, in addition, the proactive and constructive role of Jordan, as a mediator, in the efforts aimed at finding lasting solutions to various conflicts in the Middle East;
  7. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Hashemite Kingdom of Jordan.
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Thursday, October 10, 2013

P7\_TA(2013)0416

**European Border Surveillance System (EUROSUR) \*\*\*I****European Parliament legislative resolution of 10 October 2013 on the proposal for a regulation of the European Parliament and of the Council Establishing the European Border Surveillance System (EUROSUR) (COM(2011)0873 — C7-0506/2011 — 2011/0427(COD))****(Ordinary legislative procedure: first reading)**

(2016/C 181/32)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0873),
  - having regard to Article 294(2) and Article 77(2)(d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0506/2011),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the undertaking given by the Council representative by letter of 14 June 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A7-0232/2013),
1. Adopts its position at first reading hereinafter set out;
  2. Approves its 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(2011)0427****Position of the European Parliament adopted at first reading on 10 October 2013 with a view to the adoption of Regulation (EU) No .../2013 of the European Parliament and of the Council establishing the European Border Surveillance System (Eurosur)***(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 1052/2013.)*

Thursday, October 10, 2013

ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the European Parliament

The European Parliament stresses that the EU institutions should endeavour to use appropriate and neutral terminology in legislative texts when addressing the issue of third-country nationals whose presence on the territory of the Member States has not been authorised by the Member States' authorities or is no longer authorised. In such cases, EU institutions should avoid using the word 'illegal' when it is possible to find alternative wording, and in all cases, when referring to persons, 'irregular migrants' should be used.

P7\_TA(2013)0417

**Portable batteries and accumulators containing cadmium \*\*\*I**

**European Parliament legislative resolution of 10 October 2013 on the proposal for a directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools (COM(2012)0136 — C7-0087/2012 — 2012/0066(COD))**

**(Ordinary legislative procedure: first reading)**

(2016/C 181/33)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0136),
- having regard to Article 294(2), Article 192(1) and Article 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0087/2012),
- having regard to the opinion of the Committee on Legal Affairs on the use of delegated acts and on the proposed legal basis,
- having regard to Article 294(3) and Article 192(1) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 24 May 2012 <sup>(1)</sup>,
- after consulting the Committee of the Regions,
- having regard to the undertaking given by the Council representative by letter of 14 June 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rules 55 and 37 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0131/2013),

1. Adopts its position at first reading hereinafter set out;

<sup>(1)</sup> OJ C 229, 31.7.2012, p. 140.

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Thursday, October 10, 2013

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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**P7\_TC1-COD(2012)0066**

**Position of the European Parliament adopted at first reading on 10 October 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council amending Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools, and of button cells with low mercury content, and repealing Commission Decision 2009/603/EC**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2013/56/EU.)*

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