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Tuesday 25 October 2011

I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

Alternative dispute resolution in civil, commercial and family matters

P7_TA(2011)0449

European Parliament resolution of 25 October 2011 on alternative dispute resolution in civil, commercial and family matters (2011/2117(INI))

(2013/C 131 E/01)

The European Parliament,

- having regard to Article 3(2) of the Treaty on European Union, as well as Articles 67 and 81(2)(g) of the Treaty on the Functioning of the European Union,
- having regard to the Commission's consultation paper entitled 'On the use of Alternative Dispute Resolution as a means to resolve disputes related to commercial transactions and practices in the European Union' of 18 January 2011 and the document entitled 'Summary of the responses received' published in April 2011,
- having regard to the Commission's consultation document entitled 'Alternative dispute resolution in the area of financial services' of 11 December 2008 and the document entitled 'Summary of the responses to the public consultation on alternative dispute resolution in the area of financial services' of 14 September 2009,
- having regard to the Green Paper on alternative dispute resolution in civil and commercial law of 19 April 2002 (COM(2002)0196),
- having regard to the Commission's recommendations of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes ⁽¹⁾ and of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes ⁽²⁾,
- having regard to the Communication from the Commission of 13 April 2011 entitled 'Single Market Act – Twelve levers to boost growth and strengthen confidence 'Working together to create new growth' (COM(2011)0206),
- having regard to the Council Resolution of 25 May 2000 on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes ⁽³⁾ and to the European Extra-Judicial Network (EEJ-Net) launched on 16 October 2001,

⁽¹⁾ OJ L 115, 17.4.1998, p. 31.

⁽²⁾ OJ L 109, 19.4.2001, p. 56.

⁽³⁾ OJ C 155, 6.6.2000, p. 1.

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- having regard to the Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services in the European Economic Area of 30 March 1998 and to FIN-NET,
 - having regard to Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters ⁽¹⁾,
 - having regard to the European Code of Conduct for Mediators (hereinafter: 'Code of Conduct') launched in 2004,
 - having regard to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters ⁽²⁾,
 - having regard to the study entitled 'The Cost of Non ADR – Surveying and Showing the Actual Costs of Intra-Community Commercial Litigation', dated 9 June 2010, by the ADR Center, Rome, Italy,
 - having regard to the findings of the European Business Test Panel (EBTP) on 'Alternative Dispute Resolution', covering the period from 17 December 2010 to 17 January 2011,
 - having regard to its resolution of 12 March 2003 on the Commission's Green Paper on alternative dispute resolution in civil and commercial law ⁽³⁾,
 - having regard to its recommendation of 19 June 2007 based on the report of the Committee of Inquiry into the crisis of the Equitable Life Assurance Society ⁽⁴⁾,
 - having regard to its resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme ⁽⁵⁾,
 - having regard to its resolution of 6 April 2011 on governance and partnership in the single market ⁽⁶⁾,
 - having regard to its resolution of 13 September 2011 on the implementation of the directive on mediation in the Member States, its impact on mediation and its take-up by the courts ⁽⁷⁾,
 - 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 the Internal Market and Consumer Protection (A7-0343/2011),
- A. whereas access to justice is a fundamental right,
- B. whereas an area of freedom, security and justice, as laid down in the Treaties, must meet the needs of citizens and businesses, for example by creating simpler and clearer procedures, whilst enhancing access to justice,
- C. whereas the objectives of the judicial process and of alternative means of dispute settlement are closely linked and seek to swiftly restore legal peace between parties in dispute, suitably safeguard individuals' substantive rights and settle disputes between parties,

⁽¹⁾ OJ L 174, 27.6.2001, p. 25.

⁽²⁾ OJ L 136, 24.5.2008, p. 3.

⁽³⁾ OJ C 61 E, 10.3.2004, p. 256.

⁽⁴⁾ OJ C 146 E, 12.6.2008, p. 110.

⁽⁵⁾ OJ C 285 E, 21.10.2010, p. 12.

⁽⁶⁾ Texts adopted, P7_TA(2011)0144.

⁽⁷⁾ Texts adopted, P7_TA(2011)0361.

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- D. whereas alternative dispute resolution (ADR), which helps parties avoid traditional adjudicative procedures, is capable of constituting a quick and cost-effective alternative to litigation,
- E. whereas ADR is a mechanism for reaching out-of-court settlements by helping consumers and traders to resolve conflicts through the intervention of a third party (mediator or arbitrator),
- F. whereas in many countries the public authorities – including ombudsmen and regulatory authorities – play an important role in encouraging the resolution of disputes,
- G. whereas by strengthening citizens' confidence in the internal market, trust in the enforcement of rights in cross-border disputes can make a contribution towards stimulating the EU economy,
- H. whereas the EU citizen's knowledge and understanding of ADR schemes throughout Europe is low and confused, with only a small percentage of citizens knowing how to file a claim with an ADR body,
- I. whereas it is important to assure better publicising of the existence of ADR mechanisms and to do more to encourage consumers and professionals to use them as an alternative to court proceedings, in order to make it possible to avoid a confrontational approach and offer the prospect of a win-win situation,
- J. whereas a balanced approach has to be sought which takes into consideration both the flexibility of ADR systems on the one hand and the need to ensure consumer protection and fair procedures on the other,
- K. whereas Parliament has repeatedly called for further efforts to develop ADR; whereas it has called on the Commission in its resolution of 6 April 2011 on governance and partnership in the single market to submit a legislative proposal on the use of alternative dispute resolution in the EU by the end of 2011,
- L. whereas the Commission has included a legislative proposal on ADR, in its Work Programme 2011 as a strategic initiative and in its communication of 13 April 2011 on a 'Single Market Act', as one of the twelve levers to boost growth and strengthen confidence, with the aim of consumer empowerment,
- M. whereas the deadline for the implementation of Directive 2008/52/EC expired on 21 May 2011,

Horizontal approach to ADR

1. Welcomes the recent Commission consultation on ADR which, despite its wide-ranging title, is exclusively targeted at consumer transactions;
2. Believes, however, that ADR forms part of a general 'justice-for-growth' agenda across sectors; takes the view that any approach to ADR should go beyond consumer disputes so as to include business-to-business (B2B) civil and commercial transactions, irrespective of whether they are carried out between private or public undertakings, family disputes, defamation cases and other general interest disputes or ones involving parties with different legal statuses;
3. Welcomes the fact that Directive 2008/52/EC has harmonised some standards for mediation; emphasises that common terms need to be defined and procedural guarantees maintained in all areas of ADR; feels the need to revisit the 1998 and 2001 Commission recommendations and the Code of Conduct;

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4. Considers that, whilst self-regulation remains important, legislative action setting out minimum standards upon which ADR schemes may be based is necessary in order to provide a framework for ADR within Member States' legal orders, as shown by the example of Directive 2008/52/EC; stresses that any such framework should be careful not to limit diversity in the field of ADR as there is no 'one size fits all' solution that could tackle the variety of problems that arise in different legal sectors;

5. Emphasises the need for better understanding of the many different types of mechanisms and processes (including the activities of public authorities such as ombudsmen) that are often collectively referred to as ADR; considers that while there is considerable commonality among the techniques of negotiation and dispute facilitation that are commonly to be found in ADR systems, nevertheless the structure and architecture of ADR differs considerably between Member States;

6. Considers that legislative measures adopted at EU level will facilitate the implementation of ADR and encourage natural and legal persons to use it more often, especially in relation to cross-border disputes, bearing in mind that judicial procedures for resolving such disputes are more complex, expensive and lengthy;

7. In this context, calls on the Commission to submit a legislative proposal on the use of alternative dispute resolution for consumer matters in the EU by the end of 2011 and emphasises the importance of its swift adoption;

Common standards for ADR

8. Believes that ADR standards should include: adherence to/agreement on ADR; independence, transparency, effectiveness, fairness, impartiality and confidentiality; effects on limitation and prescription; enforceability of agreements resulting from ADR; qualification of third parties;

9. Takes the view that ADR bodies should be monitored and assessed regularly by independent evaluators;

10. In order not to prejudice access to justice, rejects any wholesale imposition of a mandatory system of ADR at EU level, but suggests that a mandatory system of referral of the parties to consider possibilities of ADR could be examined;

11. Notes the example of Italian 'joint conciliation' as a possible best practice model based on a protocol agreed and signed by the company and the consumer associations requiring the company to agree in advance to ADR in order to resolve any disputes which arise in the area covered by the protocol;

12. Stresses that any ADR clause should not hamper access to justice, in particular on the part of the weaker party, which, in certain circumstances, may also be an SME, and therefore considers, to this extent, that ADR decisions may be binding only with the explicit agreement of the parties involved;

13. Takes the view that an obligation to disclose circumstances that affect the third party's independence or that give rise to a conflict of interests and a duty to serve all parties equally, as laid down in the Code of Conduct, should apply to ADR in general;

14. Calls for an obligation for the parties involved and, where appropriate, a third party, as contained in the Code of Conduct, to keep ADR information confidential; is also considering, where applicable, more far-reaching measures, such as creating a professional privilege, in parallel with that provided for in Article 7 of Directive 2008/52/EC;

15. Notes, however, that whilst respect for the confidentiality of personal data is important, there should also be a level of transparency guaranteed in the ADR process, allowing Member States and ADR bodies to identify and share best practices, and allowing independent regulators the opportunity to scrutinise the procedure in cases where complaints have been made;

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16. Believes that not only mediation but ADR in general (Article 8 of Directive 2008/52/EC) should have an effect on limitation and prescription periods; acknowledges the risk posed by the many forms of ADR and the risk of abusive delay of court proceedings; notes that the feasibility study on European Contract Law ⁽¹⁾ provides for a suspension of prescription in the case of arbitration and mediation proceedings, and in certain other ADR situations; calls upon the Commission to continue work on this;

17. Is convinced that speedy and inexpensive enforcement of agreements resulting from ADR is indispensable, including cross-border; calls for legislative measures to this end;

18. Recalls that specific training for third-party neutrals is essential; calls on the Commission to assemble data on the required type and extent of training, and to assist the sectors in developing training and quality-control schemes;

ADR in different areas

19. Supports the Commission's intention of encouraging the use of alternative means of dispute resolution that are accessible, swift, effective and cheap and apt to enable the establishment and maintenance of quality and trust-based commercial, economic, social and neighbourhood relations and to contribute to a high level of consumer protection in a 'win-win' situation, with benefits for both sides as compared to current judicial practice;

20. Stresses that, although there are numerous ADR systems operating effectively in Europe at present, one of the main obstacles to their use is the lack of even development of such systems throughout the EU, both in geographical and sectoral terms; suggests, therefore, that existing shortcomings with regard to the geographical coverage of ADR in Europe be rectified rapidly, deplores the major sectoral deficiencies that persist in most Member States, while promoting the improvement of a sector by sector coverage that would involve people who understand the way in which a given sector works; encourages the Member States to consider introducing single points of contact for each sector, to provide information on how to initiate ADR;

21. Recalls that ADR is of particular interest to SMEs; reiterates its call upon the Commission to consider synergies between ADR and an instrument in EU contract law; would also welcome guidance on ADR clauses in standard contracts;

22. Acknowledges the achievements of FIN-NET, ECC-Net and SOLVIT, but believes that, as regards information to parties and funding, there is still room for improvement, and calls on the Commission to support, strengthen and enhance the capabilities of, existing bodies such as these that have demonstrated their effectiveness and value;

23. Sees great potential for online ADR, in particular for smaller claims; notes that traditional ADR procedures exist online alongside others that seek to prevent disputes or to facilitate their resolution; emphasises that, where traditional ADR is carried out online, procedural standards should not be lowered, and that issues such as the enforceability of awards should also be resolved; sees a particular benefit in online trustmark systems; points to the work of the UNICTRAL Working Group on Online Dispute Resolution ⁽²⁾, intended for B2B and business-to-consumer (B2C) transactions;

24. Believes that a 'hierarchy' of settlement – comprising, firstly, an in-house complaint scheme, secondly, ADR and, only as last resort, litigation – will reduce time and cost; calls upon the Commission to assist the sectors in promoting such systems;

⁽¹⁾ http://ec.europa.eu/justice/policies/consumer/docs/explanatory_note_results_feasibility_study_05_2011_en.pdf.

⁽²⁾ http://www.uncitral.org/uncitral/commission/working_groups/3Online_Dispute_Resolution.html.

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25. Emphasises the crucial role of types of ADR in family disputes, where it may reduce psychological harm, can help the parties to start talking again and thereby, in particular, help ensure the protection of children; sees potential in cross-border ADR in terms of its flexibility in particular; points also to the work of the European Parliament Mediator for International Parental Child Abduction;

26. Agrees with the Commission that appropriate access to reparation in the internal market requires both the possibility of easy recourse to ADR and the existence of an effective system for collective claims, the two being complementary and not mutually exclusive;

27. Sees potential for ADR within the ongoing discussion on collective redress, since ADR provides an effective means for dispute settlement that avoids redress action before the courts;

28. Sees a need at EU level for ADR in the area of freedom of the press and rights of personality, given that in cases of defamation and breaches of rights of personality in particular, costs of legal proceedings, especially in some Member States, can be ruinous, and that ADR could help to improve the existing situation;

ADR as a mechanism to settle consumer disputes

29. Stresses the need to ensure that European consumers can access ADR systems for transnational as well as national disputes, especially on the on-line market, which is growing rapidly in the EU; notes that the use of ADR systems affords a higher level of consumer rights protection and boosts consumer confidence in the market, businesses and consumer rights protection institutions by making them more attractive, as well as promoting cross-border trade and increasing the prosperity of all operators in the EU market;

30. Calls for an effective out-of-court dispute settlement system for consumer matters which is operational across the EU;

31. Suggests that the Commission's future legislative proposal on the use of ADR for consumers in the EU incorporate the guidelines to be followed in relation to ADR systems established in Europe, these being the following:

- *independence, impartiality and confidentiality*: when mediators are being designated, the possibility of conflicts of interest arising should be avoided; the principle of joint participation by members of consumer associations and organisations representing companies could serve as a useful basis for ensuring the impartiality of the outcome;
- *competence*: the professionals in charge must have the specialist ability, training and experience to perform their role and must be impartial, independent and competent;
- *efficiency and speed*: mediators must have adequate means at their disposal (appropriate human, material and financial resources) and be able to meet the short deadlines between referral and decision;
- *equity* between consumers and professionals, in terms of information as well as conceptually and procedurally, and two-way exchanges, i.e. the two parties being able to express their position and to familiarise themselves with the position and the facts stated by the other;
- *funding*: the issue of the cost of ADR should be resolved in order to ensure that such an option is attractive to the parties concerned; with this in mind, the system should be free, if a case is won, or offered at a very moderate cost to the consumer;
- *freedom of choice and out-of-court nature*: ADR must be optional and based on respect for the parties' freedom of choice throughout the process, allowing them the possibility of choosing, at any time, to settle their dispute before the courts; at the same time, guarantees must be provided that genuine efforts are being made to achieve successful mediation; it must not under any circumstances constitute an initial compulsory step prior to the initiation of legal proceedings, and the decision stemming from it can be binding only if the parties have been informed to that effect beforehand and expressly agree to it; despite such a decision, it must still be possible for the parties to opt for a court hearing;

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- *proportionality* of the procedures, decisions and costs, to avoid their impact exceeding the objective and content of the dispute; the costs borne must be in proportion to the damage incurred;
- *transparency*: besides providing general information (types of lawsuit, rules on referral, decision-taking arrangements, etc.), any person acting as a mediator must be obliged to publish an annual report;

32. Calls on the Commission to make provision for coordination in respect of transnational consumer disputes in order to facilitate access to, and the coordination of, national and business-led ADR systems;

33. Calls on the Commission, in the context of cross-border e-commerce consumer disputes, to make arrangements for the rapid introduction of a multilingual platform enabling consumers to resolve their disputes entirely on line, bearing in mind that this platform must meet quality standards and be based on existing ADR systems in the Member States;

34. Takes the view that the provision of information to consumers is a responsibility shared by public authorities, information and advisory networks, regulators and consumer groups, and recommends that they each, at their respective level, conduct awareness-raising campaigns and pilot projects on the subject;

35. Criticises the confusing nature of the Commission's current ADR database; suggests that the Commission create a multilingual European internet ADR portal, where any consumer may access information on how ADR works, what it involves and about their rights and obligations, building on existing databases and networks; emphasises that, in the interests of consumers, emphasis must be placed on the user-friendliness and clarity of the on-line portal;

36. Emphasises that consumers must be able to obtain all relevant on-line information about ADR, properly translated into their own languages, by using readily accessible, user-friendly on-line translation machines;

37. Emphasises that it is crucial to raise consumer awareness of the existence and benefits of ADR prior to the initiation of a consumer dispute; insists on the necessity to reinforce the sense of responsibility of businesses and business organisations in this regard; considers that businesses and businesses federations have a duty to inform consumers on available ADR mechanisms; proposes that this 'upstream' information should include a reference in all contractual documents drawn up by professionals to the possibility of recourse to ADR, along with contact details and referral procedures for the relevant ADR systems; however, this requirement should avoid extra costs and bureaucracy;

38. Recommends, as a potential incentive for enterprises, that a quality label for mediation be introduced in relation to mediation in consumer disputes, which would be associated with guidelines recognising best practices, so that consumers can rapidly identify businesses that have opted into ADR systems; takes the view that a cost-benefit analysis should be carried out first on this proposal; stresses that the Commission should ensure that the label is properly used and enforced;

Next steps

39. Notes that there needs to be an improvement in general information about rights and their enforcement and specific information on ADR schemes, including their existence, functioning and location; takes the view that information programmes should also point to the main advantages of choosing ADR, such as the cost in comparison to litigation, success rates and time efficiency in comparison to litigation; takes the view that such programmes should be targeted in particular at citizens and SMEs; believes that ADR is most effectively provided in a network close to citizens and on the basis of joint work with Member States;

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40. Calls on the Commission, at the same time, to take immediate steps to ensure that consumers and businesses are made more aware of existing legislative instruments, such as Regulation (EC) No 861/2007 establishing a European Small Claims Procedure, Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters and Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims; with that aim in view, proposes that national authorities, courts, bar associations and chambers of commerce, consumer advice bureaux, legal expenses insurers and other competent organisations should be involved in a comprehensive information campaign; calls for financial support to be provided for European and national campaigns of this kind;

41. Notes that the usage of small claims tribunals in some Member States remains significantly low and that more needs to be done in terms of legal certainty, language barriers and transparency of proceedings; calls on the Commission to devote particular attention to these legal bodies when formulating its legislative proposal on the use of ADR for consumer matters in the EU;

42. Notes that the conciliatory nature of ADR means that the resolution is more likely to be considered a 'win-win' result and points to the fact that compliance with resolutions reached via ADR is generally high; believes, therefore, that up-to-date statistics regarding this should be published alongside public information on ADR;

43. Calls on the Commission, in cooperation with the Member States, to undertake information campaigns aimed at educating, and raising the awareness of, both consumers and businesses with regard to the benefits of using this institution;

44. Considers that ADR information campaigns should be run in cooperation with chambers of commerce, consumer groups and offices of fair trading (or equivalent) in order to ensure a well coordinated and effective campaign;

45. Takes the view that the provision of information to businesses is a responsibility shared by public authorities and representative organisations, and recommends that they each, at their respective level, conduct awareness-raising campaigns and pilot projects on the subject;

46. Acknowledges that one of the main obstacles to the use of ADR systems is the reluctance of businesses to engage in such mechanisms; proposes that chambers of commerce, umbrella organisations at both national and EU level, and other professional bodies be required to inform enterprises of the existence of ADR and of the potential benefits of its use, not least in terms of: pre-empting lawsuits; corporate image; and, lastly, the possibilities offered by ADR, unlike an arbitration or court ruling, for the re-establishment of trust-based commercial relations between the parties;

47. Calls on the Commission, on the basis of the data collected and a solid impact assessment in compliance with the better regulation rules, to explore the setting out of minimum standards of ADR across sectors, while developing existing schemes and encouraging Member States and sectors covered by schemes to increase funding, bearing in mind that ADR, while providing parties with a low-cost alternative, must not be 'justice on the cheap';

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

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Mobility and inclusion of people with disabilities

P7_TA(2011)0453

European Parliament resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI))

(2013/C 131 E/02)

The European Parliament,

- having regard to the Universal Declaration of Human Rights, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, the Universal Declaration of Human Rights and the European Convention on Human Rights,
- having regard to the UN Convention on the Rights of Persons with Disabilities (UN CRPD), and its entry into force on 21 January 2011, in accordance with Council Decision 2010/48/EC of 26 November 2009 on the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities ⁽¹⁾,
- having regard to the Community Charter of the Social Fundamental Rights of Workers ⁽²⁾,
- having regard to Articles 2, 10, 19 and 168 of the Treaty on the Functioning of the European Union,
- having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ⁽³⁾,
- having regard to the Commission proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426) and Parliament's position of 2 April 2009 thereon ⁽⁴⁾,
- having regard to the Commission Communication of 3 March 2010 entitled 'Europe 2020 – A strategy for smart, sustainable and inclusive growth' (COM(2010)2020),
- having regard to Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities ⁽⁵⁾,
- having regard to the Commission Communication of 26 August 2010 entitled 'A digital agenda for Europe' (COM(2010)0245),
- having regard to the Commission Communication of 12 May 2000 entitled 'Towards a Barrier-Free Europe for People with Disabilities' (COM(2000)0284),
- having regard to the Commission Communication of 25 September 2001 entitled 'eEurope 2002: Accessibility of public websites and their content' (COM(2001)0529),
- having regard to the World Health Organisation's international classification of functioning, disability and health (ICF) of 22 May 2001 (World Health Assembly resolution (WHA) 54.21),

⁽¹⁾ OJ L 23, 27.1.2010, p. 35.

⁽²⁾ OJ C 364, 18.12.2000, p. 1.

⁽³⁾ OJ L 303, 2.12.2000, p. 16.

⁽⁴⁾ OJ C 137 E, 27.5.2010, p. 68.

⁽⁵⁾ OJ L 167, 12.6.1998, p. 25.

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- having regard to the Commission Communication of 30 November 2003 entitled ‘Equal opportunities for people with disabilities: A European action plan’ (COM(2003)0650),
- having regard to the Commission Communication of 24 January 2003 entitled ‘Towards a United Nations legally binding instrument to promote and protect the rights and dignity of persons with disabilities’ (COM(2003)0016),
- having regard to the Commission Communication of 16 March 2005 entitled ‘Green Paper on confronting demographic change: a new solidarity between the generations’ (COM(2005)0094),
- having regard to the Commission Communication of 26 November 2007 entitled ‘Situation of disabled people in the European Union: the European Action Plan 2008-2009’ (COM(2007)0738),
- having regard to the Commission Communication of 16 December 2010 entitled ‘The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion’ (COM(2010)0758),
- having regard to the Commission Communication of 15 November 2010 entitled ‘European Disability Strategy 2010-2020: A renewed commitment to a barrier-free Europe’ (COM(2010)0636),
- having regard to the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities (‘the Optional Protocol’), adopted on 13 December 2006,
- having regard to the Council Conclusions on ‘Promoting labour market inclusion – Recovering from the crisis and preparing for the post-2010 Lisbon Agenda’ of 30 November 2009,
- having regard to Petition 1454/2010 by Urzula Weber-Król,
- having regard to the Commission’s report on the functioning and effects of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (COM(2011)0166),
- having regard to the ruling of the European Court of Justice (Case C 13/05 regarding Directive 2000/78/EC – Equal treatment in employment and occupation – Concept of disability) of 11 July 2006,
- having regard to Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States ⁽¹⁾,
- having regard to its resolution of 17 June 1988 on sign languages for deaf people ⁽²⁾,
- having regard to its resolution of 26 May 1989 on women and disability ⁽³⁾,
- having regard to its resolution of 16 September 1992 on the rights of mentally disabled people ⁽⁴⁾,
- having regard to its resolution of 14 December 1995 on the human rights of disabled people ⁽⁵⁾,
- having regard to its resolution of 9 May 1996 on the rights of people with autism ⁽⁶⁾,
- having regard to its resolution of 13 December 1996 on ‘Parking card for disabled people – rights of disabled people’ ⁽⁷⁾,

⁽¹⁾ OJ L 308, 24.11.2010, p. 46.

⁽²⁾ OJ C 187, 18.7.1988, p. 236.

⁽³⁾ OJ C 158, 26.6.1989, p. 383.

⁽⁴⁾ OJ C 284, 2.11.1992, p. 49.

⁽⁵⁾ OJ C 17, 22.1.1996, p. 196.

⁽⁶⁾ OJ C 152, 27.5.1996, p. 87.

⁽⁷⁾ OJ C 20, 20.1.1997, p. 386.

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- having regard to its resolution of 11 April 1997 on equality of opportunity for people with disabilities ⁽¹⁾,
 - having regard to its resolution of 23 June 2003 on the Communication from the Commission to the Council and the European Parliament 'Towards a United Nations legally binding instrument to promote and protect the rights and dignity of persons with disabilities' ⁽²⁾,
 - having regard to the Commission Communication of 12 January 2011 entitled 'The Annual Growth Survey: advancing the EU's comprehensive response to the crisis' (COM(2011)0011), and the draft joint employment report annexed thereto,
 - having regard to Council decision 2011/308/EU of 19 May 2011 on guidelines for the employment policies of the Member States ⁽³⁾,
 - having regard to its resolution of 8 March 2011 on reducing health inequalities in the EU ⁽⁴⁾,
 - having regard to the framework agreement on inclusive labour markets, concluded by the European social partners on 25 March 2010,
 - having regard to the Council Conclusions on common values and principles in European Union health systems (2006/C146/01),
 - having regard to the Council Conclusions of 8 June 2010 on 'Equity and health in all policies: solidarity in health',
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on Women's Rights and Gender Equality and the Committee on Petitions (A7-0263/2011),
- A. whereas as full citizens, people with disabilities (including physical and psycho-social disabilities) have equal rights and are entitled to unquestionable dignity, equal treatment, independent living and full participation in society,
- B. whereas over 80 million people, or around 16 % of the European Union's total population, are living with disabilities – including people with mental health problems, with special regard to autism – and their rate of unemployment is at least twice as high as that of people without disabilities; whereas people with disabilities constitute a vulnerable group, among whom the rate of poverty is 70 % higher than average; whereas the rate of employment for people with disabilities is only around 45 %, while high-quality jobs ensure economic independence and foster personal achievement; whereas unemployment increases the risk of poverty and social exclusion, since at least a quarter of the population suffer once during their lifetime from a mental health problem and whereas for 10 % of them this can lead to chronic mental health problems, underlining the need for active and targeted policies to combat this persistent situation; whereas the higher risk of poverty is often the result of limited access not only to employment and training but also to healthcare and appropriate treatment,
- C. whereas the most marginalised groups in society are those hardest hit by crisis, and whereas people with disabilities are one of the groups most affected by the impact of the financial crisis in Europe,

⁽¹⁾ OJ C 132, 28.4.1997, p. 313.

⁽²⁾ OJ C 76 E, 25.3.2004, p. 231.

⁽³⁾ OJ L 138, 26.5.2011, p. 56.

⁽⁴⁾ Texts adopted, P7_TA(2011)0081.

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- D. whereas the fact that gaps in the implementation of the existing principle of equal treatment of people with disabilities are regularly brought to the attention of the Committee on Petitions by the citizens concerned,
- E. whereas people with disabilities in need of high levels of support are among the most excluded in society, and whereas women with disabilities are generally amongst the more vulnerable and marginalised members of society and experience discrimination and exclusion from participation in education, employment and social life,
- F. whereas the success of the Europe 2020 Strategy, the objective of which is to develop European growth which is smart (based on innovation and research), sustainable and inclusive, will necessarily require structural improvements as regards the mobility and inclusion of people with disabilities,
- G. whereas this figure will rise substantially in the coming years in view of the inevitable reversal of the population pyramid, as more than one third of people aged over 75 have disabilities that restrict them to some extent and over 20 % are considerably restricted,
- H. whereas the European Union formally ratified the United Nation's Convention on the Rights of People with Disabilities, and whereas this has also been signed by all 27 EU Member States and ratified by 17 of them,
- I. whereas the European Union's competence in the area of protection against discrimination on the ground of disability is currently limited to employment, occupation and vocational training (2000/78/EC), and whereas the UN CRPD is a mixed agreement whereby the EU institutions and the Member States have obligations regarding its implementation and the proposals and approaches within this report to be considered and addressed in the upcoming Commission proposal on a European Accessibility Act,
- J. whereas social policies aimed at people with disabilities often fall within the competence of Member States and are therefore based on national traditions and heritage, social customs, economic development and the very important role played by families and associations in helping people with disabilities to achieve autonomy and integrate into society,
- K. whereas disability is an evolving concept that results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others and with the same dignity,
- L. whereas there is a strong relationship between mobility, disability and social inclusion, especially with regard to freedom and access to communication (including Braille and sign languages and other alternative forms of communication), freedom of movement in all fields of life and access to services; whereas full participation in all aspects of society needs to be promoted, bearing in mind the importance of Community policies regarding information and communications technologies, as well as home robotics and online communication solutions, and the need to move towards full accessibility by promoting compatible standards in the single market and facilitating their dissemination,
- M. whereas access to information (Article 11 of the Charter of Fundamental Rights) and culture, as laid down in the Council Resolution of 6 May 2003 on accessibility of cultural infrastructure and cultural activities for people with disabilities, plays a vital role in the intellectual development of people, including people with disabilities, and therefore has a direct impact on their employment opportunities,

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- N. whereas people with disabilities have the right to community-based services favouring independent living, to personal assistance, to economic and social independence and full participation in society and to the labour market; whereas if support activities were remunerated, they would account for nearly 50 % of GDP (the Commission on the Measurement of Economic Performance and Social Progress, 21 April 2010),
- O. whereas accessibility barriers to using services and goods offered to all are significant obstacles to people with disabilities,
- P. whereas people with disabilities in some Member States and in some sectors suffer from discrimination throughout their lives and in particular during the period of education and training, owing to a lack of early recognition and intervention for children and pupils with disabilities, which restricts their future employment opportunities,
- Q. whereas in the 16-19 age group the rate of non-participation in education is 37 % for people with disabilities and 25 % for people with a certain degree of disability, as against 17 % for people without disabilities,
- R. whereas Article 24 of the United Nations Convention on Persons with Disabilities, ratified by the EU in December 2010, prohibits exclusion from the education system on the basis of disability, and whereas inclusive education represents the most effective means of combating discriminatory attitudes, building an integrationist society and achieving education for all,
- S. whereas women with disabilities often suffer double discrimination, and whereas governments can counter this phenomenon by implementing gender mainstreaming in all relevant areas of disability policy,
- T. whereas the economic crisis represents a challenge for employment in general and for people with disabilities in particular, with the rise in the unemployment rate being considerably greater for people with some kind of disability and a growing fear that disability benefits may be used to control labour supply,
- U. whereas the family members of persons with disabilities suffer from discrimination by association and measures supporting families will in turn have a positive impact on the full and equal realisation of the rights of persons with disabilities,
- V. whereas in 2007 a petition with 1 364 984 signatures was submitted to the Commission calling for people with disabilities to be given extensive protection in all European Union policies, and whereas the Commission has so far failed to take due account of this legitimate initiative,

Objectives

1. Emphasises that the Europe 2020 Strategy target of 75 % of the population aged 20-64 in employment cannot possibly be achieved unless this includes the population with some form of disability;
2. Stresses that financial expenditure for the benefit of, and economic investment in, people with disabilities is a long-term return investment in the well-being of all in a sustainable society where people can live longer and work more efficiently under better conditions; in this connection, stresses that it is unacceptable in the context of public austerity measures for unjustified cuts to be made to services for persons with disabilities or to projects for their social inclusion, since this would mean failing to guarantee certain basic and inalienable rights of people with disabilities; believes that, on the contrary, investment in this area should be increased substantially; reiterates that all health services in the European Union should be based on the fundamental values of universality, access to high-quality care and solidarity;

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3. Observes that throughout the financial crisis, from which there are now signs of recovery, there has remained an intrinsic solidarity in European societies; fully acknowledges and stresses the need for individualised measures for persons with disabilities who require, on the basis of different levels and features of disabilities, even more intensive support based on human rights and dignity as well as the risk of discrimination, which is frequently not respected and therefore needs to be highlighted through European public awareness campaigns; points out that the needs of people with disabilities should therefore be taken into account on the basis of their specific requirements so that suitable arrangements can be made at all stages of education and training and professional life;

4. Stresses the importance of the objectives of the new European Disability Strategy 2010-2020 (EDS) and calls especially for the framing of more detailed actions at all levels of governance based on reliable data; considers that the basic principle of 'nothing about persons with disabilities without persons with disabilities' should be observed, i.e. people with disabilities must be involved in all measures and decisions which affect them;

5. Regrets that the Commission Communication on the European Disability Strategy does not include an integrated gender perspective or a separate chapter on gender-specific disability policies, despite the fact that women with disabilities are often in a more disadvantaged position than men with disabilities and are more often victims of poverty and social exclusion; calls on the Commission and the Member States to take gender aspects into account throughout the European Disability Strategy (EDS) 2010-2020;

6. Stresses the need for an efficient new approach to disability starting with the creation of a European Disability Board, which would meet on a regular basis and with the active involvement of the European Parliament and the participation of representative organisations of persons with disabilities, as well as national task forces, in order to ensure more effective mechanisms to coordinate and monitor – as well as to evaluate – the implementation of the EDS within the Commission and Member States' programmes and strategies, in accordance with the principles of subsidiarity;

7. Recalls that a sustainable society where people live longer and in better health should also imply improvements in the planning of urban and common areas and in the accessibility of available goods and services, including equal access to new information and communication technologies, so as to improve the quality of life of people with disabilities and prevent social exclusion;

Civil and human rights

8. Calls for full respect of the Charter of Fundamental Rights of the European Union and support for the principles of Design for All and Universal Design; acknowledges the efforts made by the European Union and the United Nations with respect to legislation aimed at strengthening the full integration of people with disabilities in society but takes the view that more should be done;

9. Stresses in particular the need to ensure full respect for the rights laid down in the Convention on the Rights of the Child in the case of children with disabilities, including the right to engage in play, the right to education, the right to participate in community life (including cultural life and the arts), the right to the medical care required by their personal circumstances, and the freedom to seek and receive information and ideas; points out in particular that Article 23 of the above convention recognises that children with disabilities should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community, and calls for children with disabilities to have effective access to education, training, healthcare services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development;

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10. Calls for effective mainstreaming of disability throughout the EU 2020 Strategy and its flagship initiatives, including Innovation Union, in which reference to disability is lacking;

11. Calls attention to the fact that many people with disabilities continue to suffer discrimination with regard to the lack of equal recognition before the law and justice, and calls on the Member States to correct and remedy these shortcomings, including effective access to justice for persons with disabilities, appropriate training for those working in the field of administration of justice, including police and prison staff, and stresses the importance of guaranteeing and ensuring equal participation in political and public life, including the right to vote, to stand for election and to hold office, in accordance with Article 29 of the UN CRPD, because according to estimations made by relevant NGOs and election experts, only a small percentage of people with disabilities are able to participate in elections;

12. Takes the view that purchasing goods and services, including the relevant and accessible information about them, should include suitable (on-line) shopping solutions as well as goods and services designed to be accessible in the long term; draws attention to the need for products for people with disabilities to be approved under both European and global standards; calls on the Commission to take further appropriate measures to promote the development of, and access to, universally-designed goods and services as enshrined in Article 29 of the UN CRPD, including the exchange of best practices;

13. Highlights the fact that, in the light of the United Nations Convention on the Rights of Persons with Disabilities, numerous studies have shown that women with disabilities suffer double discrimination on grounds both of their gender and their disability; calls on the Commission, in view of the almost total lack of mechanisms in this regard, to make special provision in the social protection systems for women with disabilities;

14. Stresses that people with mental disabilities and intellectual impairments are particularly exposed to the risk of abuse and violence; calls on the Member States to establish a developed control mechanism to provide social services and legal protection for victims and to guarantee respect for the human rights and freedoms of people in residential institutions, with special regard to women and children with disabilities; calls on the European Institute for Gender Equality to carry out studies on the situation of girls and women with disabilities in relation to violence; stresses the need for measures and actions to fight the double discrimination of women and promote full equality of rights and opportunities; calls on the European Commission and the Member States to take active and effective steps to support and promote the transition from institutional to community-based care, making efficient use of possibilities of EU funding such as PROGRESS for measures to heighten public awareness of the situation of people with disabilities resident in institutions; calls on the Member States to guarantee priority access to social housing for women with disabilities who fall victim to violence, grants for adapting the home environment, home support and public services attending to cases of gender violence;

15. Stresses that the Member States should be encouraged to pay considerably more attention to the social aspects of disability; considers that a necessary precondition for the individual's ability to exercise civil rights could be the establishment of a legal background for a supported decision-making mechanism; calls on the Member States to encourage as much as possible forms of support such as personal assistance and other services which support independent living in order to reduce institutional care in general in favour of other forms of support; calls on the Commission to conduct an in-depth study of these phenomena and to heighten society's awareness thereof; highlights the role of voluntary work as a vital support for people with disabilities and calls on the Commission and the Member States to continue and to improve the initiatives and support programmes devoted to such work;

16. Stresses the importance of guaranteeing and ensuring equal access to public information with special regard to the public management of natural and man-made disasters, in accordance with Article 21 of the UN CRPD;

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17. Calls on the Commission and the Member States to take the necessary steps to prepare for natural disasters and those caused by human negligence, with particular regard to providing people with disabilities with appropriate, useful information, inter alia through the presentation of useful and suitable international examples;

18. Stresses the need for action at both national and European level to promote the transition from institutional to local community care, making use of the Structural Funds accompanied by measures to heighten public awareness of the situation of people with disabilities resident in institutions;

The importance of data collection and consultation with stakeholders

19. Stresses that consistent gender-specific data on disability issues and disability-related services in the Member States, including specific indicators and information regarding the number and quality of residential institutions and homes, are currently lacking or limited, and that Eurostat should provide more annual gender-specific data on persons with disabilities and their carers;

20. Expresses disappointment at the lack of transparency and the limited involvement of persons with disabilities in data collection and consultation and considers that the European Commission should encourage the participation of persons with disabilities in consultation procedures that must be fully accessible according to the experience of NGOs, designed in order to allow specific comments and supported by effective information campaigns; stresses that only 336 replies by civil society to the Commission's on-line consultation, which was held on the Commission's central consultation website in 2009, show that the information campaigns did not reach targeted groups and the online tool was not accessible for blind people using screen readers; calls on the Member States to ensure that in all implementation processes at all levels, people with disabilities and their organisations are included in the process (as set out in Article 33 UN CRPD);

21. Calls on the Commission to speed up the process of monitoring, cooperation and exchange of good practice between Member States, especially with respect to the gathering of comparable gender-specific data and progress indicators, in order to achieve the aims set at both national and Community level; stresses that measurements should be based on the needs of people with disabilities and should include not only medical but also social, employment and environmental aspects; at the same time, stresses the importance of coordinating efforts to combat abuse of the system and the feigning of disability;

22. Recalls that registration of people with disabilities for services and public-budget-based support must not lead to violation of their human rights and privacy or the creation of stigmas;

Demographic changes and a barrier-free environment

23. Stresses that demographic change will also lead to a growing number of elderly people with disabilities, as more people will experience the onset of a disability because people are living longer, so that there will be a growing need for the development and design of services and solutions that are of benefit both for persons with disabilities regardless of their age and elderly people with or without disabilities;

24. Encourages alliances between the two groups in society, in order to contribute to innovative growth, based also on employment and social development in the Member States and in order to meet the new demands arising from the ageing society and demographic change;

25. Calls on the Commission to strengthen both sanctions and positive incentives for Member States to implement Article 16 of Regulation (EC) No 1083/2006 and to respect its legally binding requirements; calls on the Commission to reinforce anti-discrimination and accessibility provisions in the future Cohesion Policy 2014-2020 and to monitor and assess the correct implementation of the European funding programmes and the use of European Funds;

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26. Calls on the Commission to promote the use of European Structural Funds, especially the European Regional Development Fund, to improve the accessibility of goods and services and the built environment through the use of European funds;

Free movement and barrier-free services

27. Acknowledges that free movement is a fundamental right within the European Union; stresses that it positively influences the quality of life and participation in society and the labour market of people with disabilities and their families in society, with special regard to better access to health services, paying more attention to people with chronic disabling diseases in order to decrease health inequalities throughout the European Union;

28. Points out that, in a Europe that promotes equality and freedom of movement within its territory for its citizens, the rights of people with disabilities vary from one Member State to another;

29. Stresses that accessible transportation enables people with disabilities to participate in the labour market more easily and therefore helps in the fight against poverty and social exclusion;

30. Calls on the Commission and the Member States to bring about accessibility of services more speedily via various strategies to remove barriers to access to these technologies, including lower prices, as well as EU2020 flagships initiatives designed to achieve the EU2020 objectives;

31. Recalls that mobility is a core issue for the European Employment Strategy and that the specific obstacles to a life of dignity and independence for people with disabilities in the EU remain extremely significant, particularly in terms of the portability of benefits and aid as well as of access to the necessary facilities or personal assistance;

32. Stresses that people with disabilities, under the Directive on application of patients' rights in cross-border healthcare (2011/24/EU), are entitled to cross-border health care and should be granted equal access to health care in any EU Member State, all the more so if they need highly specialised care;

33. Calls for better, mutual recognition of disability status across the Member States; calls on the Member States to exchange good practice in order to close the gaps between national systems for assessing degree(s) of disability across the EU, with the aim of ensuring better mobility for people with disabilities;

34. Underlines the need to encourage recognition by the Member States, in their social security systems and when people retire, of the involvement and unpaid work of carers, generally women, of people with disabilities; stresses that particular attention should be paid to these women;

35. Recognises the importance of Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities, which states that this card should exist in a standard format and should be recognised by all Member States in order to facilitate the bearers' car use, and observes that a unified EU charter for travellers' rights and obtaining and renewing driving licences and any other permits or documents which may be required to facilitate mobility between Member States are essential for the inclusion of people with disabilities in society across Member States; recognises that innovative forms of free communication tools for the blind and the deaf, such as accessible information services with special regard to online services, are also essential for the full enjoyment of their rights; this includes 'easy to read' versions for people with cognitive and intellectual disabilities; calls for the reduction of barriers to the freedom of movement of people with disabilities, via the adoption of a European Mobility Card, based on mutual recognition by Member States of disability cards and disability benefits and entitlements so as to make it easier for people with disabilities to study, work and travel, also using the Open Method of Coordination framework; calls for the creation by the Commission of a more informative website targeting people with disabilities, explaining their rights and providing additional specific information on travelling;

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36. Calls on the Commission and the Member States to take the necessary measures to promote access without physical barriers to workplaces and homes for people with disabilities as a means of helping them integrate into working life;

37. Stresses that innovative and knowledge-based economies cannot develop without accessible content and forms for people with disabilities governed by binding legislation, such as accessible web pages for the blind and subtitled contents for the hard of hearing, including mass media services, online services for people using sign languages, smart phone applications and tactile and vocal aids in public media;

38. Calls on the Commission and the Member States to introduce a twin-track approach, whereby binding legislation and standards are seen as complementary instruments necessary to achieving accessibility; stresses that the legislation should lay down a framework which is sustainable, given the rapid developments in the ICT sector; notes that the standards should concern evolving tools that can ensure implementation of the legislation;

39. Is aware of the lack of equal access to health care, including access to health and health-care information, and calls on the European Commission to speed up its work on recommendations that will support equal access to health services and to information on health and health care;

40. Stresses that in order to achieve the active involvement of people with disabilities in all fields of social life, efforts have to be made to provide communication solutions for people with mental disabilities (e.g. easy-to-read websites) and augmentative and alternative communication (AAC) for people with complex communication needs;

41. Calls on the Member States, with the help of the Commission, to encourage the integration and acceptance in society of people with disabilities by improving access for them to sports, leisure and cultural facilities and activities, including the promotion and exchange between Member States of cultural material accessible to the visually impaired in accordance with the Council Resolution of 6 May 2003 on accessibility of cultural infrastructure and cultural activities for people with disabilities ⁽¹⁾;

42. Calls on the Member States to remedy shortcomings in accessibility legislation, especially as regards public transport and passenger rights legislation, including damage to mobility equipment, the services of electronic information communication systems and rules on public-built environments and services;

Equal opportunities

43. Takes the view that 'equal opportunities' cannot be interpreted as meaning the same conditions and circumstances for people with different needs, and therefore believes that people with different disabilities should have access to appropriate means of purchasing goods and services, creating real equal opportunities;

44. Reaffirms the need to guarantee universal, effective, non-discriminatory access for persons with disabilities to social protection, social advantages, health care and education, and to the supply of the goods and services which are available to the public, including housing, telecommunications and electronic communications, information – including information provided in accessible formats – financial services, culture and leisure, buildings open to the public, modes of transport and other public areas and facilities;

45. Stresses that integration into working life and economic independence are extremely important factors for the social integration of people with disabilities;

⁽¹⁾ OJ C 134, 7.6.2003, p. 7.

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46. Reaffirms that products, goods and services, including their modified versions, should not be discriminatory and therefore must not cost more for people with disabilities;

47. Maintains that SMEs play a crucial role in giving people with disabilities access to employment, insofar as they can provide a working environment conducive to enhancing the personal and professional potential of people with disabilities; stresses, therefore, that SMEs should be provided not only with comprehensive information on facilitation and support measures for the hiring of protected persons but also with all relevant information on technologies and courses of study which enable people with disabilities to lead autonomous and active professional lives;

48. Stresses the exceptional importance of employing people with disabilities on the ordinary labour market; is aware of the great need for more flexible legal forms of employment relations with an emphasis on modern forms of employer-employee relations, and calls on the Commission and Member State governments to adopt legal and financial measures that will effectively support the employment of people with disabilities;

49. Calls on the Member States to improve and adapt their active employment policies to enable people with disabilities both to join the labour market and to remain on it; advocates the introduction of initiatives aligned with the needs of each type of disability, including plans and vocational guidance that operate from the moment individuals in need register with the services set up for this purpose;

50. Stresses that sheltered workshops and integrated workplaces, though not on an equal footing with participation in the open labour market, are valuable ways of accompanying and supporting all people with different disabilities and at different stages of life, including by means of reasonable accommodation in the transition towards an open labour market, and takes the view that unjustified denial of reasonable accommodation (Article 5 of Directive 2000/78/EC) should be seen as a form of discrimination, in accordance with Article 2 of the UNCRP; notes that in some Member States, sheltered workshops and quotas can be used as a transition to the open labour market, with the provision of specific facilities for people with disabilities and of staff trained to meet their needs; stresses that, in large undertakings, the appointment of representatives from among people with disabilities, allowing them to speak for themselves, should be welcomed, as should a strengthening of closer cooperation between relevant local NGOs and SMEs; stresses that personal assistants should be supported if necessary, since this would significantly improve the opportunities for people with disabilities to gain a foothold in the labour market;

51. Stresses the importance of transition programmes which, firstly, offer opportunities for work, beginning with sheltered workshops and progressing to the open labour market, and, secondly, create a more flexible framework for the transition from professional rehabilitation to other forms of employment in the course of implementing the Europe 2020 Strategy;

52. Calls on the Member States to consolidate and improve active employment policies adopted with a view to integrating people with disabilities at the workplace, and to increase the effectiveness of the national bodies responsible;

53. Notes that the Member States should, as a priority, agree and adopt as soon as possible the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426); calls on the Commission to continue to support the overcoming of technical difficulties within the Council in order to ensure that a swift agreement is reached; notes that anti-discrimination policy plays a key role in promoting social inclusion and employment for people with disabilities;

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54. Calls for the European public procurement legislation to be reviewed in order to make the accessibility criteria mandatory for enforcing selection criteria aimed at promoting social inclusion, innovation and accessibility for people with disabilities;

55. Stresses that, despite the differences between the Member States, the overwhelming majority of social security systems are not flexible enough for individuals to receive benefits in a manner enabling them to remain on the labour market; calls for these systems to be revised in order to make them more proactive so that individuals who receive benefits or who are partially disabled can remain on the labour market;

56. Recalls that the Commission itself, in its Communication on a European Disability Strategy, expresses concerns as to the low availability of subtitles in television and audio-description on television in the European Union; underlines especially the fact that a pan-European campaign to ensure wider access to subtitling on television in the European Union has been conducted for several years by organisations of deaf and hard of hearing people with the support of the European Parliament; calls for more diligent implementation of the Member States' obligation under Directive 2007/65/EC to encourage broadcasters to ensure greater accessibility of media services to people with hearing or visual disability; calls on the Commission to provide for specific funding possibilities for public broadcasters in order to help them introduce the framework of services of subtitles and audio-description in their programmes;

Investing in people with disabilities

57. Finds that the employment level of people with disabilities across Europe is woefully low and reminds the European institutions that the aims of the EU2020 Strategy cannot be achieved unless the situation of such people improves; society must therefore be familiarised with disability and must accept it, including at pre-school and primary school level;

58. States that the present education and training systems are not sufficient to prevent a high drop-out rate of people with disabilities without additional public policies offering specific learning support, since the figure relating to the Europe2020 objective represents a reduction to less than 10 %; stresses that this leads to significant social and employment disadvantages, and resulting poverty, among people with disabilities, especially during the present economic crisis; stresses, given the high drop-out rate of persons with disabilities and in the light of the Council Conclusions of 11 May 2010 on the social dimension of education and training, the need to invest in and promote effective (including alternative) educational and (vocational) training programmes that are tailored to the needs, attributes and abilities of persons with disabilities, and notes that this calls for the availability of an adequate number of qualified and motivated professionals with sound and suitable programmes, as well as the availability of such programmes in the curricula of all vocational education and training and higher education establishments, including in extra-curricular programmes for people with disabilities, in order to combat negative attitudes towards children with disabilities and for them to obtain adequate qualifications for the modern and open labour market; calls on the Member States and the Commission to enable persons with disabilities to have better access to information about existing mobility and education programmes as well as equal access to Lifelong Learning programmes; notes, this being the case, that mainstreaming of anti-discrimination in Europe2020 and its flagship initiatives is needed in order to fulfil Article 24 of the UN CRPD;

59. Confirms that inclusive education should be the focus, in particular in the context of the accreditation of prior experiential learning, and that this should therefore be emphasised within the strategic framework for European cooperation in education and training ('ET 2020') as well as the New Skills and Jobs Flagship of EU2020; notes, in addition, the need for new and suitable guidelines and proper use of IT in schools and at home to provide personal, tailored assistance;

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60. Stresses that all children, including those with disabilities, need to be guaranteed the right to universal access to all sectors and levels of education in all institutions; calls on the Commission and Member States to increase the general information provided for families with children with disabilities in order to include early recognition and support and open up possible solutions for their specific needs; highlights the importance of state support for the families of people with disabilities, in terms of funding, assistance (including childcare services), healthcare provision, psychological support and the sharing of expertise, as well as more flexible working hours for (one of) the parents with children with disabilities; therefore urges the Member States to establish dedicated and accessible offices where information and administrative advice can be obtained; calls on the Member States to support the families of people with disabilities and professionals working in the national health systems by means of targeted information and training measures and by involving patients' associations in decision-making and monitoring processes;

61. Underlines that employers should allow people with disabilities to take up a position of work, if qualified, and to advance in it, and should support them with training;

62. Emphasises the need to foster the promotion of integrated work-linked training projects which enable young people with disabilities to make an immediate practical transition from education to working life;

63. Emphasises that efforts must also be made to address the issue of non-formal education and learning for young people with disabilities, including in areas such as social relations, the mass media (which should be subject to ever more stringent accessibility requirements, including in relation to subtitling and audio description systems), sport, leisure and outdoor pursuits, according to the specific needs of each child or young person; emphasises that these are not merely crucial tools for the healthy development of each individual, but also inalienable rights recognised by the UN;

64. Stresses that lifelong learning is a crucial way of supporting and increasing adaptability and continuance of employment for people with disabilities, and that it is particularly relevant for people who acquire a disability during the course of employment, especially for people who have an evolving disabling disease;

65. Calls on the Commission and the Member States to support or set up rehabilitation services in the fields of health, education, training, employment, tools for independent living, transport, etc. which are more effective and overlapping; these must not only be monitored and individually tailored but also help long-term budgetary and development planning;

66. Believes that suitable funding needs to be channelled to organisations of people with disabilities; insists that for such organisations the cofinancing rate should be no less than 10 % of the value of the projects presented by them, in view of their known financial difficulties;

Lifestyles

67. Stresses that voluntary social corporate responsibility could also be an important impetus to the situation of people with disabilities; calls for the introduction of aid and subsidies with special regard to EU funds and programming, which would vary according to the type of contract, for companies and individuals hiring workers with disabilities; calls on actors and stakeholders to support and apply good practice in this field, with special regard to women who have children with disabilities;

68. Reaffirms that training of public officials in the EU Institutions and the Member States in receiving and informing people with disabilities should be the rule, and that access to public legal documents and procedures should be supported by concrete actions; calls on the EU institutions to set an example as regards the employment of people with disabilities and urges the Member States also to pursue this strategy;

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69. Stresses that policies to foster and support independent entrepreneurship should pay due attention to the integration of people with disabilities into the labour market and into the sphere of economic activity, as this integration is a source of flexibility that enables them, in many cases, to overcome limits and barriers in the workplace; calls on the Member States to introduce more suitable and effective aid for independent entrepreneurship policies concerning this group;

70. Calls on the Commission to present more effectively the advantages of accessibility and to mainstream the costs and expenditure of creating a barrier-free environment for all with special regard to an ageing society;

71. Encourages the creation of special forms of leave so that parents can take care of their children with disabilities; urges, further, that the commitment shown and the work performed by parents of children with disabilities should be recognised by being counted as professional experience and by being specifically taken into account when old-age pension entitlements are calculated;

72. Stresses that barrier-free access to health services and complex rehabilitation services does not stop the deterioration of health completely, particularly in an ageing society, which is why everyone has a responsibility in terms of everyday activities and consumer habits if a sustainable society in which ever greater value must be placed on health, from prevention to rehabilitation, is to be achieved;

The fight against poverty

73. Calls on the Commission to secure adequate financial support for the EU umbrella organisation representing people with disabilities, as well as other European impairment-specific organisations, in order to enable full participation in policy making and implementation of legislation which builds on the commitments in the EDS and the UN CRPD and in other decision-making processes concerning issues relating to people with disabilities;

74. Deplores the fact that people with disabilities must assume an additional financial burden – the extra expenditure in the short term incurred seemingly because of their disability – in their daily lives, which has a considerable impact on their quality of life;

75. Calls on the Commission, in the light of its targets on poverty reduction, to disaggregate poverty figures in order to calculate the numbers of persons with a disability who are experiencing poverty so that comparable targets for poverty reduction of persons with a disability can be achieved within the framework of the EU 2020 strategy;

76. Points out that eliminating or seriously alleviating this poverty would entail having more people with disabilities in work, which would increase net tax revenue for the state and would reduce the number of people needing benefits for reasons of extreme poverty;

77. Confirms that, recalling the impetus of the European Year for Combating Poverty and Social Exclusion as well as the new European Platform against Poverty and Social Exclusion, decreasing poverty cannot be achieved without integrating people with disabilities, starting with the field of education and later in the labour market, and adjusting income policies regarding invalidity and disability pensions systems in accordance with point 12 of the EPSCO Council conclusions adopted at its meeting of 30 November 2009, bearing in mind that this process may also lead to stigmatisation;

78. Recognises that early detection and help are vital and fundamental in the case of children with disabilities and must be regarded as long-term investments in an ageing society; observes that families of people with disabilities are more exposed to the risk of poverty and social exclusion, and that special attention should be paid to them;

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79. Calls on the Member States to avoid unjustified cuts in social protection for people with disabilities under the austerity policies introduced in response to the economic crisis, since it is necessary to ensure an acceptable standard of living for them as an inalienable right;

80. States that persons with disabilities are particularly at risk of social exclusion and poverty and highlights the fact that the poverty rate of persons with disabilities is 70 % higher than that of people without disabilities; emphasises that persons with severe or multiple disabilities and single parents with children with disabilities are in the most vulnerable position; calls on the Commission and the Member States to guarantee their rights and take measures to improve their quality of life by providing, inter alia, access to practical information on everyday issues, including by familiarising them with skills-building procedures and services which have an impact on family life;

81. Calls on the Council and the Commission to take further steps and produce regular reports concerning rare diseases and provide real assistance with developing contacts between parents and the specialists living closest to their homes; takes the view that this must be taken into account and assessed in the work of the INSERM organisation; calls on the Commission to promote the establishment of a European network of accredited centres for the diagnosis and treatment of specific forms of rare diseases, in order to coordinate and monitor their activities and the benefits they offer patients;

Parliament continues to demand a socially sustainable and human-rights-based approach

82. Confirms that, based on the new rights enacted in the EU Charter, the Commission has the correct approach to equal opportunity: strengthening anti-discrimination, supporting active inclusion politics and raising awareness of disability, including notions of Design for All and Universal Design, and stressing the importance of reasonable accommodation;

83. Calls on the Member States and the Commission swiftly to ratify and implement the United Nations Convention on the Rights of Persons with Disabilities as well as its Optional Protocols and welcomes the Commission's initiative to accede to the Convention's Optional Protocol;

84. Calls on the Council and the Commission to consider concluding an interinstitutional agreement with the European Parliament and to draw up within one year a specific recommendation for Parliament to be involved in monitoring the implementation of the UN CRPD;

85. Calls on the Council to adopt the Commission proposal for a decision on the conclusion by the EU of the Optional Protocol, stressing the fact that the mechanism set up by this Protocol could, with the involvement of the European Parliament, lead to implementation of the UN CRPD by the EU;

86. Calls on the Commission to develop concrete, appropriate, more detailed measures and to set up a monitoring mechanism for all levels of governance in respect of the implementation of the EDS in line with the list of actions of EDS, in close cooperation with the European Parliament;

87. Calls on the Member States to give as much support as possible to suitable measures and tools tailored (apart from the medical aspect) to a higher level of independent life in order to ensure equal opportunities and active life for persons with disabilities and their families;

88. Emphasises the need to help those who can work and want to remain in the labour force, even if they have lost part of their functional capacities; calls on the Member States to promote a culture of inclusiveness and help integrate people with partial work capacity into the labour market;

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89. Calls on the Member States to (re)consider their disability-related actions and national programmes or strategies within the time span and framework of the EDS in accordance with the EU2020 Strategy and the United Nations Convention on the Rights of Persons with Disabilities;

90. Calls on the Commission to present a legislative proposal for a European Accessibility Act as announced in the EDS, stressing the need for strong, binding measures at EU level to improve the accessibility of goods and services for people with disabilities, with a clear roadmap;

91. Calls on the Member States to adopt, with the support of the Commission, specific social measures to ensure equal access to health care, including high-quality health and rehabilitation services for people with mental and physical disabilities;

92. Stresses the importance of research into new therapeutic methods which further facilitate the integration of people with disabilities into society; points out, in this regard, that drama and pet therapy, for instance, are proving to be effective in promoting socialisation and interpersonal communication;

93. Urges the Commission to take the necessary measures to help the visually impaired to carry out business transactions;

94. Calls on the Commission to have stronger disability-related references in the planned revision of the public procurement reform;

95. Calls on the Commission, as per the outcome of the debate following publication of the Green Paper on Pensions, to argue in favour of a cross-cutting policy on disability in the forthcoming white paper, due to be published in the second half of 2011;

96. Calls on the Commission to assess whether further measures taken in the context of the European Structural Funds with special regard to the Rural Development Fund help people with disabilities to be active citizens living in rural areas in Europe;

97. Calls on the Commission and the Council to make every effort to draw up rules on personal screening when using transport services which will guarantee passengers' fundamental rights and dignity and serve the purpose of their journeys, with particular regard to the medical devices, aids and accessories which can be taken on board, and to achieve a clear, common interpretation of the existing security requirements in order to ensure that people with disabilities are not denied the opportunity to travel – in the absence of proper justification and to a disproportionate degree – simply to prevent inconvenience to the service provider;

98. Calls on the Commission to increase efforts to achieve individually-tailored navigation-based services for the blind and those with serious visual impairments and to report on these annually and make specific recommendations – taking into account dynamic technological development – ensuring that progress is made and continuous, multimodal door-to-door transport is possible, as set out in the White Paper entitled 'Towards a competitive and resource efficient transport system';

99. Calls on the Member States to review their provision of health services for people with disabilities, such as encompassing measures relating to physical accessibility to services, training and medical staff, awareness-raising, information provided in accessible formats, customised counselling services, including translation into various languages, and health services customised to the needs of people with disabilities;

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100. Calls on the Commission and the Member States, in giving support to sport and recreation for people with disabilities, to avoid making distinctions when identifying disabilities, and urges the Council to continue its efforts, recalling that the Committee of Ministers of the Council of Europe promised, in 1986, to support sport for people with disabilities;

101. Calls on the Commission and the Council to improve access for people with disabilities in the field of copyright, including the increased exchange of best practices, to support the development of optimum forms of cooperation, and to ensure service providers are governed by appropriate, common and compulsory requirements concerning people with disabilities, with particular emphasis on those with visual impairments;

102. Stresses that, in accordance with the spirit of the UN CRPD, Directive 2005/29/EC on unfair commercial practices – particularly the provision on misleading omissions – is also relevant to people with disabilities;

103. Calls on the Commission and the Council to take action on the basis of the practice and experience of the European Parliament to make ICT barrier-free for deaf people, in accordance with Parliament's 1988 and 1998 decisions, and to report on this annually to the MEP(s) concerned;

104. Calls on the Commission to prepare a study with people with visual impairments in mind analysing the characteristics of the digital displays (interfaces) of industrial and domestic products and alternative, equivalent information solutions for blind people and making specific legislative proposals;

105. Calls on the Member States and Commission to recognise sign language as an official language in the Member States; notes that the Member States should therefore work towards the possibility of such a recognition, in accordance with the Brussels Declaration of 19 November 2010;

106. Calls on the Commission to pay attention to the inclusion of the interests of people with disabilities, in accordance with the UN's Millennium Development Goals, when handling assistance for international relations and development;

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

Modernisation of public procurement

P7_TA(2011)0454

European Parliament resolution of 25 October 2011 on modernisation of public procurement (2011/2048(INI))

(2013/C 131 E/03)

The European Parliament,

— having regard to Directives 2004/18/EC and 2004/17/EC on procedures for the award of public contracts ⁽¹⁾ and Directive 2007/66/EC on review procedures concerning the award of public contracts ⁽²⁾,

⁽¹⁾ OJ L 134, 30.4.2004.

⁽²⁾ OJ L 335, 20.12.2007, p. 31.

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- having regard to Council Decision 2010/48/EC on the Conclusion of the United Nations Convention on the Rights of Persons with Disabilities ⁽¹⁾, which entered into force on 22 January 2011 and which identifies public procurement directives as ‘Community acts which refer to matters governed by the Convention’,
- having regard to the WTO Agreement on Government Procurement of 15 April 1994,
- having regard to the Charter of Fundamental Rights of the European Union and especially Article 26 thereof (integration of persons with disabilities),
- having regard to its resolution of 12 May 2011 on equal access to public sector markets in the EU and in third countries ⁽²⁾,
- having regard to the Commission Green Paper on the modernisation of EU public procurement policy (COM(2011)0015),
- having regard to the Commission Green Paper on expanding the use of e-procurement in the EU (COM(2010)0571),
- having regard to its resolution of 6 April 2011 on a single market for enterprises and growth ⁽³⁾,
- having regard to its resolution of 18 May 2010 on new developments in public procurement ⁽⁴⁾,
- having regard to its resolution of 3 February 2009 entitled ‘Pre-commercial procurement: driving innovation to ensure sustainable high-quality public services in Europe’ ⁽⁵⁾,
- having regard to the Commission Communication ‘Smart Regulation in the European Union’ (COM(2010)0543),
- having regard to the Commission Communication ‘Towards a Single Market Act. For a highly competitive social market economy. 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),
- having regard to Professor Mario Monti’s report of 9 May 2010 on ‘A new strategy for the single market’,
- having regard to Commission staff working document SEC(2010)1214,
- having regard to the report on ‘Evaluation of SMEs’ access to public procurement markets in the EU’ ⁽⁶⁾,
- having regard to the Commission Communication ‘Public procurement for a better environment’ (COM(2008)0400),
- having regard to the Commission Communication ‘Think Small First – a “Small Business Act” for Europe’ (COM(2008)0394),
- having regard to the Commission Communication ‘Europe 2020 Flagship Initiative. Innovation Union’ (COM(2010)0546),

⁽¹⁾ OJ L 23, 27.1.2010, p. 35.

⁽²⁾ Texts adopted, P7_TA(2011)0233.

⁽³⁾ Texts adopted, P7_TA(2011)0146.

⁽⁴⁾ OJ C 161 E, 31.5.2011, p. 38.

⁽⁵⁾ OJ C 67 E, 18.3.2010, p. 10.

⁽⁶⁾ http://ec.europa.eu/enterprise/policies/sme/business-environment/files/smes_access_to_public_procurement_final_report_2010_en.pdf

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- having regard to the opinion of the Committee of the Regions of 11-12 May 2011 on the Green Paper on 'The modernisation of EU public procurement policy – towards a more efficient European market',
 - having regard to the opinion of the European Economic and Social Committee of 13 July 2011 on the Green Paper on 'The modernisation of EU public procurement policy – towards a more efficient European market',
 - having regard to the opinion of the European Economic and Social Committee of 13 July 2011 on the Green Paper on expanding the use of e-procurement in the EU,
 - having regard to Rule 48 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 International Trade, the Committee on Budgetary Control, the Committee on Employment and Social Affairs, the Committee on Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy and the Committee on Regional Development (A7-0326/2011),
- A. whereas a properly functioning EU public procurement market is a key driver of growth and a cornerstone of the single market, and is, furthermore, fundamental to stimulating competition and innovation and to addressing fast-emerging environmental and social public-policy challenges, as well as quality-of-work issues including adequate pay, equality, social cohesion and inclusion, while achieving optimal value for citizens, businesses and taxpayers;
- B. whereas European public procurement rules have contributed substantially to increased transparency and equal treatment, to combating corruption and to professionalising the procurement process;
- C. whereas the current economic climate makes it more important than ever to ensure optimal efficiency in public spending, whilst limiting costs borne by businesses as much as possible, and a better functioning procurement market would help achieve these two objectives;
1. Welcomes the Commission Green Paper and the broad consultation process as a starting point for the revision of the Public Procurement Directives, in compliance with the provisions of the Treaty of Lisbon and the case-law of the European Court of Justice (ECJ), and in line with the revised state aid rules;
 2. Points out that, although the revision of the EU procurement directives in 2004 led to useful further development of the single market for public procurement, there is a need –some years after the transposition of Directives 2004/17/EC and 2004/18/EC into national law – to assess whether optimisation and clarification of the directives will be necessary in order to address shortcomings that have become evident in practice; emphasises that many stakeholders see public procurement rules as highly complex, leading to costly and burdensome administrative compliance procedures; deplores the frequent cases of inadequate transposition of the rules into national legislation, and the insufficiency of training measures; calls on the Commission to propose a significant simplification and consolidation of the rules, while further clarifying them where necessary; stresses furthermore that the increased use of ICT must now play a major role in reducing administration and costs, and that the various European initiatives on e-procurement and e-commerce should accordingly be aligned with the reform of the procurement rules;
 3. Calls for an explicit statement in the directives that they do not prevent any country from complying with ILO Convention C94; calls on the Commission to encourage all Member States to comply with that Convention; stresses that the effective functioning of sustainable public procurement requires clear and unambiguous EU rules precisely defining the framework of Member States' legislation and implementation;

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First task: improving legal clarity

4. Asks for clarification of the scope of the directives; notes that the main purpose of public procurement is the purchase of goods, works and services by public authorities to accommodate the needs of their citizens and ensure effective use of public funds; points out that there must be a direct benefit for the contracting authority in order for a procedure to qualify as public procurement;

5. Calls for clarification of the definitions in the directives – for example the definition of a ‘body governed by public law’ – in line with the case-law of the ECJ and without reducing the scope of EU public procurement rules;

6. Recalls its resolution of May 2010 on recent developments in public procurement, which took note of the ECJ case-law and took the view that public-public cooperation was not subject to public procurement rules as long as the following criteria were met: that the purpose of the partnership was the provision of a public-service task conferred on all the public authorities concerned; that the task was carried out solely by the public authorities concerned, i.e. without the involvement of private capital; and the activity involved was essentially performed on behalf of the public authorities concerned; underlines the fact that transferring tasks between public sector organisations is a matter for the Member States’ internal administrative organisation and is not subject to procurement rules; takes the view that these clarifications should be codified in the procurement directives;

7. Emphasises the exclusion of service concessions from the scope of European procurement rules; reiterates that due account must be taken both of the complexity of the procedures and of the differences between Member States in terms of legal culture and practice with regard to service concessions; takes the view that the process of defining the term ‘service concession’ and establishing the legal framework governing such concessions has evolved as a result of the 2004 public procurement directives and the CJEU’s supplementary case-law; insists that any proposal for a legal act dealing with service concessions would be justified only with a view to remedying distortions in the functioning of the internal market; points out that such distortions have not hitherto been identified, and that a legal act on service concessions is therefore unnecessary if it is not geared to an identifiable improvement in the functioning of the internal market;

8. Emphasises that the current classification of A and B service categories should be maintained in so far as ‘lighter’ provisions for B services have their justification in the characteristics of that category as mainly locally or regionally provided services; calls on the Commission to develop tools that make it easier for local and regional authorities to decide to which category specific contract tasks belong;

9. Observes, in this context, that the application of procurement law to the provision of personal social services is often not the best way of ensuring optimum results for the users of the services in question; calls for recognition under European law of tried and tested Member State procedures based on the principle that all providers able to comply with the conditions previously laid down by law should, irrespective of their legal form, be permitted to provide services, provided that account is taken of the general principles of equal treatment, transparency and non-discrimination;

10. Emphasises that the introduction of new rules for public procurement markets below the EU thresholds should be avoided, as it may jeopardise legal certainty established at national level;

11. Calls on the Commission to align the Remedies Directive with the new public procurement framework which will emerge following the current review, and to carry out this exercise in parallel to the main legislative proposal, in order to ensure consistency;

12. Stresses the Commission’s responsibility for monitoring the correct transposition of EU directives in the Member States;

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Second task: developing the full potential of public procurement – best value for money

13. Takes the view that, in order to develop the full potential of public procurement, the criterion of lowest price should no longer be the determining one for the award of contracts, and that it should, in general, be replaced by the criterion of most economically advantageous tender, in terms of economic, social and environmental benefits – taking into account the entire life-cycle costs of the relevant goods, services or works; stresses that this would not exclude the lowest price as a decisive criterion in the case of highly standardised goods or services; asks the Commission to develop, in close cooperation with the Member States, a methodology for the calculation of life-cycle costs on a broad and non-obligatory basis; stresses that supporting the criterion of ‘maximum economic benefit’ would foster innovation and efforts to achieve the best quality and value, i.e. to comply with the requirements of the Europe 2020 strategy; stresses that this is particularly relevant in relation to public procurement of goods that have an impact on consumers’ health – in the food sector, for example – where quality and production methods play an important role; emphasises that public procurement rules should be flexible enough to ensure that passive consumers, for example in hospitals, care facilities for the elderly, schools and kindergartens, have equal access to healthy, value-for-money food, rather than merely the cheapest available option;

14. Recognises that public procurement, if used effectively, could be a real driver in promoting quality jobs, wages and conditions as well as equality, in developing skills and training, in promoting environmental policies, and in providing incentives for research and innovation; calls on the Commission to encourage governments and contracting authorities to increase the use of sustainable public procurement, supporting and promoting high-quality employment and providing quality services and goods in Europe; invites the Commission to scrutinise how public procurement has contributed to achieving the EU’s wider goals and to outline what should be done to improve these objectives in the future;

15. Recalls that pre-commercial procurement is an underused tool, which can drive innovation in public procurement and make a significant contribution to identifying and establishing lead markets and improving SME access to public procurement; considers furthermore that the proposed model of risk and benefit (IPR) sharing in pre-commercial procurement requires both legal clarification and simplification in order to enable regular and effective use of this tool by procurement practitioners; accordingly, calls on the Commission to propose an adaptation of the relevant procurement or state aid rules as part of the overall revision exercise, in order to boost the take-up of pre-commercial procurement;

16. Notes the importance of standards for public procurement, in that they can help public procurers to meet their policy objectives in an effective and transparent way; calls, in that regard, for the development of a regularly updated database of standards, especially in relation to environmental and social criteria, to be made available to public authorities, in order to ensure that procurers, when drawing up tenders, have access to appropriate guidance and a clear set of rules so that they can easily verify their compliance with relevant standards;

17. Calls for increased reliance on non-discriminatory and open standards in public procurement, in the interests of the simplification and innovation objectives, particularly in the areas of accessibility, ICT, and the environment;

18. Underlines the fact that whether or not a product or service has been sustainably produced is rightly considered to be a characteristic of the product, which can be used as a criterion for comparison with products or services that have not been sustainably produced, so as to enable contracting authorities to control the environmental and social impact of contracts awarded by them in a transparent way but at the same time not to weaken the necessary link to the subject matter of the contract; points out the need to clarify the scope for including requirements relating to the production process in the technical specifications for all types of contract, where relevant and proportionate; points to the Wienstrom case, which has become the classic example of how and why production characteristics can be categorised as technical specifications;

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19. Underlines the need to strengthen the sustainability dimension of public procurement by allowing it to be integrated at each stage of the procurement process (i.e. ability test, technical specifications, contract performance clauses);

20. Points out that, in response to increased awareness of the environmental and climate impact of goods, works and services, procurement authorities should include environmental costs in their assessment of the 'most economically advantageous offer' and their calculation of life-cycle costs;

21. Notes that the text of the directives needs to be more specific in terms of improving access for people with disabilities;

22. Considers that the current provisions on subcontracting should be strengthened, as the use of several levels of subcontracting can cause problems in terms of compliance with collective agreements, working conditions and health and safety standards; suggests therefore that the public authorities be informed of all details relating to the use of subcontractors before a contract is concluded; asks the Commission to assess, with an eye to the future review of the directives, whether further rules on the award of subcontracts are needed, for example on the establishment of a chain of responsibility, specifically to avoid SME subcontractors being subject to conditions worse than those applicable to the main contractor awarded the public contract;

23. Recognises the role the EU can play in facilitating the development of successful public-private partnerships (PPPs) by promoting fair competition and sharing best practice across Member States in relation to social and employment policies; notes, however, that major disparities exist between Member States in terms of the legal and procedural requirements applying in this area; calls, accordingly, on the Commission to clarify the concept of PPPs, in particular as regards how the parties will bear shared risks and meet their financial obligations;

24. Calls on the Commission to reassess the appropriate level of thresholds for supply and services contracts, and if necessary raise them, so as facilitate access to public procurement by, amongst others, not-for-profit and social-economy operators and SMEs; asks that very careful consideration be given to the legally binding requirements of the WTO Agreement on Government Procurement; emphasises that, given the difficulties which already exist in negotiations on the issue of access to public procurement, it should also be borne in mind that raising thresholds in Europe could easily lead to further complications for EU trade policy;

25. Emphasises that any extension of the EU procurement rules into the area of 'what to buy' would represent a significant change to the current regime and should be carefully assessed; doubts that this would contribute to simplifying and streamlining, and fears rather that it would lead to more complicated rules, with many exemptions, which would be difficult to administer in practice – procurement directives being procedural ('how to buy') guidelines that should not be supplemented with provisions on 'what to buy';

Third task: simplifying the rules and allowing more flexible procedures

26. Points out that the directives are often perceived as too detailed and that they have become increasingly technical and complex, while at the same time the legal risk of non-compliance has increased considerably for contracting authorities and suppliers alike; notes that the fear of challenge leads to a risk-averse approach, which stifles innovation and sustainable development, resulting far too often in contracting authorities opting for the cheapest price rather than the best value; asks for more space for negotiation and communication, combined with measures to assure transparency and to prevent abuse and discrimination, and urges that market consultation be explicitly allowed as a possible first step;

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27. Notes that public procurement policy should, in the first instance, ensure the effective use of funds by the Member States, achieve optimum results in terms of public procurement through the application of clear, transparent and flexible procedures, and allow European businesses to compete on an equal footing throughout the Union;

28. Advocates, when European public procurement law is being revised, clear, simple and flexible rules, reducing the level of detail and making procurement procedures simpler, less cumbersome, cheaper, more open to SMEs and more conducive to investment; sees a need, therefore, for greater reliance on the general principles of transparency, equal treatment and non-discrimination; considers that simplification of the rules on public procurement would make it possible to reduce the risk of error and to pay greater heed to the needs of small contracting authorities;

29. Advocates assessing whether wider use of the negotiated procedure with prior EU-wide publication might be allowed, beyond that provided for in the current directives, so that contracting authorities and economic operators can communicate better, and supply and demand can be coordinated effectively; takes the view that, if any extension of the scope of the negotiated procedure is envisaged, further safeguards against abuse should be introduced – e.g. an obligation on contracting authorities to establish, for any bidder at the outset, at least some minimum conditions regarding the performance of the procedure, in line with what is sound practice in private procurement – as well as requirements for written documentation;

30. Calls on the Commission to review the current approaches to the qualification of suppliers (particularly framework agreements, dynamic purchasing systems and the use of qualification systems by utilities procurers), so that any new approaches to qualification reduce costs and timescales, are attractive for both contracting authorities and economic operators and lead to the best possible outcomes;

31. Reiterates its insistence on the systematic admission of alternative bids (or variants), as they are crucial to promoting and disseminating innovative solutions; stresses that specifications referring to performance and functional requirements and the express admission of variants give tenderers the opportunity to propose innovative solutions, particularly in highly innovative sectors such as ICT; asks also that all avenues – both legislative and non-legislative – be explored to ensure that public procurement is more engaged in promoting innovation in Europe;

32. Calls on the Commission to introduce clarifications into the regulatory framework on public procurement, particularly in relation to the contract execution phase (e.g. on 'substantial modification' of a contract in force, on changes concerning the contractor and on the termination of contracts);

33. Considers it regrettable that tenderers have only limited opportunities to rectify omissions in their bids; asks the Commission, therefore, to elaborate on what omissions may be rectified by bidders, what additional adjustments are allowed and how to guarantee transparency and equal treatment;

34. Points out the contracting authorities should be able to benefit from previous experience with a tenderer on the basis of an official evaluation report; recommends setting a time limit for exclusions, which should guarantee transparency and objectivity; points out the need for legislative clarification in Directives 2004/17/EC and 2004/18/EC stating that a bidder found guilty of a misconduct in a previous procurement procedure can regain reliability after having substantially proved that he has undergone an effective 'self-cleaning' procedure; considers that such a clarification would foster anti-corruption mechanisms by underpinning incentives to accelerate the elimination of corrupt practices, and would remove serious legal uncertainties;

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35. Regrets the Green Paper's failure to mention shortcomings, the lack of expertise and knowledge about procurement and the inadequacy of public procurement strategies; stresses the importance of promoting professionalism and guaranteeing objectivity on the part of both contracting authorities and market operators, particularly by supporting the development of targeted training programmes; recommends setting up a network of centres of excellence within the existing national frameworks, and promoting exchanges of information and good practices between Member States; also encourages umbrella organisations, at both national and EU level, to take shared responsibility for making relevant information available and to facilitate exchanges of information between their members throughout Europe; stresses the importance of clear and readily comprehensible manuals for both contracting authorities and tenderers; finds it regrettable that the documents 'Buying green! A handbook on environmental public procurement' and 'Buying Social: A Guide to Taking Account of Social Considerations in Public Procurement', published in 2005 and 2010 respectively, are not sufficiently useful in this respect;

36. Observes that only 1.4 % of contracts are awarded to undertakings from another Member State; stresses that professionalisation and better training of those who award contracts, and of tenderers, would foster EU-wide competition and exploit more fully the advantages of an internal market for public contracts;

Fourth task: improving access for SMEs

37. Emphasises that ready access to public procurement for SMEs, which are the driving force of the European economy, is crucial to maintaining employment and to sustainable development, innovation and growth; stresses that simplifying the procedures and administrative formalities, as well as creating SME-friendly strategies and implementing the code of good practice, will facilitate SMEs' access to public contracts and enable them to participate on a more equal and fairer footing; believes that providing simplified, equal and fair access to public procurement for all economic operators would result in a better use of taxpayers' money; points out that SMEs do not generally have significant specialised administrative capacity, and that it is thus essential to minimise the administrative burden imposed on them;

38. Points out that selection criteria on financial standing, e.g. in relation to company turnover, should be proportional to the character of a given contract; warns the Commission and the Member States, when adopting flexible and user-friendly instruments, not to create any new barriers for SMEs and to take account of their interests as a matter of priority; asks the Commission, with the aim of improving access to public procurement procedures and improving their transparency, particularly for the benefit of smaller contracting authorities and tenderers, to modernise the Tenders Electronic Daily (TED) website to make it more accessible by improving its appeal and user-friendliness, with particular attention to search criteria and the quality and detail of the summary translations for each tender; recommends that TED should offer an alert service for users, to inform them when new tenders of interest are published;

39. Asks the Commission to increase awareness of the importance of splitting contracts into lots, and to consider the implementation of the 'apply or explain' principle, whereby rules on matters such as division into lots must be complied with, or the failure to comply explained;

40. Points out that contracting authorities should take greater advantage of the possibilities of dividing public contracts into lots, thus giving SMEs a better chance, in qualitative and quantitative terms, of participating in public procurement, and improving the level of competition; encourages SMEs to make use of joint procurement and contract pooling, which would allow them to make economies of scale in areas such as logistics and transport; encourages public authorities to be flexible when considering these modern and voluntary forms of arrangement; calls on the Commission to investigate all the possibilities for encouraging the temporary or permanent grouping of SMEs and small businesses in order to enable them to take part in invitations to tender that are not split into lots, without having to operate as subcontractors; asks the Commission, in this regard, to examine in particular the current practice of subcontracting to SMEs – often on conditions inferior to those applicable to the main contractor – of parts of contracts not split into lots, which are too big to enable SMEs to participate in the procurement procedure;

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41. Proposes that self-declarations be allowed where feasible, and that original documents be requested only from the shortlisted candidates or the successful tenderer, whilst avoiding any delays or market distortions caused by incorrect declarations; asks the Commission to promote the option of an 'electronic procurement passport' accepted by all Member States and proving that the economic operator fulfils the conditions required under EU legislation on public contracts; underlines the point that a European pre-qualification system should be a helpful instrument if it is kept simple, cheap and easily accessible for SMEs;

Fifth task: ensuring sound procedures and avoiding unfair advantages

42. Calls on the Commission, with a view to fighting corruption in public procurement, to promote more efficient reporting practices, including exchanges of information between Member States on the exclusion of unsound bidders; invites the Commission to provide for clear rules on protection of whistleblowers, following the recommendations in Resolution 1729(2010) of the Parliamentary Assembly of the Council of Europe ⁽¹⁾, to enhance the transparency of contracts funded with EU money and to promote educational action both at institutional level and among the general public;

43. Notes that certain Member States already apply efficient public procurement award procedures that ensure transparency and the proper use of taxpayers' money; asks the Commission to study Member States' good practices in this field and identify the most effective principles for public procurement in the EU;

44. Points out that combating corruption and favouritism is one objective of the directives; underlines the fact that Member States face different challenges in this area and that a more elaborate European approach carries the risk of undermining efforts to streamline and simplify the rules, and of creating new bureaucracy; points out that the principles of transparency and competition are key in combating corruption; asks for a common approach on 'self-cleaning' measures to avoid market distortion and ensure legal certainty for economic operators and contracting authorities alike;

45. Takes the view that, since public contracts concern public funds, they should be transparent and open to public scrutiny; asks the Commission for clarification with a view to ensuring legal certainty for local and other public authorities and enabling them to inform citizens of their contractual obligations;

46. Calls on the Commission to assess the problems associated with exceptionally low bids and to propose appropriate solutions; recommends that contracting authorities provide, in the event of abnormally low bids being received, for early and sufficient information to other bidders, in order to allow them to assess whether there is ground for initiating a review procedure; asks for greater consistency between the EU's common external trade policy and the practices in Member States where exceptionally low bids are accepted;

Sixth task: expanding the use of e-procurement

47. Welcomes the Commission Green Paper on expanding the use of e-procurement; points out that the e-procurement action plan has failed to achieve its goal and that more political leadership at all levels of government – including EU level – is needed in order to maintain and accelerate the transition to e-procurement; wants to ensure that at least 50 % of both the EU institutions' and the Member States' public procurement operations are carried out electronically, in line with the commitment made by the Member State governments at the ministerial conference on e-government in Manchester in 2005;

⁽¹⁾ Resolution 1729(2010) of the Parliamentary Assembly of the Council of Europe on the protection of whistleblowers, text adopted 29 April 2010.

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48. Underlines the fact that the Commission has a unique role to play in promoting progress on standardisation and infrastructure issues – e-signatures and time-stamps, for example, need a commonly agreed format for security purposes; asks the Commission to develop the common standards in question; emphasises that onerous technical requirements for bidder authentication can act as barriers to operators; stresses, in this context, the need to develop a standardised system for e-signature; calls on the Member States to make available a validation service for certificates issued by certification service providers under their supervision;

49. Underlines the fact that, to ensure interoperability of different systems and avoid vendor lock-in, open standards and technology neutrality must be observed; asks the Commission to assure real interoperability between the different e-procurement platforms that already exist in Member States, making more use of results obtained by EU initiatives such as PEPPOL and e-CERTIS;

50. Points out that any legislative proposals to expand and simplify the use of e-procurement should be integrated into the review of the main public procurement directives and should be in line with the scope and with general public procurement rules such as obligations linked to thresholds;

51. Underlines the point that e-procurement can drive simplification of the entire procurement process, introducing efficiencies that will lead to significant cost and time savings for both businesses and public administrations, and increasing transparency and accessibility; notes that the electronic awarding of contracts, in particular, opens up new avenues for modernising administration in the field of public contracts; reiterates that e-procurement should be less costly, more expedient and more transparent than conventional public procurement procedures; believes, however, that there is still room for improvement and that more should be done in terms of access to reliable, comparable and objective information and statistical data; calls on the Commission and the Member States to encourage cross-border use of e-procurement;

52. Points out that legislation is not the only key to promoting change; asks the Commission, therefore, to explore new ways to exchange experiences, share best practices and transfer knowledge across borders among local and regional actors; highlights the strong need to further enhance the capacity and understanding of staff dealing with e-procurement and – through national and/or EU incentives to secure a 'level playing field' between SMEs and large enterprises – to assist SMEs in building their knowledge and capacity; welcomes the Connecting Europe Facility as a new instrument to boost cross border e-procurement, thus allowing the digital single market to develop;

53. Welcomes the announcement in the Commission's 'eGovernment Action Plan 2011-2015' that the *eppractice.eu* platform is to be developed into an effective tool for the exchange of experience and information among Member States and e-government practitioners, and urges that its scope be extended to local and regional practitioners;

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

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Promoting worker mobility

P7_TA(2011)0455

European Parliament resolution of 25 October 2011 on promoting workers' mobility within the European Union (2010/2273(INI))

(2013/C 131 E/04)

The European Parliament,

- having regard to Articles 21, 45 and 47 of the Treaty on the Functioning of the European Union and Articles 15, 21, 29, 34 and 45 of the Charter of Fundamental Rights,
- having regard to Article 151 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community ⁽¹⁾,
- having regard to Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship ⁽²⁾,
- having regard to the International Labour Organisation's Core Labour Standards,
- having regard to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽³⁾,
- having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States ⁽⁴⁾, the 2008 report on the application of Directive 2004/38/EC (COM(2008)0840) and the Council resolutions of November 2007 and April 2009 regarding Directive 2004/38/EC,
- having regard to the Commission follow-up document on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2009)0313),
- having regard to the draft interim report entitled "Comparative study on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States" requested by its Committee on Legal Affairs and delivered by the European Citizen Action Service (ECAS),
- having regard to the Commission Communication on guidance for better transposition and application of Directive 2004/38/EC, as well as its intention to publish simplified guides for EU citizens and making the best use of the Internet,
- having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽⁵⁾,
- having regard to the Commission communication of 6 December 2007 on 'Mobility, an instrument for more and better jobs: The European Job Mobility Action Plan (2007-2010)' (COM(2007)0773),

⁽¹⁾ OJ L 257, 19.10.1968, p. 2.

⁽²⁾ OJ L 288, 18.10.1991, p. 32.

⁽³⁾ OJ L 200, 7.6.2004, p. 1.

⁽⁴⁾ OJ L 158, 30.4.2004, p. 77.

⁽⁵⁾ OJ L 255, 30.9.2005, p. 22.

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- having regard to the Commission communication of 18 November 2008 on the impact of free movement of workers in the context of EU enlargement (COM(2008)0765),
 - having regard to the Commission communication of 16 December 2008 on 'New skills for new jobs; Anticipating and matching labour market and skill needs' (COM(2008)0868),
 - having regard to the Commission communication of 13 July 2010 on 'Reaffirming the free movement of workers: rights and major developments' (COM(2010)0373),
 - having regard to the Commission communication of 13 April 2011, 'Single Market Act - Twelve levers to boost growth and strengthen confidence "Working together to create new growth"' (COM(2011)0206), which includes workers' mobility as one of its twelve key instruments,
 - having regard to the European 2020 Strategy and in particular to its flagship initiatives 'An Agenda for New Skills and Jobs' and 'Youth on the Move',
 - having regard to the conclusions of the Justice and Home Affairs Council of 27 November 2008 on 'Free movement of persons: abuses and misuses of the right to free movement',
 - having regard to the conclusions of the Employment, Social Policy, Health and Consumer Affairs Council of 9 March 2009 on 'The professional and geographical mobility of the work force and the free movement of workers within the European Union',
 - having regard to its resolution of 2 April 2009 on problems and prospects concerning European Citizenship ⁽¹⁾,
 - having regard to its resolution of 18 December 2008 on the European Job Mobility Action Plan (2007-2010) ⁽²⁾,
 - having regard to the opinion of the European Economic and Social Committee on the identification of outstanding barriers to mobility in the internal labour market ⁽³⁾,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality (A7-0258/2011),
- A. whereas living and working in a different Member State is one of the Union's fundamental freedoms - irrespective of one's ethnic origin -, a basic component of Union citizenship and recognised by the Treaties, yet statistics show that still too few people take advantage of this right despite the specific initiatives taken to support workers' mobility,
- B. whereas mobility of EU workers should be encouraged throughout the European Union where there is an employment need,
- C. whereas EU workers can face difficulties and challenges when seeking employment in a host Member State,

⁽¹⁾ OJ C 137 E, 27.5.2010, p. 14.

⁽²⁾ OJ C 45 E, 23.2.2010, p. 23.

⁽³⁾ OJ C 228, 22.9.2009, p. 14.

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- D. whereas the right to live and work in another country of the Union is one of the Union's fundamental freedoms, a basic component of Union citizenship recognized by the Treaties, yet according to statistics and notwithstanding specific initiatives to support workers' mobility, there are still too few people taking advantage of this right,
- E. whereas current workers mobility rate is not sufficient to enhance labour markets efficiency in the European Union; whereas only 2.3 % of people in the EU reside in a Member State other than the state of which they are citizens, but 17 % intend to take advantage of the free movement in the future and 48 % would consider seeking jobs in another country or region in the event of redundancies,
- F. whereas the free movement of workers represents a positive socio-economic example for both the EU and the Member States, being a milestone for EU integration, economic development, social cohesion, individual upgrading at professional level, fighting against prejudices, racism and xenophobia and can counteract the negative effects of economic crisis and better prepare for the challenges of global change, by engaging all stakeholders at decisional level together with the civil society into dialog,
- G. whereas promoting mobility of workers is a positive contribution to reaching the employment objectives set in the Europe 2020 Strategy; invites the Commission to include labour mobility in the flagship initiatives and the Member States to include labour and geographical mobility dimensions when designing their National strategies and reform programs,
- H. whereas insufficiently flexible labour laws impair workers' mobility in Europe,
- I. whereas, according to the Commission communication of 18 November 2008, mobile workers from the countries that joined the EU in 2004 and 2007 have had a positive impact on the economies of Member States which host mobile workers,
- J. whereas the recent evolution of our societies notably due to industrial change, globalization, new work patterns, demographic change and the development of means of transport, call for a higher degree of mobility among workers,
- K. whereas no negative effects have been reported in those Member States which have not applied the transitional measures concerning free movement of workers originating from Member States that acceded to the EU in 2004 and 2007, but a number of Member States have decided to continue applying restrictions in their labour markets with respect to nationals of Romania and Bulgaria,
- L. whereas, despite EU legal acts and programmes aimed at promoting free movement of workers, there are barriers to the full implementation of this fundamental freedom (e.g. social, linguistic, cultural, legal and administrative barriers, poor return policies that do not meet the needs of migrant workers, lack of recognition of mobility experience, difficulties concerning the employment of spouses or partners, and a delayed process for the recognition of diplomas and professional qualifications),
- M. whereas in times of economic crisis professional and geographical mobility of workers can help reduce unemployment by matching labour supply with demand, contributing to job creation opportunities, to adapting the economy, the society and the demography to structural changes and to promoting economic growth and EU's competitiveness; to this aim, considers that current procedures for recognition of professional qualifications represent a big obstacle to workers' mobility in the European Union;
- N. whereas these barriers and restrictions infringe a fundamental right of workers, make the recovery of the EU economies more difficult and can lead to counterproductive effects, such as more illegal work, an expansion of the black economy and worker exploitation,

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- O. whereas discrimination on the ground of sexual orientation is forbidden under Article 21 of the Charter of Fundamental Rights,
- P. whereas the current economic crisis has had negative effects on mobility and has hit temporary workers and part-time workers hardest, women being one of the most affected categories,
- Q. whereas strong gender differences are visible as regards workers' mobility within the EU (men report moving because of a new job or job transfers far more often than women do, respectively 44 % as against 27 % ⁽¹⁾); whereas there is a need for better monitoring of the mobility phenomenon, based on data disaggregated by gender,

1. Points out that Commission report COM(2008)0840 identifies persistent infringement by Member States in the implementation of Directive 2004/38/EC, which affects the exercise of free movement of workers, and this situation has given rise to numerous individual complaints, petitions, and more than 40 questions from the Parliament, as a result of which the Commission has brought five infringement proceedings for incorrect application of the Directive;

2. Welcomes Commission communication COM(2010)0373, which describes and explains the current state of play regarding free movement of workers, but regrets the lack of concrete measures or solutions to the problems of mobility;

3. Welcomes initiatives undertaken by the Commission such as the 'WO.M.EN Mobility Enhancement Mechanism' and invites it to extend and improve the scope of projects aiming at increasing women's labour mobility;

4. Calls upon the Commission, to further promote labour mobility by presenting a long-term, comprehensive, multidisciplinary, mobility strategy to ban all existing legal, administrative and practical barriers to free movement of workers; requests a consistent, efficient and transparent policy focused on the requirements of the labour market and economic trends;

5. Calls on the Commission to enhance the mobility of the workforce by planning and promoting further strategies to provide simplified information concerning the rights of migrant workers and the benefits of mobility for the overall process of development and for the economies of both the EU and its Member States. Raising the awareness of employees, members of their families and interested parties about their rights and opportunities and the tools available as regards freedom of movement is a key factor for effectively implementing EU legislation;

6. Takes the view that mobility can only be effectively promoted through substantial improvements in respect of solidarity and shared responsibility on the part of the Member States and through the formulation of a clear regulatory framework governing legal migration;

7. Calls on the Member States to remove obstacles to workers' mobility by offering persons (the majority of whom are women) who follow their spouses or partners to another Member State appropriate services such as courses to facilitate their integration into their new social and cultural environment, for example language courses and vocational courses;

8. Notes, however, that mobility should remain voluntary; stresses that negative side effects of increased mobility, leading to brain drain and youth drain, as well as negative impacts on family cohesion and children when one or both parents are working abroad, should be better mitigated at EU level;

⁽¹⁾ Eurofound Study 'Mobility in Europe - the way forward'.

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9. Calls on the Member States to create mechanisms of cooperation aimed at preventing the devastating effects on families, especially on children, caused by the separation from their parents and the distance between them;

Administrative simplification and legal aspects

10. Given the provisions of the Treaties and the existing legislation, recalls that Member States have a responsibility to simplify the administrative procedures regarding the exercise of free movement of workers with a view to an optimal implementation of this right and to avoiding unjustified, unnecessary or cumbersome administrative procedures restricting the application of this right;

11. Urges the Commission to promote the streamlining of administrative practices and administrative cooperation so as to allow synergies between national authorities;

12. Encourages Member States to create more effective channels of communication between migrant workers and the corresponding State services, so that workers have full access to information regarding their rights and obligations;

13. Stresses that 'workers' rights' can be better implemented if and when an EU migrant is employed in a legally paid activity in a host Member State;

14. Underlines that women workers moving abroad for jobs involving child or elderly care, such as babysitters, au-pairs, nannies or nurses, are often employed by private entities such as families or family members and thus end up working without a contract or illegally, and consequently have no rights and benefits linked to social security, healthcare etc. available to them;

15. Is concerned by the poor transposition and implementation of current directives on free movement of workers, especially Directive 2004/38/EC with respect to the right of entry and residence for third-country family members, and cumbersome administrative procedures and additional residence documents (work permits, evidence of satisfactory accommodation) inconsistent with Directive 2004/38/EC;

16. Calls on the Commission to fully exercise its prerogatives under the Treaties, by continuous and comprehensive monitoring of the implementation of Directive 2004/38/EC, including, if necessary, the exercise of its right to initiate infringement procedures against non-compliant Member States;

17. Calls on the Member States to review their provisions regulating the transitional periods for access to their labour markets, which, in the long term, can have negative effects on the fundamental values and rights enshrined in the EU Treaties, such as freedom of movement, non-discrimination and solidarity and equal rights; therefore welcomes the recent decision of some Member States to fully open their labour markets to some of the Member States that joined the EU in 2004 and deplores the recent legislative proposals in other Member States intended to undermine the rights of workers from the Member States that joined the EU in 2004 and 2007; calls on the Commission to investigate whether such policies infringe EU law;

18. Calls on the Commission to strengthen the current legal framework on recognition of professional qualifications set out in the directive 2005/36/EC;

19. Calls on the Commission to revise Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community ⁽¹⁾ in order to take into account the proposals made by the European Parliament in this resolution;

⁽¹⁾ OJ L 257, 19.10.1968, p. 2.

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20. Calls on the Commission to ensure that member states apply the 'Brussels I'-regulation (Council Regulation (EC) No 44/2001) regarding jurisdiction recognition and enforcement of judgements in civil and commercial matters; stresses the importance of the 'Brussels I'-regulation in regard to sanctions and fines for exploitation of workers;

21. Calls on the Commission to ensure that Member States implement Directive 2004/38/EC without any discrimination, including on grounds of sexual orientation; reminds the Commission of previous calls to ensure freedom of movement for all EU citizens and their families, regardless of their sexual orientation;

Links with other policies

22. Notes that the right of free movement of workers cannot be viewed in isolation from other rights and basic principles of the EU and that respect for the European social model and the rights guaranteed in the European Convention on Human Rights, as reflected in the EU Charter of Fundamental Rights, will offer the possibility of decent jobs, adequate working conditions, including protection and safety at work, social security rights, equal treatment, reconciliation of family and working life and the freedom to provide services; stresses that the right to vote in local, regional and European elections is an essential element of these rights and calls for better implementation; notes that the right to vote in national elections of the Member States of origin may be lost, believes consideration should be given to this issue;

23. Calls on the Commission to produce a scoreboard presenting the obstacles faced by Union workers wishing to make use of their right to free movement and how they are being tackled in the Member States, so as to assess whether such obstacles are dealt with thoroughly and effectively;

24. Calls on the Commission to thoroughly evaluate the current economic situation in the Member States with regard to labour markets; calls on the Member States to better integrate migration policies with respect to labour in order to address labour shortages and with the view to boost in-house production;

25. Congratulates the Commission to linking workers' mobility with the Europe 2020 Strategy and takes the view that this is of crucial importance to boost welfare within the EU through sound and sustainable job creation;

26. Stresses the importance of equal treatment of workers, combined with the adequate protection of labour rights, to be in accordance with the rules in force laid down in national legislation and collective agreements in the Member State concerned. Believes that the principle of 'equal pay for the same work in the same place' in conjunction with gender equality should apply throughout the EU in order to prevent wage and social dumping; Stresses that rights will only be beneficial for all if properly implemented and enforced; To these aims, calls on the Commission and the Member States to make sure that free movement is never exploited with a view to unequal treatment, wage and social dumping;

27. Considers that both EU and Member State legislation should be coordinated more closely in order to prevent any types of barriers to implementation and use of the right of free movement of workers;

28. Urges the Commission and the Member States to guarantee, taking into account subsidiarity, the correct implementation of the existing legislation on non-discrimination, to take practical measures to enforce the principle of equal treatment of mobile workers, and to fight prejudice, racism and xenophobia;

29. Urges the Member States and the Commission to strengthen EU policy on fighting direct and indirect discrimination, exploitation of EU migrant workers in the European Union and abuse of their rights due to their insufficient knowledge of languages and laws applicable to their employment in the host Member State;

30. Encourages Member States to increase the attention which authorities responsible for monitoring the labour market devote to protecting the rights of mobile workers, particularly by improving education and raising of awareness in the field of labour law;

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31. Considers that amendments to the legislation of Member States relating to social security, the care system and taxation should be examined in advance to ascertain what impact they will have on the free movement of workers; calls therefore for the introduction of a requirement to perform a frontier impact assessment providing detailed information about obstacles to freedom of movement;

32. Points out that the increased cross border mobility also demands the active involvement of the social partners in order to provide the workers concerned, especially those temporarily working abroad, with adequate and effective information, support and protection regarding their social and labour rights;

33. Considers that, for the efficient implementation of all policies tackled by the free movement of workers, action must be coordinated, especially in the fields of completion of the internal market, coordination of social security systems, supplementary pension rights, protection of workers, cross-border health care, education and vocational training, tax measures such as those designed to avoid double taxation, and anti-discrimination;

34. Underlines that labour restrictions constitute an obstacle to the functioning of the internal market and that the economic crisis demonstrates the need to promote free labour mobility;

35. Reiterates that, in order to avoid inconsistencies in the area of the EU internal market, for the purpose of employment Member States must give preference to Union citizens and may give preference to third-country nationals who apply for highly qualified employment, as set out in Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment⁽¹⁾; stresses the importance of rejecting applications for an EU Blue Card in labour market sectors for which the access to workers from other Member States is restricted on the basis of transitional arrangements;

36. Calls on a greater coordination between the European Institutions and the national ones to better inform and provide assistance to the citizens and monitor how the right of free movement of workers is being transposed into practice and used by individuals in order to accelerate the implementation of labour mobility;

37. Takes the view that adequate social protection systems greatly facilitate the geographical and occupational mobility of workers and that the social inclusion of mobile workers and the social reintegration of returned workers must be included in the policy on labour mobility; underlines that, to this end, the recognition of previously acquired rights and a greater understanding of the differences between the systems of the individual Member States are indispensable and must be promoted;

38. Calls on Member States to tackle the issue of false self-employment among mobile workers; stresses the need to give these workers access to rights and protection;

39. Calls on Commission and Member States to combat xenophobia against all EU workers by providing the means for integration and information and promoting understanding, cultural diversity and respect in Member States hosting EU mobile workers;

40. Stresses that an efficient implementation of the free movement of workers calls for coordinated action by the European and national authorities to facilitate and simplify administrative procedures on issues indirectly linked to this right, such as the transfer of vehicle registrations and the guarantee of accessibility of medical records, provision of a comprehensive database on current healthcare practitioner performance competence, avoidance of double taxation, clear rules on the reimbursement of medical expenses, etc.;

⁽¹⁾ OJ L 155, 18.6.2009, p. 17.

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41. Considers that enabling migrant workers to enjoy portable social security rights is essential in ensuring that they effectively benefit from the prerogatives they have acquired;

42. Considers that the SMEs can act as a trigger for economic recovery and development, being the primary source for job creation; therefore, reiterates the need for an EU commitment to supporting and developing the SMEs (e.g. by the Progress Microfinance Facility), particularly through active labour policies and vocational education and training programmes;

43. Invites border regions to consider agreements for promoting cross-border labour mobility in order to gain mutual (beneficial) advantages for these regions;

Measures to promote free movement

44. Calls on the Member States to eradicate the existing transitional barriers regarding free movement of workers for the Member States who joined in 2007; takes the view that these barriers impose double standards, are counterproductive and represent discriminatory measures against European citizens, calling for the preference clause to be effectively enforced for the whole Union;

45. Takes the view that the mobility of the workforce within the European Union is essential for economic recovery and achievement of the Europe 2020 strategy objectives; urges accordingly those Member States that still impose labour market restrictions in respect of Romanian and Bulgarian nationals to remove them by the end of 2011 in accordance with the deadline laid down in the Treaty of Accession;

46. Calls for closer and more efficient cooperation between the competent national authorities in checking the compliance of labour contracts with national and EU law; points out that mutual assistance and information exchange have to be guaranteed between the Member States in case of breaches; asks the Commission to supervise this process;

47. Calls on public authorities and all stakeholders to do their utmost to increase the level of awareness among workers of their rights and the various instruments (labour law, collective agreements, codes of conduct, social security provisions) that regulate their employment relationship as well as their working and living conditions;

48. Deplores the decrease in labour inspection across the EU; stresses that efficient controls are an essential element to guarantee equal treatment and a level playing field; calls on the Member States to increase labour inspection and give labour inspections sufficient resources; calls on the Commission to improve cooperation and coordination of labour inspections;

49. Considers that Member States should ensure that the children of EU mobile workers do not face difficulties regarding their nationality or citizenship due to the working choices of their parents, and that the particular needs of the children of mobile workers should be adequately studied to ensure effective policy responses;

50. Underlines that the Member States should improve the situation of children left behind by their parents and to help them develop normally and benefit from education and appropriate social life;

51. Expresses its concern for the growing amount of forced labour in the EU which in some areas has close links to organized crime; stresses the need to make forced labour a key priority in the activities of EUROPOL and EUROJUST; urges Member States to increase their joint efforts to control, prosecute and sanction forced labour and make sure that this is covered under criminal sanctions; stresses the need for measures that ensure the protection of victims of forced labour;

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52. Calls on the Commission to explore and publish both positive effects and drawbacks derived from labour mobility for the host and home countries and the EU, from a socio-economic and geographical cohesion point of view, highlighting consequences such as: economical losses, increased undeclared work and abusive working conditions due to unclear legal situation when transitional measures are in place, lack of awareness of rights among EU citizens and the outcomes due to delayed actions by Member States to integrate EU workers from the 2004 and 2007 integration wave; calls on both the Commission and Member States to avoid the implementation of transitional measures that restrict the free movement of workers and negatively affect the competitiveness of the EU labour markets, for any current member state or upcoming candidate country;

53. Encourages the Commission to pursue its initiatives aimed at promoting the geographical mobility of young people through learning mobility schemes, using all the designated programs related to the topic;

54. Welcomes the Commission's plan to establish a regular systematic assessment of long-term supply and demand in the EU labour markets up to 2020, broken down by sectors, occupations, levels of qualification and countries, and strongly advises the coordination of labour and educational policies between Member States with a view to meeting the targets set in the EU 2020 Strategy regarding job creation and avoiding future indirect barriers that may hinder the exercise of the right of free movement, such as non-recognition of diplomas from other EU countries; The plan should clearly identify labour shortages in the EU in the short, medium and long term;

55. Calls for appropriate measures to be drawn up and implemented in order to break down continuing discrimination and negative stereotypes such as those affecting workers from eastern and southern Europe and to promote the integration of workers exercising their right to freedom of movement in the society of their host country;

56. Calls on authorities at all levels to ensure policy support and raise awareness about the possibilities and advantages of mobility, especially among job-starters, stressing the Commission's coordinating role;

57. Considers that the Member States should facilitate and establish general criteria for the recognition of diplomas and qualifications, as this is very often a source of difficulty for people seeking work in a Member State other than their country of origin;

58. Deplores Member State policies that actively encourage other EU citizens to leave that Member State; asks the Commission to verify whether such policies are infringing on the right to free movement;

Employment services and information of workers

59. Acknowledges and stresses the importance of public employment services, and in particular the EURES system and network, for promoting labour mobility across the EU especially in cross-border regions by providing information on job vacancies, on rights and obligations attendant on migration, including immigration, and attendant on frontier work, as well as information on education and vocational training opportunities, working and living conditions; emphasises the special role played by social partners in advising employees in cross-border partnerships; stresses that EURES should remain a means of promoting fair mobility and therefore calls on the Commission to continue to provide financial resources to support the work of the social partners in border regions;

60. Calls for developing EURES' institutional capabilities and its reinforcement of the one-stop instrument to facilitate mobility of workers and their families;

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61. Is concerned about the reduction of the funds for EURES councillors; calls for the commitment to a long term strategy that allows EURES and its staff to efficiently perform its tasks and notes that this is only possible when funds are increased;

62. Calls on the Commission and Member States to take the necessary steps to make cooperation between EURES and the corresponding national public authorities more productive and effective;

63. Encourages Member States, in cooperation with the Commission, to promote EURES among citizens, by providing relevant documentation and advice on using it through public job centres, but also by organizing meetings to promote mobility in the framework of higher education;

64. Considers that information to EU workers about the benefits, rights and obligations deriving from labour mobility should be further improved; calls on the Commission to coordinate its action with national authorities and develop links between EURES and the SOLVIT online problem-solving network, in order to enhance the quality of the service provided to citizens exercising their right to mobility; calls on the Commission and the Member States to set up multilingual advisory agencies for EU migrant workers particularly in places where many of these workers are employed;

65. Stresses that, when promoting active employment policies, information about learning and training programmes available across the EU they should be given a high priority;

66. Urges to strengthen the implementation of the Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (so-called "Information Directive")⁽¹⁾ about the minimum information that workers should receive from their employer regarding their employment relationship, including all relevant provisions concerning their employment situation in the host country;

67. Calls on the Commission, in cooperation with Member States, to promote the active involvement of the social partners so as to ensure the practical implementation and strengthening of the rights of migrant workers;

68. Emphasises the need for cooperation between employees and employers in the EURES network;

69. Calls for greater dialog and coordination among national and regional authorities as they are usually the first source of information for many citizens due to their proximity and knowledge of citizens needs and greater involvement of the social partners;

70. Calls on Member States to monitor the activities of recruitment agencies more strictly in order to ensure that the rights of mobile workers are not violated or their expectations disappointed, which could hamper the free movement of workers and their social security;

71. Calls on the Commission and Member States to monitor the situation of agencies and organisations offering jobs to workers from other Member States and to detect potential illegal or black market employment, or agencies or organisations providing fictitious jobs;

72. Emphasises that, in the context of implementing freedom of movement, employers should be obliged to provide foreign workers with information on workers' rights in the relevant country of employment. In addition, multilingual advisory agencies must be set up for migrant workers in the Member States;

⁽¹⁾ OJ L 288, 18.10.1991, p. 32.

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73. Calls on the Commission to launch a communication regarding taxation effects on the workers comprised in the scope of this directive, for providing a better understanding and possible solutions to crucial matters that can impede or deter workers mobility;

Gathering skills and knowledge to become more competitive

74. In order to ensure and improve Europe's competitiveness, the highest priority must be given to investing in formal and informal education, vocational training, exchanges of working experience and coordinated actions to speed up the process of labour mobility;

75. Takes the view that active labour market policies and in particular vocational training and life-long learning, must be reinforced as they can contribute to increasing labour mobility, facilitate transitions in times of structural unemployment, and allowing workers to adapt to labour market changes;

76. Congratulates the Commission on its flagship initiative Youth on the Move and on the launch of the Agenda for New Skills and Jobs and welcomes in particular the pilot project 'Your first EURES job' and proposed action for the creation of a European skills passport;

77. In welcoming the training of youth in the skills necessary for working and living in other countries; takes the view that people have a right to live and work in a country of their choice;

78. Considers that skills and knowledge corresponding to specific national, regional or local market needs will foster workers' mobility and requests the Commission to develop a roadmap for demands for skills and a mid- and long-term assessment regarding future jobs, where a match between demand and supply of skills can be provided, as well as mid- and long-term forecasts for labour shortages in selected occupations which may arise as a result of demographic change and the ageing of the population;

79. Considers that labour mobility is a two-way process; On the one hand, it leads to gathering skills and knowledge through all types of education in order to prepare the active population facing competition when searching for a new job and on the other hand, mobile workers can upgrade their skills and knowledge through labour mobility as they gather more practical experience and knowledge on the new site;

80. Believes that mobility in particular must be promoted in professional training, as there are still shortcomings in this area; underlines the importance of programmes such as Leonardo and calls on the Member States and enterprises involved in professional training to make more use of these and also to facilitate their use;

81. Hopes too that the new competences acquired by mobile workers as they move around will be validated so that their increased individual potential will be recognised and their chances of long-term professional inclusion improved;

82. Takes the view that young workers should not be the only focus and that targeted strategies promoting and facilitating the free movement of different categories of workers, based on their specific characteristics (age, gender, skills, belonging to vulnerable and minority groups) and needs are desired so that mobility can become an option for all categories of workers;

83. Calls upon Member States to tailor their life-long learning and vocational training strategies according to developments in the labour markets and to provide transferable skills that have a wider coverage in terms of geographical area and knowledge, with a view to properly matching them with the supply of jobs;

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84. Calls on the Commission and the Member States to cooperate on achieving higher comparability of school and University curricula and education systems in the EU, through simplified mutual recognition of diplomas, with a view also to promoting mutual recognition of educational qualifications, which is vital; stresses, however, that this is different from the recognition of qualifications for the regulated professions, although it would like to see more liberalised access in general to these professions; welcomes in this context the fact that increasing numbers of cross-border cooperation agreements are being concluded between colleges and universities and calls on Member States to support this development;

85. Encourages Member States to boost the participation of small and medium-sized enterprises in lifelong learning by providing incentives for their respective employees and employers, with particular emphasis on learning languages and the new technologies, in line also with labour market requirements, as most of Europe's workforce is employed in SMEs and in this way it will become more competitive, but this will also strengthen mobility in order to address the failure to fill job vacancies in a number of Member States;

86. Takes the view that a better synergy must be found between programmes aimed at encouraging the free movement of students, persons undergoing vocational training and trainees and programmes specifically aimed at fostering the free movement of workers;

87. Encourages Member States, with the assistance of the Commission and the social partners, to create structures for language learning support and also for teaching the cultural traditions of the host Member States for the families of migrant workers, especially since these factors continue to hinder the mobility of European citizens;

88. Takes the view that an insufficient knowledge of languages (in particular in the case of adults) remains an important obstacle for labour mobility and could lead to increased undeclared work; calls on the Member States to actively promote foreign language teaching and expand it in all categories of schools and on the Commission to pursue its efforts in this area;

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

Mutual evaluation process of the Services Directive

P7_TA(2011)0456

European Parliament resolution of 25 October 2011 on the Mutual Evaluation Process of the Services Directive (2011/2085(INI))

(2013/C 131 E/05)

The European Parliament,

- having regard to Article 3 of the Treaty on the European Union,
- having regard to Articles 9, 49 and 56 of the Treaty on the Functioning of the European Union,
- having regard to the Commission Communication on 'Towards a better functioning Single Market for services – building on the results of the mutual evaluation process of the Services Directive' (COM(2011)0020) and the accompanying Commission staff working document 'On the process of mutual evaluation of the Services Directive' (SEC(2011)0102),

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- having regard to the Commission Communication on ‘Single Market Act. Twelve levers to boost growth and strengthen confidence’ (COM(2011)0206),
 - having regard to the Commission Communication ‘Towards a Single Market Act’ (COM(2010)0608),
 - having regard to the Council Conclusions of 10 March 2011 on a better functioning Single Market for services – mutual evaluation process of the Services Directive,
 - having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽¹⁾,
 - having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽²⁾,
 - having regard to its resolution of 6 April 2011 on Governance and Partnership in the Single Market ⁽³⁾,
 - having regard to its resolution of 15 February 2011 on implementation of the Services Directive 2006/123/EC ⁽⁴⁾,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Employment and Social Affairs(A7-0324/2011),
- A. whereas services still represent only around one-fifth of total intra-EU trade while accounting for over two thirds of the EU GDP and employment,
- B. whereas activities covered by the Services Directive account for 40 % of EU GDP and jobs, but whereas these activities also represent some of the most important untapped potential for economic growth and job creation in the EU, since many obstacles to trade in services still exist in the Internal Market,
- C. whereas services drive the economies of the Member States by creating jobs, growth and innovation, and whereas a well-functioning and integrated internal market in services is therefore all the more necessary in the light of the current economic and financial crisis and as a condition for recovery;
- D. whereas the Services Directive is a lever for the growth of the European Union and whereas its full and correct implementation is included in the framework of the Europe 2020 strategy and the Single Market Act,
- E. whereas, while timely and correct transposition of the Services Directive has been a challenge for the Member States’ administrations, it is necessary and it is also a strong basis for the development of administrative cooperation between the Member States,
- F. whereas close to 34 000 requirements have been notified to the European Commission in the context of the screening process,

Introduction

1. Welcomes the Commission’s Communication on the mutual evaluation process of the Services Directive and acknowledges the considerable amount of work accomplished by the Commission and, above all, Member States’ national administrations, including local and regional administrations;

⁽¹⁾ OJ L 376, 27.12.2006, p. 36.

⁽²⁾ OJ L 255, 30.9.2005, p. 22.

⁽³⁾ Text adopted, P7_TA(2011)0144.

⁽⁴⁾ Text adopted, P7_TA(2011)0051.

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2. Highlights the fact that a functioning Single Market in services is a prerequisite for generating growth, decent employment and innovation in Europe and for maintaining Europe's competitive role on the world stage;
3. Notes that the overall potential of the common market in services has not been fully exploited, since owing in particular to market restrictions in the Member States only a small proportion of SMEs are providing cross-border services;
4. Considers that the first priority for the creation of a Single Market in Services is the full and complete implementation of the Services Directive in all Member States and setting up fully operational Points of Single Contact;
5. Calls therefore for consideration to be given to supplying the information at the Points of Single Contact in English as well as in the local language for the benefit of service providers and service users from other Member States, and whether an electronic signature could be used by service providers and users;
6. Stresses that mutual evaluation exercise have allowed for the assessment of the internal market for services after implementation of the Directive, especially in relation to the requirements of art. 9, 15, and 16;

Experiences with the Mutual Evaluation Process

7. Notes the vagueness of article 39 of the Services Directive in establishing the precise objectives of the mutual evaluation process; notes that different perceptions and expectations existed among stakeholders as regards to its purposes and results;
8. Points out that the mutual evaluation was organised after the deadline for transposition of the Services Directive provisions; underlines that the implementation of Services Directive should not be confused with the mutual evaluation exercise;
9. Deplores the delays in the implementation of the Services Directive in some Member States and considers that these have had an impact on the process of mutual evaluation;
10. Takes the view that, while the timing of the mutual evaluation process was challenging, it helped to maintain momentum after the implementation of the Directive;
11. Considers that the mutual evaluation process has proved to be a worthwhile exercise in enabling a better understanding of the remaining barriers and the situation in each Member State on the part of the European Commission and the Member States; notes that the process has enabled the Member States to get feedback on their policy choices and facilitated the promotion of best practices and increased transparency of implementation results;
12. Calls on the Member States and the Commission to initiate a dialogue on which barriers are permitted and which are not;
13. Takes the view that the mutual evaluation process was key in clarifying certain ambiguous situations still prevalent in the provision of services both at national and cross-border level, such as the mutual recognition of professional qualifications and insurance obligations imposed on cross-border service providers; highlights the fact that ultimately it helped to gauge whether or not the implementation measures adopted in each Member State are carried out according to the spirit of the Services Directive;
14. Highlights 'cluster discussions' as the core element of the mutual evaluation; welcomes the spirit of cooperation and mutual trust which has prevailed during discussions;

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15. Takes the view that the mutual evaluation exercise has contributed to the development of a 'European spirit' among national administrations and enabled Member States' administrations to get to know each other better; calls on the Commission and the Member States to ensure that the knowledge and experience gained through the mutual evaluation is maintained and used for the improvement of the Single Market in services;

16. Notes that the involvement of stakeholders in the process of mutual evaluation was limited; acknowledges that a certain degree of confidentiality was an important condition to create a mutual trust between Members States; Nevertheless, regrets that the regular feedback of the process has not been provided to the stakeholders;

17. Is conscious of the administrative costs related to the mutual evaluation, especially in Member States where regional level administration was involved in the process;

Results and Follow-up to improve the functioning of the Internal Market for Services

18. Takes the view that the mutual evaluation process in the Services Directive is an important instrument for identifying further initiatives aimed at improving the functioning of the internal market in services; welcomes the fact that the Commission is proposing a set of actions to build on the momentum gathered during the implementation and mutual evaluation phases;

19. Urges the Commission to keep Parliament informed about the progress and outcomes of the dialogue held with Member States on the implementation of the Services Directive; Calls on the Commission to take further enforcement measures when deemed necessary;

20. Looks forward to the announced economic assessment of the implementation of the Services Directive and its impact on the functioning of the services market; hopes that this evaluation will make it possible to measure the real impact of the directive on economic activity and employment; calls on the Commission to ensure maximum transparency when carrying out this assessment and invites the Commission to present to Parliament its findings as soon as they are available;

21. Welcomes the internal market performance check initiative and hopes that this exercise will significantly improve the practical understanding of how different pieces of EU legislation are applied and interact on the ground; Considers that the performance check exercise should be performed by taking into account the perspective of the Single Market users;

22. Calls on the Commission to involve the European Parliament closely in the performance check initiative;

23. Calls for the remaining regulatory barriers, such as the rules on reserved activities, insurance obligations, legal form and capital ownership requirements, to be tackled; calls on the Commission to concentrate its efforts on unjustified or disproportionate requirements which should be abolished in order to guarantee the smooth functioning of the Single Market;

24. Deplores the fact that no earlier action had been taken in areas where problems had long been known;

25. Regrets that the Commission has not provided criteria for choosing specific types of requirement for targeted actions; calls on the Commission to clarify the reasons why the other types of requirement mentioned in Article 15 of the Services Directive, such as the minimum number of employees and fixed minimum or maximum tariffs, were considered less important than those singled out in its Communication;

26. Calls on the Commission to collect and present data quantifying the impact of the various remaining requirements which, if removed, would improve the functioning of the Single Market for services; calls on the Commission to prioritise its targeted actions on removing those requirements which would bring the highest level of added value to the functioning of the Single Market in services in full compliance with Article 1 of the Services Directive; calls on the Commission, furthermore, to focus its action on the sectors and professions with a high growth potential for the cross-border provision of services;

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27. Calls on the Commission to continue and step up work with Member States on an individual basis so as to achieve a complete and correct transposition and implementation of the Services Directive in all Member States;

28. Takes the view that many national barriers still remain in place, slowing in particular growth in professional business-to-business services; calls on the Member States to ensure that new and remaining requirements are non-discriminatory, necessary and proportionate; calls on the Commission to engage more actively with Member States to monitor closely and ensure due notification of the relevant national legislative measures relating to implementation of Article 15 of the Services Directive;

29. Urges the Commission and the Member States to work more closely together to ensure the proper application in Member States of the freedom to provide services clause in Article 16 of the Services Directive; calls on the Commission to undertake a comprehensive assessment of the state of play on the provision of cross-border services in the EU including the reasons explaining the moderate growth rate in this sector, and a detailed overview of the effectiveness of Member State implementation of the provisions of Article 16 of the Services Directive;

30. Stresses the need to ensure coherence of the implementation of the different pieces of legislation of central relevance to service activities;

31. Urges the Member States to ensure complete and proper implementation of the provisions of the Services Directive which were not included in the mutual evaluation process, such as the Points of Single Contact, and calls on the Commission to ensure strict enforcement of the relevant provisions;

32. Calls on the Commission to pay careful attention to the regular checks and evaluations of the work of the Points of Single Contact in Member States, which play a key role in making necessary information available to service-providers in an up-to-date and user-friendly manner;

33. Notes the important role of alternative dispute resolution mechanisms and problem solving tools such as SOLVIT in ensuring that service providers, and in particular SMEs, can fully exploit their Single Market rights; welcomes the Commission's announcement that it will assess the effectiveness of these tools and report on the need for further specific initiatives;

34. Shares the Commission's view that service providers, but also service recipients, should be helped to enforce their rights, and recommends to build on the existing tools such as SOLVIT;

The Mutual Evaluation Process as a tool

35. Reiterates its support for the use of mutual evaluation in other policy areas, where appropriate; believes that mutual evaluation has proven innovative and useful and should be seen as a tool to improve the functioning of the Single Market;

36. Suggests, therefore, that a 'light-touch' mutual evaluation to be considered and where appropriate introduced for the mutual evaluation of policy areas covered by 'horizontal' directives under which Member States have retained significant scope for manoeuvre, with a view to obtaining more uniform legislation, creating better relations and mutual understanding between the Member States, and preventing 'gold plating';

37. Recommends that mutual evaluation should be used as a 'flexible instrument' on a case-by-case basis; suggests that the tool should be proposed in a targeted manner for inclusion in selected Directives of a 'horizontal' nature which imply numerous transposition measures and provide for a wide margin of discretion for the Member States; suggests furthermore a targeted use of mutual evaluation whereby only a key provisions of a Directive are subject to the procedure;

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38. Calls on the Commission, however, to clearly define the aims and deliverables of mutual evaluation before proposing mutual evaluation on other Directives, in order to ensure that the process does not impose unnecessary burdens on the evaluating authorities;

39. Believes that 'cluster discussions' should remain the central element of the mutual evaluation process; considers that a well targeted but limited number of expert participants in cluster discussions creates the conditions for efficiency and delivering outcomes; takes the view that mutual evaluation should be developed further as a procedure for exchanging best practices and policy development experiences between Member States and that the Commission's role could be clarified in terms of providing guidance and steering the process, particularly during these cluster discussions; is of the opinion that the clusters' composition should always reflect Member States' expectations and the potential impact on the Single Market;

40. Asks the Commission to increase transparency by informing the European Parliament on the contents and progress of discussions between Member States and by presenting regular reports throughout the different stages of mutual evaluation to keep all stakeholders updated; calls on the Commission to make the main conclusions of the cluster and plenary meetings public;

41. Points out that correlation tables and mutual evaluation have different purposes and therefore should be regarded as separate and not interchangeable policy tools, and that the correlation tables are therefore indispensable in the transposition of European legislation;

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

Global economic governance

P7_TA(2011)0457

European Parliament resolution of 25 October 2011 on Global Economic Governance (2011/2011(INI))

(2013/C 131 E/06)

The European Parliament,

- having regard to the conclusions and agreements of the G20 summits of London, Pittsburgh, Toronto and Seoul,
- having regard to the Palais-Royal Initiative report 'Reform of the Monetary System: a cooperative approach for the twenty-first century' published on 8 February 2011,
- having regard to its resolution of 20 October 2010 on 'Improving the economic governance and stability framework of the Union, in particular in the euro area' ⁽¹⁾,
- having regard to its resolution of 11 May 2011 on 'the EU as a global actor: its role in multilateral organisations' ⁽²⁾,
- having regard to the continuous, relevant work of the Transatlantic Legislators' Dialogue (TLD) and the Transatlantic Business Dialogue (TABD),

⁽¹⁾ Texts adopted, P7_TA(2010)0377.

⁽²⁾ Texts adopted, P7_TA(2011)0229.

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- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on International Trade (A7-0323/2011),
- A. whereas the development of the world economy during the last decades generally has entailed increased growth and prosperity, although unevenly distributed, lifting millions of people out of poverty; meanwhile, the number of people still living in poverty and despair is unacceptably high; whereas social and economic inequalities between and within countries must be reduced; whereas Europe's fight against poverty must be one of the top priorities for the EU 2020 strategy;
- B. whereas the US and Europe are currently still dealing with the worst effects of the worst international economic recession experienced since the Great Depression;
- C. whereas the development of the global economy in recent decades has suffered from unsustainable imbalances;
- D. whereas effective global economic governance would make it possible to minimise the negative impacts and correct the dangerous effects of globalisation, such as the rise in inequality or destruction of the environment;
- E. whereas the emergence of new major players, in terms both of world trade and of economic growth, with China and India as frontrunners, in the world economy has had a profound impact and changed the economic landscape fundamentally, calling for trade reforms and convertible exchange rates;
- F. whereas the imbalances of today are still caused primarily by a lack of competitiveness and private and public saving in the deficit countries, and high saving coupled with a lack of demand in the surplus countries, which today are greater in magnitude and whereas, in view of the high degree of globalisation and scale of capital flows, these imbalances make new demands on global governance and challenge the structures of existing institutional arrangements;
- G. whereas the main element for rebalancing the global economy in broad terms is twofold: enhanced competitiveness and wide-ranging reforms fostering growth in deficit countries and the opening of markets and sound monetary policy in surplus countries;
- H. whereas the first decade of functioning of the EMU has shown that responsible budgetary policy is one of the preconditions for minimising the impact of global financial and economic shocks;
- I. whereas there is a multitude of international organisations designed to govern the world economy such as the IMF, World Bank, WTO, UNCTAD and the IFC, alongside the inter-governmental fora of the G7 and G20, of which the IMF and G20 are the most effective bodies, although both still need to be improved;
- J. whereas global markets require global rules;
- K. whereas the prevailing monetary arrangements led to substantial accumulation of foreign exchange reserves, particularly the US dollar, in some surplus countries, which in turn increased the supply of capital in deficit countries and exerted downward pressure on interest rates, helping to spur the bubble in asset prices that played a central role in the last financial crisis;

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- L. whereas the global economic crisis, which started in the financial sector, has now led to high levels of indebtedness in some of the leading world economic players including the US, Japan and the EU;
- M. whereas the G20 has agreed in its Pittsburgh final declaration on a Framework for Strong, Sustainable and Balanced Growth that a new multilateral approach as a response to the crisis is urgently required;
- N. whereas there has been global recognition of the role that some sectors of the financial industry played in contributing to the global financial crisis, demonstrating weaknesses in financial regulation, deepening of the sovereign debt crisis and a common understanding that the responsibility and transparency of the financial sector needs to be enhanced, including bearing a fair share of the costs caused by the crisis;
- O. whereas the much mentioned current-account imbalances are a result of underlying structural imbalances in the domestic economies;
- P. whereas the lack of coordinated and effective regulation and supervision of the global financial system led to weaknesses in the financial sector which subsequently exacerbated the vulnerabilities in the global economy;
- Q. whereas the increased role and prominence of the G20 as a forum for informal political discussions at the highest global level is welcome; whereas the G20 as an institution lacks a legal basis and a permanent secretariat and has a weak governing structure especially in comparison with other international institutions such as the IMF and WTO;
- R. whereas the current international monetary system has enabled several countries to proceed with competitive devaluation strategies which, together with the growing speculative transactions undertaken by powerful market stakeholders on exchange markets, have severely contributed to excess rate volatility and created significant risks for the exchange markets as well as international trade;
- S. whereas the EU is not perceived as a strong actor in reshaping the international monetary and financial system because it does not speak with one voice, and because of the fragmentation of its external representation in international economic affairs;
- T. whereas it is essential to ensure that economic and financial systems do not harm the real economy;
- U. whereas, in accordance with the recommendations of the G20, the IMF has been assigned greater powers of supervision and surveillance of the global financial system, its financial resources have been increased and a thorough reform of its governance structure is under way;
- V. whereas financial markets have evolved over the past decades to operate globally through IT-intensive processes and networks, and data standardisation has lagged behind, hindering market – and often even firm-wide – data aggregation, analysis and operations, and reducing the transparency of financial transactions;

Policy recommendations to address global economic governance

1. Stresses that global imbalances constitute a potential threat to financial and macro-economic stability, especially when excessive, in the leading economies and may have repercussions on other economies; taking this into account, notes that imbalances stemming from structural misalignments and a lack of competitiveness in the domestic economy should be addressed by both surplus and deficit countries, as these could also be a source of fundamental problems;

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2. Stresses that the financial and economic crisis demonstrated that the inflow of capital as a result of global imbalances should be accompanied by responsible monetary policy and strong financial regulation and supervision;
3. Recognises the need for policy-makers around the world to continue working on solutions to reform global economic governance to help rebalance the world economy and avoid another slump; stresses that the reform of global governance should ensure that markets are embedded in a comprehensive institutional framework for them to function properly; estimates furthermore that one of the priority objectives of worldwide economic governance must be the creation of a favourable environment for long-term investment;
4. Stresses the importance of responsible monetary policies; urges central banks of major economies to consider potential negative externalities, such as asset bubbles, carry-trade dynamics and financial destabilisation in other countries, when implementing conventional or non-conventional measures;
5. Is aware that, ultimately, confidence in the strength of the underlying economy and the depth, transparency, sophistication and stability of its financial markets are the main determinants for which currencies are kept as reserves by third countries' central banks; stresses in regard to this that any currency that seeks to become a part of the IMF's Special Drawing Rights basket must be subject to full convertibility, and acknowledges that the composition of the IMF's SDR basket should reflect the relative importance of currencies in the world's trading and financial systems;
6. States that exchange rates should reflect underlying market fundamentals in order to enhance openness and flexibility and to facilitate economic adjustment, and therefore should not be managed or manipulated by national monetary authorities;
7. Urges members of the IMF to adhere to the Articles of Agreement, especially the commitment to refrain from manipulating the exchange rate, and the relevant provisions of the GATT and WTO Agreements;
8. Urges reconsideration of the use of 'Special Drawing Rights' (SDRs) as a possible replacement for the dollar as the world's reserve currency, which could help stabilise the global financial system; asks the IMF to explore further allocation as well as a broader use of Special Drawing Rights (SDR) in particular for the purpose of enhancing the multilateral exchange rate system;
9. Supports the work and commitments of G20 States to implement properly phased growth-friendly fiscal consolidation plans in the medium term while supporting domestic demand at a pace determined by each country's circumstances, pursuing appropriate monetary policies, enhancing exchange rate flexibility to better reflect underlying economic fundamentals, and undertaking structural reforms to foster job creation and contribute to global rebalancing;
10. Notes, however, that, otherwise, prospects at G20 level of correcting global imbalances so far seem limited;
11. Urges the World Trade Organization (WTO) to take an active role in identifying and addressing possible trade distortions in financial services caused by differing regulatory regimes;
12. Calls on the Commission to design a comprehensive mechanism, largely based on and strongly interlinked with WTO regulations, that would prevent the use of trade as a foreign-policy tool in a way contrary to internationally recognised democratic values, as reflected in the Charter of the United Nations;

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13. Calls on the Commission to raise at the next EU-USA meeting of the Transatlantic Economic Council (TEC) the issue of mutual cooperation on supervision of commodity derivatives in line with existing transparency and market abuse regulation;
14. Calls on the EU to implement declarations by the G8/G20 summits, in particular with regard to subsidies for fossil fuels and agriculture, taking into account the OECD guidelines in this domain, and to food price volatility and commodities markets;
15. Calls on the Commission to revise its trade strategy with regard to strengthening south-south trade and intra-regional trade in other parts of the world in order to decrease the vulnerability of many small economies and to contribute to the development of strengthened economic partners in the future;
16. Supports the establishment of a timetable for an action plan that will implement the G20 Framework for Strong, Sustainable and Balanced Growth;
17. Welcomes all initiatives for further discussion and cooperation on common global challenges but notes that many of the current fora, like the G20, are only for informal discussion, without legal basis or the attributes of international organisations in their decision-making processes or in the implementation and supervision of their decisions, and will as such remain weak as governing structures;
18. Notes that the consensus method of decision-making which characterises many of the global cooperation bodies does not encourage bold decisions to be taken and often leads to vague non-binding agreements; urges the global forum to emulate the EU's move away from exclusive reliance on unanimity;
19. Takes the view that the commitments given in the G20 need to be more concrete and that progress needs to be monitored by an independent, more formal and inclusive body with statutes and a secretariat, such as the IMF;
20. Welcomes steps agreed by the Summit meeting of G20 Finance Ministers in Paris on 19 February 2011 to measure imbalances by a set of indicators; underlines that these indicators should cover internal imbalances, such as public debt and deficits and private savings and debt, as well as external imbalances from trade and investment flows and transfers;
21. Calls on the G20 to carry out on a regular basis a Mutual Assessment Process based on a G20 framework and the above indicators in order to provide policy options which will achieve strong, sustainable and balanced growth;
22. Underlines that financial actors operate on a global level and, from now on, considers that the coordination gaps in financial regulations need to be addressed to avoid allowing certain financial actors to take advantage of regulatory arbitrage;

Reform of the international monetary and financial system and its institutions

23. Stresses that the European Union must play a leading role in global economic reform to make international institutions more legitimate, transparent and accountable and that, to an ever greater extent, the European Union should act as one party in international economic affairs;
24. Calls for an EU seat in the IMF and the World Bank; calls for a more democratic IMF, including an open and merit-based election of its managing director, and a substantial increase in voting rights for developing and transitional nations;

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25. Maintains that global economic governance must be sufficiently responsive, flexible and pragmatic to make it possible to establish which arrangements are the most suitable, depending on the circumstances and in accordance with the principle of subsidiarity;
26. Stresses that the European Union must play a leading role in global economic reform to make international institutions and informal forums more legitimate, transparent and accountable;
27. Notes that these institutions and forums, in particular the G20, lack a certain parliamentary legitimacy at the global level, and consequently calls on them to involve parliaments in their decision-making processes; deplores the democratic shortcomings of some partners;
28. Notes the problems that may arise if the policies pursued by the various informal forums and international economic and financial institutions lack coherence; maintains that measures to promote global institutional coordination should be adopted via the IMF;
29. Underlines the need for a global understanding and a common approach regarding monetary policy, international trade, sustainable public finances and flexible currencies based on economic fundamentals; considers that the global economy should be characterised by open markets for the mutual benefit of all participants; underlines that high social and environmental standards are vital and must be developed in all regards; stresses that the IMF and WTO should be the core of such a process;
30. Urges members of the WTO to accede to multilateral trade agreements and to negotiate further international trade rounds aimed at a significant reduction of obstacles to international trade while ensuring a level playing field in all sectors, thus contributing to economic growth and development;
31. Believes that, in order to allow developing countries to obtain more benefits from trade and to ensure decent working conditions and decent wages for all workers, the EU has a strong interest in strengthening the ILO and in encouraging its participation in the work of the WTO and the monitoring of sustainability chapters linked to the GSP;
32. Calls on the Commission to redefine the EU trade and investment strategy to include the BRIC countries (Brazil, Russia, India and China) as future major trading partners with their own interest in a common global network of interlocked interests of socially and ecologically sustainable development;
33. Is of the opinion that Multilateral Development Banks should provide additional resources more effectively in order to target specific local needs, support long-term investments and consolidate local economies;
34. Recommends a strong and independent IMF with sufficient tools and resources enabling it to increase its attention to cross-country linkages by not only strengthening multilateral surveillance but also focussing on economies of systemic importance and developing indicators to assess durable large imbalances; calls for the IMF's intervention mandate also to be extended to risks arising from capital accounts;
35. Stresses the need to ensure that multilateral tax information exchange agreements incorporate automatic information exchange provisions and calls for action to strengthen the legal basis for OECD black-listing of non-cooperative jurisdictions, with a view to improving fiscal transparency and combating fraud and tax evasion; urges the Commission to propose by the end of 2011 a robust Country-by-Country Reporting Standard for cross-border companies, with the aim of enhancing transparency and access to relevant data by tax administrations;

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36. Emphasises the importance of the international initiatives undertaken in the areas of accounting and audit standards;
37. Calls on the G20 leaders to without further ado conclude the discussions on the minimum common elements of a global financial transaction tax;
38. Considers the G20 to be a key forum for global consultation, notwithstanding the importance of other bodies, but notes that the G20 has a number of shortcomings as a global institution, including a lack of representation of small nations, a lack of transparency and democratic accountability, as well as a lack of a legal basis to make its decisions legally binding;
39. Encourages the IMF and G20 to seek, and act on, input and advice from global economies with low budget deficits and disciplined government expenditure;
40. Stresses that the euro area, in the context of debates on global monetary arrangements, needs to be considered as a single entity given its single currency and single exchange rate policy;
41. Urges the EU and its Member States to seek solutions to further improve coordination between the G formations and the UN system;
42. Calls for the establishment of an international board of central banks – comprised in the first place of the central banks of the EU, Japan, UK and US – with a mandate to coordinate monetary policy, to oversee financial supervision, and to extend and promote the SDRs as a global reserve currency;
43. Recommends that the IMF be strengthened politically with annual summits of the leaders of the countries represented in the Executive Board of the IMF; against this background, also encourages the Member States of the IMF to appoint persons from the most senior ranks of government to the Executive Board, so that it can take the lead as the forum for discussions and decisions regarding global economic governance;
44. Considers that it is necessary to increase the transparency of international capital flows, in particular by seeking to bring banking secrecy to an end;

Global financial sector governance

45. Stresses that the lack of cooperation among financial supervisors facilitated the spread of the financial crisis and worsened its effects; calls in this regard for the Union's supervisory authorities to take the lead in building international cooperation and establishing best practices in financial regulation; also underlines that convergence towards a common financial regulatory framework between the US and the EU would be beneficial;
46. Notes that there is a need for the global implementation of reforms that improve the transparency and accountability of financial institutions;
47. Stresses that, although legislation designed to improve the regulation of some areas of the financial sector has been adopted in the world's financial centres, further reforms of rules and practices in the banking and shadow banking system are warranted;
48. Stresses the need to give European financial supervisory bodies a clear mandate to work in close cooperation with their non-EU or international counterparts, as the European Systemic Risk Board (ESRB) does with the Financial Stability Board (FSB);

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49. Stresses the need to combine micro- and macro-prudential supervision as part of a coherent, uniform approach;

50. Notes that the US and EU together account for almost 40 % of global trade and almost 50 % of global GDP and recommends an enhanced macro-prudential dialogue, with a focus on the Atlantic dialogue, thorough and even-handed implementation of the Basel III package and further discussions on widening the scope of supervision to non-bank financial institutions; calls for continued momentum behind reform of financial sector regulation to ensure that finance effectively supports stability and growth in the real global economy;

51. Respects the approach of the G20, WTO, Basel III and other multinational bodies whilst recognising the potential perils of over-regulation and regulatory competition;

52. Welcomes the establishment of the Global Economy Meeting of central bank governors under the auspices of the Bank for International Settlements (BIS), as a reference group for the organisation of cooperation among central banks;

53. Is concerned about the risk of fragmentation as a result of the variety of regulations affecting the activities of global financial players; calls, therefore, for a greater degree of integration between the mechanisms put in place in different sectors;

54. Recognises the role of the EIB in fostering growth through long-term investment;

55. Stresses the need to develop adequate criteria for identifying systemically important financial institutions, with the aim of avoiding 'too big or too interconnected to fail' institutions, and therefore to reduce systemic risk through the use of additional reserve and capital requirements as well as antitrust laws;

56. Calls on the Basel Committee on Banking Supervision to propose measures to ring-fence the retail banking activities of systemically important institutions and require them to be capitalised on a standalone basis;

57. Urges the Basel Committee on Banking Supervision to develop a standard model approach for calculating risk-weighted assets (RWAs) in order to accurately assess and compare banks' exposures to credit and market risks;

58. Recommends the development of a suitable international infrastructure under the aegis of the IMF offering authorities and industry alike a unique source for standardised basic financial data as a technical enabler for international prudential tasks and safer and more efficient industry processes alike;

Reconfiguration of the international monetary system

Role and challenges of the EU

59. Stresses the positive effects of a stronger economic governance framework in the EU and the euro area for global cooperation and coordination;

60. Notes the great importance of strengthening and deepening the European Single Market not only as an internal objective but also as a leading example for other trading blocs around the world;

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61. Stresses the need for EU policies both in the agricultural and financial fields that help to avoid global shocks in the food supply and prices;
62. Stresses the positive effects of a stronger economic governance framework reinforcing the Stability and Growth Pact in the EU and the euro area for global cooperation and coordination;
63. States that the EU should play an active role in reshaping the international monetary and financial system via more powerful external representation based on more efficient and transparent internal decision-making in accordance with the relevant provisions of the Lisbon Treaty;
64. Welcomes the creation of the four new European financial regulatory bodies, the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Securities and Markets Authority, and the European Systemic Risk Board, and hopes that they will grow strong and effective;
65. Deems that the need to favour an international level playing field should not prevent the EU or other regional blocks and countries from strengthening regional arrangements aiming at fully using flexibility provided by WTO and other international standards in order to rebalance macroeconomic fundamentals and increase prosperity;
66. Calls on the EU to focus on decreasing its energy dependency in order to curb imported inflation and regain commercial balance with oil-producing countries;
67. Underlines the fact that the production of global public goods such as climate protection and the fulfilment of the Millennium Development Goals could be favoured by an EU qualified market access framework;
68. Calls on the Commission to submit a proposal on how to improve the EU's internal decision-making procedure to improve its coherence as regards external representation in the area of economic and financial affairs to ensure that the EU's representation is democratically accountable to the European Parliament, Member States and national parliaments;
69. Urges the G20 or WTO to explore the possibility of a global agreement for a carbon tax on imported products and services;
70. Recalls that, under Article 138 of the Lisbon Treaty, the euro area is supposed to introduce unified external representation; urges the Commission to put forward a legislative proposal to that effect;
71. Underlines that full participation in the global economy is crucial for Europe in order to take advantage of all its opportunities, and the best opportunity to do so as one unit;
72. Calls on the EU always to promote fair trade, democracy, human rights, decent working conditions and sustainable development in its trade policies, in accordance with the Lisbon Treaty, its internal agenda and the Millennium Development Goals;

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73. Instructs its President to forward this resolution to the Council and the Commission.
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Situation of single mothers

P7_TA(2011)0458

European Parliament resolution of 25 October 2011 on the situation of single mothers (2011/2049(INI))

(2013/C 131 E/07)

The European Parliament,

- having regard to Articles 14(3), 23, 24 and 33 of the Charter of Fundamental Rights of the European Union,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to Article 5 of the UN Convention on the Rights of the Child,
- having regard to Articles 7, 8, 16, 17, 27 and 30 of the European Social Charter (revised) of the Council of Europe,
- having regard to the Commission communication of 3 October 2008 entitled ‘A better work-life balance: stronger support for reconciling professional, private and family life’, (COM(2008)0635),
- having regard to the Commission communication of 21 September 2010 entitled ‘Strategy for equality between women and men 2010-2015’ (COM(2010)0491),
- having regard to the Commission report of 3 October 2008 on the implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children (COM(2008)0638),
- having regard to the Commission report on equality between women and men 2010 (COM(2009)0694),
- having regard to Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market,
- having regard to the European Pact for Equality between women and men for the period 2011-2020,
- having regard to the EU Platform against Social Exclusion,
- having regard to the Eurofound report of 24 March 2010 entitled ‘Second European Quality of Life Survey: Family life and work’,
- having regard to its resolution of 13 October 2005 on women and poverty in the European Union ⁽¹⁾,
- having regard to its resolution of 3 February 2009 on non-discrimination based on sex and intergenerational solidarity ⁽²⁾,
- having regard to its resolution of 17 June 2010 on gender aspects of the economic downturn and financial crisis ⁽³⁾,

⁽¹⁾ OJ C 233 E, 28.9.2006, p. 130.

⁽²⁾ OJ C 67 E, 18.3.2010, p. 31.

⁽³⁾ OJ C 236 E, 12.8.2011, p. 79.

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- having regard to its resolution of 17 June 2010 on assessment of the results of the 2006-2010 Roadmap for Equality between women and men, and forward-looking recommendations ⁽¹⁾,
- having regard to its resolution of 16 February 2011 on towards adequate, sustainable and safe European pensions systems ⁽²⁾,
- having regard to its resolution of 8 March 2011 on equality between women and men in the European Union – 2010 ⁽³⁾,
- having regard to its resolution of 8 March 2011 on the face of female poverty in the European Union ⁽⁴⁾,
- having regard to its position at first reading of 20 October 2010 on the proposal for a directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding ⁽⁵⁾,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Women's Rights and Gender Equality (A7-0317/2011),

General situation

- A. whereas owing to socio-cultural changes which have been accompanied by access to the job market and greater financial independence for women, the two-parent family model and the notion of motherhood only after marriage have become eroded and single mothers are becoming increasingly significant as a group in all advanced and industrialised countries; whereas an increasing number of women are freely opting for motherhood while remaining unattached;
- B. whereas disproportionate attention is paid to teenage parenthood as a route into parenting alone, painting an inaccurate picture of who single parents are; whereas damaging and inaccurate stereotypes erode single parents' confidence and self-esteem and that of their children;
- C. whereas single-parent families do not form a homogeneous group, but cover a very wide range of family, financial and social situations;
- D. whereas the living conditions of certain categories of single mother nevertheless make them vulnerable, something which might have consequences for their offspring;
- E. whereas single mothers are becoming increasingly significant as a group in all advanced and industrialised countries, whether as a result of divorce, separation or never having been married, and whereas there is therefore a need to respond to this new reality by adapting policies;
- F. whereas the Member States have a responsibility to ensure reasonable conditions for single mothers and their children;
- G. whereas public policies in many Member States are still not adapted to different family models and situations, and whereas single parents are often still socially and economically disadvantaged;
- H. whereas in many societies the choice to become an unmarried mother is not discredited or stigmatised as in societies dominated for various reasons by patriarchal models;

⁽¹⁾ OJ C 236 E, 12.8.2011, p. 87.

⁽²⁾ Texts adopted, P7_TA(2011)0058.

⁽³⁾ Texts adopted, P7_TA(2011)0085.

⁽⁴⁾ Texts adopted, P7_TA(2011)0086.

⁽⁵⁾ Texts adopted, P7_TA(2010)0373.

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- I. whereas the vast majority of single parents in Europe are women; whereas in 2001 an average of 85 % of single parents were mothers aged 25 to 64, meaning that 5 % of the overall female population were single mothers and that in some Member States single mothers accounted for 6 to 7.5 % (the Czech Republic, Poland, Hungary and Slovenia) and in others even for 9 % (Estonia, Latvia);
- J. whereas attitudes to single mothers and the policies pursued in this area vary from one region to the next throughout Europe, creating a geographical imbalance whereby northern regions have stronger welfare systems, southern regions depend on the role of the extended family and eastern regions are marked by a mixture of the two;
- K. whereas, as a result of different public policies and legal statuses (divorced, separated, unmarried or widowed), single mothers experience different situations and benefit, depending on the country in which they live, from different types of allocation, including health services for themselves and their children;
- L. whereas single mothers often interrupt their education and acquisition of professional skills, because their limited time and resources are spent on bringing up their children, so that they also face the risk of social exclusion and poverty;
- M. whereas education and information about the sexual and reproductive rights of women, in particular younger women, are essential to avoid unwanted pregnancies;
- N. whereas women who have lost their partner as a result of violence, including gender violence, terrorism and organised crime, are more vulnerable to isolation from society and therefore need special attention in order to stimulate their reintegration in society and guidance in continuing their parental role in a way which is best for the child;
- O. whereas at European level the responsible authorities are introducing measures and programmes to assist these categories;
- P. whereas many factors influence how children develop in single-parent families, whereas most children brought up by a single parent grow up to do well, and whereas the factors that influence how children develop are far more complex than family type;
- Q. whereas decisions around family policy should prioritise the needs and best interests of the child, and ensure that children can thrive;

Employment of single mothers

- R. whereas 69 % of single mothers are present in the labour market and whereas in 2001 an average of 18 % of single mothers worked part-time;
- S. whereas these part-time solutions and the underemployment of single mothers are often not voluntary, but determined by family constraints;
- T. whereas the maternal employment rate, particularly in the case of the single mothers, is improved by the provision of good childcare services, but whereas it should also be combined with other complementary measures, including good maternity leave and flexible working arrangements, which encourages higher participation, as well as contributing to mother and child well-being;
- U. whereas men with children tend to work more than men without children, while the opposite is true of women; whereas the gender pay gap, which on average is 18 % in the EU, enlarges when women become mothers and is carried on into retirement;

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Risk of poverty and social exclusion

- V. whereas single-parent households are more vulnerable to the risk of poverty and the reproduction of poverty than dual-parents households; whereas, according to the most recent data available in 2006, 32 % of single-parent households in the EU-25 were at risk of poverty as against 12 % of couples with children;
- W. whereas a larger percentage of women than men are likely to face a risk of financial insecurity mainly because of their labour market conditions, including a higher unemployment rate, lower wages and part-time or lower-quality jobs, a situation which affects single mothers without income more acutely;
- X. whereas the risk of poverty amongst children from single-parent families (19 %) is higher than that of the general population, and whereas childcare provision contributes to reducing poverty, including child poverty, and to increasing social inclusion;

Combining family and professional life

- Y. whereas access to the labour market and career opportunities are highest between the ages of 25 and 40, when children are still young and require more care and time from their parents; whereas there is a lack of quality, affordable childcare facilities, and whereas working hours are often incompatible with the opening hours of childcare centres and schools, which are often the biggest obstacle and constraint in combining family and professional life;
- Z. whereas single parents confront twice the difficulties of dual-parent families since they cannot share daily care responsibilities;
- AA. whereas the provision of quality, affordable childcare services plays an extremely important role for single mothers and their children, especially for the category of 0-2-year-olds; whereas the use of formal childcare arrangements for the category of 0-2-year-olds varies from 73 % in Denmark to only 2 % in the Czech Republic and Poland, and whereas only a few EU Member States (Denmark, the Netherlands, Sweden, Belgium, Spain, Portugal and the UK) have already met the Barcelona targets (the provision of childcare for 33 % of children under 3 years old);
- AB. whereas the expectation of all women, including single mothers, should be access to the labour market as the only means of escaping vulnerability and poverty; whereas the public authorities should accordingly make every effort to achieve this;

General situation

1. Calls for greater attention to be paid to the situation of single mothers; encourages the Member States to adopt public policies, including educational policies, care provision, health policies, employment policies, social security systems, and housing policy, to support the needs and realities of single-parent families, taking particular account of the reality of single-mothers families;
2. Calls on the Commission and the Members States to support the work of all organisations and informal networks working for single mothers, especially in countries where there is little or no specific support for single-parents families; this support should not replace welfare state support in protecting single mothers in the Member States, since, in view of the geographical and cultural differences existing between the Member States as regards State support to single mothers, no one model can fit all; calls on the Member-State authorities to include aid programmes for those affected;

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3. Encourages work designed to help single mothers; takes the view that these efforts should be aimed at enhancing the self-reliance and independence of single mothers, reducing their feelings of passivity and isolation, improving their social resourcefulness, improving their parenting skills and giving them easier access to information on employment rights and opportunities;
4. Calls for increased gender-focused strategies, which can provide a greater understanding of the relationship between gender and poverty, and an investment in projects that take on the needs of one-parent families;
5. Calls on the Member States to encourage associations working in support of single mothers to provide training courses aimed at facilitating employment for single mothers and helping to raise their self-esteem; in this connection, calls on the Member States to encourage the setting up of family centres providing temporary accommodation, where single mothers can obtain advice and education; encourages the national authorities to include specific training programmes for single mothers in order to facilitate their access to the labour market, and to collaborate with associations seeking to achieve this objective;
6. Encourages the development of online and interpersonal chat forums, blogs and telephone help lines aimed directly at single mothers, in order to reduce their isolation and allow them to exchange advice, information and best practices based on their individual needs, along with the introduction of telephone help lines or free phone numbers that make it easier to put them in contact with social services;
7. Urges the Member States to identify common policies based on the exchange of best practice in Europe;
8. Encourages the development of support mechanisms, including training courses to support single mothers by providing them with advice on the best ways of dealing with the difficult task of raising a child as a single parent while providing the child with a balanced life rhythm;
9. Calls on the Member States and their administrations to encourage the development of parental training courses to prepare and teach young single parents without economic resources, enabling them to deal more effectively with the job of raising a child;
10. Calls on the Member States to strengthen the role of the national equality bodies as regards discriminatory practices against single mothers in the workplace;
11. Recommends that the Member States provide housing assistance and temporary residence solutions, especially for single mothers who have had to leave foster care because of their age;
12. Urges the Commission and the Member States to take into account the specific circumstances faced by single mothers in different European countries and to provide special assistance for single mothers belonging to the most vulnerable categories;

Employment of single mothers

13. Underlines the need to facilitate access – by funding through the European Social Fund and Member States – to training, vocational training and specific scholarships for single mothers (unmarried, widowed or separated), and underlines especially the importance of encouraging young pregnant women not to stop their education, since it will enable them to obtain qualifications and maximise their chances of having decent working conditions, getting well paid jobs and gaining financial independence, this being the only guarantee of escaping poverty;
14. Invites the Commission, while developing the framework of programmes such as Progress and Equal for the next Multiannual Financial Framework, to consider awareness-raising programmes for greater participation by certain economically fragile social groups, such as single mothers, and to encourage their involvement,

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15. Encourages Member States to analyse carefully the phenomenon of underemployment of single mothers and to take appropriate steps to tackle this problem;
16. Stresses the need to provide sufficient high-quality services for the care of children and other dependants at affordable prices compatible with full-time employment, to grant privileged access to them for single mothers and to facilitate significantly access to training and the search for employment for single mothers and improve their chance of remaining in work; supports the creation of company childcare facilities with flexible opening hours; insists that Member States ensure access to childcare facilities by aiming to provide the conditions for 50 % of necessary care for 0-3-year-olds and 100 % of care for 3-6 year-olds;
17. Stresses the need for Member States to introduce more provisions that aim at raising maternal employment, as it is the most effective way of improving income and therefore a way to reduce the chances of poverty or social exclusion of single mothers;
18. Stresses the importance of pursuing employment policies to encourage the recruitment of single mothers and prevent unjustified dismissals;
19. Encourages Member States to provide tax deductions and other financial incentives to companies that employ single parents and/or create, operate and provide on-site childcare facilities and services to employees;

Risk of poverty and social exclusion

20. Encourages the Member States to share best practices in supporting single-parent families, especially in the context of the financial crisis, which is worsening the situation for single parents;
21. Invites Member States, in cooperation with the European Institute for Gender Equality, to examine the specific needs of single mothers, to collect data and analyse them, to consider setting up concrete measures to address those issues and to exchange best practices to improve them;
22. Urges the Member States to take actions and measures designed to prevent single mothers from being at permanent risk of poverty and social exclusion;
23. Calls on the Member States to ensure that single mothers benefit from housing support and that they are given priority concerning waiting lists for renting houses;
24. Asks the Member States to guarantee equal treatment and to maintain a high quality of life for all children regardless of the marital status of their parents or *their family circumstances*, by providing universal allowances in order to not pass poverty on to the child;
25. Asks the Member States to establish measures that eliminate discrimination towards single mothers and their children, and therefore welcomes the use of programmes that provide state aid and scholarships for their children;
26. Encourages the Member States to introduce policies aimed at providing financial support for single-parent families in the form of a one-parent benefit, tax deductions for single-parent households or other fiscal deductions for single parents appropriate to their national legislation as well as training aid for single carers;
27. Asks the Member States to ensure that allowances (child support) from non-custodial parents are paid regularly;
28. Encourages Member States to take into account the gender factor and especially the situation of single mothers during the reform of their pension systems;

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Combining family and professional life

29. Underlines the fact that the Member States and public and private organisations should give priority to work-life balance by introducing more family-friendly working conditions such as flexible working hours and teleworking and by developing child facilities, nurseries etc.;

30. Stresses that in order to facilitate work-life balance for single mothers, greater involvement of fathers is necessary; notes in this regard that shared *care* is almost non-existent in some Member States;

31. Urges that, in accordance with the principle of equal opportunities, all initiatives and actions in favour of single mothers be extended also to single fathers;

32. Urges the Commission and the Member States to compile comparative data on this subject at EU level and on the various prevailing trends, with a view also to comparing welfare provisions and systems;

33. Takes the view that those who devote their time and skills to looking after and bringing up children or caring for the elderly should receive social recognition, and whereas this could be achieved by granting such people entitlements in their own right, particularly as regards social security and pensions,

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

Organised crime in the European Union

P7_TA(2011)0459

European Parliament resolution of 25 October 2011 on organised crime in the European Union (2010/2309(INI))

(2013/C 131 E/08)

The European Parliament,

- having regard to Article 3 of the Treaty on European Union, Article 67, Chapter 4 (Articles 82-86) and Chapter 5 (Articles 87-89) of the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union,
- having regard to the Stockholm Programme on freedom, security and justice ⁽¹⁾, the Commission communication 'Delivering an area of freedom, security and justice for Europe's citizens – Action Plan Implementing the Stockholm Programme' (COM(2010)0171) and the Commission communication 'The EU internal security strategy in action: five steps towards a more secure Europe' (COM(2010)0673),
- having regard to the conclusions of the JHA Council of 8 and 9 November 2010 on the establishment and implementation of an EU policy cycle to combat international serious and organised crime,
- having regard to Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime ⁽²⁾,

⁽¹⁾ OJ C 115, 4.5.2010, p. 1.

⁽²⁾ OJ L 300, 11.11.2008, p. 42.

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- having regard to the UN Convention against Transnational Organised Crime, adopted by the General Assembly on 15 November 2000 (Resolution 55/25), and its Protocols, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition,
- having regard to Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, Council Framework Decision 2005/212/JHA of 24 February 2005 ⁽¹⁾ on confiscation of crime-related proceeds, instrumentalities and property and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders,
- having regard to Council Decision 2007/845/JHA of 6 December 2007 ⁽²⁾ concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime and having regard to Commission report COM(2011)0176 based on Article 8 of that decision,
- having regard to the Council Conclusions on Confiscation and Asset Recovery (7769/3/10),
- having regard to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No 198),
- having regard to the study 'Assessing the effectiveness of EU Member States' practices in the identification, tracing, freezing and confiscation of criminal assets' (2009), commissioned by the Commission,
- having regard to the European Parliament study entitled 'The EU role in fighting transnational organised crime' ⁽³⁾,
- having regard to the OCTA (European Organised Crime Threat Assessment) reports drawn up each year by Europol ⁽⁴⁾, in particular that of 2011,
- having regard to the Joint Report by Europol, Eurojust and Frontex on the state of internal security in the EU (2010),
- having regard to the annual reports of the European Monitoring Centre for Drugs and Drug Addiction on the state of the drugs problem in Europe,
- having regard to the annual reports of the Italian National Antimafia Directorate; having regard to the reports of the Bundeskriminalamt (BKA, German federal criminal investigation department) on the presence of the 'Ndrangheta in Germany, in particular the most recent of these reports entitled 'Analysis of the activities of the San Luca clan in Germany',
- having regard to the ROCTA (Russian Organised Crime Threat Assessment) report, drawn up by Europol in 2008,
- having regard to the General Report on Europol's activities (2009),

⁽¹⁾ OJ L 68, 15.3.2005, p. 49.

⁽²⁾ OJ L 332, 18.12.2007, p. 103.

⁽³⁾ PE 410.678.

⁽⁴⁾ <http://www.europol.europa.eu/index.asp?page=publications&language=>

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- having regard to the EP-commissioned study entitled ‘Improving coordination between the EU bodies competent in the area of police and judicial cooperation: moving towards a European Prosecutor’,
- having regard to Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union,
- having regard to Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime ⁽¹⁾,
- having regard to Eurojust’s annual activity reports (2002-2010) ⁽²⁾,
- having regard to Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network ⁽³⁾,
- having regard to the Communication from the Commission to the Council and the European Parliament on the role of Eurojust and the European Judicial Network in the fight against organised crime and terrorism in the European Union (COM(2007)0644),
- having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) ⁽⁴⁾,
- having regard to Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters ⁽⁵⁾,
- having regard to the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union ⁽⁶⁾ and the Council Acts of 16 October 2001 establishing the protocol thereto and of 18 December 1997 concerning the Convention on mutual assistance and cooperation between customs administrations (Naples II) ⁽⁷⁾,
- having regard to Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States and subsequent amending acts ⁽⁸⁾,
- having regard to the Commission communications pursuant to Article 34 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (COM(2005)0063 and COM(2006)0008),
- having regard to the report on the implementation of the European arrest warrant published by the Commission on 11 July 2007 and the information note from the General Secretariat of the Council of 11 June 2008 concerning the ‘Replies to questionnaire on quantitative information on the practical operation of the European arrest warrant - Year 2007’ ⁽⁹⁾,

⁽¹⁾ OJ L 138, 4.6.2009, p. 14.

⁽²⁾ http://www.eurojust.europa.eu/press_annual.htm

⁽³⁾ OJ L 348, 24.12.2008, p. 130.

⁽⁴⁾ OJ L 121, 15.5.2009, p. 37.

⁽⁵⁾ OJ L 350, 30.12.2008, p. 60.

⁽⁶⁾ OJ C 197, 12.7.2000, p. 3.

⁽⁷⁾ OJ C 24, 23.1.1998, p. 1.

⁽⁸⁾ OJ L 190, 18.7.2002, p. 1.

⁽⁹⁾ 10330/2008.

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- having regard to its recommendation to the Council on the evaluation of the European arrest warrant ⁽¹⁾,
- having regard to Council Framework Decision 2002/465/GAI of 13 June 2002 on joint investigation teams ⁽²⁾, and the report from the Commission on national measures taken to comply with the Council Framework Decision of 13 June 2002 on Joint Investigation Teams (COM(2004)0858),
- having regard to the 2009 European Parliament study entitled 'Implementation of the European Arrest Warrant and joint investigation teams at EU and national level' ⁽³⁾,
- having regard to Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 ⁽⁴⁾ on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA,
- having regard to the 40 recommendations of the Financial Action Task Force (FATF) to combat money laundering,
- having regard to Directive 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing ⁽⁵⁾,
- having regard to Regulation (EC) No 1889/2005 of 26 October 2005 on controls of cash entering or leaving the Community ⁽⁶⁾,
- having regard to Regulation (EC) No 1781/2006 of 15 November 2006 on information on the payer accompanying transfers of funds ⁽⁷⁾,
- having regard to Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector ⁽⁸⁾ and the report from the Commission to the Council based on Article 9 of Framework Decision 2003/568/JHA (COM(2007)0328),
- having regard to the UN Convention against Corruption (known as the 'Merida Convention'),
- having regard to the Council of Europe's Criminal Law and Civil Law Conventions on Corruption; having regard to the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,
- having regard to Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 ⁽⁹⁾ on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as subsequently amended,
- having regard to the European Parliament study entitled 'Financial institutions and Structural Funds implementation in southern Italy' (2009),
- having regard to the EU Drugs Strategy (2005-2012) and the EU Action Plan on Drugs (2009-2012),

⁽¹⁾ OJ C 291 E, 30.11.2006, p. 244.

⁽²⁾ OJ L 162, 20.6.2002, p. 1.

⁽³⁾ PE 410.671.

⁽⁴⁾ OJ L 101, 15.4.2011, p. 1.

⁽⁵⁾ OJ L 309, 25.11.2005, p. 15.

⁽⁶⁾ OJ L 309, 25.11.2005, p. 9.

⁽⁷⁾ OJ L 345, 8.12.2006, p. 1.

⁽⁸⁾ OJ L 192, 31.7.2003, p. 54.

⁽⁹⁾ OJ L 134, 30.4.2004, p. 114.

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- having regard to the World Drug Report 2010 of the United Nations Office on Drugs and Crime (UNODC),
 - having regard to the 2010 annual report of the European Monitoring Centre for Drugs and Drug Addiction on the state of the drugs problem in Europe,
 - having regard to the study by the Centre for the Study of Democracy ordered by the Commission, entitled 'Examining the Links between Organised Crime and Corruption' (2010),
 - having regard to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein and the Commission recommendation of 13 June 2007 ⁽¹⁾ identifying a set of actions for the enforcement of the Regulation,
 - having regard to the 'Study on extortion racketeering: the need for an instrument to combat activities of organised crime', carried out by Transcrime in 2008 and financed by the Commission,
 - having regard to the Council resolution of 25 September 2008 on a comprehensive European anti-counterfeiting and anti-piracy plan and the Council resolution of 23 October 2009 on a reinforced strategy for customs cooperation,
 - having regard to Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law ⁽²⁾,
 - having regard to Written Declaration 2/2010 of the European Parliament on the Union's efforts in combating corruption,
 - having regard to the Communication from the Commission to the European Parliament and the Council of 20 November 2008 – Proceeds of organised crime: ensuring that 'crime does not pay' (COM(2008)0766),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Women's Rights and Gender Equality (A7-0333/2011),
- A. whereas it is one of the primary objectives of the European Union to create an area of freedom, security and justice without internal borders, in which crime is prevented and combated (Article 3 of the TFE), and to ensure a high level of security through measures to prevent and combat crime and measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgements in criminal matters and, if necessary, through the approximation of criminal laws (Article 67 TFEU);
- B. whereas organised crime has a substantial social cost, in that it violates human rights, undermines democratic principles, diverts and wastes financial, human and other resources, distorting the free internal market, contaminating businesses and legitimate economic activities, encouraging corruption and polluting and destroying the environment;
- C. whereas alarming evidence that has emerged from the courts and from investigations by police and journalists indicates that, in some Member States, organised crime has infiltrated, and become solidly entrenched in, political circles, the public sector and legitimate economic activities; whereas it is conceivable that similar inroads have also been made, thereby strengthening the position of organised crime, in the rest of the European Union;

⁽¹⁾ OJ L 61, 3.3.1997, p. 1.

⁽²⁾ OJ L 328, 6.12.2008, p. 28.

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- D. whereas the purpose and basis of organised crime is to make an economic profit and consequently if action to prevent and combat the problem is to be effective, it must focus on identifying, freezing, seizing and confiscating the proceeds of crime; whereas the legal framework which currently exists at EU level does not appear to be an adequate basis for serious action to tackle the problem and there is a need for legislation which would, for example, allow so-called 'extended confiscation' and action targeting assets registered in the name of front persons and organisations; whereas, moreover, the re-use of confiscated assets for social purposes fosters a positive attitude to strategies aimed at tackling organised crime, since confiscating an asset is no longer regarded solely as a means of depriving a criminal organisation of resources but is doubly constructive in that it both helps to prevent organised crime and has the effect of boosting economic and social development;
- E. whereas criminal organisations are concentrating their activities on a large number of ever-expanding fields including, for example, international drug trafficking, trafficking in and the exploitation of human beings, financial crime, international arms trafficking, counterfeiting, cybercrime, environmental crime, the diversion of public funds, fraud and extortion, most of which activities are trans-national and pan-European by nature; whereas a large proportion of the proceeds of these criminal activities is laundered;
- F. whereas illegal immigrant women and girls are more vulnerable to organised crime, for example through prostitution and trafficking, than women and girls who are EU nationals;
- G. whereas, although no comprehensive study exists, the mafia-style criminal organisations operating in Europe have an impressively large turnover, particularly in the case of Italian organised crime groups, which, as found by many studies (including the Eurispes study) and confirmed by the joint Eurojust, Europol and Frontex report in 2010, are conservatively estimated to have revenues of at least EUR 135 billion, a figure which is higher than the combined GDP of 6 EU Member States, the foremost example being the 'Ndrangheta, the most deeply entrenched mafia group in the EU countries and in the world, which has an estimated annual turnover of at least EUR 44 billion;
- H. whereas the threat to the European Union from organised crime goes beyond the borders of the Union and must, therefore, be addressed with due regard to the need for a global and international approach requiring close cooperation with third countries and with international organisations such as, for example, Interpol and the United Nations Office on Drugs and Crime (UNODC);
- I. whereas corruption is the standard means by which organised criminals employ blackmail or dispense rewards in order to divert public resources and worm their way into local politics, government and the private sector;
- J. whereas money laundering is one of the most insidious channels enabling legitimate activities to be contaminated by illicit activities and an indispensable transition process, without which the purchasing power acquired through crime would remain merely potential, usable within illegal circles but incapable of translating into real economic power; whereas cooperation and international collaboration are essential in order to tackle money laundering effectively;
- K. whereas international drug trafficking is the main source of profit for organised criminals and mafias, providing the basis for them to establish themselves economically and socially; whereas the EU is both one of the largest markets for drug trafficking (heroin, cocaine, and cannabis) and a producer (more often than not of synthetic drugs); whereas the trafficking also extends to many clearly identifiable non-European production and transit countries, especially in Latin America, West Africa and Asia;

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- L. whereas extortion, racketeering and usury are among the ways in which organised criminals infiltrate the legal economy, severely distorting any form of free market and curtailing the rights of citizens, entrepreneurs, workers and professionals; whereas, as was shown by the 2008 Commission-funded Transcrime study entitled 'Study on Extortion Racketeering: the Need for an Instrument to Combat Activities of Organised Crime', this phenomenon is assuming alarming proportions in at least half of the EU Member States and exists on a significant scale in the other half; whereas the spread of extortion racketeering stands in a direct relationship to the extent of the control of a country and its economic/business and political activities exercised by organised criminals; whereas the first essential steps to take to combat extortion racketeering effectively are to encourage victims to report offences and to ensure that official authorities maintain a strong presence;

Introduction

1. Welcomes the measures to curb organised crime proposed in the Stockholm Programme, in the relevant action plan and in the internal security strategy and hopes that under the new trio Presidency combating organised crime will be included among the political priorities and tangible results achieved;

2. Is convinced that organised crime, whether or not of the mafia type, is among the key threats to the internal security of the EU and the freedom of its citizens; considers that, although there is a risk that criminal organisations may cooperate increasingly frequently with terrorist organisations, organised crime should be treated separately from terrorism, and calls for a specific, horizontal EU strategy on the issue, including legislative and operational measures, the allocation of funds and a strict implementation timetable; endorses the Council conclusions of 8-9 November 2010 on the EU policy cycle for organised crime and calls on the Council to revise the decision and make provision for Parliament's involvement in determining priorities, discussing the strategic objectives and assessing the outcome of the policy cycle;

3. Supports Member States in their actions to combat organised crime and encourages them to strengthen their judicial authorities and police forces on the basis of the best current experience, including by comparing the legislation and resources designed to support their activities, and to assign adequate human and financial resources for that purpose; calls on the Member States to pursue a proactive approach to investigation, draw up national plans to combat organised crime, and provide for central coordination of activities by appropriate specific structures, taking their cue from the most successful experiences of some Member States; calls for the COSI to organise an annual meeting attended at least by Member States, the Commission, the Council, the European Parliament, Europol and Eurojust where the results achieved and the future plans for combating organised crime at EU and national level can be presented;

4. Stresses that all measures to counter organised crime must respect fundamental rights in full and be proportionate to the objectives pursued and that these objectives must be necessary in a democratic society, in accordance with Article 52 of the Charter of Fundamental Rights, without unduly restricting the freedom of individuals, as enshrined in the European Convention on Human Rights, the EU Charter of Fundamental Rights and constitutional principles common to the Member States;

5. Noting that Article 222 TFEU establishes the legal obligation of the European Union and its Member States to implement the solidarity clause, expresses deep concern at the attempts by organised crime to infiltrate the sectors of politics, government at all levels, the economy and finance; calls on the Commission, the Council and the Member States to focus their dissuasive action on attacking criminal assets, including those which are often hidden behind a network of front men and supporters, political institutions and lobby groups; stresses that efforts to combat organised crime must take full account of 'white collar' crime;

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Improving the EU legislative framework

6. Given that international criminal networks are highly active and that organised crime is growing in scale and sophistication, calls on Member States to improve cooperation and coordination and to approximate their legislation, especially with reference to the development of common, standard procedures and types of criminal offence, drawing on the good practices of the legal systems that are the most highly developed in terms of countering organised crime; calls on the Member States to ensure the timely and effective ratification and/or transposition of all European and international legal instruments relating directly or indirectly to action to combat organised crime;

7. Taking account of the extremely limited impact on the legislative systems of the Member States of Framework Decision 2008/841/JHA on organised crime, which has not made any significant improvement to national laws or to operational cooperation to counter organised crime, calls on the Commission to submit, by the end of 2013, a proposal for a directive which contains a more concrete definition of organised crime and better identifies the key features of the phenomenon, focusing in particular on the key concept of organisation and also taking into account new types of organised crime; requests, as regards the offence of membership of a criminal organisation and with due regard to the different and specific characteristics of the various national legal systems, a study of the abolition of the current dual approach (which criminalises both membership and conspiracy) and the identification of a range of typical offences which, regardless of the maximum sentence permitted in the legal system of Member States, could be deemed to constitute such a criminal offence; calls also for more rigorous scrutiny of the question of criminalising all forms of support for criminal organisations;

8. Calls on the Commission to submit, as soon as possible, a framework proposal for a directive on the procedure for the seizure and confiscation of the proceeds of crime, as provided for in its 2011 Work Programme, and therefore calls on the Commission, having regard to the requirement to respect fundamental rights as enshrined in the Charter of Fundamental Rights and the European Convention on Human Rights:

- to elaborate rules on the effective use of instruments such as extended and non-conviction-based confiscation;
- to elaborate rules concerning the mitigation of the burden of proof after the conviction of an offender for a serious offence (including offences related to organised crime) concerning the origin of assets held by the offender;
- to encourage the introduction of instruments in national legal systems which, under criminal, civil or fiscal law, as appropriate, mitigate the burden of proof regarding the origin of assets held by a person accused of an offence related to organised crime;
- to include in its proposal rules allowing for the seizure and subsequent confiscation of assets assigned to third parties; also calls for the actions of the front man in such cases to be treated as a criminal offence, since their aim is to sidestep the enforcement of asset protection measures or facilitate the commission of the offences of receiving, laundering and using money obtained illegally; therefore calls on the Commission to stipulate in its legislative proposals that the concept of the proceeds of crime set forth in the United Nations Convention of Palermo and included in Framework Decision 2008/841/JHA extends beyond the notion of profit; calls on the Member States with immediate effect to incorporate this concept into their laws so as to ensure that any revenue directly or indirectly connected with the commission of offences related to organised crime may be subject to seizure and confiscation;

9. Calls on the Commission to accept and support the urgent need for European legislation on the re-use of crime proceeds for social purposes, including court witness protection, so that the capital of criminal organisations or their associates can be reinjected into legal, clean, transparent and virtuous economic circuits;

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10. Is in favour of closer cooperation between Member States on recognition and proper execution of seizure and confiscation orders; believes that Asset Recovery Offices are a vital tool in combating organised crime and that they have to be provided with the necessary resources, expertise and powers as soon as possible; endorses the Commission's analysis of the main difficulties encountered by existing Asset Recovery Offices; calls on the Commission to strengthen the role and competences of Asset Recovery Offices and give them more flexible and uniform access to information, respecting EU fundamental rights and data protection standards;

11. Calls on the Commission to draw up a study by the end of 2013 on the investigative practices employed in the Member States to combat organised crime, with particular reference to the use of tools such as telephone interception, environmental interception, search procedures, delayed arrest, delayed seizure, undercover operations and controlled and supervised delivery operations; calls on the Commission to submit a proposal for a directive by the end of 2014 on common investigative techniques to combat organised crime, pursuant to Article 87(2)(c) of the Treaty on the Functioning of the European Union;

12. Stresses the importance of providing appropriate protection for primary and secondary victims of organised crime, court witnesses, informers, whistleblowers and their families; in this regard welcomes the Commission's proposal for a directive establishing minimum standards for the rights, support and protection of victims of crime but calls for EU legislation covering also court witnesses, informers, whistleblowers and their families; calls for all types of victim to be treated equally (in particular the victims of organised crime and of terrorism and those injured in the course of their duties) and for the protection of court witnesses, informers, whistleblowers and their families to be extended over and beyond the duration of the court proceedings; stresses that minors need special attention, treatment, protection, assistance and guidance when they are victims of organised crime; calls on the Commission to set out clear guidelines for assisting court witnesses, informers, whistleblowers and their families, according them European transnational legal status and extending any protection granted to them within the Member States, if so requested by the Member State of origin of the informers, witnesses or whistleblowers; proposes establishing a European fund to protect and assist victims of organised crime and court witnesses, including via support for nongovernmental anti-mafia and anti-racketeering associations recognised by Member States; welcomes the adoption by some Member States of legislative provisions designed to improve the protection of witness and informers in cases related to organised crime (e.g. by allowing the use of remote court hearings);

13. Calls on the Commission and Member States to promote the role of associations of victims' families, dialogue between such associations and the institutions and the establishment of an EU forum of associations of victims' families;

Eradicating entrenched mafia-style organised crime in the EU

14. Urges on the Commission to draw up a proposal for a directive to make associating with mafias or other criminal rings apunishable crime in all Member States, in order to be able to punish criminal organisations which profit from their very existence, through their ability to intimidate – even without any specific acts of violence or threats – with the aim of committing crimes, influencing the running of the economy, general government, public services and the electoral system;

15. Intends to set up, within three months of the adoption of this resolution, a special committee on the dissemination of criminal organisations which operate across borders, including mafias, one of whose aims will be to investigate the extent of the phenomenon and the negative social and economic impact it has throughout the EU, including the issue of the misappropriation of public funds by criminal organisations and mafias and their infiltration into the public sector, as well as the contamination of the legal economy and financial system, while another aim will be to identify a range of legislative measures in order to address this tangible and acknowledged threat to the EU and its citizens; calls, therefore, on the Conference of Presidents to put forward a proposal under Rule 184 of the Rules of Procedure;

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16. Calls on the Commission, in cooperation with Europol and Eurojust, to conduct a study by June 2013 to assess the negative impact of transnational organised crime in the European Union; calls on Europol to draw upon a thematic OCTA on the threat posed by the presence of mafia-type criminal organisations in the EU by 2012;

17. Stresses that according to the OCTA report (an assessment carried out by the European Union into the threat posed by organised crime) published by Europol in 2011, criminal organisations are displaying a genuine capacity to adapt and are identifying and rapidly exploiting new illegal markets; considers it necessary, therefore, not only to combat traditional organised crime activities but also to pay particular attention to the new forms of organised crime;

How to improve the functioning of European structures involved in various ways in fighting organised crime and to strengthen relations with other international institutions

18. Calls on the Member States to immediately transpose and implement Council Decision 2009/426/JHA on the strengthening of Eurojust and to comply with all its recommendations; calls on the Member States to ensure that their Eurojust national members will be informed without delay in the case of crimes involving at least two Member States and in which there are clear indications that a criminal organisation is involved; asserts the importance of strengthening Eurojust in order to improve its effectiveness in countering transnational organised crime, with reference to its powers of initiative, particularly the power to initiate investigations, and to those conferred upon it under Article 85 of the Treaty on the Functioning of the European Union; calls on the European institutions to bring their political influence to bear at international level to launch a review of the possibilities of exchanging some of the experience acquired by the EU, including by Eurojust, at international level and, possibly, making available the know-how acquired to date at EU level;)

19. Calls on the Commission to draft, as soon as possible, an impact assessment on the added value of the European Public Prosecutor's Office, considering the possibility of extending its remit to include the combating of serious cross-border organised crime and corruption, as provided for under Article 86(4) of the Treaty on the Functioning of the European Union, and taking into account the impact on fundamental rights and the rights of the defence in particular and the need for prior harmonisation of standards of procedural and substantive criminal law and criminal jurisdiction rules; calls on the Commission to enter into consultations with all relevant stakeholders, including the Fundamental Rights Agency, the European Data Protection Supervisor, the Council of Europe, the European Parliament, national parliaments and civil society, to discuss the implications of the possible establishment of the European Public Prosecutor's Office;

20. Endorses the five-year strategy for the development of Europol outlined in 2009; calls on Europol to step up meetings and relations with the European Parliament in order jointly to review progress with this strategy and any problems at periodic intervals; calls on Europol to engage more effectively with organised crime and mafia-style crime by setting up and strengthening a specific section in its organisation and by making more of the allocated funding on this area; calls on Europol to collaborate even more closely with Interpol with a view to combating criminal organisations at international level, with particular reference to the issue of information-sharing; calls on Europol to establish closer links and conclude strategic and operational agreements with the competent authorities of third countries;

21. Calls on the Member States and the Commission to improve cooperation between national police services in practice, removing formal obstacles as far as possible;

22. Reiterates the importance of improved practical cooperation among police and judicial authorities of the Member States in order to exchange data on criminal organisations and to coordinate investigations; calls upon the Commission and Eurojust to set up a more effective network of national focal points to this effect; furthermore, requests the Commission to submit annual reports on progress made with intensified cooperation among police and judicial authorities in the field of organised crime;

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23. Recognises that, despite the protocols and bilateral agreements between Europol, Eurojust and OLAF, there is still significant room for improvement as far as cooperation between these institutions is concerned; calls, therefore, on Europol, Eurojust and OLAF and the European Anti-Trafficking Coordinator to make tangible, joint efforts both to assess and constantly update the cooperation agreements and to implement them, notably with reference to exchanges of case summaries, information relating to cases and strategic information and data; considers that, for cooperation between Europol, Eurojust and OLAF to be fully effective, a clear breakdown of responsibilities needs to be established with a view to avoiding any duplication of effort; calls on the Commission to conduct a study to assess the effectiveness of EU and Member States' crime-fighting agencies;

Developing the principle of the mutual recognition of criminal decisions and improving judicial and police cooperation in the EU and with third countries

24. Is aware that, in order to overcome practical obstacles to judicial cooperation, considerable attention needs to be paid to informing and raising awareness among the judicial and police authorities and calls on the Member States to consider judicial and police training a political priority; at the same time, calls on the Commission to mobilise the appropriate resources, including financial ones, to support the activity of the Member States;

25. Recognises that judicial cooperation, including that between Member States, is one of the pillars for combating transnational organised crime and for establishing a common area of security and justice, and calls on the Member States to honour their commitments and immediately transpose all the judicial cooperation instruments that already exist at EU level, in particular the 2000 Convention on Mutual Assistance in Criminal Matters and its 2001 Protocol and the Framework Decision on joint investigation teams; is aware that, in order to overcome practical obstacles to judicial cooperation, considerable attention needs to be paid to informing and raising awareness among the judicial and police authorities and defence lawyers and calls on the Member States to consider judicial and police training plus defence rights a political priority; at the same time, calls on the Commission to allocate the appropriate resources, including financial ones, to support the activity of the Member States;

26. Calls on the Member States and the Commission to continue their efforts with a view to the effective implementation of the European Arrest Warrant; calls on the Commission to consider whether the grounds for optional non-execution of the European arrest warrant referred to in Article 4 of the framework decision could be redrafted to meet the Union's fundamental rights obligations and in the light of experience gained with subsequent mutual recognition instruments in respect of offences generally associated with organised crime, including the offence of mafia association; calls on the judicial authorities of the Member States to make every effort to ensure that the European arrest warrants they issue are always forwarded to Interpol;

27. Acknowledges the fundamental role played by joint investigation teams in combating cross-border organised crime and voices its concern at the fact that, owing to inadequate transposition of the relevant framework decision and to foot-dragging on the part of some national judicial authorities, this investigative instrument is not being used to best effect; calls on the Commission and the Council to give a new impetus to the work of joint investigation teams both by ensuring full implementation of Framework Decision 2002/465/JHA in all Member States and by providing adequate financial support; stresses that the results achieved by joint investigation teams can be assessed at European level (e.g. on the basis of the value of items confiscated) and at national level (e.g. on the basis of the effectiveness of individual team members), and calls on the Commission to address this issue in cooperation with Eurojust and Europol;

28. Points out that borders are not an obstacle to organised crime; considers it necessary, therefore, for the external dimension of organised crime to be integrated into the framework of Europe's effort to combat the phenomenon; notes that it is important, to that end, to involve more deeply the European External Action Service and the Joint Situation Centre (SitCen); calls on the Commission to continue to hone the effectiveness of and regularly update agreements on judicial and investigative cooperation with non-EU countries aimed at combating cross-border organised crime; calls, furthermore, for due account to be taken when drafting such agreements of the specific threats that organised crime in the individual countries poses to the EU's internal and external security; calls on Europol to produce more frequent and more detailed

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analyses of non-European criminal organisations whose activities have a direct or indirect impact on the European Union; considers it essential to continue and step up the efforts being made by the EU and the international institutions in the Balkans, particularly in connection with action to combat organised crime; calls on the Commission, in collaboration with Europol, to develop a joint project with Interpol to support the establishment and implementation of a regional system for the exchange of police and judicial information with West Africa, while making available to the Economic Community of West African States the necessary know-how and resources, not least in the field of training and follow-up;

Other recommendations to counter organised crime

29. Stresses the importance of promoting a culture of legality and increasing awareness and knowledge of the issue among citizens and, in general, public opinion; highlights, in this regard, the fundamental role of the press, free from all outside influences, enabling it to investigate and publicise the links between organised crime and vested interests; considers that the pursuit of these activities must be guaranteed with due respect for the fundamental rights to personal dignity, honour and privacy; calls on the Commission to put forward specific action plans with a view to developing a culture of legality, involving among other things the creation of specific budget lines for this purpose;

30. Emphasises that the European institutions and Member States need to take a holistic approach to child trafficking which mainstreams multi-sectoral interventions to protect the rights of trafficked children and children at risk of trafficking; insists that Member States should participate actively in the fight against illegal adoption and develop a framework to ensure transparency and effective monitoring of the development of abandoned and adopted children;

31. Emphasises the vital importance of public sector transparency in the fight against organised crime and calls on the Commission to take action to lay down the necessary rules and ensure that the allocation and use of EU funds is fully traceable and monitored both by the competent institutions and the citizens and press; calls for this information to be promptly made available on an appropriate internet site in a format which is machine-readable, comparable and open-data, and in at least one of the EU's working languages, to ensure that such information is easily accessible and can be re-used and processed by civil society; calls on the Member States to adopt similar measures to make all transactions using public funds transparent, with particular reference to local authorities, which are more liable to infiltration by organised crime, taking into account the inherently secretive nature of measures to fight organised crime;

32. Calls, with respect for all human rights and fundamental freedoms, for the introduction of an appropriate system of penalties and suitable detention provisions for offences relating to organised crime, both to discourage the commission of offences and to prevent prisoners from continuing to lead organisations during their sentences or from helping them to achieve their aims by committing further crimes;

Counter-measures relating to specific areas of action of organised crime

33. Is convinced of the intrinsic link between organised crime and corruption and emphatically reiterates the request it expressed when adopting Written Declaration 02/2010, both with reference to the creation of a mechanism of an objective and quantifiable nature to assess and monitor the policies of the 27 Member States in combating corruption and with regard to the framing of a comprehensive anti-corruption policy by the EU institutions; stresses the need for a proactive approach to combating corruption and calls on the Commission to place emphasis on measures to counter both public and private sector corruption; considers it, moreover, a priority to develop effective measures to combat corruption in the neighbourhood policy, in the area of pre-accession and in the use of development aid funds, in particular by the European Investment Bank and the new bodies being set up under the auspices of the European External Action Service; calls on the Commission to inform Parliament and introduce effective monitoring of the measures taken and results achieved;

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34. Calls on the Member States immediately to ratify international anti-corruption instruments, in particular the United Nations Convention against Corruption and the Council of Europe's Criminal Law and Civil Law Conventions on Corruption (1999);

35. Undertakes to lay down rules to ensure that those who have been convicted, by a judgment which has the force of *res judicata*, of membership of criminal organisations or of offences typically committed in connection with such organisations (such as trafficking in human beings, international drug trafficking, money laundering, fraud, corruption and extortion) will be unable to stand for election to the European Parliament; calls on the Member States to lay down similar rules for national and local elections;

36. Calls on the Commission to draw up clear guidelines and adequate legislative proposals to prevent companies linked to organised crime and mafias from taking part in public tenders and public procurement management; calls on the Commission and Member States to ensure the traceability of financial flows in connection with public works, service and supply contracts and to evaluate the introduction of rules to punish the obstruction of administrative selection procedures for the award of contracts by public authorities; calls on the Commission to ensure that Article 45 of Directive 2004/18/EC is applied fully and correctly, by excluding in principle the 'self-cleaning' mechanisms, making it clear that convictions against both legal entities and physical persons will give rise to exclusion, and ensuring that these grounds for exclusion are permanent or for a reasonable period rather than being confined to the period of conviction; calls on the Commission to present proposals setting out grounds for exclusion from public procurement procedures and special precautions in respect of people who are currently under investigation or being prosecuted; calls for an extension of the range of offences giving rise to exclusion to all those offences typically committed in connection with organised crime and for action to prevent the relevant legislation being evaded through the use of front men and supporters; calls on the Member States to adopt similar measures in respect of all types of contract, concession, licence and State aid, even where these are not covered by EU legislation; calls on the Commission to develop appropriate legislative and operational instruments for the exchange of information between Member States and between Member States and EU institutions and agencies and for the drawing-up of black-lists to prevent the misappropriation of public funds in the EU;

37. Welcomes the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings, a phenomenon often related to the activities of organised crime in the form of the exploitation of prostitution and labour, the removal of organs and enslavement; stresses the extreme importance of rapid and effective implementation of this Directive;

38. Urges the Member States and the EU institutions to give due consideration to the fact that organised crime is continuing to further its own activities and interests, including by means of drug trafficking, and endeavouring to extend the global market in illegal drugs to new markets and new substances;

39. Calls on the European Investment Bank and all the European development finance institutions of the Member States to improve their policies on offshore financial centres and uncooperative jurisdictions, in particular by adopting a list of jurisdictions that should be monitored more stringently by reference to the OECD's black list and grey list and by carrying out specific 'due diligence' of every country as necessary, while prohibiting any form of support for financial intermediaries in jurisdictions which are regarded as high-risk and requiring the relocation of registered companies resident in uncooperative jurisdictions and offshore financial centres as an essential prerequisite for financial support for specific activities; calls on the European institutions and the Member States to actively commit to ensuring the correct implementation of all 40 recommendations of the Financial Action Task Force through the adoption of specific policies for each institution, including enhanced due diligence, particularly in politically sensitive cases;

40. Stresses that organised crime uses communication and information technologies for illegal purposes, to commit offences involving identity theft, cybercrime, fraud, illegal gambling and rigged sports events; calls, in this connection, for the development of a coherent European legislative framework; calls on EU institutions to call on as many as possible of their international partners to sign and ratify the 2001 Convention on Computer Crime; emphasises the trend that criminal organisations increasingly focus on opportunities for money laundering or financial crime which could result in an increasingly widespread development of internet-based criminal activities;

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41. Calls on the European institutions to send out a clear message at EU and international level with a view to curbing all forms of money laundering through the use of the financial markets, in particular by: envisaging possible capital control measures, as recently suggested by the International Monetary Fund itself; encouraging a reduction of the pervasiveness of the financial markets in the context of short-term operations; imposing increased transparency on the use of public funds, first and foremost on those to support private-sector development, and carrying out an effective offensive against tax havens by imposing country-by-country financial reporting on all multinational economic operators; promoting a multilateral agreement on the exchange of tax-related information whilst revising the definition of 'tax haven' and the list of these secret jurisdictions; calls on the Commission to draw up clear guidelines on the traceability of money so as to make it easier to identify cases involving the laundering of money deriving from illegal activities; calls on the Commission, with a view to its legislative proposal to update the Money Laundering Directive, to generalise as far as possible the criminalisation of laundering of the proceeds of crime and to establish a legal basis for the widest possible range of investigative powers in this area; calls, in this connection, for all the Member States to be required to criminalise 'self-laundering', or the laundering of illicit funds by the very person or entity having obtained those funds by unlawful means; also calls on the Commission, in its proposal, to consider the possibility of extending the criminalisation of laundering to cases where the perpetrator should have known that the assets in question were the proceeds of crime;

42. Calls on the Commission carefully to monitor the transposition by the Member States of the EU directive on the protection of the environment through criminal law, to ensure that it is done promptly and effectively; calls on the Commission to develop innovative instruments for the prosecution of those who commit environmental offences in which organised crime plays a role, for example by submitting a proposal to extend to the EU Italy's positive experience with the offence of 'organised illegal waste trafficking', since 2011 classed as an offence with a major social impact (and thus dealt with by the District Anti-mafia Bureau); calls for stronger action by the CITES offices and closer coordination between those offices at European level in combating illegal trafficking in protected and endangered animal and plant species;

43. Calls on the Member States to adopt a proactive approach to investigating cases of extortion, for example through incentives and forms of financial support to enable complainants to continue their business activities, together with the launch of investigations on the basis of intelligence work; believes it is essential to strengthen both the role of civil society and partnerships between civil society and the judicial system and the police, and that this is to be encouraged; calls on Member States to encourage the signing of memorandums of understanding between the public and traders and entrepreneurs complaining of racketeering, in order to enable them to work despite the attendant difficulties; calls on the Commission, in its proposal for a directive on the confiscation of the proceeds of organised crime, to extend the measures currently provided for in Article 3(1) of Framework Decision 2005/212/JHA to the offence of extortion;

44. Calls on the Commission to incorporate specific provisions on the role of organised crime in the legislative framework applicable to the fight against counterfeiting; endorses the decisions set out in the Council resolution of 23 October 2009 on a reinforced strategy for customs cooperation, with particular reference to the development of new forms of cooperation and new investigative techniques, the adoption of an institutional approach based on cooperation between customs services, the police and other competent authorities, and improvements to the existing cooperation process in order to develop an effective approach to fighting cross-border organised crime and allow the confiscation of illicit goods across the EU; maintains that the greatest possible emphasis must be placed on these aspects in the context of the adoption and implementation of the Fifth Action Plan for Customs Law Enforcement Cooperation;

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45. Instructs its President to forward this resolution to the Council, the Commission, the national parliaments, Europol, Eurojust, the European Investment Bank, Interpol and the UNODC.

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High Level Forum on Aid Effectiveness

P7_TA(2011)0460

European Parliament resolution of 25 October 2011 on the 4th High Level Forum on Aid Effectiveness (2011/2145(INI))

(2013/C 131 E/09)

The European Parliament,

- having regard to the United Nations Millennium Declaration of 8 September 2000,
- having regard to the 2005 European Consensus on Development ⁽¹⁾,
- having regard to the European Union Code of Conduct on Complementarity and the Division of Labour in Development Policy ⁽²⁾,
- having regard to its resolution of 28 September 2006 on ‘more and better cooperation: the 2006 EU aid effectiveness package’ ⁽³⁾,
- having regard to its resolution of 22 May 2008 on the follow-up to the Paris Declaration of 2005 on Aid Effectiveness ⁽⁴⁾,
- having regard to the Conclusions of the General Affairs and External Relations Council of 17 November 2009 on an Operational Framework on Aid Effectiveness ⁽⁵⁾,
- having regard to the Conclusions of the Foreign Affairs Council (Development Ministers) of 14 June 2010 on Cross-country Division of Labour ⁽⁶⁾, which makes a number of additions and changes to the Operational Framework on Aid Effectiveness,
- having regard to the Conclusions of the Foreign Affairs Council (Development Ministers) of 9 December 2010 on ‘Mutual Accountability and Transparency: A Fourth Chapter for the EU Operational Framework on Aid Effectiveness’ ⁽⁷⁾,
- having regard to the consolidated text of the Operational Framework on Aid Effectiveness adopted by the General Secretariat of the Council of the European Union on 11 January 2011 ⁽⁸⁾,
- having regard to the Budapest Declaration on the Fourth High Level Forum on Aid Effectiveness in Busan, South Korea (2011), adopted at the 21st session of the ACP-EU Joint Parliamentary Assembly in Budapest,
- having regard to the Dili Declaration of 10 April 2010, which concerns peace-building and state-building,
- having regard to the Bogotá Statement of 26 March 2010, which concerns the implementation of the principles of the Accra Agenda for Action (AAA) in the context of South-South cooperation,
- having regard to the ‘Tunis Consensus: Targeting Effective Development’ of 4 and 5 November 2010, which is an African agenda for development effectiveness,

⁽¹⁾ OJ C 46, 24.2.2006, p. 1

⁽²⁾ Council Conclusions 9558/07, 15.5.2007.

⁽³⁾ OJ C 306 E, 15.12.2006, p. 373.

⁽⁴⁾ OJ C 279 E, 19.11.2009, p. 100.

⁽⁵⁾ Doc. 15912/09.

⁽⁶⁾ Doc. 11081/10.

⁽⁷⁾ Doc. 17769/10.

⁽⁸⁾ Doc. 18239/10.

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- having regard to the OECD Development Assistance Committee (DAC) report on aid effectiveness, which is a progress report on the implementation of the June 2009 Paris Declaration,
 - having regard to the Commission report of October 2009 entitled 'Aid Effectiveness Agenda: Benefits of a European Approach' ⁽¹⁾,
 - having regard to the Commission staff working document entitled 'EU Plan of Action on Gender Equality and Women's Empowerment in Development 2010-2015' (SEC(2010)0265), and to the Council Conclusions of 14 June 2010 on the Millennium Development Goals, which endorse the relevant EU action plan,
 - having regard to the Commission's final report of March 2011 entitled 'Joint Multiannual Programming' ⁽²⁾,
 - having regard to the Commission communication of April 2011 entitled 'Enhancing EU Accountability on Financing for Development towards the EU Official Development Assistance Peer Review' (COM(2011)0218),
 - having regard to the initiative launched by the Commission in March 2010 entitled 'Structured Dialogue: for an efficient partnership in development', which seeks to identify practical ways of ensuring more effective involvement of civil society organisations and local authorities in European cooperation,
 - having regard to the 'Final Report on the Evaluation of the Paris Declaration: Phase 2', published in May 2011,
 - having regard to its resolution of 15 March 2007 on local authorities and development cooperation ⁽³⁾,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Development (A7-0313/2011),
- A. whereas the Fourth High Level Forum on aid effectiveness (HLF-4) is expected to map out future commitments aimed at making development aid more effective, and to help develop a new international aid architecture in the run-up to the 2015 deadline for achieving the Millennium Development Goals (MDG) and beyond;
- B. whereas the principles set out in the Paris Declaration focus primarily on the mechanisms of aid delivery rather than on the framing of effective development policy; whereas the Accra Agenda for Action on Aid Effectiveness (AAA) has been hampered by several factors: the financial crisis, a reduction in the payments level of official development assistance (ODA), changes in the policies of some donors, who wish to see more short-term results, and the emergence of new public and private donors who are not members of the Development Assistance Committee (DAC) and whose approach is not governed by consensual cooperation standards;
- C. whereas an increasing proportion of total ODA comes from emerging countries which are not members of the OECD;
- D. whereas recent monitoring studies and assessments have shown that recipient countries have done more than donor countries to implement the commitments set out in the Paris Declaration and the AAA;
- E. whereas former high level conferences failed to produce the necessary political pressure or a legally binding framework and whereas implementation of the Paris Declaration has failed to produce the anticipated reduction in aid fragmentation, with too many operations still lacking transparency, for example with regard to conditionalities;

⁽¹⁾ Project No 2008/170204 – Version 1.

⁽²⁾ Project No 2010/250763 – Version 1.

⁽³⁾ OJ C 301 E, 13.12.2007, p. 249.

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- F. whereas transparency and accountability – both between the governments of donor and recipient countries and between the state and society – are prerequisites for aid effectiveness; whereas donors and partner countries agreed in the AAA to provide detailed information on current and future aid flows in good time to enable developing countries to draw up their budgets and audit their accounts more accurately; whereas, likewise, it remains crucial for donor countries to support the strengthening of the institution of parliament and the involvement of local authorities and civil society organisations, so as to anchor development policy firmly in the democratic process;
 - G. whereas the EU and its Member States contribute more than half of global ODA and therefore play an important role in the aid effectiveness programme;
 - H. whereas it is important, in the run-up to the fourth Forum, to remind donor countries of their commitment to devote 0.7 % of their GNP/GNI to development aid by 2015, to include a significant gender equality component in all policies and practices in the context of their relations with developing countries, to define ODA more rigorously and to uphold the principles laid down in the AAA, which remain valid, and whereas there is a need to move beyond ODA in order to build partnerships aimed at supporting the emergence of a vision of development that is owned and driven by the countries themselves;
 - I. whereas the development aid landscape is constantly evolving, and whereas aid effectiveness mechanisms should better reflect the emergence of new donors;
 - J. whereas all forms of development funding, including innovative financing mechanisms such as the financial transaction tax and the global funds for health and education, must embody and put into practice the principles of the Paris Declaration;
 - K. whereas the Tunis Consensus, an African agenda for development, calls for attention to be refocused from aid effectiveness to the broader agenda of development effectiveness; whereas the six elements identified as being crucial for Africa in terms of development effectiveness are: building capable states, developing democratic accountability, promoting South-South cooperation, thinking and acting regionally, embracing new development partners, and outgrowing aid dependence;
1. Stresses the need for the EU to adopt an ambitious position at HLF-4 with a view to making a substantial contribution to deepening and fully implementing its aid effectiveness commitments; hopes, in view of the importance of aid effectiveness in terms of improving quality of life, reducing poverty in recipient countries and achieving the MDGs, that the EU will send high-level representatives to Busan;
 2. Points out that one of the prerequisites in order to fulfil the 'aid effectiveness agenda' is to embrace fully the principle of 'democratic ownership', which means that development strategies must be driven by the countries themselves and reflect a commitment on the part of all national stakeholders;
 3. Notes that the governments of developing countries have not left their parliaments and civil societies the necessary room for manoeuvre to allow genuine ownership; urges the EU to strengthen the commitments set out in the Paris Declaration and the AAA by promoting democratic ownership of development policies, planning and measures through full engagement with, and accountability to, all development stakeholders;

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4. Believes that HLF-4 will be a success if it results in a strong commitment to aid effectiveness, reflected in clear and measureable objectives with a precise timetable for their realisation; mindful of the implementation deficits of the Paris Declaration and AAA, underlines the importance of development 'ownership' following a bottom-up approach, of non-fragmentation of aid and, as well as of setting up strong, effective and independent follow-up enforcement mechanisms, involving parliaments and civil society at both national and international level; takes the view that, if it is to be effective, aid should be considered and evaluated in terms of its concrete contribution towards achieving development goals and not only in terms of inputs;
5. Points out that aid effectiveness requires poor countries to be able to mobilise domestic revenues; urges the EU once again, therefore, to make the fight against tax havens and tax evasion its utmost priority, while also promoting alternative sources of development finance, for example through the introduction of a financial transaction tax; likewise, urges the EU to give developing countries more help with tax reforms, thereby supporting the establishment of effective, efficient, fair and sustainable tax systems, which should have the effect of reducing poverty and aid dependency;
6. Calls on donor and recipient countries to take immediate action to honour their commitments under the Paris Declaration and the AAA, the only obstacles to which are political will, bureaucracy and high transaction costs, for instance as regards the untying of aid, aid predictability, conditionality and transparency; emphasises, in particular, the need to put into practice the commitment made in the AAA whereby, in the context of bilateral cooperation between governments, donors undertake to draw first and foremost on their national systems, and to make aid flows more predictable; also urges donor countries to give priority to local and regional public procurement;
7. Points out that aid should serve as a lever for inclusive, sustainable growth in order to reduce poverty and aid dependency and facilitate job creation, taking into account the individual characteristics of each country while strengthening aid effectiveness in those countries whose need is greatest; also notes that aid should be regarded as a temporary measure aimed at fostering self-sustainable growth in developing countries, rather than as a long-term solution;
8. Stresses that such growth is being hampered by certain procurement practices on the part of donors, which disregard the local economy; urges donors, therefore, to give preference to local and regional procurement, thereby enhancing local economic performance;
9. Points out that development aid is not in itself enough to eradicate poverty and that it should address its causes, rather than its symptoms; emphasizes the need for more effective aid as part of a development process which seeks to create, in recipient countries, strong, environmentally friendly economies in which access to basic social services is guaranteed for everyone and, ultimately, to reduce dependence on aid; stresses, in that connection, the importance of creating a climate conducive to decent work creation, entrepreneurship and innovation in recipient countries; encourages donors to exploit local economic capacities as a matter of priority and to take active steps to strengthen them;
10. Calls for more effective international coordination of cross-country aid distribution in order to address the problem of 'aid darlings' and 'aid orphans'; stresses that the aim to increase the impact of aid and to get more results/value for money should not lead to a risk-averse development policy which only focuses on 'easy countries'; insists that poverty eradication and needs must remain the crucial criteria for the allocation of development aid;
11. Underlines the importance of a differentiated approach to aid effectiveness, taking into account the level of development of the receiving countries (least developed, fragile and middle-income) and their specific needs; highlights that, given the high number of fragile states and the fact that they are the furthest away from achieving the MDGs, accounting for 75 % of the deficit, it is important that special attention is given to this issue;

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12. Stresses that the involvement of local authorities and civil society organisations in development policies is essential in order to achieve the MDGs and ensure good governance; notes that, although the AAA recognises them as 'development actors in their own right', many civil society organisations are faced with policies and practices that are undermining their role as development actors; calls, more broadly, on donors and partner countries to place the emphasis on greater recognition of the involvement of parliaments, local authorities and civil society, and on more transparent use of national systems;

13. Points out that financial aid is not in itself enough to guarantee sustainable development and that local government and the domestic private sector must play a major part in implementing MDG-related projects; emphasises the role played by private undertakings, such as small and medium enterprises, in wealth creation and the responsibility of States to guarantee stability and the rule of law; stresses, in that connection, the importance of good governance in recipient countries;

14. Stresses that indicators of good governance – some of which remain highly controversial – should also be the subject of debate, given their value in determining the quality of the participatory approaches necessary for democratic ownership;

15. Calls on partner governments to value and step up efforts towards decentralisation (political, administrative and fiscal) and to enhance coordination between local and national development planning processes by contributing to complementarity and specialisation, with due regard for local autonomy;

16. Calls on donor countries to coordinate and harmonise their efforts more effectively, to streamline their procedures and to work towards closer cooperation with private donors;

17. Urges that South-South and triangular cooperation be encouraged and promoted as forms of aid that help to improve quality and effectiveness and contribute to the exchange of knowledge and to capacity-building;

18. Points out that all governments – donor and recipient – are bound by human rights obligations; stresses that these commitments, along with accountability under international human rights law, are crucial in order to ensure effective development; urges the EU, therefore, to advocate in Busan for the introduction of binding measures which will ensure that aid provision complies with human rights agreements;

19. Stresses the importance of striking a balance between the need to meet certain political and tax conditions and approaches based on performance indicators, so as to ensure that strict political and performance requirements do not deter partner country governments from implementing their own policies – and even experimenting with new, more adventurous approaches – rather than simply following donors' prescriptions;

20. Welcomes the adoption of the EU Code of Conduct on the Division of Labour in Development Policy and stresses that its principles have not been fully implemented to date owing to a lack of political will, which is preventing optimum use of European aid and undermining the EU's ability to be a driving force in the division of labour in the context of the fourth Forum;

21. Calls on the EU to speed up the Fast Track Initiative on Division of Labour – in particular as regards concentration by sector – by means of reorganisation and joint programming, and to encourage the use of national systems in an effort to fulfil the undertaking given in the Paris Declaration to make greater use of aid delivery mechanisms based on ownership, inter alia through budget support;

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22. Welcomes the Commission initiative outlined in the Green Paper on budget support, which seeks primarily to promote local development in partner countries, and calls for budget support eligibility criteria to be tightened up so as to prevent departures from agreed approaches and the misuse of this type of aid, with due account being taken of factors such as a country's corruption index rating;
23. Stresses the leading role of national parliaments in the new aid architecture, and the need to help them boost their law-making capacity and promote the necessary changes to enable them to scrutinise all development-related expenditure;
24. Calls on national parliaments to adopt country strategy documents and annual budgets in consultation with civil society and local authorities in advance of any political dialogue with donors, so as to give full weight to democratic scrutiny;
25. Recalls, in this connection, the undertaking given in the Operational Framework on Aid Effectiveness⁽¹⁾ adopted by the Council of the European Union, which is aimed at ensuring that financial aid provided by EU donors is subject to democratic scrutiny as part of the processes implemented by partner countries;
26. Draws attention to the important role played by supreme audit institutions in assisting national parliaments in their task of scrutinising development-related expenditure and promoting aid effectiveness;
27. Points out the danger of adopting a highly technical approach to aid effectiveness; stresses the need to place greater emphasis on indicators showing the impact of aid on development and on how effectively it contributes to eradicating poverty, promoting gender equality, reducing inequalities and creating wealth; believes that closer involvement of public and private development actors and the absorption of lessons learned from the implementation of the commitments made in the Paris Declaration and the AAA will help to improve the aid effectiveness programme;
28. Calls on the EU to review its policies on division of labour so as to ensure that horizontal issues such as human rights, social inclusion, gender equality, citizenship and climate change are not overlooked;
29. Emphasises that aid transparency is essential in order to ensure both ownership and aid effectiveness; calls, therefore, on the Commission and Member States to adopt an ambitious stance on aid transparency by promoting at international level mechanisms that seek to establish global standards in this area, such as the International Aid Transparency Initiative (IATI); calls on the Member States that have not yet done so to sign up and implement the IATI;
30. Maintains that it is important clearly to assess the potential risks associated with greater private-sector involvement, and that clear criteria for supporting private-sector projects should therefore be defined, while at the same time developing sound impact assessment mechanisms in order to ensure that private-sector investment is sustainable and consistent with agreed international development goals and does not mean a return to tied aid;
31. Considers gender equality to be a priority in the shaping of development policies, and consequently calls for it to be fully integrated into the aid effectiveness agenda, and for women's organisations to play an active part in all development processes;

⁽¹⁾ General Secretariat of the Council of the European Union, Consolidated Text 18239/10.

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32. Stresses that the HLF-4 should also lay the foundations for a more inclusive global partnership for development, by involving emerging donors more closely, in particular those countries whose approach is not governed by the global norms on aid effectiveness; calls on the EU to take a leading role in this respect in order to ensure that aid from such countries is in accordance with agreed international principles in terms of official development assistance; takes the view that this should not lead to any watering down of aid effectiveness and the basic principles underpinning it;

33. Maintains that, in view of its role in exercising democratic scrutiny, Parliament should continue to be involved in the ongoing recasting of the aid effectiveness programme, including through appropriate participation in the Busan meeting;

34. Calls on the EU and its Member States to continue to give consideration to the quality of aid and to promote an international agenda which focuses on development;

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

Wednesday 26 October 2011

Agenda for new skills and jobs

P7_TA(2011)0466

European Parliament resolution of 26 October 2011 on the Agenda for New Skills and Jobs (2011/2067(INI))

(2013/C 131 E/10)

The European Parliament,

- having regard to the communication from the Commission of 23 November 2010 on an Agenda for new skills and jobs: a European contribution towards full employment (COM(2010)0682),
- having regard to its position of 8 September 2010 on the proposal for a Council decision on guidelines for the employment policies of the Member States: Part II of the Europe 2020 Integrated Guidelines ⁽¹⁾,
- having regard to Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States ⁽²⁾,
- having regard to its resolution of 6 July 2010 on promoting youth access to the labour market, strengthening trainee, internship and apprenticeship status ⁽³⁾,
- having regard to its resolution of 6 July 2010 on atypical contracts, secured professional paths, and new forms of social dialogue ⁽⁴⁾,
- having regard to its resolution of 7 September 2010 on developing the job potential of a new sustainable economy ⁽⁵⁾,
- having regard to the Council Conclusions of 6 December 2010 on 'Employment policies for a competitive, low-carbon, resource-efficient and green economy',
- having regard to the study of the European Centre for the Development of Vocational Training (CEDEFOP) 'Skills for Green Jobs', 2010,
- having regard to its resolution of 25 October 2011 on promoting workers' mobility within the European Union ⁽⁶⁾,
- having regard to the Bruges Communiqué on enhanced European Cooperation in Vocational Education and Training for the period 2011-2020, which was adopted on the 7 December 2010 ⁽⁷⁾,
- having regard to the Medium-Term Forecast up to 2020: Skills Supply and Demand in Europe, European Centre for the Development of Vocational Training, 2010 ⁽⁸⁾,
- having regard to the CEDEFOP study of May 2009 entitled 'Skills for Europe's future: anticipating occupational skill needs',
- having regard to the framework agreement of 25 March 2010 on inclusive labour markets signed by ETUC, BUSINESSEUROPE, UEAPME and CEEP,

⁽¹⁾ OJ C 308 E, 20.10.2011, p. 116.

⁽²⁾ OJ L 308, 24.11.2010, p. 46.

⁽³⁾ Texts adopted, P7_TA(2010)0262.

⁽⁴⁾ Texts adopted, P7_TA(2010)0263.

⁽⁵⁾ OJ C 308 E, 20.10.2011, p. 6.

⁽⁶⁾ Texts adopted, P7_TA(2011)0455.

⁽⁷⁾ Commission Press Release IP/10/1673.

⁽⁸⁾ CEDEFOP publications, ISBN 978-92-896-0536-6.

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- having regard to the communication from the Commission of 3 March 2010 on Europe 2020: a strategy for smart, sustainable and inclusive growth (COM(2010)2020),
 - having regard to the communication from the Commission of 12 January 2011 on the Annual Growth Survey: advancing the EU's comprehensive response to the crisis (COM(2011)0011), and the Draft Joint Employment Report annexed thereto,
 - having regard to the communication from the Commission of 23 February 2011 on the Review of the 'Small Business Act' for Europe (COM(2011)0078),
 - having regard to the communication from the Commission of 9 November 2010 on the conclusions of the fifth report on economic, social and territorial cohesion: the future of cohesion policy (COM(2010)0642),
 - having regard the Commission staff working document on 'Progress Towards the Common European Objectives in the Education and Training' (SEC(2011)0526),
 - having regard to the UN Convention on the Rights of Persons with Disabilities and its entry into force in the Union on 21.01.2011, according to the Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities ⁽¹⁾,
 - having regard to the report by the European Association of Service Providers for Persons with Disabilities (EASPD) indicating that, with unemployment in Europe on the increase, it is becoming harder for people with disabilities to obtain and remain in work, and to the fact that in many countries the level of unemployment among people with disabilities is higher than that among non-disabled people,
 - having regard to the communication from the Commission of 21 September 2010 on Strategy for Equality between Women and Men 2010-2015 (COM(2010)0491),
 - having regard to the Council conclusions of 7 March 2011 on the European Pact for gender equality for the period 2011-2020,
 - having regard to the communication from the Commission of 3 October 2008 on a Commission Recommendation on the active inclusion of people excluded from the labour market (COM(2008)0639) and its resolution thereon of 6 May 2009 ⁽²⁾,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Industry, Research and Energy, the Committee on Regional Development, the Committee on Culture and Education and the Committee on Women's Rights and Gender Equality (A7-0320/2011),
- A. whereas the global economic crisis has raised the unemployment rate in the European Union to a current 9,5 %, which represents 22,828 million people in total, of whom 19,4 % are long-term unemployed, according to recent EUROSTAT figures; whereas youth unemployment stands at 20,4 %, reaching as much as 40 % in some Member States,

⁽¹⁾ OJ L 23, 27.1.2010, p. 35.

⁽²⁾ OJ C 212 E, 5.8.2010, p. 23.

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- B. whereas SMEs, which are a driving force for economic growth, job creation and the achievement of the 2020 goals, have shed more than 3.5 million jobs as a result of the economic crisis,
- C. whereas as a consequence of the economic crisis of 2008, primary and manufacturing sectors lost more jobs than expected and are still projected to lose around 2.5 million jobs by 2020,
- D. whereas the economic recession of 2008 affected both skill demand and supply in the employment sector, thus increasing dramatically the uncertainty about job prospects and fostering the need for people to be better informed about employment prospects of the labour market,
- E. whereas austerity measures being pursued in a number of Member States have coincided with, and are partly responsible for, very significant increases in unemployment,
- F. whereas policy-makers need to protect citizens against the risk of unemployment, by ensuring that the workforce has the suitable skills to maximise its employability,
- G. whereas advances in new technologies and changes in the structure of the European economies have made it indispensable for individuals to update and ameliorate their skills during their working life,
- H. whereas the promotion of a social, resource-efficient, ecological and competitive economy is one of the objectives of the Europe 2020 strategy,
- I. whereas the service sector, such as sales, security, cleaning, catering, caring and personal services, is still expected to provide substantial job growth between now and 2020 and could be the fastest growing area,
- J. whereas the agrifood sector is regaining global importance requiring different and higher level skills but strongly reducing low skilled jobs,
- K. whereas achieving sustainable growth and the transition to low carbon economy, environment protection and development of new green technologies will require availability of appropriate skills,
- L. whereas technological change and new patterns of work organisation in sectors naturally influence the employment patterns in terms of skills needs in occupations and qualification levels,
- M. whereas economies increasingly demand creative, interactive, communication and problem-solving skills in the workplace while low-skilled jobs or workers performing routine functions are at major risk of loss of employment,
- N. whereas workers with a low level of education and skills, in addition to those from other vulnerable groups, are at greater risk of loss of employment, precarious conditions and poverty unless they are provided with appropriate training and retraining possibilities that enable them to keep pace with labour market requirements,

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- O. whereas the long-term effectiveness of training and higher education depends on various things, such as availability of quality education and training provision, equal opportunities and barrier-free access for all, availability of care services, sustained public investment, the state and efficient management of public finances, and better articulation of individual and labour market needs,
- P. whereas the EU has undertaken to improve education levels, to reduce the school drop-out rate to less than 10 % by 2020 and to increase the rate of completion of tertiary or equivalent education to at least 40 %,
- Q. whereas the number of jobs demanding high-level technical and scientific qualifications is expected to rise, and around half of all jobs in 2020 will be for workers with medium-level qualifications, while 35 % of jobs will require high-level qualifications, as compared to 29 % today, and whereas additional qualifications for a sustainable economy will be required across all occupations and in all skill segments,
- R. whereas migration, within, as well as into and out of, the EU, and demographic change will in many ways influence the future size and composition of the working population in Member States and have important implications for skill demand and supply, especially in those Member States in which the population is rapidly declining or which are subject to large-scale brain drain,
- S. whereas the competences and skills of migrant workers are often neither properly recognised nor made the best use of, and whereas migrant workers often face difficulties in accessing the labour market, education and training, also because of the lack of knowledge of their labour and social rights and their lack of involvement in workers' associations; whereas integration policies which favour access to education, training and employment for the immigrant population can therefore make an important contribution to meeting future labour market needs,
- T. whereas, even though microcredit is a vital tool for female entrepreneurship and the creation of family businesses, women remain underrepresented in business in the European Union, representing an average of 30 % of all entrepreneurs,
- U. whereas over 60 % of students graduating from universities are women, whereas not enough women and girls go into science, leading to severe gender segregation by sector, and whereas the gender gap between women and men's employment in the IT sector has tended to widen rather than narrow over time,
- V. whereas women are in a disadvantaged position in the labour market and are disproportionately represented in part-time work and in new, often precarious, forms of working arrangements, facing obstacles in seeking access to full social rights, social protection and benefits,
- W. whereas sustainable economic growth has the potential to increase the number of decent jobs and to contribute to recovery of economies across the EU,
- X. whereas the EU still invests less than its world economic partners and competitors, in research, innovation and education, which are cornerstones for growth and improvement of living standards; whereas major investments are needed in the know-how economy, in technical training and in upgrading vocational training,

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- Y. whereas targeted and adapted up-skilling is essential to help people acquire new skills so that they can profit from the transition towards a more sustainable economy; whereas there are convincing economic arguments for up-skilling, labour market integration and social inclusion; whereas reducing investment in up-skilling will create a negative long-term impact,

Challenges facing employment policies

1. Recalls that, within the Europe 2020 strategy, Member States agreed on an employment target of 75 % for men and women in the 20-64 years age group by 2020, a goal closely connected with economic growth and sustainability of social security and public finances in Europe; recalls that the employment rate for women currently stands at 58,2 %; underlines that a drastic reduction of youth unemployment, increased women's participation in the labour market and effective implementation of the inclusion priority of the strategy are among the vital preconditions for reaching the employment target; stresses that most National Reform Programmes fall short of meeting both the employment and the poverty target, and calls on all stakeholders to intensify their efforts to make the Europe 2020 strategy a success;

2. Reiterates that the five Union headline targets are promoting employment, improving the conditions for innovation, research and development, meeting climate change and energy objectives, improving education levels and promoting social inclusion;

3. Recalls the existence of major obstacles to substantially raising employment in the EU, combating structural unemployment and creating new jobs and thus boosting productivity and fostering greater competitiveness; believes that the challenges to be tackled as a matter of priority, in addition to ensuring better-functioning labour markets, include the mismatch and insufficient skill levels of many workers today, as well as the low rankings in education levels in some European countries, compared to international rates; considers that an integrated approach to developing the necessary skills base will be vital in making the most of the potential of a new sustainable economy, and calls on the Commission, in its planned communication on jobs in the new sustainable economy, to follow up on Parliament's requests in this respect;

4. Points out that the employment rate and economic performance are mutually reinforcing in generating particularly high levels of economic growth and quality employment; strongly recommends, however, that the Member States follow the Europe 2020 integrated set of guidelines for employment policies and broad economic policy guidelines, while making sure that the policies put in place respond to national, regional and local circumstances and particular conditions in individual Member States;

5. Stresses that Member States are still in charge of key elements of social policy such as taxes, social welfare programmes, some labour regulation, healthcare and education; considers it essential that social policies respond to national, regional and local circumstances and particularly conditions in individual Member States;

6. Calls for better coordination of economic policies among Member States in order to foster sustainable growth and job creation and to facilitate effective competition, taking into account the regional inequalities across Europe regarding employment and unemployment rates; urges Member States to respect the rules on budgetary discipline in order to diminish the risk of falling into excessive deficit and calls for effective budgetary surveillance, while allowing for public investment in line with the EU's growth and employment objectives; emphasises, however, the importance of the social impact assessment as required by the Treaty and urges the Commission and the Member States to assess the social costs of spending cuts, in particular of those for education and active labour market policies which could jeopardise progress in addressing the shortage of skilled workers in Europe and maintaining economic performance;

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7. Supports the Commission's flagship initiative within the Europe 2020 strategy as a framework to promote competitiveness and employment and to make the change towards a sustainable, smarter and more inclusive economy; highlights the importance of the regional dimension in implementing the agenda; calls on the Commission to deliver on the employment and skills priority actions under the flagship initiative, giving appropriate importance to promoting both labour supply and demand in the context of a knowledge-based, sustainable and inclusive economy;

8. Considers that the Agenda for New Skills and Jobs should be seen in conjunction with the EU's Research Framework Programme, and that synergies between the two could create growth and jobs;

9. Stresses that recent economic and labour market developments combined with future challenges, such as demographic change and transition to a sustainable economy, call for better employment, education and work organisation strategies in order to improve the competitiveness of the EU and the working and living conditions and to create new jobs, and therefore to promote 'smart growth' combining full employment and welfare, as well as sustainable production and lifestyles; underlines in that connection the importance of universal access to lifelong learning, qualifications and skills for all age groups; stresses the economic arguments for up-skilling, labour market integration, social inclusion, effective combating of discrimination and better utilisation of the assets of all workers; recalls that work-life balance, education and improvement of human capital also have non-economic benefits for the individual;

10. Stresses that national flexicurity arrangements must be reviewed in the light of the new socio-economic contexts, maintained, where appropriate, strengthened and adapted to the specific needs of each individual Member State, in order to ensure a flexible, inclusive and active labour market, efficient training accessible to all, and adequate social security systems; calls on the Member States to accompany their labour market reforms with strengthening poverty-proof social and unemployment protection and improving the quality of public employment services; stresses that flexicurity should not be perceived as a one-size-fits-all solution;

11. Stresses the importance of informal and skills learning through strengthening of intergenerational cooperation, when young people can acquire new skills through teaching by experienced older workers;

12. Regrets that for many workers the reconciliation of work and family life remains a difficult task; calls on the Member States to give all parents, especially women, single-parent families, disadvantaged or disabled people opportunities for integration not only into working life but also into lifelong learning processes; stresses, as a prerequisite, that organisation of work and training possibilities should be made compatible with parental responsibilities, that childcare structures should be made more effective and accessible and that appropriate support should be provided for parents; calls, furthermore, on Member States to put in place policies and programmes to support family carers;

13. Considers it advisable to promote an environment conducive to teleworking wherever such arrangements can foster an appropriate work-life balance;

Responses

Ensuring the availability of a skilled labour force

14. Welcomes the establishment of the European Employment Observatory and the Commission's initiatives to produce an EU Skills Panorama and to reform the European Employment Service's EURES network in order to improve transparency and access for jobseekers and to promote job mobility in the EU; stresses the key role of EURES in advising mobile workers and jobseekers as regards their rights and therefore in delivering on a genuine internal market, and welcomes the launch of the pilot project "Your first EURES Job" aimed at young jobseekers in the EU-27; highlights, furthermore, the role of EURES in cross-border regions and considers that its cross-border partnerships need to be provided with the necessary resources to be able to answer to the challenges of the European labour market;

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15. Stresses the importance of increasing participation in life-long learning, in particular in vocational education and training with a view to ensuring employability, and upgrading the skills of the workforce and to strengthening competitiveness; points out that the proportion of people in further education should also be increased so that people with higher qualifications can find and perform suitable jobs into old age; considers in this context that incentives should be provided for both employees and employers, with particular focus on SMEs; considers also that more comprehensive lifelong learning strategies need to be put in place and that vocational education and training systems need to be tuned to the rapidly changing needs of the labour market, technological development and new approaches to the organisation of work;

16. Regrets the fact that at a time of crisis Member States have reduced their education and training budgets, and urges the Commission and the Member States to invest more in education and training systems;

17. Calls for better monitoring in each professional sector and, according to qualification level, of the upcoming skill demand in Europe and for an immediate transposition of the findings into education, lifelong learning and other relevant policies of the Member States; emphasises the importance of boosting the attractiveness of jobs and careers to young workers and that young people in particular must be kept informed at all times about labour market trends so that they can concentrate on developing skills which are actually needed; considers that a 'knowledge alliance' that brings together businesses, social partners and education institutions would be a useful instrument in addressing innovation and skills gaps, contributing significantly to promoting the interests of the economy and society as a whole, especially considering the critical challenge of attaining full employment, poverty eradication, social inclusion and sustained economic growth in the global economy;

18. Stresses the importance of early identification of skill needs, suggesting at least a 10-year time horizon, and calls on the Member States and, where warranted, the regions to set up employment monitoring centres focusing on future needs; stresses furthermore the importance of developing more reliable systems for the anticipation of future skill needs and skill shortages in the EU and Member States, as well as the importance of continued investment in skills upgrading and better matching of qualifications to jobs; reiterates the need to ensure that the public have access to qualitative information and calls for exchange of experience and best practice in that regard; to accomplish this, emphasises the need for stronger, more effective cooperation between education and training providers, including universities and research centres on the one hand, and public employment services, the social partners and enterprises and employers on the other hand;

19. Emphasises the need to raise the profile and attractiveness of professions and jobs for which there is a workforce deficit on the labour market;

20. Calls on the Commission to give more visibility and financial support to the Leonardo da Vinci programme, which enables people to acquire new skills, knowledge and qualifications, and which makes vocational education more attractive to everyone; points out, furthermore, that on-the-job training is particularly important, and calls for support for national schemes that promote these kinds of career development opportunities;

21. Notes that the Erasmus sub-programme has an implementation rate of close to 100 %; recalls the well-documented evidence that Erasmus considerably facilitates study abroad and provides students with a wider range of skills, and that this, in turn, significantly improves subsequent employment prospects for those students participating in Erasmus and thereby contributes substantially to Europe's competitiveness;

22. Emphasises the importance of a high-quality State education system which guarantees everyone free, equal access;

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23. Believes that is vital to create an environment for close cooperation between research institutes and industry and to encourage and support industrial companies in investing in research and development; recalls that higher education institutes and training bodies play a key role in the regional economies of Member States and that they are unique places where innovation, education and research come together and can lead to job creation, development of entrepreneurial and other skills and to more employment opportunities; recognises the role of the University-Business Dialogue initiative in this context; calls on local and regional authorities to promote the European Eco-Management & Audit Scheme (EMAS) and to encourage all economic sectors to strive to achieve EMAS registration;

24. Calls on the Commission to promote further the establishment of European Sector Councils for Employment and Skills within the context of the "Agenda for New Skills and Jobs", which should be upheld as a platform for collection and exchange of information held by Member States and regions in order to help coordinate the efforts of all parties concerned, as well as as a tool to support social dialogue activities;

25. Considers it essential to substantially boost investment in education, research and innovation, and accordingly takes the view that, in order to encourage Member States to move in this direction, special consideration should be given to public spending on education, research and innovation when Member States' medium-term budget objectives are assessed;

26. Notes that instruments such as surveys of the job profiles and occupations required in different sectors – conducted on the basis of social partnership – must therefore receive adequate support;

27. Calls on the European Social Dialogue Committees to assist in better matching existing training to present and future demand through a road map setting out clear objectives and indicators for monitoring progress;

28. Stresses the need to involve employers in the management of education institutions and in the development of courses, teaching methods, apprenticeships, assessment and qualification; underlines the importance of incentives for employers who offer training for low-skilled or unskilled people and, consequently, of opportunities to acquire practical experience directly in the workplace;

29. Regrets that the number of early school-leavers still remains too high in the EU; points out that a reduction of only 1 % in the number of early school-leavers could bring some 500 000 potential workers onto the labour market; calls therefore on the Member States to implement more effective policies, based on high-quality, modern education and vocational training, to prevent early school leaving and remove barriers to remaining in education, to offer learning and training alternatives and retraining possibilities to students with learning difficulties or disabilities and to develop effective links between initial training and the world of business; underlines the importance of early education for developing not only the future functional skills of people, but also their capacity to learn, to specialise and to develop further, and calls for the development of a coherent, holistic, long term approach to early childhood education and care as proposed in the relevant Commission Communication;

30. Finds it regrettable that many people with disabilities who are capable of working are not integrated into the labour market, and calls on the Member States to implement policies that offer alternatives with regard to education, training and employment for people with disabilities;

31. Calls on the Member States to support publicly funded and properly regulated institutions of initial education, covering pre-primary, primary and secondary schools, vocational training and tertiary education, with well qualified and well trained teaching and support staff on good pay and conditions;

32. Emphasises the importance of public education systems accessible to all and in line with the promotion of equal opportunities for all;

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33. Welcomes the Commission's proposal to promote European centres of excellence within new academic specialisations for tomorrow's jobs and to improve the mobility of young people in this area; underlines the importance of creating the conditions necessary for the growth of clusters of innovative enterprises which can act as a decisive spur to local economic development and can create new jobs in regions; considers that, as the pace of economic restructuring increases, a skilled workforce, managerial expertise, innovation, science, technology and green jobs are all prerequisites for sustainable growth;

34. Encourages Member States to integrate ICT competences, digital literacy, entrepreneurship and transversal key competences such as communication in foreign languages and competences for personal fulfilment and development, active citizenship, creativity, cultural awareness and intercultural understanding, as well as key competences relating to environment, climate change and sustainable development, into all levels of educational systems; stresses in this regard the importance of promoting and recognising both 'hard' and 'soft' skills to improve people's employment opportunities; points to the usefulness of the ability to communicate in foreign languages, and supports language learning and the development of language teaching;

35. Underlines the need for education aimed at innovation; stresses that non-schematic and abstract thinking should be promoted, as well as the technical education needed to match the needs of the future;

36. Stresses that efforts should be made to ensure that all children develop fundamental IT skills at an early age, that IT should therefore be included in primary school education and that all Europeans should have cheap and easy access to the internet;

37. Given that it is estimated that in 2015 there will be a shortfall of IT professionals extending to between 384 000 and 700 000 jobs, while the estimated deficit for the health sector is of some one million professionals and that for researchers another one million, calls on the Commission and the Member States to take measures to ensure the necessary level of skilled human resources in these fields;

38. Notes that the internationalisation of education is of social, cultural and economic significance, and consequently urges the Commission to facilitate international mobility among researchers, students, scientists and lecturers, both within and outside the EU;

39. Expresses concern that highly qualified individuals are accepting employment beneath their abilities or unskilled jobs, leading to 'brain waste' in the EU;

40. Urges the Member States to develop training programmes for teachers that will provide them with a basis on which they can better adapt to changes on the labour market and develop the corresponding skills at all levels of education;

41. Encourages Member States to promote workplace-based training, including a dual system of education/training, in order to introduce young people to the labour market from the earliest stage, and to promote a quality framework for internships and apprenticeships leading as much as possible to stable employment; furthermore, calls on relevant stakeholders to ensure that traineeships and apprenticeships are carried out under the supervision of professional tutors, that they lead to the acquisition of real skills and experience corresponding to labour market needs and to the provision of new jobs; invites the Member States to lay down minimum standards for traineeships as regards pay and social rights, and calls for the introduction of a European quality framework for traineeships, setting up decent working conditions and rules to prevent trainees from being used to replace regular employment;

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42. Calls on the Commission and Member States to reinforce an evidence-based policy exchange on the transition from education and training to work and on learning mobility, which contribute to the development of the skills and the employability of young people;

43. Urges the Commission, in the forthcoming legislative initiative on professional qualifications, to strengthen the mutual recognition of diplomas and professional qualifications and to move towards a mechanism for enhanced mutual recognition of competences and skills, including skills acquired through informal and non-formal training, as well as to extend the mechanisms for recognition to workers from third countries; considers that this mechanism should build on appropriate European frameworks, such as the European Qualifications Framework (EQF) and the European Credit system for Vocational Education and Training (ECVET);

44. Calls on national statistics services to develop adequate indicators for measuring skills and the quality of the various levels of their education system;

45. Takes the view that the External Action Services (EAS), particularly the EU delegations in third countries, could play an important role by providing information on the skills required in Europe and the jobs available, as well as assisting in the procedures necessary for coming to Europe;

46. Notes that as a result of demographic change there is a significant number of older potential volunteers, which is a huge untapped resource in our communities; calls on the Commission to promote opportunities for older volunteers, and to develop a Seniors Action Programme for the increasing number of very experienced senior citizens who are willing to volunteer, which might run in parallel with, and complement, the Youth in Action Programme, and furthermore to promote specific programmes for inter-generational volunteering and for mentoring;

47. Believes that, in the context of the strategy for prolonging active life, not enough is being done to help older people acquire IT skills, and urges the Commission and the Member States to develop broad-based educational programmes for this group;

48. Emphasises the need to maintain the craft tradition and its associated skills and to establish strategies for craft retail entrepreneurs, in order to maintain the cultural identity of the craft sector; draws attention, in that connection, to the importance of supporting work-linked professional training and the mobility of young craftsmen and women; notes that the promotion of traineeships as a means of integrating young people into this sector may be an active policy worth encouraging and calls on the Member States to take the appropriate steps in that regard; stresses the importance of the humanities as a field for investigating the past and better preserving cultural identities;

Promoting demand for labour and job creation

49. Draws attention to the fact that small and medium-sized enterprises play their part in the European economic fabric owing both to their number and to their strategic role in combating unemployment; recalls that SMEs provide 85 % of jobs in the EU and are responsible for 58 % of all the added value created in the Union; urges all relevant stakeholders to remove all measures likely to hinder business creation and its free movement; calls on the Member States and the Commission to facilitate the establishment and stimulate the growth of small and medium-sized enterprises, paying special attention to women's entrepreneurship, to provide them with a favourable regulatory and fiscal environment, to facilitate market access, to list the barriers to recruitment, to reduce the level of bureaucracy to a minimum and to improve their access to finance;

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50. Considers that a more targeted use of innovation and a more competitive industrial base are necessary in order to boost employment; considers it necessary to promote youth employment, R&D-based business models and specific incentives for the recruitment of a wider range of job-seekers;

51. Welcomes the Commission proposal to introduce in future a simplified procedure for issuing employees of a firm who are third-country nationals with a temporary residence permit valid throughout the EU;

52. Calls on the Commission and the Member States to invest more in job creation and to promote entrepreneurship, business start-ups and self-employment in order to create employment opportunities and to reduce social exclusion; is of the opinion that a proper environment and incentives for business development as well as support for the introduction of new technologies are important but not enough for the development of European economies; stresses, therefore, that more focus should be placed on promoting entrepreneurial mindsets and skills at different education levels, coaching for new entrepreneurs and effective skill development for SME staff; underlines the role of the European Institute of Technology and the EIB, in particular of programmes such as JASMINE and JEREMIE, in fostering business creation and development and in providing support for SMEs' needs;

53. Calls on the Commission to observe the Think Small First principle and take the needs of SMEs into account when drawing up employment legislation;

54. Stresses the importance of a free and intelligently regulated internet for new entrepreneurs and job creators; considers that internet users' confidence in the system and their trust that its integrity will not be compromised is crucial for new internet business models;

55. Points out that the European Union does not have enough R&D intensive innovative firms and that the serious lack of skills in innovation and digital literacy means that SMEs cannot adopt innovative smart business models and new technologies;

56. Urges the Commission and Member States to continue to cooperate with a view to creating an integrated and competitive risk capital market, which is vital for the creation and growth of innovative SMEs;

57. Considers that a barrier-free and competitive single market must be completed in order to facilitate free movement of workers; considers furthermore that the completion of the single market should go hand in hand with labour legislation that creates a level playing field, strong coordination of social security and the ability of workers to preserve, maintain or transfer their acquired rights, in particular portability of pensions, across borders; in this regard, calls on the Commission and Member States to work closely with the social partners to eliminate obstacles to students' and workers' mobility and to encourage sharing of best practice and experience in this area in order to assess how the internal market is developing in terms of social security for wage-earners and in the light of the pay and working conditions in the host country; emphasises in that connection that wage dumping should be prevented;

58. Strongly condemns undeclared work, which endangers both society and workers; calls on the Member States to carry out regular and more numerous checks, to impose appropriate penalties, and to initiate information campaigns in order to raise awareness of the rights of workers and the long-term disadvantages for those employed in the black economy; invites, furthermore, the Member States to combine preventive measures and sanctions with incentives aimed at avoiding resorting to undeclared work and at transforming undeclared work into regular employment;

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59. Considers that the health-care sector has a critical role to play in achieving the goals of the Europe 2020 strategy; furthermore considers that, because of demographic change, the health and social care sector represents a source of employment, whose significance will grow, and a key contributor to social inclusion; calls for the development of a care economy to meet real needs and to ensure high quality accessible care services for all, good working and pay conditions to avoid resorting to undeclared work; calls on the Commission to support the ILO convention supplemented by a recommendation on domestic workers in order to improve the working conditions for workers in this sector; calls on the Commission to initiate a study on care assistants employed in clients' homes, in addition to other appropriate and sustainable solutions which support independent living, in order to establish whether EU legislation provides sufficient social protection for this category of workers which are often women;

60. Stresses the potential of social, health, care and education services to create new employment and demands a strong and sustainable investment in these key services and infrastructures as well as decent working conditions to support quality service provision; looks forward to the Commission's action plan to address the gap in the supply of health workers;

61. Calls on the Commission, Member States, social partners and other stakeholders to ensure efficient, simplified and synergetic use of EU funds, such as ESF, ERDF and the Cohesion Fund, and facilities such as the Microfinance Facility, for job creation, including in the social economy; highlights the advantages of gearing structural fund investment towards education and training in technologically high value-added sectors and towards sectors that are particularly important for encouraging the transition to more sustainable growth models; calls for particular consideration to be given to those Member States with high unemployment and an average monthly income that is below the poverty threshold;

62. Stresses the importance of synergies between the various European funds and underlines the importance of a decentralised approach when using these funds in order to respond to labour market requirements; believes that there is also a need to give individuals and enterprises suitable incentives to invest in training; in this regard, highlights the contribution of cohesion policy to the resource-efficient Europe flagship initiative and calls for its potential for sustainable growth to be considered;

63. Agrees with enhancing the impact of the cohesion policy instruments, including the ESF, by focusing on concentrating financial resources on a smaller number of priorities, strengthening conditionality for institutional reforms, reinforcing the partnership principle, emphasising clear and measurable targets and establishing development and partnership investment contracts between the Commission and the Member States;

64. Calls on the Commission to review the existing framework of EU direct enterprise support schemes and to study the possibility of allocating the lion's share of the support to job creation in enterprises, developing workers' skills and implementing further training programmes;

Improving the functioning of the labour market

65. Notes that flexicurity policies are put at the centre of the New Skills and Jobs Agenda, and shares the Commission's assessment that the crisis has put national flexicurity arrangements to a serious test, including where external flexibility measures have been introduced in the labour markets without corresponding strengthening of social security systems; stresses, however, the need to pursue labour market reforms without undermining successful policies and consensus and trust between national governments and the social partners; emphasises that flexicurity measures must be tailored to social circumstances and the specific structure of national labour markets and be consistent with the interests of employers and workers;

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66. Stresses, however, that flexicurity alone cannot remedy the crisis and calls on the Commission, the Member States and the social partners to pursue the necessary labour market reforms, paying special attention to labour market integration of workers from vulnerable and disadvantaged groups; recommends in this context that a bottom-up approach be taken in order to facilitate dialogue and involvement of all levels of political and social governance;

67. Believes that, under the new momentum of social and economic changes, the four pillars of flexicurity – flexible and reliable contractual arrangements, active labour market policies, lifelong learning, and modern social security systems – and the balance between them should be reviewed and reinforced in order to respond to the needs of workers and companies in modern labour markets, to create decent jobs and to ensure employability of workers, adequate social protection and the respect of the principle of "equal pay for equal work" in conjunction with gender equality; considers the strengthening of labour market institutions essential throughout this process in order to ensure that workers benefit from transitions between jobs, occupations, sectors and employment statuses; considers furthermore that the social partners should play a role in that review, as part of social dialogue;

68. Calls on the Commission, pursuant to Article 152 of the Treaty on the Functioning of the European Union, to step up promotion of the role of management and labour in each industrial sector across Europe, while respecting their autonomy;

69. Supports, pursuant to Article 155 of the Treaty on the Functioning of the European Union (TFEU), dialogue between management and labour and encourages them to enter into contractual relations, including agreements; recommends that in implementing agreements concluded at European level, management and labour in each industrial sector use the procedure laid down in Article 155(2) TFEU for matters covered by Article 153 TFEU;

70. Urges the Member States to develop teleworking, i.e. all forms of distance working and all kinds of work organisation and/or execution which exist outside the classic time-space format, by means of telecommunications and the Internet, in the form of a service provision or an employment relationship;

Promoting inclusive labour markets

71. Underlines that, in order to emerge stronger from the economic crisis, to become more competitive and convergent, with higher levels of growth and employment, and to secure our welfare systems in the long term, Europe needs to make better use of its labour force potential in all age groups, to improve both functioning of its labour markets and social inclusion and social protection, as well as to boost the qualifications and skills of the labour force;

72. Emphasises in this context that reducing labour market segmentation has to be achieved by providing adequate security for workers and improving labour market inclusion in order to increase the opportunities for all workers under different forms of contracts, in particular those in the most disadvantaged and vulnerable groups, to enter and make progress in the labour market;

73. Stresses the importance of mainstreaming the rights of persons with disabilities in the implementation of the Agenda, as well as in all aspects of the Europe 2020 strategy; calls upon the Commission to take appropriate measure to promote development of and access to universally designed goods and services as enshrined in Article 29 of the UN CRPD, including exchange of best practices;

74. Stresses that pay rises do not keep pace with productivity gains in many Member States, and is extremely concerned at the growing number of 'working poor', who, although earning a wage, remain below the poverty line, and believes that resolute action should be taken to remedy this situation;

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75. Emphasises the importance of tackling youth unemployment as a matter of priority; calls on the Commission and Member States to continue their efforts to foster youth integration in the labour market, including the provision of incentives for young people and employers and the development of traineeships and apprenticeships; underlines in this context the crucial importance of facilitating the transition from school to work, personalised guidance and monitoring, as well as of providing opportunities to acquire real skills and to upgrade them in line with labour market requirements; emphasises that this initiative must be closely coordinated with the 'Youth on the Move' initiative;

76. Emphasises the importance of creating appropriate conditions to ensure that older workers can stay longer in the labour market and of mainstreaming intergenerational solidarity and cooperation within the employment context and the implementation of initiatives promoting longer working lives such as job sharing, skills and career re-appraisal, employee volunteering and phased retirement, including among those who are freelancers;

77. In view of the ageing of Europe's population, calls on Member States to create a set of instruments to facilitate labour market access for older people, and calls both for promotion of, and wide support for, guidance and activation of older people in the light of the innovation partnership Active and Healthy Ageing as well as for incentives for employers, given that business is less interested in older workers; stresses the importance of such persons' receiving further training and gaining new qualifications that will enable them to re-enter the labour market; in this context, stresses the importance of making use of the knowledge and experience of older people, e.g. through coaching projects;

78. In the light of rising unemployment, calls on the Member States to modernise and strengthen the public employment services in order to play a greater role as lifelong service providers to both workers and employers; believes that public employment services can offer facilities for evaluating skills, establishing profiles and providing individual career guidance and consultation services, in close cooperation with local employers, as well as provide information on entrepreneurship opportunities and a range of training and re-training programmes;

79. Urges the Commission and Member States to officially recognise the contribution made by the social economy, which is responsible for 10 % of jobs in the EU and plays a key role in the EU's economic, social and territorial cohesion; considers it necessary to step up its development in order to contribute to socially inclusive wealth creation and to help to develop inclusive labour markets, to retain jobs in sectors and businesses in crisis and/or threatened by closure, to increase job stability levels, to keep skills alive and to develop routes into work for groups that are especially disadvantaged;

80. Emphasises that better and stronger policies promoting gender equality and the reconciliation of work, family and private life should contribute to increased participation of the active population of women and men in the labour market; stresses the importance of empowering women to enter, re-enter and advance in the labour market, in particular those who face difficulties with returning to work after maternity or parental leave;

81. Takes the view that efforts must be made to promote technical and engineering studies such as MINT (mathematics, informatics, natural sciences, technology) among girls and to combat gender stereotypes and professional segregation of women in education and labour market; calls on the Member States to take targeted measures to increase the number of women in senior management and other leading positions;

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82. Considers that EU anti-discrimination legislation has considerably raised the level of protection across the EU; believes, however, that more needs to be done to tackle discrimination, including multiple discrimination, of different groups in employment, training and occupation with a view to putting into effect the principle of equal treatment; believes that greater involvement of women in the labour market should also be fostered by means of targeted welfare policies focusing on childcare and family support, by implementing gender mainstreaming programmes, as well as by measures promoting recruitment of women and men to non-traditional jobs on a voluntary basis, with special attention being paid to traditionally male-dominated sectors;

83. Points to the economic arguments for anti-discrimination besides the human rights dimension; calls on Member States to take the necessary steps to swiftly conclude agreement and adopt the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation; calls on the Commission to continue supporting overcoming technical difficulties within the Council in order to reach such agreement as a strong EU anti-discrimination policy will underpin the 2020 strategy;

84. Maintains that, if the qualifications and skills of female workers are to be preserved in a changing economic space and those who so wish are to be helped to return to work, it is essential that workers on parental leave should also be included in the training activities organised by their employer;

85. Calls on the Commission and the Member States to support measures for reconciliation of professional and family life, and to invest in women's labour market participation through promotion of diversity management, professional encouragement of women and promotion of the creation of new posts with more flexible forms of working conditions;

86. Stresses that new jobs should be accompanied by new forms of working arrangements that will enable workers with dependent children to work alternative hours, reduce their working time or opt for teleworking;

87. Notes that opportunities to raise the rate of women's employment are offered not only by the 'white-job' sector but also by the home defence sector, the logistics sector (including transport), the business services sector – insurance and consulting, for example – and the ecological sector and sustainable jobs;

88. Urges the Commission and Member States to support and develop specific programmes geared to recruiting women to technical professions through subsidies for young female academics, in line with best practice in certain Member States such as the 'Excellentia' programme in Austria, which has made it possible to double the number of female S&T university professors and has contributed to the establishment of high-quality research centres led by women;

89. Calls on the Commission and the Member States to encourage the private and public sector to take all possible and necessary action to eliminate the gender pay gap and the major inequalities in terms of access, pay, career development, participation and governance, with the aim of improving women's participation in the labour market; stresses, in this connection, the importance of transparency in the form of better statistics, and of a usable definition of 'work of equal value'; welcomes the Commission's announcements on reviewing the pension system for those with gaps in pension-saving contributions due to periods of unemployment, sickness or caring duties, which concern mainly women;

Improving job quality and working conditions

90. Considers that pursuing the objective of full employment has to be complemented by strengthened efforts to improve the job quality, working and living conditions of all employees, including health and safety at work and gender equality;

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91. Considers that job quality has to be promoted as a multidimensional concept, covering both employment relations and work itself; calls on the Commission to step up efforts to review the EU definition and common indicators of job quality, to make them more operational for the evaluation and benchmarking of Member States' policies; considers that social dialogue plays an important role in promoting decent work, quality employment and adequate social protection and thus calls on the key stakeholders in the field of industrial relations at EU level to work towards developing a common European approach in this area and to take an active part in the review of the definition and indicators of job quality;

92. Considers that workplace accessibility, especially in relation to the built environment and information technologies, is an essential working condition and one that is crucial to the vocational integration of people with disabilities;

93. Welcomes the Commission proposal of reviewing health and safety legislation and warns that insecure working environment, constant changes from one job to the next, and increasing stress have negative effects on workers physical and mental health; asks the Commission to address the problem of lack of recognition of job related hazards and illnesses;

94. Emphasises the importance of integrating stakeholders' efforts to improve job quality and the use of appropriate policy instruments, including legislation, policy coordination, exchange of good practice and autonomous agreements of the social partners;

95. Is of the opinion that the high number and increasing proportion of occupational illnesses, in particular the spread of musculo-skeletal disorders, has a significant impact on the quality of workplaces, so that greater effort must be made to reduce these if the ageing society is to be sustainable;

96. Considers that workers rights, dialogue between the social partners - workers and employers – and adequate social protection preventing in-work poverty should be at the core of employment quality and thus also of the job quality concept;

97. Encourages the Commission to complete its pre-legislative activities and put forward the legislative proposals announced in the Agenda, fully respecting the outcome of its economic and social impact assessment and the autonomy of the social partners; welcomes the Commission's plans to review the effectiveness of the legislation concerning job quality and working conditions, taking due account of developments;

98. Underlines that the goals set in the field of employment and the strategies to achieve them should be monitored and coordinated with those in other important areas, such as the public finance sector and the relevant innovation policies;

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99. Instructs its President to forward this resolution to the Council, the Commission and the Governments and Parliaments of the Member States.

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Ombudsman's annual report 2010

P7_TA(2011)0467

European Parliament resolution of 27 October 2011 on the Annual Report on the European Ombudsman's activities in 2010 (2011/2106(INI))

(2013/C 131 E/11)

The European Parliament,

- having regard to the Annual Report on the European Ombudsman's activities in 2010,
 - having regard to Article 24, third paragraph, Article 228, and Article 298 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Articles 41 and 43 of the Charter of Fundamental Rights of the European Union,
 - having regard to its resolution of 18 June 2008 ⁽¹⁾ on the adoption of a decision of the European Parliament amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties,
 - having regard to the framework agreement on cooperation concluded between the European Parliament and the Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
 - having regard to the implementing provisions of the Statute of the Ombudsman of 1 January 2009 ⁽²⁾,
 - having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rule 205(2), second and third sentences, of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A7-0285/2011),
- A. whereas the Annual Report on the European Ombudsman's activities in 2010 was formally submitted to the President of Parliament on 10 May 2011 and the Ombudsman, Mr Nikiforos Diamandouros, presented the report to the Committee on Petitions in Brussels on 23 May 2011,
- B. whereas Article 24 of the TFEU lays down that 'every citizen of the Union may apply to the Ombudsman established in accordance with Article 228',
- C. whereas Article 41 of the Charter of Fundamental Rights states that 'Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union',
- D. whereas the common foreign policy, the security policy and the responsibilities of the European Council fall within the Ombudsman's remit,
- E. whereas Article 43 of the Charter states that 'Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice acting in its judicial role',

⁽¹⁾ OJ C 286 E, 27.11.2009, p. 172.

⁽²⁾ Adopted on 8 July 2002 and amended by decisions of the Ombudsman of 5 April 2004 and 3 December 2008.

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- F. whereas the Charter for Fundamental Rights of the European Union has become legally binding in most Member States following the entry into force of the Lisbon Treaty, conferring additional legitimacy on the decisions of the European Ombudsman,
- G. whereas the entry into force of the Lisbon Treaty introduced a legal basis for common rules on administrative procedures within the EU institutions, bodies, offices and agencies, which pursuant to Article 298 of the TFEU 'shall have the support of an open, efficient and independent European administration', as well as having an impact on the work of the European Ombudsman, inter alia as a result of the establishment of the European External Action Service and the fact that the European Council has become an EU institution,
- H. whereas maladministration occurs when a public body fails to act in accordance with a rule or principle which is binding upon it,
- I. whereas Mr Diamandouros was re-elected European Ombudsman by Parliament in its plenary session in Strasbourg on 20 January 2010 and took his oath before the Court of Justice in Luxembourg on 25 October 2010,
- J. whereas on 27 September 2010 the European Ombudsman institution celebrated its fifteenth anniversary; whereas in this decade and a half the Ombudsman has answered more than 36 000 complainants and completed more than 3 800 inquiries into possible maladministration,
- K. whereas the Ombudsman used the fifteenth anniversary of his institution to launch a new strategy for his 2009-2014 mandate; whereas this strategy focuses on listening to stakeholders, delivering results faster, impacting positively on the Union's administrative culture, providing timely and useful information to stakeholders and the public, and rethinking constantly the use of the resources available,
- L. whereas in 2010 the Ombudsman received 2 667 complaints; whereas this represents a decline of more than 400 compared to 2009,
- M. whereas in 2010 the Ombudsman completed 326 inquiries (318 in 2009) of which 323 were based on complaints; whereas the average time required for completing inquiries fell from 13 months in 2008 to 9 months in 2009 and 2010; whereas most of the inquiries were completed within one year (66 %) and over half (52 %) were completed within three months,
- N. whereas the Ombudsman can launch own-initiative inquiries when he intends to investigate a possible case of maladministration based on a complaint by a non-authorised person or when there appears to be a systemic problem in the institutions; whereas the Ombudsman completed three and opened six own-initiative inquiries in 2010,
- O. whereas 65 % of inquiries opened in 2010 concerned the European Commission (56 % in 2009), 10 % concerned the European Personnel Selection Office (EPSO), 7 % the European Parliament, 2 % the Council of the European Union, and 1 % the Court of Justice of the European Union,
- P. whereas in over half (55 %) of the cases closed in 2010 the institution concerned accepted a friendly solution or settled the matter,
- Q. whereas the Ombudsman may issue a further remark if, in dealing with a case, an opportunity to enhance the quality of the administration is identified; whereas the Ombudsman issued further remarks in 14 cases in 2010 (down from 28 in 2009) with a view to enhancing the quality of the service provided to citizens,
- R. whereas a critical remark is made in cases where (i) it is no longer possible for the institution concerned to eliminate the maladministration, (ii) where the maladministration has no general implications or (iii) where no follow-up by the Ombudsman is deemed necessary,

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- S. whereas a critical remark confirms to the complainant that the complaint was justified and indicates to the institution what it has done wrong, so it can avoid maladministration in the future; whereas over the last few years the number of critical remarks has been showing a continual decrease, falling from 44 in 2008 and 35 in 2009 to 33 in 2010,
- T. whereas a draft recommendation is issued in cases where follow-up action by the Ombudsman is necessary, where the maladministration can be eliminated or where the maladministration is particularly serious or has general implications,
- U. whereas the Ombudsman identified instances of maladministration in 12 % of the cases (40) in 2010; whereas he obtained positive outcomes in seven of these cases by making draft recommendations,
- V. whereas if an institution or body fails to respond satisfactorily to a draft recommendation, the Ombudsman may send a special report to the European Parliament,
- W. whereas a special report constitutes the Ombudsman's ultimate weapon and is the last substantive step he takes in dealing with a case, since the adoption of a resolution and the exercise of Parliament's powers are matters for the political judgment of the Parliament,
- X. whereas the Ombudsman submitted one special report to Parliament in 2010,
1. Approves the Annual Report for 2010 presented by the European Ombudsman; congratulates the Ombudsman on his re-election in January 2010;
2. Takes note of the new strategy the Ombudsman has developed for his current mandate and which forms the basis for his initiatives and activities; notes that this strategy includes *inter alia* the ongoing dialogue with complainants, civil society and other stakeholders, identifying best practices in cooperation and consultation with colleagues in the European Network of Ombudsmen, making EU procedures fairer and more transparent, and promoting a culture of service in the administrations of the EU institutions;
3. Stresses that transparency, access to information and respect for the rights of European citizens are essential preconditions for maintaining trust between citizens and the institutions;
4. Considers the role of the Ombudsman in enhancing openness and accountability in the decision-making processes and administration of the European Union as an essential contribution towards a Union in which decisions are taken 'as openly as possible and as closely as possible to the citizen', as provided for in Article 1(2) of the Treaty on European Union;
5. Recalls that the European Ombudsman institution on 27 September 2010 celebrated its fifteenth anniversary; notes that over these fifteen years the Ombudsman has responded to more than 36 000 complaints and played a major role in helping the European institutions to provide redress and to raise the quality of their administration;
6. Notes that the experience of these fifteen years of activity has provided the Ombudsman institution with a real insight into trends in maladministration, systemic problems and structural weaknesses in administrations, which enables it to provide guidance for administrations with a view to avoiding the repetition of mistakes and improving the quality and transparency of their work;
7. Welcomes the Ombudsman's initiative to regularly publish studies in which he examines the EU institutions' follow-up to his critical and further remarks; notes that the overall rate of satisfactory follow-up in 2009 was 81 % (94 % in the case of further remarks and 70 % for the critical remarks); considers this to be an encouraging development; considers nevertheless that there is room for improvement, especially with regard to the rate for critical remarks; urges the institutions to work together with the Ombudsman to improve their follow-up rate;

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8. Welcomes the generally constructive cooperation between the Ombudsman and the EU institutions and bodies; endorses the Ombudsman in his role of external control mechanism and as a valuable source of ongoing improvement to European administration;
9. Commends the Ombudsman on his institution's new logo and visual identity as well as on his new-look Annual Report, commends the Ombudsman also for enhancing his institution's transparency by publishing on his website information about all new inquiries he is opening into complaints;
10. Stresses the need for citizens to be better informed about the *modus operandi* of the institution and the information website that validates the transparency of the Ombudsman's role;
11. Suggests that when the Ombudsman presents his annual report in a meeting of the Committee on Petitions, not only representatives of the European Commission but also of the respective administrations of the European Parliament, the Council and other EU institutions, agencies, services and bodies that have been the subject of an investigation, a special report, critical remarks or other measures taken by the Ombudsman should be present to comment on the report and take part in the discussion; urges the administrations of Parliament, the Council and the other EU institutions, agencies and bodies concerned to be represented in future meetings when the Ombudsman's annual report is presented and discussed; believes that their participation in such discussions and the sharing of their views on good administration and on the problems overcome as a result of the European Ombudsman's recommendations and remarks could help to improve the service provided to EU citizens and interinstitutional dialogue and contribute to the establishment of a genuine service culture;
12. Calls on the Ombudsman to keep Parliament informed of developments in his relations with the new European External Action Service and the European Council;
13. Notes that in 2010 the Ombudsman received 2 667 complaints from citizens, companies, associations, NGOs and regional offices; notes that this represents a decline of more than 400 compared to the previous year;
14. Concurs that this decline in inadmissible complaints can be attributed in part to the interactive guide which was introduced on the Ombudsman's website in 2009 and which effectively helps direct complainants to the body best placed to help them;
15. Encourages the European Ombudsman to continue to promote the European Network of Ombudsmen with a view to developing a comprehensive data base and better informing EU citizens about the apportionment of responsibilities between the European Ombudsman, national ombudsmen and Parliament's Committee on Petitions;
16. Emphasises that Parliament itself must release resources to put in place a similar web portal for its Committee on Petitions to enhance the institution's visibility and transparency in order that it may also contribute to a reduction in the number of inadmissible petitions while at the same time providing guidance and advice to petitioners and improving the efficiency and the effectiveness of the petitions process;
17. Notes with satisfaction the sustained reduction in critical remarks (33 in 2010, 35 in 2009, 44 in 2008 and 55 in 2007) issued by the Ombudsman; concurs that this is evidence that the EU institutions are taking a more pro-active role in resolving complaints and that the Ombudsman's effectiveness has earned him a degree of legitimacy in the eyes of those institutions;
18. Congratulates the Ombudsman on the fact that the average time required for completing inquiries is becoming shorter and shorter (approximately nine months in 2009 and 2010); requests that the necessary means are used to reduce it still further in order to be more able to better meet the expectations of EU citizens;

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19. Notes that 65 % of the inquiries opened by the Ombudsman in 2010 concerned the European Commission (219 inquiries); expresses its concern about the strong increase from 56 % in 2009 (191 inquiries), and once more asks the Commissioner, especially the Commissioner responsible for interinstitutional relations and administration, to take steps to improve the present situation significantly and as soon as possible;

20. Takes note of the Ombudsman's concerns about the relatively high number of unsatisfactory replies by the European Commission to his critical remarks (10 out of 32 replies); shares the Ombudsman's view that there is still major work to be done in persuading officials that a defensive approach to the Ombudsman represents a missed opportunity for their institutions and risks damaging the image of the Union as a whole; calls for the radical improvement of the answering process, including reducing the time taken in generating responses (especially in time-sensitive cases), and producing solution-oriented rather than defensive answers; stresses that European citizens have a right to good administration under the Charter of Fundamental Rights;

21. Points to the fact that in 2010 by far the most common allegation examined by the Ombudsman was lack of transparency in the EU administration; notes that this allegation arose in 33 % of all closed inquiries and included refusal of information and of access to documents; shares the Ombudsman's frustration that the number of transparency cases has remained consistently high over the past years;

22. Notes that in 2010 the Ombudsman submitted one special report, which concerned the Commission's refusal to disclose documents and to cooperate with the Ombudsman in a spirit of complete transparency; recalls that the Committee on Petitions' report on the special report was adopted by Parliament on 25 November 2010 ⁽¹⁾; recalls that in the resolution adopted the Commission was urged to give an undertaking to Parliament that it would fulfil its duty of sincere cooperation with the European Ombudsman;

23. Calls for the launch of an information campaign designed to reassure the staff of the EU institutions as to the Ombudsman's willingness to listen and discuss issues, and to highlight the advantages of intervention by the Ombudsman with a view to bringing the administrations of the EU institutions closer to EU citizens;

24. Recalls that Regulation (EC) 1049/2001 ⁽²⁾ on access to documents from EU institutions has been in force for 10 years; recalls that the basic notion underlying this Regulation is that openness is the rule and secrecy the exception; notes that the institutions are still struggling with this concept; takes the view that EU institutions, agencies, services and bodies must keep this principle in mind when drafting documents and make sure they strike the right balance between the necessary and appropriate degree of transparency and the genuine need for confidentiality;

25. Recalls that the recast of Regulation (EC) No 1049/2001 is still ongoing; regrets the lack of progress in the recast procedure; urges the Council and the Commission to be more open to giving access to documents and information to citizens and to the European Parliament;

26. Encourages the Ombudsman to continue to insist on the fundamental right of access to documents, the proper implementation of the principle of transparency in the decision-making process, a citizen-friendly culture of service and a pro-active attitude by the EU's institutions, agencies and bodies with regard to putting documents into the public domain, which constitutes a basic principle for the transparency and responsibility of the EU institutions; proposes that examples of good practices be publicised among EU citizens in order to counter their negative image of the EU administration, as well as to promote dialogue between the different institutions on problems affecting the quality of their administration;

⁽¹⁾ Texts adopted, P7_TA(2010)0436.

⁽²⁾ OJ L 145, 31.5.2001, p. 43.

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27. Agrees with the Ombudsman that a concise statement of public service principles would contribute to a culture of service and would promote citizens' trust in the EU civil service and institutions; looks forward to the Ombudsman's statement of public service principles, on which he is currently consulting his national colleagues and other interested parties;

28. Proposes that this statement of public service principles be disseminated as widely as possible and made easily accessible to EU citizens, so as to reassure them of the EU's commitment to protecting public services, which are a feature of their day-to-day lives;

29. Considers, nevertheless, that adopting common binding rules and principles on administrative procedure within the EU's own administration, as already called for by the first European Ombudsman, and the introduction of the service principle in this context would be the best way to ensure a lasting shift in the administrative culture of the EU and expects, therefore, the Commission to make the presentation of a draft regulation to this end on the basis of Article 298 of the TFEU a priority;

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

Situation in Egypt and Syria, in particular of Christian communities

P7_TA(2011)0471

European Parliament resolution of 27 October 2011 on the situation in Egypt and Syria, in particular of Christian communities

(2013/C 131 E/12)

The European Parliament,

- having regard to its previous resolutions on Egypt and Syria, in particular of 15 September 2011 on the situation in Syria ⁽¹⁾, of 7 July 2011 on the situation in Syria, Yemen and Bahrain in the context of the situation in the Arab world and North Africa ⁽²⁾, and of 17 February 2011 on the situation in Egypt ⁽³⁾,
- having regard to its resolution of 20 January 2011 on the situation of Christians in the context of freedom of religion ⁽⁴⁾,
- having regard to the statements of the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on Syria of 8 October 2011 and on Egypt of 10 October 2011,
- having regard to the conclusions of the Foreign Affairs Council of 20 February 2011,
- having regard to the conclusions on Syria of the Foreign Affairs Council of 10 October 2011 and the European Council conclusions of 23 October 2011,
- having regard to the Universal Declaration of Human Rights of 1948,
- having regard to the International Covenant on Civil and Political Rights of 1966, to which Egypt and Syria are parties,

⁽¹⁾ Texts adopted, P7_TA(2011)0387.

⁽²⁾ Texts adopted, P7_TA(2011)0333.

⁽³⁾ Texts adopted, P7_TA(2011)0064.

⁽⁴⁾ Texts adopted, P7_TA(2011)0021.

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— having regard to Council Decision 2011/522/CFSP of 2 September 2011 amending Decision 2011/273/CFSP concerning restrictive measures against Syria ⁽¹⁾, Council Decision 2011/523/EU of 2 September 2011 partially suspending the application of the Cooperation Agreement between the European Economic Community and the Syrian Arab Republic ⁽²⁾, Council Regulation (EU) No 878/2011 of 2 September 2011 amending Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria ⁽³⁾, and Council Regulation (EU) No 1011/2011 of 13 October 2011 amending Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria ⁽⁴⁾,

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

A. whereas the freedoms of religion, belief, conscience and thought are fundamental and universal values and are essential elements of democracy; whereas the European Union has repeatedly expressed its commitment to the freedoms of religion, belief, conscience and thought, and has stressed that governments have a duty to guarantee these freedoms all over the world;

Egypt

B. whereas Egypt is going through a critical period of democratic transition and faces considerable challenges and difficulties in this process; whereas economic development and a higher standard of living of the population are essential for long-term political and social stability in the country;

C. whereas at least 25 Egyptian citizens were killed and more than 300 wounded on 9 October 2011 in Cairo during a peaceful march organised by Coptic Christians, starting in the Shubra district of Northern Cairo and heading towards the Maspero state television building, to protest against an attack on a Coptic church in Aswan, to effectively fight against religious discrimination, and to call for the adoption of a unified law on the building of houses of worship, for religious discrimination to be effectively criminalised and for the church that was attacked to be rebuilt;

D. whereas the Egyptian authorities have responded to this tragic event by initiating an inspection of the Maspero area by the Prosecutor-General's office, conducting an investigation under the military judicial authority and setting up a fact-finding commission composed of members of the judiciary to investigate these incidents with the aim of holding accountable those responsible for inciting violence and for violent actions; initiated the immediate consideration of a draft decree aimed at legalising the status of places of worship built without proper authorisation; initiated, on the basis of a request made by leaders of various religious groups, a social debate on the draft unified code for building places of worship with the aim of its adoption; and decided to introduce amendments to the Penal Code to fight discrimination both in the public and private domains;

E. whereas since March 2011 tens of thousands of Copts have reportedly left Egypt;

F. whereas civilians arrested under the emergency law are tried before military courts which violate the right to a fair trial and deny defendants the right to appeal; whereas human rights organisations have reported that more than 12 000 civilians have been tried before these special courts since March 2011;

G. whereas Maikel Nabil Sanad was arrested by the military police on 28 March 2011 at his home in Cairo for voicing his opinion online, including criticism of the role the Egyptian military played during and after the popular revolution; whereas he was sentenced to three years' imprisonment on 10 April 2011 on charges of 'insulting the military' after an unfair fast-track trial in a military court in the absence of his lawyer, family and friends;

⁽¹⁾ OJ L 228, 3.9.2011, p. 16.

⁽²⁾ OJ L 228, 3.9.2011, p. 19.

⁽³⁾ OJ L 228, 3.9.2011, p. 1.

⁽⁴⁾ OJ L 269, 14.10.2011, p. 18.

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- H. whereas the threats levelled at NGOs, especially those involved in the defence of human rights, in an intensive defamatory campaign launched by the state-owned press, served to de-legitimise and stigmatised them in the eyes of the public as acting against the interests of Egypt;
- I. whereas more violence was incited by Egyptian state television when people were called upon to 'protect the army';
- J. whereas the transitional period after the revolution of 25 January 2011 in Egypt has been characterised by a tendency towards marginalisation of women, who were excluded from the Constitutional Committee, and whereas, as part of the review of the law on political rights, the women's quota has been abolished;
- K. concerned about the kidnapping of Coptic girls who have been forced to convert to Islam;

Syria

- L. whereas, since the start of the violent crackdown on peaceful protesters in Syria in March 2011, the systematic killings, violence and torture have been dramatically escalating and the Syrian army and security forces continue to respond with targeted killings, torture and mass arrests; whereas, according to UN estimates, over 3 000 people have lost their lives, many more have been injured and thousands detained; whereas many Syrians are facing a deteriorating humanitarian situation as a result of the violence and displacements;
- M. whereas it is still the case that no international journalists and observers are being allowed access to the country; whereas reports from Syrian human rights activists and images from mobile telephones are the only means of documenting the widespread human rights violations and systematic attacks, both targeted and random, against the peaceful protesters and citizens in general in Syria;
- N. whereas ongoing events in Syria are accompanied by actions aimed at inciting inter-ethnic and inter-confessional conflict and increasing sectarian tensions; whereas there are reports that estimate that the Christian population in Syria may have dropped from 10 to 8 percent; whereas thousands of Iraqi Christians came to Syria to escape targeted violence in Iraq; whereas many Christians in Syria fear that they will become victims of sectarian violence in the country; whereas Christian communities have an important role to play in the democratisation of the country;
- O. whereas, in its conclusions of 10 October 2011, the Council welcomed the efforts of the Syrian political opposition to establish a united platform, called on the international community also to welcome these efforts, and noted the creation of the Syrian National Council (SNC) as a positive step forward; whereas the National Committee for Democratic Change has also been created in Syria;

Egypt

1. Expresses again its solidarity with the Egyptian people in this critical and difficult period of democratic transition in the country and continues to support their democratic aspirations; encourages the EU and its Member States to continue to support the efforts aimed at accelerating democratic, economic and social reforms in Egypt;
2. Strongly condemns the killing of protestors in Egypt; expresses its sincere condolences to the families of all victims; calls on the authorities to ensure that security forces do not use disproportionate force; emphasises the right of all citizens to demonstrate freely and peacefully, under due protection from law enforcement authorities; calls on the Egyptian authorities to release the 28 arrested Christians in Maspéro as well as all others arrested;

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3. Welcomes the efforts made by the Egyptian authorities to identify the authors and perpetrators of the attacks on Christian communities; stresses that it is important that an independent, thorough and transparent investigation into the events in Maspero should be conducted by an independent civil judiciary, in order to hold all those responsible to account; stresses that the role of the media has to be fully addressed; notes the government's announcements about the immediate consideration of a draft decree aiming to legalise the status of places of worship built without proper authorisation as well as about strengthening legal instruments aimed at fighting discrimination both in the public and private domains; stresses, however, the responsibility of the Egyptian Government and authorities to ensure the safety of all citizens in the country and that those responsible for the violence be brought to justice;

4. Calls on the Egyptian authorities to ensure full respect for all fundamental rights, including freedom of association, freedom of peaceful assembly, freedom of expression and freedom of religion, conscience and thought for all citizens in Egypt, including the Coptic Christians, and that Coptic Christian communities do not fall victim to violent attacks and can live in peace and freely express their beliefs throughout the country; calls for the adequate protection of the churches in order to put an end to the continuous aggression and destruction of churches by Islamic extremists; welcomes continued efforts to adopt a 'Common Code for building places of worship'; stresses that the right to freedom of thought, conscience and religion is a fundamental right guaranteed by legal instruments; urges the Egyptian authorities to end discrimination against Coptic Christians, for example by deleting references to religion from all official documents, and to ensure equal dignity and equal opportunities for all citizens in Egypt to have access to all public and political posts, including representation in the armed forces, in Parliament and in Government;

5. Calls on the EU Member States to strictly abide by the EU Common Position on arms exports; urges the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, to urge Member States to fully implement and comply with the requirements of the Common Position;

6. Takes the view that a new Constitution should explicitly provide for the protection of all fundamental rights, including freedom of association, freedom of peaceful assembly, freedom of expression and freedom of religion, conscience and thought, and the protection of minorities; calls on the Egyptian authorities to make sure that any constitutional provision is inclusive and leaves no possibility for discrimination against anyone in Egyptian society;

7. Stresses the importance of holding free, fair and transparent elections to the People's Assembly and to the Shoura Council in late 2011 and early 2012, and presidential elections in 2012, in Egypt; encourages the EU and its Member States to continue to support and assist the Egyptian authorities, political parties and civil society in the efforts aimed at achieving this goal; encourages the Egyptian authorities to facilitate the work of foreign organisations that intend to follow the electoral process on the ground; calls for the interim government of Egypt to be replaced as soon as possible by a government established in accordance with the results of free elections;

8. Calls on the Supreme Council of the Armed Forces (SCAF) to put an end to the emergency law immediately, as it violates the rights of freedom of expression, association and assembly, in order to prevent the parliamentary elections scheduled by the end of the year from being conducted under the state of emergency;

9. Welcomes in this regard the amendment to the Penal Code criminalising acts of discrimination on grounds of sex, race, language, religion or creed;

10. Considers that measures should be adopted by the EU in the event of serious violations of the human rights of any citizens in Egypt; underlines the necessity for the EU to stand ready to adopt further measures in order to assist the Egyptian people who are striving for a democratic future through peaceful means;

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11. Calls on the Egyptian authorities to adopt a new association law in accordance with international human rights standards and in close consultation with NGOs and human rights groups; underlines that respect for women's rights, gender equality and women's political participation is crucial for real democratic development in Egypt;

12. Expresses its deep concerns about the health condition of imprisoned blogger Maikel Nabil Sanad and calls for his immediate release; urges the Egyptian Government and authorities to put an end without delay to military trials of civilians; urges the Egyptian authorities to ensure that no civil society organisation is subject to direct or indirect intimidation in the country and to facilitate the participation of these organisations in the process of democratic transition, including the electoral process;

Syria

13. Firmly condemns the disproportionate and brutal use of force against peaceful protesters and the systematic persecution of pro-democracy activists, human rights defenders, journalists, doctors and medical personnel; expresses its deepest concern at the gravity of the human rights violations perpetrated by the Syrian authorities, including mass arrests, extrajudicial killings, arbitrary detention, disappearances and torture, including of children, which may amount to crimes against humanity; reiterates its call on President Bashar al-Assad and his regime to relinquish power immediately to allow a democratic transition to take place in Syria with a view to launching a process of deep democratic reforms;

14. Expresses its sincere condolences to the families of the victims; commends the courage and determination of the Syrian people and strongly supports their aspirations to achieve full respect for the rule of law, human rights and fundamental freedoms and the guarantee of better economic and social conditions;

15. Reiterates its call for an independent, transparent and effective investigation into the killings, arrests, arbitrary detention and alleged forced disappearances and instances of torture by the Syrian security forces in order to ensure that the perpetrators of such acts are held to account by the international community; takes the view that the UNSC should refer Syria to the International Criminal Court (ICC) with the aim of seeing justice done for the Syrian people and preventing more people from falling victim to these practices; calls for full access of international humanitarian and human rights organisations as well as of the international media to the country and underlines the call made by Syrian opposition forces and demonstrators for the sending of international observers;

16. Is deeply concerned about the situation of Christians in Syria, in particular their safety; condemns actions aimed at inciting inter-confessional conflict; urges the current and future Syrian authorities to provide reliable and efficient protection for the Christian communities;

17. Stresses the importance of respect for human rights and fundamental freedoms in Syria, and notably freedom of religion, belief, conscience and thought; expresses, in this context, its support for the Christian community in the country and, at the same time, encourages this community to play a positive and constructive role in the ongoing events in Syria; encourages also Syrian opposition forces to declare or reconfirm their commitment to human rights and fundamental freedoms, and notably freedom of religion, belief, conscience and thought;

18. Welcomes the positive statement made by the Council on the efforts of the Syrian political opposition to establish a united platform; reiterates its call on VP/HR Ashton, the Council and the Commission to further encourage and support the emergence of organised Syrian democratic opposition forces both within and outside the country;

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19. Welcomes the commitment of the EU to continue to press for strong UN action to increase international pressure; reiterates its call on the members of the UNSC, and in particular Russia and China, not to block a resolution condemning the use of lethal force by the Syrian regime and urging that this use of force be ended, and to put in place sanctions for failure to do so; strongly supports the EU decision of 23 September 2011 to adopt additional sanctions against the Syrian regime; underlines the necessity for the EU to stand ready to adopt further measures in order to assist the Syrian people who are striving for a democratic future through peaceful means;

20. Welcomes the condemnation of the Syrian regime by Turkey and Saudi Arabia and Turkey's role in accepting refugees;

21. Strongly condemns the acts of violence, harassment or intimidation of some Syrian citizens taking place on EU territory and recalls that the right to protest freely and peacefully in safety is fully guaranteed in the EU Member States, including for those protesting against the rule of President Bashar al-Assad;

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22. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Government and Parliament of the Russian Federation, the Government and Parliament of the People's Republic of China, the US Administration and the US Congress, the Secretary-General of the Arab League, the Government of the Arab Republic of Egypt and the Government and Parliament of the Syrian Arab Republic.

Current developments in Ukraine

P7_TA(2011)0472

European Parliament resolution of 27 October 2011 on the current developments in Ukraine

(2013/C 131 E/13)

The European Parliament,

- having regard to its previous resolutions on Ukraine,
- having regard to the 2010 Country Progress Report on Ukraine and to the European Neighbourhood Policy (ENP) Review of 25 May 2011,
- having regard to the statement by its President on the sentencing of former Ukrainian Prime Minister, Yulia Tymoshenko, on 11 October 2011,
- having regard to the statements issued on 5 August and 11 October 2011 by the High Representative, Catherine Ashton, on behalf of the European Union on the verdict in the case of Yulia Tymoshenko,
- having regard to the Joint Declaration of the Eastern Partnership summit held in Warsaw on 29/30 September 2011,
- having regard to the Partnership and Cooperation Agreement (PCA) between the European Union and Ukraine, which entered into force on 1 March 1998, and to the ongoing negotiations on the Association Agreement, including a Deep and Comprehensive Free Trade Area, which is intended to replace the PCA,

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- having regard to the National Indicative Programme 2011-2013 for Ukraine,
 - having regard to Rule 110(4) of its Rules of Procedure,
- A. whereas the EU favours a stable and democratic Ukraine which respects the principles of the social market economy, the rule of law and human rights, protects minorities and guarantees fundamental rights; whereas Ukraine's domestic political stability, including a focus on internal reform and respect for the rule of law involving the establishment of fair, impartial and independent legal processes, is a prerequisite for the further development of relations between the EU and Ukraine;
- B. whereas one of the European Parliament's main foreign policy objectives is to enhance and foster relations with Ukraine and strengthen the ENP, which seeks to encourage political, economic and cultural relations between the countries concerned and the EU and its Member States;
- C. whereas the decision taken by the Pechersk District Court in Ukraine on 11 October 2011 to sentence former Prime Minister Yulia Tymoshenko to seven years' imprisonment, three years' prohibition of political activity, a fine of USD200 million and the confiscation of all her property is widely seen as either an act of revenge or as part of an attempt to convict and imprison opposition members in order to prevent them from standing and campaigning in next year's parliamentary election and the 2015 presidential election;
- D. whereas on 12 October 2011 the Ukraine Security Service launched a new criminal case against Yulia Tymoshenko and former Prime Minister Pavlo Lazarenko, who are accused of conspiring, while being the president and real owner of United Energy Systems of Ukraine, to misuse Ukrainian public funds on a massive scale;
- E. whereas a growing number of officials are being held criminally accountable for their actions, including former government ministers, but mostly (deputy) heads of state departments and inspectorates, heads of sub-units of law-enforcement agencies, district court judges and heads of local authorities;
- F. whereas the Ukraine Government has committed itself to a range of legal reforms that would bring the country's private and public law into line with European and international standards;
- G. whereas the EU continues to emphasise the need to respect the rule of law, including by establishing fair, impartial and independent legal processes, thereby avoiding any danger of creating the perception that judicial measures are being used selectively; whereas the EU regards these principles as especially important in a country which aspires to enter into deeper contractual relationships and build on its political association with the Union;
1. Takes the view that a deepening of relations between the EU and Ukraine and the fact of offering Ukraine a European perspective are of great significance and in the interests of both parties; recognises Ukraine's aspirations pursuant to Article 49 of the Treaty on European Union, provided that all criteria, including respect for the principles of democracy, human rights, fundamental freedoms and the rule of law, are met;
2. Deplores the sentencing of former Prime Minister Yulia Tymoshenko as a violation of human rights and an abuse of the judiciary for the purpose of the political suppression of Ukraine's leading opposition politician; emphasises that the law selectively applied against Tymoshenko dates back to Soviet times and makes provision for criminal prosecution for political decisions; whereas Articles 364 and 365 of that law, which are currently under review by the Verhovna Rada, do not conform to European and UN standards;
3. Urges the Ukrainian authorities to ensure a fair, transparent and impartial legal process should Yulia Tymoshenko appeal against her conviction, and in the other trials against members of the former government; insists that Yulia Tymoshenko should be allowed to exercise her right to participate fully in the political process both as of now and in the forthcoming elections in Ukraine;

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4. Is concerned that the Tymoshenko trial is at odds with the Ukraine Government's proclaimed commitment to democracy and European values;
 5. Expresses genuine concern at the continued detention of the former Minister of the Interior, Yuri Lutsenko, against whom no sentence has yet been pronounced in his trial, and at other similar cases;
 6. Insists that all judicial proceedings against former and current senior government officials should be conducted in accordance with European standards of fairness, impartiality, transparency and independence;
 7. Takes the view that a failure to review Yulia Tymoshenko's conviction will jeopardise the conclusion of the Association Agreement and its ratification, while pushing the country further away from the realisation of its European perspective; expresses concern at some signs of decline in democratic freedoms and at the possible instrumentalisation of state institutions for partisan purposes and to exact political revenge;
 8. Stresses that the strengthening of the rule of law and internal reform, including a credible fight against corruption, are essential not only for the conclusion and ratification of the Association Agreement and the deepening of EU-Ukraine relations, but also for the consolidation of democracy in Ukraine;
 9. Welcomes the agreement that has been reached on a Deep and Comprehensive Free Trade Area; regards this agreement as a solid basis for the possible finalisation of the negotiations on an Association Agreement between the European Union and Ukraine;
 10. Expresses alarm at reports concerning the deterioration of media freedom and pluralism in Ukraine; calls on the authorities to take all necessary measures to protect these essential aspects of a democratic society and to refrain from any attempt to control, directly or indirectly, the content of national media reporting;
 11. Strongly supports the recommendations put forward in the joint opinion of the Venice Commission and the OSCE/ODIHR on the draft parliamentary election law; considers it essential that these recommendations should be adopted and implemented in an expedient, inclusive and comprehensive fashion, involving both the opposition and civil society;
 12. Urges all political forces in Ukraine to conduct a fair and transparent debate about the political decision-making process; insists that investigations into possible failures in that process should be carried out by a parliamentary committee of inquiry;
 13. Considers that the recently postponed meeting with President Yanukovich would have offered an excellent opportunity to tackle serious concerns which have been addressed to the Ukraine Government and re-establish a constructive dialogue that could lead to the initialling of the Association Agreement, provided that significant progress is made on the remaining technical and key political obstacles; calls on the Council and Commission to reschedule the meeting with President Yanukovich so that it takes place ahead of the planned EU-Ukraine Summit in December 2011;
 14. Calls on the Commission to support judicial reform in Ukraine by making better use of the EU's capacity-building programme and to consider setting up a High-Level EU Advisory Group to assist Ukraine in its efforts to fall into line with EU legislation, including in the judicial sphere;
 15. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Government and Parliament of Ukraine and the Parliamentary Assemblies of the Council of Europe and the OSCE.
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Public health threat of antimicrobial resistance

P7_TA(2011)0473

European Parliament resolution of 27 October 2011 on the public health threat of antimicrobial resistance

(2013/C 131 E/14)

The European Parliament,

- having regard to its resolution of 12 May 2011 on antibiotic resistance, focusing on animal health,
 - having regard to the European Food Safety Authority (EFSA) Scientific Opinion 'on the public health risks of bacterial strains producing extended-spectrum β -lactamases and/or AmpC β -lactamases in food and food-producing animals' of August 2011,
 - having regard to the Staff working paper of the services of the Commission on antimicrobial resistance of 18 November 2009 (SANCO/6876/2009r6),
 - having regard to the Joint Technical Report by the European Centre for Disease Prevention and Control (ECDC) and the European Medicines Agency (EMA) of September 2009 on 'The bacterial challenge: time to react - A call to narrow the gap between multidrug-resistant bacteria in the EU and the development of new antibacterial agents',
 - having regard to Council Recommendation 2002/77/EC of 15 November 2001 on the prudent use of antimicrobial agents in human medicine ⁽¹⁾ and the European Parliament resolution of 23 October 2001 on the proposal for this Council Recommendation ⁽²⁾,
 - having regard to the Commission Communication of 20 June 2001 on a Community Strategy against antimicrobial resistance (COM(2001)0333),
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas antimicrobial agents are able to destroy or prevent the growth of bacteria, viruses and other micro-organisms (antibiotics are microbial agents which only react against bacteria) and thereby have played a significant role in improving public health by helping to reduce the number of deaths from diseases and infections which were previously incurable or fatal;
- B. whereas their use has resulted in certain micro-organisms previously sensitive to these antimicrobial agents developing so-called 'antimicrobial resistance';
- C. whereas this natural process is accelerated by the excessive and uncontrolled use of these antimicrobial agents, thereby jeopardizing the medical successes achieved;
- D. whereas the launch of every new antibiotic has been, and will be, followed by resistance in the targeted bacteria; whereas the maintenance of an effective capacity to combat infectious disease requires both the development of new antimicrobial agents and improved conservation of existing antibiotic resources, thus underlining the priority of ensuring that the use of antibiotics is effectively controlled and limited to necessary treatment only;

⁽¹⁾ OJ L 34, 5.2.2002, p. 13.

⁽²⁾ OJ C 112 E, 9.5.2002, p. 106.

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- E. whereas for approximately four decades (from the 1940s to the 1970s) the pharmaceutical industry provided a steady flow of new antibiotics, including several with new mechanisms of action that circumvented the problems caused by resistance to earlier agents; whereas only a few new antimicrobials have been developed and authorised since then;
- F. whereas antimicrobial resistance is an important, largely unresolved, issue which has become a threat to public health in Europe and globally, resulting in longer, more complicated treatments, a diminution of quality of life, a greater risk of deaths (25 000 patients die each year in the EU from an infection caused by resistant micro-organisms), extra healthcare costs and productivity losses of at least EUR 1,5 billion per year;
- G. whereas a high percentage of hospital-acquired infections are caused by highly resistant bacteria such as methicillin-resistant *Staphylococcus aureus* (MRSA) and *C. difficile*, constituting a serious risk to patient safety;
- H. whereas antimicrobial resistance has become such a critical issue that the World Health Organization made it the theme of this year's World Health Day on 7 April 2011 and that the European Union has since 2008 organised an annual European Antibiotic Awareness Day on 18 November;
- I. whereas inappropriate and irrational use of antimicrobial medicines provides favourable conditions for resistant microorganisms to emerge, spread and persist;
- J. whereas antimicrobial resistance in humans is often caused by inadequate doses of antibiotic medicines, by incorrect treatments and through the constant exposure of pathogens to antimicrobial agents in hospitals;
- K. whereas good hygiene in the form of effective hand washing and hand drying can help reduce the need for antibiotics and antimicrobial agents;
- L. whereas, despite the ban on the use of antibiotics as growth promoters and the will to decrease veterinary consumption of antibiotics for inappropriate 'prophylactic' purposes, antimicrobial resistance affects both humans and animals and may potentially be transmitted both ways, making this a truly cross-cutting matter which calls for a coordinated approach at Union level; whereas additional efforts are therefore required to improve agricultural practices so as to help minimise the risk associated with the use of antibiotics for veterinary purposes and the development of resistance in humans;
- M. whereas good husbandry minimises the need for antibiotics;
- N. whereas action against resistance to antimicrobial agents in human medicines cannot therefore be taken in isolation from measures to combat resistance to antimicrobial agents in veterinary medicines, animal feeding stuffs and crop-growing;
- O. whereas EPRUMA ⁽¹⁾ is an existing European multi-stakeholder initiative promoting the responsible use of veterinary medicines; whereas the One-Health concept covers both human and veterinary medicines and EPRUMA recognises antimicrobials as a One Health issue;
- P. whereas antimicrobial resistance is a phenomenon which clearly has cross-border implications and the occurrence of an outlier effect, which would most probably not be manageable with the current resources and knowledge, cannot be excluded and can have unpredictable medical, social and economic setbacks;

⁽¹⁾ European Platform for the Responsible Use of Medicines in Animals.

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1. Notes with concern that antimicrobial resistance is an ever increasing threat to public health in Europe and worldwide, despite the actions taken at European and international level;
2. Calls for a further intensification of the fight against resistance to antimicrobial agents in human medicines, focusing on, in the following order of priority:
 - the prudent use of antimicrobial agents both for humans and for animals, ensuring that they are only used when effectively needed for actual treatment of disease, with the correct dosage, dose intervals and duration,
 - the monitoring and surveillance of antimicrobial resistance,
 - the need for research into, and the development of, new antimicrobial agents and alternatives,
 - links with measures to combat resistance to antimicrobial agents in veterinary medicines, animal feeding stuffs and crop-growing;
3. Calls on the Commission to propose without delay a legislative framework for action against antimicrobial resistance, by promoting 'responsible use' initiatives and supporting dissemination of, and information about, such initiatives;

The prudent use of antimicrobial agents

4. Reconfirms that urgent action is necessary to avoid, or even reverse, further increases in resistant micro-organisms by reducing unnecessary and inappropriate use of antimicrobial agents;
5. Emphasises that the ultimate objective is to maintain antimicrobials as an effective tool to combat disease, both in animals and in humans, while keeping the use of antimicrobials to the strict necessary;
6. Notes that a Commission Report on the implementation of the 2001 Council Recommendation ⁽¹⁾ and the 2010 Eurobarometer survey identified a series of shortfalls and gaps in the promotion of the prudent use of antimicrobial resistance;
7. Notes that the level of access to information on antimicrobial resistance and the impact on the consumption behaviour of citizens remain uneven across the Union, in particular with regard to the enforcement of the legislation on prescription-only use for antibiotics, as the percentage of antibiotics sold without prescription in 2008 showed considerable differences between Member States;
8. Notes in this respect that Europe is as weak as the weakest link, therefore particular attention should be paid in countries with high levels of antimicrobial resistance;
9. Calls on the Commission to come forward with proposals to significantly reduce the use of antibiotics and to identify and define general principles and best practices on the prudent use of antimicrobial agents, further elaborating on the Council Recommendation of 15 November 2001, and to ensure that these principles and methods are properly implemented in the European Union;

⁽¹⁾ Commission Staff Working Document, Accompanying document to the second report from the Commission to the Council on the basis of Member States' reports on the implementation of the Council Recommendation (2002/77/EC) on the prudent use of antimicrobial agents in human medicine.

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10. Recognises that many misconceptions exist about antibiotics and their effects, and that according to a survey commissioned by the Commission 53 % of Europeans still believe that antibiotics kill viruses and 47 % believe that they are effective against colds and flu (Special Eurobarometer 338 on Antimicrobial Resistance, April 2010);
11. Recognises that patients' lack of adherence to and compliance with prescriptions, such as failing to complete the course of treatment or not following the dosage recommendations, contributes heavily to antimicrobial resistance;
12. Calls on the Commission to study the issue of inappropriate use and sales of antimicrobial agents with or without prescription throughout the chain – from the doctor and the pharmacist to the patient – in terms of the behaviour of all actors involved, and to implement a comprehensive long-term strategy on the awareness of all these actors;
13. Emphasises the fact that in ensuring the prudent use of antimicrobial agents, attention needs to be paid by the relevant actors to the better use of antibiotics currently available by means of a close examination of the dosage, treatment duration and drug combination;
14. Calls on the Commission and Member States to promote good hand washing and hand drying - especially in hospitals - in order to prevent the spread of infections and reduce the need for antibiotics;
15. Welcomes therefore the annual European Antibiotic Awareness Day on 18 November which aims to raise awareness of the public health threat of antimicrobial resistance and call for more responsible use of antibiotics by multiple actions in Member States;

The monitoring and surveillance of antimicrobial resistance

16. Emphasises the importance of a well-functioning monitoring and surveillance system in order to gather reliable and comparable data on the susceptibility of pathogens to antimicrobial agents and the infections caused by them, allowing for trend analysis, early warnings and monitoring of the spread of resistance at national, regional, and Community level, and to collect data on the prescription and use of antimicrobial agents so that overall use can be monitored;
17. Welcomes therefore the work begun by the European Antimicrobial Resistance Surveillance System (EARSS) and European Surveillance of Veterinary Antimicrobial Consumption (ESVAC), and now continued by ECDC, on the gathering of high quality, comparable, EU-wide data on antimicrobial resistance, while recognising that there are still many difficulties with respect to data access and the quality of data in some countries; welcomes also the work begun by the European Surveillance of Antimicrobial Consumption Project, and now continued by ECDC, on gathering high quality, comparable EU-wide data on antimicrobial consumption;
18. Emphasises the importance of diagnostics in the fight against antimicrobial resistance, and calls for more investment in this field and for more efficient and better use of current diagnostic tools;
19. Calls on the Commission, the ECDC and other relevant EU agencies to work together without delay to develop a harmonised and integrated monitoring system for antimicrobial resistance and antimicrobial use in Europe, including an early warning response for new resistance mechanisms and strains;

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The need for research into, and the development of, new antimicrobial agents and alternatives

20. Recognises that the growing gap between the frequency of infections caused by resistant micro-organisms and the decline in research into, and development of, new antimicrobial agents is now threatening to take the public health sector back to the pre-antibiotic era;

21. Considers the decline in research and development to be the result of a market failure and calls on the Commission to make proposals, via regulatory pathways and other types of measures, to create or improve incentives for the pharmaceutical industry to intensify investment in research into, and development of, new antimicrobial agents and possible alternatives;

22. Reiterates the need for more research on new antimicrobials and possible alternatives under the EU's Research Framework Programmes, and encourages collaborative research at EU level which can lead to efficiency gains;

23. Notes that the lack of rapid diagnostics has contributed to both antibiotic overuse and the rising costs of development;

24. Recognises the need to promote complementary measures such as the use of effective vaccines to prevent infections, as included in the Council Conclusions on innovative incentives for effective antibiotics of 1 December 2009;

Holistic approach

25. Calls on the Commission to ensure that measures on antimicrobial resistance and public health are part of a holistic approach to antimicrobial resistance, recognising the links with measures to combat resistance to antimicrobial agents in veterinary medicines, animal feeding stuffs and crop-growing, specifically as regards the risk of cross-transmission;

26. Calls on the Commission to address the lack of information on EU-wide antibiotic use in veterinary medicines by gathering high quality, comparable, species-specific data for each Member State;

27. Welcomes efforts to align and improve the regulatory assessment of new antibiotics;

28. Calls on the Commission to continue to support EARRS and ESVAC in gathering data on the use of antibiotics as a basis for future measures to ensure responsible use;

29. Calls on the Commission to make legislative proposals to phase out the prophylactic use of antibiotics in livestock farming;

30. Stresses that the livestock and intensive fish-farming sectors should focus on preventing disease through good hygiene, housing and animal husbandry, as well as strict bio-security measures, rather than the prophylactic use of antibiotics;

31. Calls, in particular, for the establishment of good practices for animal husbandry which minimise the risk of antimicrobial resistance; emphasises that these practices should in particular apply to young animals brought together from different breeders thus increasing the risk of communicable diseases;

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32. Notes that when pharmaceutical residues are not disposed of properly, they end up in our waterways thus increasing unintentional exposure to a variety of substances linked to antibiotic resistance; calls on the Commission to promote further research into the impact of long-term exposure to pharmaceutical residues through water and soil;

33. Calls for a separation between the active ingredients and effect mechanisms used in human medicine and veterinary medicine, to the extent possible, to reduce the risk of resistance against antibiotics being transferred from livestock to humans, but points out that this must not result in the imposition of restrictions on existing treatment options that are effective;

34. Considers that the use of so called 'last resort' antibiotics targeting problematic human pathogens should be permitted for agricultural use only under licensed conditions combined with resistance monitoring, preferably on an individual basis;

International cooperation

35. Calls on the Commission to strengthen its close operation with the World Health Organisation (WHO), the World Organisation for Animal Health (OIE) and other relevant parties and organisations at international level in order to deal more effectively at a global level with antimicrobial resistance; welcomes in this context the establishment of the EU-US Transatlantic task force on urgent antimicrobial resistance (TATFAR);

36. Calls on the Commission to ensure that sufficient financial and human resources are available to implement the relevant strategies;

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

Tibet, in particular self-immolation by nuns and monks

P7_TA(2011)0474

European Parliament resolution of 27 October 2011 on Tibet, in particular self-immolation by nuns and monks

(2013/C 131 E/15)

The European Parliament,

— having regard to its previous resolutions on China and Tibet, in particular its resolution of 25 November 2010 ⁽¹⁾,

— having regard to Article 36 of the Constitution of the People's Republic of China, which guarantees all citizens the right to freedom of religious belief,

— having regard to Rule 122(5) of its Rules of Procedure,

A. whereas respect for human rights, freedom of religion and freedom of association are founding principles of the EU and a priority of its foreign policy;

⁽¹⁾ Texts adopted, P7_TA(2010)0449.

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- B. whereas the Chinese Government has imposed drastic restrictions on Tibetan Buddhist monasteries in the Aba/Ngaba county prefecture in Sichuan province, and in other parts of the Tibetan plateau, including brutal security raids, arbitrary detention of monks, increased surveillance within monasteries and a permanent police presence inside the monasteries in order to monitor religious activities;
- C. whereas these security measures are designed to curtail the right to free expression, freedom of association and freedom of religious belief in Tibetan Buddhist monasteries;
- D. whereas Phuntsog (aged 20) and Tsewang Norbu (aged 29) died after setting fire to themselves, on 16 March and 15 August 2011 respectively, as a protest against restrictive Chinese policies in Tibet;
- E. whereas Phuntsog's younger brothers, Lobsang Kelsang and Lobsang Kunchok (both aged 18), set fire to themselves at the Aba/Ngaba county market on 26 September 2011, and whereas, although they survived, their present condition remains unclear;
- F. whereas Dawa Tsering, a 38-year-old monk at Kardze Monastery, set fire to himself on 25 October 2011, whereas Chinese security personnel doused the flames and tried to take him away, whereas the monk is currently being protected by fellow monks at the monastery and whereas his condition is critical;
- G. whereas Kelsang Wangchuk, a 17-year-old monk at Kirti Monastery, immolated himself on 3 October 2011 and was immediately carried away by Chinese soldiers, who extinguished the fire and beat him strenuously before taking him away, and whereas his current state of well-being and whereabouts are unknown;
- H. whereas two former monks from Kirti, Choephel (aged 19) and Kayang (aged 18), clasped their hands together and set fire to themselves while calling for the return of the Dalai Lama and the right to religious freedom, and whereas they died following this protest;
- I. whereas former Kirti monk Norbu Damdrul (aged 19), who set fire to himself on 15 October 2011, was the eighth Tibetan to self-immolate, and whereas his current whereabouts and state of well-being are unknown;
- J. whereas on 17 October 2011 a nun from Ngaba Mamae Dechen Choekorling Nunnery, Tenzin Wangmo (aged 20), died, and whereas she was the first female to commit self-immolation;
- K. whereas self-immolation can be seen as a form of protest and an expression of the increasing desperation felt by young Tibetans, especially within the community of Kirti Monastery;
- L. whereas, whatever personal motivations may underlie these acts, they must be considered in the wider context of religious and political repression in Aba/Ngaba county, which can be traced back many years;
- M. whereas the tightening of state control over religious practice via a series of regulations passed by the Chinese Government in 2007 has contributed to the desperation of Tibetans across the Tibetan plateau;
- N. whereas current regulations have dramatically expanded state control over religious life, with many expressions of religious identity being subject to state approval and control, including the recognition of reincarnate lamas;
- O. whereas a Chinese court sentenced three Tibetan monks to imprisonment over the death of their fellow monk Phuntsog, who set himself on fire on 16 March 2011, on the grounds that they had hidden him and deprived him of medical attention, and whereas it accused them of 'intentional homicide';

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- P. whereas in March 2011, following the first immolation incident, armed personnel surrounded Kirti Monastery and cut off its access to food and water for several days; whereas the new security officials dispatched to the monastery imposed a compulsory new 'patriotic education' programme, and whereas more than 300 monks were taken away in military trucks and detained at unspecified locations to undergo several weeks of political indoctrination;
- Q. whereas the Chinese Government has accused the monks at Kirti Monastery of being involved in acts 'aimed at disturbing social order', including vandalism and self-immolation;
- R. whereas in recent months the Chinese authorities have tightened security in Tibet, especially in the area surrounding Kirti Monastery, whereas journalists and foreigners are banned from visiting the region, and whereas the monastery is patrolled by police in full riot gear; whereas foreign media have been banned from entering restless parts of Tibet, whereas Chinese state television has failed to report on the protests, and whereas monks are forbidden from speaking out about the protests;
1. Condemns the Chinese authorities' continued crackdown on Tibetan monasteries and calls on them to lift the restrictions and security measures imposed on monasteries and lay communities, and to restore the lines of communication to the monks of Kirti Monastery;
 2. Is deeply concerned by reports, since last April, of eight Tibetan Buddhist monks and one nun self-immolating near the Ngaba Kirti Monastery in China's Sichuan province;
 3. Urges the Chinese Government to lift the restrictions and heavy-handed security measures imposed on the Kirti Monastery, and to provide information as to the whereabouts of monks forcibly taken from the monastery; urges the Chinese authorities to allow independent international media and human rights monitors to visit the area;
 4. Calls on the Chinese Government to guarantee freedom of religion to all its citizens in accordance with Article 18 of the Universal Declaration of Human Rights, and to abolish criminal and administrative penalties which target religion and have been used to punish citizens for exercising their right to freedom of religion;
 5. Calls on the Chinese authorities to respect the rights of Tibetans in all Chinese provinces and to take proactive steps to resolve the underlying grievances of China's Tibetan population;
 6. Calls on the Chinese authorities to cease promoting policies which threaten the Tibetan language, culture, religion, heritage and environment, in contravention of the Chinese Constitution and the Chinese law granting autonomy to ethnic minorities;
 7. Urges the Government of the People's Republic of China to provide full details as to the status of the 300 monks who were taken away from Kirti Monastery in April 2011, in relation to which several Special Procedures of the Human Rights Council, including the Working Group on Enforced or Involuntary Disappearances, have intervened;
 8. Urges the Government of the People's Republic of China to be accountable for the status of those Tibetans who have been 'hospitalised' after self-immolating, including as regards their access to medical treatment;
 9. Condemns the sentencing of the Kirti monks and insists on their right to a fair trial and to the provision of adequate legal assistance for the length of that trial; calls for independent observers to be allowed access to the Kirti monks held in detention;

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10. Calls on the High Representative of the Union for Foreign Affairs and Security Policy to release a public statement expressing the EU's concern as regards the escalating situation in Aba/Ngaba county and urging respect for human rights and fundamental freedoms, along with restraint on the part of security police;
 11. Calls on the Chinese authorities to refrain from implementing counterproductive policies and aggressive 'patriotic education' programmes in Tibetan-populated areas such as Sichuan, Gansu and Qinghai, places where human rights violations have created tensions;
 12. Calls on the Chinese authorities to respect traditional Tibetan death rites and to return remains in accordance with Buddhist rituals and without delay or hindrance;
 13. Asks the EU and its Member States to call on the Chinese Government to resume its dialogue with the Dalai Lama and his representatives with a view to bringing about genuine autonomy for Tibetans within the People's Republic of China, and to stop its campaign to discredit the Dalai Lama as a religious leader;
 14. Calls on the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission to raise human rights issues at the next EU-China Summit, and calls on the President of the Commission and the President of the European Council clearly to uphold Tibet's unique religious, cultural and linguistic identity in the course of their official speeches during the opening or closing of the summit, in the event that it is not on the agenda for discussion;
 15. Calls on the EEAS and the EU delegation to China constantly to monitor the human rights situation in China and to continue to raise – in meetings and correspondence with Chinese officials – the specific cases of individual Tibetans imprisoned for the peaceful exercise of religious freedom, and to present a report to Parliament within the next 12 months, suggesting actions to be taken or policies to be implemented;
 16. Reiterates its call to the Council to appoint an EU Special Representative for Tibet with a view to facilitating the resumption of dialogue between the Chinese authorities and the Dalai Lama's envoys in relation to the determination of genuine autonomous status for Tibet within the People's Republic of China;
 17. Calls on those Member States which are members of the G-20, and on the President of the Commission and the President of the European Council, to raise the human rights situation in Tibet with the President of the People's Republic of China, Hu Jintao, at the upcoming G-20 Summit in Cannes on 3 and 4 November 2011;
 18. Urges the People's Republic of China to respect the religious freedoms and basic human rights of the monastic and lay communities in Ngaba, and to suspend the implementation of religious control regulations in order to allow Tibetan Buddhists to identify and educate religious teachers in a manner consistent with Tibetan traditions, to review the religious and security policies implemented in Ngaba since 2008, and to open a transparent dialogue with the leaders of Tibetan Buddhist schools;
 19. Urges the Government of the People's Republic of China to respect internationally agreed human rights standards and to abide by its obligations under international human rights conventions with respect to freedom of religion or belief;
 20. Expresses the need for the rights of China's minority communities to be put on the agenda for future rounds of the EU-China human rights dialogue;
 21. Urges the Chinese Government to ratify the International Covenant on Civil and Political Rights;
 22. Instructs its President to forward this resolution to the Council, the Commission, the High Representative of the Union / Vice-President of the Commission, the governments and parliaments of the Member States and the Government and Parliament of the People's Republic of China.
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Bahrain

P7_TA(2011)0475

European Parliament resolution of 27 October 2011 on Bahrain

(2013/C 131 E/16)

The European Parliament,

- having regard to its previous resolutions on Syria, Yemen and Bahrain, in particular that of 7 April 2011 ⁽¹⁾ on the situation in Syria, Bahrain and Yemen and that of 7 July 2011 ⁽²⁾ on the situation in Syria, Yemen and Bahrain in the context of the situation in the Arab World and North Africa,
- having regard to its resolution of 24 March 2011 ⁽³⁾ on European Union relations with the Gulf Cooperation Council,
- having regard to the statements by its President of 12 April 2011 on the death of two Bahraini civic activists and of 28 April 2011 condemning the death sentences handed down to four Bahrainis for participating in peaceful protests,
- having regard to the Hearing on Bahrain in the European Parliament Human Rights Subcommittee on 3 October 2011,
- having regard to the statements by the Vice-President of the Commission/High Representative (VP/HR) on Bahrain of 10, 12 and 18 March 2011; 3 May and 1 July 2011; 31 August 2011 and 8 and 30 September 2011, and the statements by the VP/HR on the situation in Egypt, Syria, Yemen and Bahrain at the European Parliament on 12 October 2011,
- having regard to the Council conclusions on Bahrain of 23 May, 12 April and 21 March 2011,
- having regard to the statements of 23 June and 30 September 2011 by the UN Secretary-General on the sentences imposed on 21 Bahraini political activists, human rights defenders and opposition leaders,
- having regard to the statement on Bahrain issued by the 66th UN General Assembly on 29 September 2011,
- having regard to the press statement issued by the Ministry of Foreign Affairs of the Kingdom of Bahrain on 5 October 2011 and the statement issued by the Bahrain Ministry of Health on the Sentencing of Doctors, Nurses and Medics on 30 September 2011,
- having regard to the statement by the Bahraini Public Prosecutor regarding the retrial of doctors previously prosecuted in military trials issued on 23 October 2011,
- having regard to the International Covenant on Civil and Political Rights of 1966, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Arab Charter on Human Rights, to all of which Bahrain is a party,
- having regard to Article 19(d) of Bahrain's Constitution,

⁽¹⁾ Texts adopted, P7_TA(2011)0148.

⁽²⁾ Texts adopted, P7_TA(2011)0333.

⁽³⁾ Texts adopted, P7_TA(2011)0109.

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- having regard to the EU Guidelines on Human Rights Defenders of 2004, as updated in 2008,
 - having regard to the Universal Declaration of Human Rights of 1948,
 - having regard to the 1949 Geneva Convention,
 - having regard to the Human Rights Watch report issued in February 2010,
 - having regard to the public briefing paper by doctors, 'Health Services paralyzed: Bahrain's military crackdown on patients on April 2011',
 - having regard to Rule 122(5) of its Rules of Procedure,
- A. whereas, inspired by popular movements in North Africa and the Middle East, peaceful pro-democracy protests have occurred regularly in Bahrain since February calling for institutional, political, economic and social reforms, aimed at achieving genuine democracy, fighting corruption and nepotism, ensuring respect for the rule of law, human rights and fundamental freedoms, reducing social inequalities and creating better economic and social conditions; whereas these peaceful demonstrations were crushed with excessive use of force by the Bahraini authorities, killing dozens of protestors, and whereas the international community's reaction was too slow and weak;
- B. whereas, following a request from the Bahraini Government, thousands of foreign forces from Saudi Arabia and the UAE under the banner of the Gulf Cooperation Council (GCC) have been deployed in Bahrain;
- C. whereas at least 20 doctors and paramedics, who had been sentenced to between five and 15 years in prison for alleged antigovernment activities while performing their professional duties and acting in accordance with their ethical code in treating injured protesters equally and without discrimination earlier this year, had their sentences reconfirmed by a military tribunal on 29 September 2011; whereas due to international pressure Bahrain's Attorney-General, Ali Alboainain, announced on Wednesday 5 October 2011 that the 20 should be retried before civil courts, which trials resumed on 23 October 2011;
- D. whereas a number of the doctors sentenced were trained in EU Member States, belong to EU-based professional medical organisations and enjoy a good reputation among international colleagues;
- E. whereas the targeted crackdown on doctors and paramedics has serious implications for the work of international humanitarian organisations; whereas the UN High Commissioner for Human Rights condemned the takeover by security forces of medical facilities and arbitrary arrests and ill-treatment of medical personnel as shocking and illegal;
- F. whereas on 6 September 2011 the military-run National Safety Appeal Court confirmed the sentences against at least 21 prominent Bahraini human rights activists and opponents of the regime, including bloggers and human rights activists Dr Abduljalil Al-Singace and Abdulhadi Al-Khawaja, all civilians, reportedly for plotting to overthrow the government; whereas approximately 60 civilians have been tried in Courts of National Safety this year;

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- G. whereas many other political activists, human rights defenders and journalists were detained during the recent pro-reform protests; whereas according to human rights organisations they have been tortured, ill-treated and harassed by security forces;
- H. whereas the Deputy Secretary General of the International Federation for Human Rights (FIDH), Nabeel Rajab, President of the Bahrain Centre for Human Rights, was prevented from leaving the country and remains under threat and harassment by the security forces;
- I. whereas the former Vice-President of the Bahrain Teachers' Association, Jalila al-Salman, was arrested for the second time at her home on 18 October 2011; whereas on 23 September 2011, 16 women and four girls were detained and accused of 'illegal public gathering', rioting and 'incitement to hatred of the regime';
- J. whereas on 22 May 2011, the death sentences imposed on Ali 'Abdullah Hassan al-Sankis and 'Abdulaziz 'Abdulridha Ibrahim Hussain, accused of killing two policemen during anti-government protests in Bahrain, were upheld by the National Safety Court of Appeal; whereas the case of the two men was referred on appeal to Bahrain's Court of Cassation, whose verdict is scheduled for 28 November 2011;
- K. whereas hundreds of people, including teachers and medical professionals, were fired, arrested or charged with false offences in mass trials before military courts following the protests and many of them have not been reinstated after being sacked for supporting the protests, despite the King's pledge that most of them would be;
- L. whereas more than 40 people have now been killed since anti-government protests began, including Ahmed al-Jaber al-Qatan, allegedly shot while participating in an anti-government protest on 6 October 2011 near the capital Manama, an investigation into which has now been initiated;
- M. whereas the state of national safety in Bahrain was lifted on 1 June 2011 and on 2 July 2011 King Hamad Bin Isa al-Khalifa launched a National Dialogue to address the concerns of Bahraini citizens in the wake of recent events; whereas recommendations resulting from the Dialogue have been handed over to the King;
- N. whereas on 29 June 2011 the Bahrain Independent Commission of Inquiry (BICI), including an international independent component, was set up by King Hamad in order to investigate the grave human rights violations during recent government crackdowns on pro-reform protesters, which will deliver its findings on 23 November 2011;
- O. whereas on 24 September 2011, elections to the lower house of the parliament took place in order to fill 18 seats vacated by Al-Wefaq, an opposition party, which pulled out of the Middle Eastern nation's legislature to protest against the treatment of demonstrators during unrest earlier this year;
1. Condemns the repression of citizens in Bahrain which led to dozens of deaths and injuries and urges the immediate and unconditional release of all peaceful demonstrators, political activists, human rights defenders, doctors and paramedics, bloggers and journalists and expresses its solidarity with the families of all the victims;
2. Calls on the Bahraini security forces and authorities to stop violence, repression and detention of peaceful demonstrators and to show the utmost restraint when attempting to control protests; urges the authorities to act in strict accordance with their legislation and international obligations;

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3. Reiterates its view that demonstrators have expressed their legitimate democratic aspirations and calls on the Bahraini Government to engage in a genuine, meaningful and constructive dialogue with the opposition, without further delay or additional preconditions, in order to bring about the necessary reforms, encourage national reconciliation and restore social consensus in the country;
4. Expresses its grave concern at the presence of foreign troops under the GCC banner in Bahrain and calls for their immediate withdrawal; reiterates its call on the GCC to contribute constructively and mediate in the interest of peaceful reforms in Bahrain;
5. Condemns the use of special military courts to try civilians, as it is a violation of international fair trial standards, and stresses that civilians must be tried in civilian courts and that every detained person deserves a fair trial, with adequate access to a lawyer and sufficient time to prepare a defence; calls for an immediate cessation of mass trials of civilians in the military court, the Court of National Safety;
6. Welcomes the decision to retry doctors and nurses in civil courts but considers that all charges against them should be dropped, and calls on the civil courts to release the doctors and medical staff unconditionally and immediately, as they were acting in accordance with their professional duty and have been accused of tending to the medical needs of those who oppose the regime, as well as of serious criminal offences which seem to be of a political nature and for which credible evidence has not been put forward, as well as to release all other political activists, journalists, teachers, bloggers and human rights defenders due to the arbitrary nature of the charges and of the entire proceedings; expresses its strong concern about the life sentences handed down to at least eight opposition activists and at least 13 people who were sentenced to up to 15 years in prison;
7. Underlines that providing impartial treatment for the wounded is a basic legal obligation under humanitarian law, and urges Bahrain, as a party to the Geneva Conventions, to respect its obligations regarding the provision of health care to the sick and injured;
8. Calls on the Kingdom of Bahrain to allow all medics to resume their jobs and allow all medics and their defence teams access to the medical examination reports from the Bahrain Independent Commission of Inquiry's examination of the detained doctors;
9. Cautions against the abuse of national security laws;
10. Calls on the authorities to restore and respect all human rights and fundamental freedoms, including pluralism in the media, both online and offline, freedom of expression and assembly, freedom of religion, women's rights and gender equality, and measures against discrimination, and to put an end to the censorship; calls on the Bahraini authorities to accept the requested visit by the United Nations High Commissioner for Human Rights;
11. Notes that thousands of employees have lost their jobs for their participation in the peaceful anti-government protests; calls on the national authorities as well as the European enterprises involved to order the immediate reinstatement of these individuals and to ensure that they are compensated for their lost income;
12. Takes positive note of King Hamad's decision to set up an independent commission to investigate the human rights violations by the security forces during the government crackdown on peaceful pro-reform protesters; urges full impartiality and transparency for the commission and calls on the Bahraini Government not to interfere in its work and to ensure that perpetrators of crimes and all persons responsible for the violent crackdown are brought to justice and tried by due process;

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13. Welcomes the setting-up of a Ministry for Human Rights and Social Development in Bahrain, and calls on that ministry to act in accordance with international human rights standards and obligations;
14. Calls for the admission of international observers to the trials of political prisoners as well as for them to be allowed to monitor the work of the independent commission investigating human rights violations to ensure objectivity according to international standards;
15. Calls on the Bahraini authorities and the King of Bahrain to commute the death sentences of Ali ‘Abdullah Hassan al-Sankis and ‘Abdulaziz ‘Abdulridha Ibrahim Hussain; reiterates its strong opposition to the use of the death penalty and urges the Bahraini authorities to declare an immediate moratorium;
16. Considers that the investigation which has been launched into the death of a 16-year-old boy, Ahmed al-Jaber al-Qatan, during an anti-government protest must be independent, that the findings must be made public and that those responsible must be brought to justice;
17. Underlines the importance of reconciliation as an essential part of reform and stability in Bahrain’s diverse society in which the rights of each citizen should be equally guaranteed in both the letter and the practice of the law;
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 governments and parliaments of the Member States and the Government and Parliament of the Kingdom of Bahrain.

The case of Rafah Nashed in Syria

P7_TA(2011)0476

European Parliament resolution of 27 October 2011 on the case of Rafah Nashed in Syria

(2013/C 131 E/17)

The European Parliament,

- having regard to Article 18 of the Universal Declaration of Human Rights of 1948 and to Article 18 of the International Covenant on Civil and Political Rights of 1966, to which Syria is a party,
- having regard to the statements issued by the spokesperson of Catherine Ashton, EU High Representative, on 30 August 2011 on the worsening of the human rights situation in Syria and on 23 September 2011 on the situation of Rafah Nashed in Syria,
- having regard to the statements calling for the release of Rafah Nashed that were made by Isabelle Durant and Libor Rouček, Vice-Presidents of Parliament, and Veronique de Keyser, Vice-Chair of the S&D Group, at the plenary sittings of 14, 15 and 29 September 2011,
- having regard to the Council conclusions of 10 and 23 October 2011 and to the sanctions adopted on 13 October 2011,
- having regard to Parliament’s resolutions of 7 April 2011 ⁽¹⁾ and 7 July 2011 ⁽²⁾ on the situation in Syria, Bahrain and Yemen,
- having regard to its resolution of 15 September 2011 ⁽³⁾ on the situation in Syria,
- having regard to Rule 122(5) of its Rules of Procedure,

⁽¹⁾ Texts adopted, P7_TA(2011)0148.

⁽²⁾ Texts adopted, P7_TA(2011)0333.

⁽³⁾ Texts adopted, P7_TA(2011)0387.

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- A. whereas Rafah Nashed, Syria's first practising psychoanalyst and the founder of the Damascus School of Psychoanalysis, was arbitrarily arrested and detained on 10 September 2011 at Damascus airport by officers of the General Intelligence Services; whereas she is known for treating victims of psychological trauma as well as for her active engagement in favour of dialogue between all Syrians;
 - B. whereas Ms Nashed is 66 years old and in a precarious state of health, as she has heart disease, is recovering from cancer, has high blood pressure and has to take medication regularly; whereas her health is deteriorating in prison, and this is aggravating her heart disease;
 - C. whereas Ms Nashed was travelling to Paris to be with her daughter, who was expecting a child, when she was taken to prison without charge and initially held in secret detention;
 - D. whereas on 14 September 2011 she was accused of 'activities likely to destabilise the State' and the judge refused to release her on bail; whereas the nature of the accusation and the paranoia that has gripped the regime for the last six months raise fears of a lengthy period of detention intended to intimidate the whole of Syria's intellectual community;
 - E. whereas in the space of a very few hours a huge international campaign was mounted, including a petition calling for her immediate and unconditional release;
1. Strongly condemns the arbitrary arrest and detention of Rafah Nashed by the Syrian authorities;
 2. Expresses the gravest concern about the situation of Ms Nashed, in view of her precarious state of health;
 3. Calls on the Syrian authorities immediately and unconditionally to release Ms Nashed on medical and humanitarian grounds and to guarantee her physical safety and return her to her family without further delay;
 4. Demands that the Syrian authorities allow humanitarian organisations and doctors to treat the victims of violence, and that they give them access to all parts of the country and enable them to carry out their legitimate and peaceful work without fear of reprisals and free of all restrictions, including judicial harassment; calls on the Syrian authorities to abide by international human rights standards and international commitments guaranteeing freedom of opinion and expression;
 5. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Secretary-General of the Arab League and the Government and Parliament of the Syrian Arab Republic.
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III

(Preparatory acts)

EUROPEAN PARLIAMENT

Draft amending budget No 5/2011 - Section IX - European Data Protection Supervisor. Section X - European External Action Service

P7_TA(2011)0445

European Parliament resolution of 25 October 2011 on the Council position on Draft amending budget No 5/2011 of the European Union for the financial year 2011, Section IX – European Data Protection Supervisor and Section X - European External Action Service (13991/2011 – C7-0244/2011 – 2011/2131(BUD))

(2013/C 131 E/18)

The European Parliament,

- having regard to the Treaty on the Functioning of the European Union and in particular Article 314 thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and particularly Articles 37 and 38 thereof,
 - having regard to the general budget of the European Union for the financial year 2011, as finally adopted on 15 December 2010 ⁽²⁾,
 - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,
 - having regard to Draft amending budget No 5/2011 of the European Union for the financial year 2011, which the Commission presented on 22 June 2011 (COM(2011)0374),
 - having regard to Council's position on Draft amending budget No 5/2011, which the Council established on 12 September 2011 (13991/2011– C7-0244/2011),
 - having regard to Rule 75b of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets (A7-0346/2011),
- A. whereas Draft amending budget No 5/2011 to the general budget 2011 covers the modification of the establishment plans of two institutions, the European Data Protection Supervisor (EDPS) and the European External Action Service (EEAS),

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 64, 12.3.2010.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

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- B. whereas the establishment of the EEAS in 2010 was guided by the principle of budget neutrality and sound and efficient management while fully taking into account the impact of the economic crisis in public finances and the need for budgetary stringency,
- C. whereas it has been clear from the start that a gradual build-up of the service will be called for and that resources should be made available according to the progress of the institution's set-up and current absorption capacity,
- D. whereas, the Council in its position of 12 September 2011, has confirmed the Commission's request,
1. Notes Council's position on Draft amending budget No 5/2011;
 2. Decides to amend Council's position on Draft amending budget No 5/2011 as shown below;
 3. Instructs its President to forward this resolution, together with Parliament's amendment to the Council, the Commission, the other institutions and bodies concerned and the national parliaments.

Amendment 1

SECTION IX: European Data Protection Supervisor

ANNEX - STAFF

Function group and grade			2011	
	Council's position (=DAB 5/2011)		Parliament's amendment	
	Permanent posts	Temporary posts	Permanent posts	Temporary posts
AD 16				
AD 15	+ 1		- 1	
AD 14	- 1		+ 1	
AD 13				
AD 12				
AD 11	3		3	
AD 10	1		1	
AD 9	5		5	
AD 8	7		7	
AD 7	3		3	
AD 6	5		5	
AD 5	1		1	
AD total	26		26	
AST 11				
AST 10				
AST 9	1		1	
AST 8	1		1	

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Function group and grade			2011	
	Council's position (=DAB 5/2011)		Parliament's amendment	
	Permanent posts	Temporary posts	Permanent posts	Temporary posts
AST 7	1		1	
AST 6	1		1	
AST 5	3		3	
AST 4	2		2	
AST 3	3		3	
AST 2	3		3	
AST 1				
AST total	15		15	
Grand total	41		41	

Tyres for motor vehicles and their trailers ***I

P7_TA(2011)0448

European Parliament legislative resolution of 25 October 2011 on the proposal for a directive of the European Parliament and of the Council relating to tyres for motor vehicles and their trailers and to their fitting (codified text) (COM(2011)0120 – C7-0071/2011 – 2011/0053(COD))

(2013/C 131 E/19)

(Ordinary legislative procedure – codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2011)0120),
- 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 (C7-0071/2011),
- 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 15 June 2011 ⁽¹⁾,
- having regard to the Interinstitutional Agreement of 20 December 1994 – Accelerated working method for official codification of legislative texts ⁽²⁾,
- having regard to Rules 86 and 55 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs (A7-0349/2011),

⁽¹⁾ OJ C 248, 25.8.2011, p. 153.

⁽²⁾ OJ C 102, 4.4.1996, p. 2.

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- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Adopts its position at first reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2011)0053

Position of the European Parliament adopted at first reading on 25 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council relating to tyres for motor vehicles and their trailers and to their fitting (Codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Council Directive 92/23/EEC of 31 March 1992 relating to tyres for motor vehicles and their trailers and to their fitting ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) Directive 92/23/EEC is one of the separate Directives of the EC type-approval system provided for in Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) ⁽⁵⁾, and lays down technical prescriptions which motor vehicles and their trailers must satisfy relating to, *inter alia*, pneumatic tyres. Those technical prescriptions concern the approximation of the laws of the Member States to enable the EC type-approval procedure provided for in Directive 2007/46/EC to be applied in respect of each type of motor vehicle and trailer. Consequently, the provisions laid down in Directive 2007/46/EC relating to motor vehicles and their trailers, and to systems, components and separate technical units intended for such vehicles, apply to this Directive.
- (3) Rules on tyres should lay down common requirements concerning not only their characteristics but also the requirements for the equipment of vehicles and their trailers with regard to their tyres.

⁽¹⁾ OJ C 248, 25.8.2011, p. 153.

⁽²⁾ Position of the European Parliament of 25 October 2011.

⁽³⁾ OJ L 129, 14.5.1992, p. 95.

⁽⁴⁾ See Annex VII, Part A.

⁽⁵⁾ OJ L 263, 9.10.2007, p. 1.

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- (4) It is desirable to take into account the technical requirements adopted by the UN Economic Commission for Europe in its Regulation No 30 ('Uniform provisions concerning the approval of pneumatic tyres for motor vehicles and their trailers'), as amended ⁽¹⁾, in its Regulation No 54 ('Uniform provisions concerning the approval of pneumatic tyres for commercial vehicles and their trailers') ⁽²⁾, in its Regulation No 64 ('Uniform provisions concerning the approval of vehicles equipped with temporary-use spare wheels/tyres'), as amended ⁽³⁾, and in its Regulation No 117 ('Uniform Provisions Concerning the Approval Of Tyres With Regard To Rolling Sound Emissions And To Adhesion On Wet Surfaces'), as amended ⁽⁴⁾, which are annexed to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (Revised 1958 Agreement) ⁽⁵⁾.
- (5) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex VII, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

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

- (a) 'tyre' means any new pneumatic tyre including a winter tyre with holes for studs, in the form of original equipment or of a replacement, intended to be fitted to vehicles to which Directive 2007/46/EC applies. This definition does not cover winter tyres with studs;
- (b) 'vehicle' means any vehicle to which Directive 2007/46/EC applies;
- (c) 'manufacturer' means the holder of the trade name or mark of vehicles or tyres.

Article 2

1. The requirements set out in Annex V shall apply to tyres intended to be fitted to vehicles first used on or after 1 October 1980.
2. The requirements set out in Annex V shall not apply to:
 - (a) tyres whose speed rating is less than 80 km/h;
 - (b) tyres whose nominal rim diameter does not exceed 254 mm (or code 10) or is 635 mm or more (code 25);
 - (c) T-type temporary-use spare tyres as defined in point 2.3.6 of Annex II;
 - (d) tyres designed only to be fitted to vehicles registered for the first time before 1 October 1980.

⁽¹⁾ Economic Commission for Europe document E/ECE/324(E3/ECE/TRANS/505) REV 1 — ADD 29, 1.4.1975 and its amendments 01, 02 and supplements.

⁽²⁾ Economic Commission for Europe document E/ECE/324(E/ECE/TRANS/505) REV 1 — ADD 53 and supplements.

⁽³⁾ Economic Commission for Europe document E/ECE/324(E/ECE/TRANS/505) REV 1 — ADD 63 and supplements.

⁽⁴⁾ Economic Commission for Europe document E/ECE/324(E/ECE/TRANS/505) REV 2 — ADD 116 and its amendment 01 and supplements.

⁽⁵⁾ Published as Annex I to Council Decision 97/836/EC (OJ L 346, 17.12.1997, p. 78).

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Article 3

1. Member States shall grant EC type-approval, under the conditions laid down in Annex I, to all types of tyres meeting the requirements of Annex II, and shall allocate to them an approval number as specified in Annex I.
2. Member States shall grant EC type-approval, under the conditions laid down in Annex I, to all types of tyres meeting the requirements of Annex V, and shall allocate to them an approval number as specified in Annex I.
3. Member States shall grant EC type-approval to all vehicles in respect of their tyres under the conditions laid down in Annex III, where those tyres (including spare tyres, where appropriate) meet the requirements of Annex II and the requirements concerning vehicles laid down in Annex IV, and shall allocate to any such vehicle an approval number as specified in Annex III.

Article 4

The approval authority of a Member State shall, within one month of issuing or refusing an EC type-approval for a component (tyre) or vehicle, send a copy of the relevant certificate, models of which are given in the Appendices to Annex I and Annex III, to the other Member States and, if requested, send the test report on any type of tyre approved.

Article 5

No Member State may prohibit or restrict the placing on the market of tyres bearing the EC type-approval mark.

Article 6

No Member State may refuse to grant EC type-approval or national type-approval to a vehicle on grounds relating to its tyres if those tyres bear the EC type-approval mark and are fitted in accordance with the requirements laid down in Annex IV.

Article 7

No Member State may prohibit the use of a vehicle on grounds relating to its tyres if those tyres bear the EC type-approval mark and are fitted in accordance with the requirements laid down in Annex IV.

Article 8

1. If, on the basis of a substantiated justification, a Member State considers that a tyre type or a vehicle type is dangerous although complying with the requirements of this Directive, it may, within its territory, provisionally prohibit the marketing of that product or subject it to special conditions. It shall immediately inform the other Member States and the Commission thereof, stating the grounds for its decision.
2. The Commission shall, within six weeks, consult the Member States concerned, following which it shall deliver its opinion without delay and take the appropriate steps.
3. If the Commission is of the opinion that technical adaptations to this Directive are necessary, such adaptations shall be adopted in accordance with the procedure laid down in Article 11. In that event, the Member State which has adopted safeguard measures may maintain them until the entry into force of the adaptations.

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Article 9

1. The Member State which has granted the EC type-approval for a component (tyre) or vehicle shall take the measures required in order to verify that production models conform to the approved type in so far as this is necessary and if need be in cooperation with the approval authorities in the other Member States. For this purpose, that Member State may at any time check the conformity of the tyres or vehicles to the requirements of this Directive. Such verification shall be limited to spot checks.

2. If the Member State referred to in paragraph 1 finds that a number of tyres or vehicles with the same approval marking do not conform to the approved type, it shall take the necessary measures to ensure that production models so conform. Where there is a consistent failure to conform, those measures may extend to a withdrawal of EC type-approval. The authorities shall take the same measure if they are informed by the approval authorities of another Member State of such failure to conform.

3. The approval authorities of the Member States shall within one month notify each other, using the relevant form shown in the Appendices to Annex I and Annex III, of any withdrawal of EC type-approval and of the reasons for such a measure.

Article 10

Any decision taken pursuant to the provisions adopted in implementation of this Directive to refuse or withdraw EC type-approval for a tyre or for a vehicle with regard to the fitting of its tyres implying a prohibition of marketing or of use shall set out in detail the reasons on which it is based. Every such decision shall be notified to the party concerned, who shall at the same time be informed of the remedies available to him under the laws in force in the Member States and of the time-limits allowed for the exercise of such remedies.

Article 11

Any amendments necessary to adapt the requirements of Annexes I to VI to technical progress shall be adopted in accordance with the procedure referred to in Article 40(2) of Directive 2007/46/EC.

Article 12

1. Member States may not:

- (a) refuse to grant EC type-approval or national approval for a type of vehicle or type of tyre, or
- (b) refuse the registration or prohibit the sale or entry into service of vehicles, and the sale or entry into service or use of tyres,

for reasons relating to the tyres and their fitting to new vehicles, if those vehicles or tyres comply with the requirements laid down in this Directive.

2. Member States may not grant EC type-approval, and shall refuse to grant national type-approval, for those types of tyre which fall within the scope of this Directive and which do not meet the requirements of this Directive.

3. Member States may not grant EC type-approval or national approval for a type of vehicle, for reasons relating to its tyres or their fitting, if the requirements of this Directive are not met.

4. Member States shall:

- (a) consider certificates of conformity accompanying new vehicles in accordance with the provisions of Directive 2007/46/EC as not being valid for the purposes of Article 26(1) of that Directive, if the requirements of this Directive are not met; and

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- (b) refuse the registration or prohibit the sale or entry into service of new vehicles which do not meet the requirements of this Directive.

5. The provisions of this Directive shall apply for the purposes of Article 28 of Directive 2007/46/EC to all tyres which fall within the scope of this Directive, with the exception of tyres of class C1e, to which they shall apply as from 1 October 2011.

Article 13

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 14

Directive 92/23/EEC, as amended by the acts listed in Annex VII, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex VII, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VIII.

Article 15

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 16

This Directive is addressed to the Member States.

Done at

For the European Parliament
The President

For the Council
The President

LIST OF ANNEXES

ANNEX I	Administrative provisions for the EC type-approval of tyres
Appendix 1	Information document relating to EC type-approval for a type of tyre
Appendix 2	EC type-approval certificate (tyres)
Appendix 3	Information document relating to EC type-approval for a type of tyre relating to tyre/road noise emission
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(¹) The technical requirements for tyres are similar to those of Regulations Nos 30 and 54 of the UN Economic Commission for Europe (UN/ECE).

(The full text of the Annexes is not reproduced here for technical reasons. For that text, please refer to the Commission proposal COM(2011)0120).

Application of emission stages to narrow-track tractors ***I

P7_TA(2011)0451

European Parliament legislative resolution of 25 October 2011 on the proposal for a directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the application of emission stages for narrow-track tractors (COM(2011)0001 – C7-0018/2011 – 2011/0002(COD))

(2013/C 131 E/20)

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0001),
- 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 (C7-0018/2011),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

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- having regard to the opinion of the European Economic and Social Committee of 16 March 2011 ⁽¹⁾,
 - having regard to the undertaking given by the Council representative by letter of 21 September 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0282/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ OJ C 132, 3.5.2011, p. 53.

P7_TC1-COD(2011)0002

Position of the European Parliament adopted at first reading on 25 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council amending Directive 2000/25/EC as regards the application of emission stages for narrow-track tractors

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2011/87/EU).

Engines placed on the market under the flexibility scheme *I**

P7_TA(2011)0452

European Parliament legislative resolution of 25 October 2011 on the proposal for a directive of the European Parliament and of the Council amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme (COM(2010)0362 – C7-0171/2010 – 2010/0195(COD))

(2013/C 131 E/21)

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0362),
- 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 (C7-0171/2010),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

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- having regard to the opinion of the European Economic and Social Committee of 16 September 2010 ⁽¹⁾,
 - having regard to the undertaking given by the Council representative by letter of 29 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Transport and Tourism (A7-0080/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ OJ C 48, 15.2.2011, p. 134.

P7_TC1-COD(2010)0195

Position of the European Parliament adopted at first reading on 25 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2011/88/EU).

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Parliament's position on the 2012 draft budget as modified by the Council – all sections

P7_TA(2011)0461

European Parliament resolution of 26 October 2011 on the draft general budget of the European Union for the financial year 2012 as modified by the Council – all sections (13110/2011 – C7-0247/2011 – 2011/2020(BUD)) and letters of amendment Nos 1/2012 (COM(2011)0372 and 2/2012 (COM(2011)0576) to the draft general budget of the European Union for the financial year 2012

(2013/C 131 E/22)

The European Parliament,

- having regard to Article 314 of the Treaty on the Functioning of the European Union and to Article 106a of the Treaty establishing the European Atomic Energy Committee,
- having regard to Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources ⁽¹⁾,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾,
- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,
- having regard to its resolution of 24 March 2011 on general guidelines for the preparation of the 2012 budget ⁽⁴⁾,
- having regard to its resolution of 6 April 2011 on the estimates of revenue and expenditure of Parliament for the financial year 2012 - Section I - Parliament ⁽⁵⁾,
- having regard to the Draft general budget of the European Union for the financial year 2012, which the Commission presented on 26 May 2011 (COM(2011)0300),
- having regard to its resolution of 23 June 2011 on the mandate for the trilogue on the 2012 Draft Budget ⁽⁶⁾,
- having regard to the Position on the Draft general budget of the European Union adopted by the Council on 25 July 2011 (13110/2011 – C7-0247/2011),
- having regard to Letters of Amendment No 1/2012 and 2/2012 to the Draft general Budget of the European Union for the financial year 2012 presented by the Commission on 17 June 2011 and 16 September 2011 respectively,
- having regard to Rule 75b of its Rules of Procedure,
- having regard to the report of the Committee on Budgets and the opinions of the other committees concerned (A7-0354/2011),

SECTION III

General considerations

1. Recalls that the promotion of a smart, sustainable and inclusive economy, which creates jobs and high-quality employment by delivering on the Europe 2020 strategy's seven flagship initiatives is a jointly endorsed goal of the 27 Member States and the EU institutions; recalls that the implementation of this

⁽¹⁾ OJ L 163, 23.6.2007, p. 17.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁴⁾ Texts adopted, P7_TA(2011)0114.

⁽⁵⁾ Texts adopted, P7_TA(2011)0140.

⁽⁶⁾ Texts adopted, P7_TA(2011)0296.

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strategy will require a huge amount of future-oriented investment up to 2020, estimated at no less than EUR 1 800 billion by the Commission in its communication of 19 October 2010 entitled 'The EU Budget Review'(COM(2010)0700); underlines, therefore, that necessary investments - at both EU and Member State level - must be made now and delayed no longer;

2. Recalls that, in order to help Europe recover from the crisis and come out stronger, the Europe 2020 strategy for a smart, sustainable and inclusive growth must be at the centre of the 2012 EU budgetary strategy for 2012;

3. Is deeply concerned, against this background, that the current crisis has resulted in a drop in public investment in some of these areas because of the adjustments that Member States have made to their national budgets; calls for this trend to be reversed and firmly believes that investments need to be guaranteed both at EU and national level if the Union as a whole is to deliver on the Europe 2020 strategy; is of the opinion that the EU budget has a significant role to play as a leverage tool for Member States' recovery policies by triggering and supporting national investment to reinforce growth and employment and should be used as such; emphasises that this is fully in line with the dynamics of the European Semester, which, as a new mechanism for enhanced European economic governance, aims at increasing consistency, synergies and complementarities between the EU and the national budgets in delivering on the jointly agreed Europe 2020 goals;

4. Recalls, once more, that the EU budget should in no way be perceived and evaluated simply as a financial item added as a burden to national budgets but, on the contrary, is to be understood as an opportunity to gear up those initiatives and investments that are of interest and of added value to the Union as a whole, most of them co-decided by Parliament and the Council and thus legitimised also at national level;

5. Reiterates the complementary nature of the EU budget to national budgets and the impetus it creates to promote growth and jobs and underlines that given its very nature and limited size it should not be checked and curbed by arbitrary reductions but on the contrary targeted areas need to be reinforced;

6. Recognises that there is an acute shortage of funds in the EU, both at Member State and Union levels; stresses that, through attaching real importance to the concept of value for money, all programmes and expenditure should be carefully analysed for viability, efficiency and effectiveness;

7. Points out that the margins stemming from the Multiannual Financial Framework (MFF) do not allow real room for manoeuvre, especially in subheading 1a and heading 4, and reduce the capacity of the Union to react to policy changes and unforeseen needs while maintaining its priorities; points out that the scope of the challenges the Union faces, would require means well beyond the current ceilings of the MFF; recalls, in that respect, that the mobilisation of the instruments foreseen in the Interinstitutional Agreement (IIA) of 17 May 2006 on budgetary discipline and sound financial management has been rendered unavoidable by the various challenges and new priorities that have arisen, such as the Arab Spring this year and the need to give a strong impetus to the implementation of the Europe 2020 strategy as a coordinated way to fight the current economic and social crisis;

Council's position

8. Regrets the Council cuts to the Commission's Draft budget (DB) of EUR 1,59 billion in commitments (- 1,08 %) and of EUR 3,65 billion in payments (- 2,75 %), which lead to overall amounts of EUR 146,25 billion in commitments (or + 2,91 % as compared to 2011 Budget ⁽¹⁾) and EUR 129,09 billion in payments (+ 2,02 %) - to be compared to respectively + 4,03 and + 4,91 % as per Commission's DB (including Amending Letter No 1/2012);

⁽¹⁾ Including Amending Budgets 1 to 3/2011.

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9. Notes that the Council proposed cuts for several hundreds of budget lines, while proposing no single reinforcement; underlines that these linear cuts are spread over all headings of the MFF, although not to the same extent;

10. Points out some of the inconsistencies of these cuts compared with the positions taken recently by the Council, such as the cuts it has made in the DB 2012 on the budgetary lines of the newly created agencies for financial supervision the creation of which it has pushed for but for which it does not seem willing to provide the necessary financial means to operate satisfactorily;

11. Acknowledges the Council's concern about economic and budgetary constraints at national level; believes that the Union should show budgetary responsibility, but recalls that under Treaty provisions the EU budget cannot run a public deficit; and that the EU budget represents 2 % of total public spending in the Union;

12. Deplores, against this background and despite previous calls from Parliament, that the Council has made horizontal cuts in the budget, deciding on the overall level of appropriations a priori, without duly taking into account an accurate assessment of the actual needs for the achievement of the Union's agreed objectives and political commitments, nor the priorities by Parliament, as presented in its abovementioned resolution of 23 June 2011 on the mandate for the trilogue;

13. Emphasises that the sole consideration of past implementation rates, together with the rates of increase as compared to previous year's budget, as a basis for selecting lines and amounts to be cut is a backward-looking approach which does not allow, in the context of multiannual programming, to properly reflect the speeding up of implementation along the years;

14. Notes that the low level of payments proposed by the Council would lead to a bigger discrepancy between payment appropriations and commitment appropriations, mechanically resulting in an increase of outstanding commitments (RALs) at year end, particularly in subheadings 1a and 1b; warns in this context of the already extremely large amount of accumulated RAL so close to the end of this MFF;

Parliament's budget proposal

15. Sets the overall level of appropriations to EUR 147 763,82 million and 133 143,18 million in respectively commitment and payment appropriations,

16. Recalls that Europe 2020 policies have been identified by Parliament as one of its most important priorities⁽¹⁾ for the 2012 budget since they are essential and necessary parts of the EU strategy for the economic recovery; emphasises that the proposed increase in appropriations for a selected number of budget items serves both short- and long-term strategies for the future of the Union;

17. Considers that the level of payments proposed by the Commission is a bare minimum for payments, as also mentioned in several statements by President Barroso and Commissioner Lewandowski; is not confident that Council's draft statement No1 on payment appropriations aiming at addressing the issue of possible additional payment needs is of any help in this respect, notably in light of early 2011 experience, when Council happened to be reluctant to honour the similar statement it initiated for the 2011 budget; therefore also decides to restore most payment appropriations to DB levels, all the more so because Council cuts in payments also affect areas and budget lines falling under Europe 2020 objectives, particularly in subheadings 1a and 1b;

⁽¹⁾ See for instance Parliament's resolution for the mandate of the trilogue, as adopted on 23 June 2011.

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On subheading 1a

18. Recalls that subheading 1a is the key heading of the MFF 2007-2013 in terms of reaching the objectives of the Europe 2020 strategy, thanks to its direct or indirect contribution to the financing of all its five headline targets and the seven flagship initiatives;

19. Regrets that the Commission and the Council do not generally propose to boost – beyond what was originally planned – the support for investments urgently needed to implement the seven flagship initiatives, and notes that they are regrettably inclined to postpone the necessary big leap in terms of common financial effort to the post-2013 MFF; is convinced that this attitude will seriously endanger the achievement of the headline goals by 2020; is therefore proposing some targeted increases over the DB of the Commission in some key areas, namely competitiveness and entrepreneurship, research and innovation, education and life long learning;

20. Recalls that, in order to finance ITER, it will be necessary for the budget authority to agree on a revision of the MFF 2007-2013; takes note of Commission's proposal of 20 April 2011 for financing the missing EUR 1,3 billion for ITER in 2012 and 2013 but, in line with the Council's exclusion of ITER additional funding from its budget reading, insists that the negotiations on ITER's additional costs are disconnected from 2012 budgetary procedure; expresses nevertheless its willingness to resolve the issue of the extra financing needed for ITER by the end of 2011 in order to ensure that existing EU structures for fusion do not weaken as a result of no decision being taken;

21. Reaffirms its strong opposition to any form of redeployment from Seventh Framework Programme for Research and Technological Development (FP7) as proposed by the Commission as part of the ITER financing package since this would endanger the successful implementation of FP7 and significantly reduce its contributions to the achievement of the headline goals and the implementation of the flagship initiatives of the Europe 2020 strategy; therefore restores FP7 to financial programming figures by adding the EUR 100 million to the budget lines cut by the Commission; also restores the bulk of payments cuts brought on FP7 lines by the Council (EUR 492 million), as a matter of avoiding any risk of non implementation of existing legal obligations, which could lead to additional costs due to late interests to pay;

22. Decides to further increase the level of commitment appropriations for selective lines of the FP7 (Capacities - Research for the benefit of SMEs, Cooperation - Energy, Ideas, People, Research related to energy); considers that those lines are instrumental in ensuring growth and investments in key areas that are at the heart of the Europe 2020 strategy; believes that the current implementation rate of the FP7 will guarantee that these additional amounts can be effectively integrated in the financial programming of those programmes;

23. Further increases the overall level of commitment appropriations for the Competitiveness and Innovation Framework programme (CIP - Intelligent energy and CIP - Entrepreneurship and Innovation) compared to what was initially foreseen, as a matter of delivering on the flagship initiatives of the Europe 2020 strategy; hopes that this increase will contribute to improving the access of SMEs to this programme and to developing specific programmes and innovative financial mechanisms; recalls, in this context, the key role played by SMEs in boosting the EU economy and supports, in particular, the CIP-EIP programme as an indispensable tool of recovery from the crisis;

24. Decides to introduce an important increase of commitment appropriations for the Lifelong Learning programme, given its high European added value and also because of its strong contribution to the flagship initiatives 'Youth on the Move' and 'Innovation Union'; is convinced that these increases are fully implementable since additional financial allocation for this programme proposed by Parliament and adopted by the budgetary authority in the 2011 budget, has been successfully executed to date, leading to a significant increase in the number of its participants; reiterates its strong commitment to EU programmes in the fields of youth and education since they can contribute to the reduction of youth unemployment; also proposes a further increase in commitment appropriations for the Erasmus Mundus programme;

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25. Decides to restore DB payments for the European Globalisation Adjustment Fund (EGF) line and reiterates its call for further improvements in the procedure of mobilising the EGF, in order to accelerate assistance on the ground;

26. Proposes in that regard to the other branch of the budgetary authority the mobilisation of the Flexibility Instrument for an amount of EUR 30,75 million under subheading 1a;

On subheading 1b

27. Notes that Council's position does not modify Commission's proposal in respect of commitments, and stresses that this position on commitment appropriations is well in line with the allocations set out in the MFF, taking into account the technical adjustment to the financial framework for 2012, as provided for in point 17 of the IIA of 17 May 2006;

28. Recalls the important role regional and cohesion policies play towards the achievement of the goals of the Europe 2020 strategy and economic recovery of European regions; deplores Council's restrictive approach on payments, which were cut by some EUR 1,3 billion as compared to Commission's forecasts of payment needs for 2012; notes that only the convergence objective and the technical assistance lines remained untouched by the cuts of Council; reminds that these cuts apply to budget allocations that were already far below Member States' own estimates (EUR 61 billion for 2012 or some 50 % above DB) and widely considered as being the bare minimum for honouring upcoming payment claims and be consistent with the speeding up of implementation at the end of the programming period; is convinced that this attitude of the Council is all the more unacceptable since the Commission has recently made some concrete proposals to boost payments of structural and cohesion funds in those countries most affected by the current financial and economic crisis; requests an assessment of the implementation of regional and cohesion policy, with concrete proposals on how to reduce RALs;

29. Calls on the Commission to acknowledge the crucial role which the local and regional levels play in combating climate change;

30. Therefore restores the Council's cuts in payment appropriations to the level of DB;

On heading 2

31. Generally restores the Council's cuts under heading 2 to the level of EUR 60 457,76 million, which is 3,07 % above the 2011 budget; considers that the Commission's estimates of budgetary needs are more realistic than the Council's proposals, in particular against the current background of great economic uncertainty and of instability in the markets;

32. Points out that the traditional agricultural amending letter to be presented in autumn 2011 will adjust the current estimates to a more precise assessment of the real needs; against this background, draws attention to the final level of assigned revenue to be available in 2012 (conformity clearance correction, irregularities and milk super levy), which will eventually set the level of fresh appropriations to be adopted in the 2012 budget; estimates that the current margin left (EUR 352,24 million) should be sufficient to cover the needs under this heading in the absence of unforeseen circumstances;

33. Calls on the Commission to increase its efforts to define clear priorities under this Heading in favour of sustainable farming systems, which preserve biodiversity, protect water resources and soil fertility, respect animal welfare and employment; believes that such a policy could have as a positive side effect the prevention of crises such as the spread of E.coli;

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34. Rejects the increase of the so called negative expenditure line (clearance of accounts) which appears as an artificial reduction of the overall level of heading 2 appropriations; considers however that Member States may be in a better position to evaluate the effectiveness and reliability of their national supervision and control systems in the area of Common Agricultural Policy (CAP), which seems to be overestimated;

35. Emphasises that the prevention and response mechanisms with relation to crises in the fruit and vegetable sector are clearly insufficient and therefore an immediate solution needs to be found until the new CAP is in place; urges the Commission to present a concrete proposal to Parliament and the Council to ensure a sufficient increase of the Union's contribution to the crisis fund within the operational funds for producer organisations; calls for this increase to serve for specific measures for the producers affected by the E. coli crisis and to prevent future crises;

36. Provides for an increased support for the school milk programme and the continued support for programme concerning school fruit;

37. Maintains the budget allocation dedicated to the Food Distribution Programme for the Most Deprived Persons in the Union that supports 18 million people with problems of malnutrition within the Union; welcomes the recent effort of the Commission (see the amended Commission proposal of 3 October 2011 for a regulation on this subject (COM(2011)0634)) to find a political and legal solution to avoid any drastic cuts in the implementation of the programme in 2012 and 2013; strongly calls on the Council to endorse without any delay this proposal, especially in view of the difficult social situation in many Member States following the financial and economic crisis;

38. Continues to support on a commensurate level for the LIFE+ programme, which gives priority solely to environment and climate action projects; recalls again that environmental problems and their solutions do not recognise national borders, thus dealing with it at EU level is self-evident; calls in this respect on the Member States to significantly improve their implementation of EU environmental legislation;

39. Stresses that the Common Fisheries Policy remains an important political priority and maintains its financing at the proposed DB levels, in view of its upcoming reform; takes the view that the funding of the integrated maritime policy should not come at the expenses of other fisheries actions or programmes under heading 2; considers effective management of fisheries to be of crucial importance in order to preserve fish stocks and prevent overfishing; welcomes an additional support for new international fisheries organisations;

On subheading 3a

40. Recalls its strong call for an appropriate and balanced answer to the current challenges in the area of migration and solidarity, with a view to the management of legal migration and prevention and combating of illegal migration; acknowledging the obligation of Member States to comply with established Union law, emphasises the need for sufficient funding and support tools to handle emergency situations in a spirit of full respect of internal protection rules and human rights and solidarity amongst all Member States; is accordingly calling for a balanced increase of budget appropriations over the DB for, on one hand, both Frontex and the European Asylum Support Office, in view of their increasing tasks and, on the other hand, the European Refugee Fund; restores moreover to DB level commitment appropriations for both the European Return Fund and the External Borders Fund; strongly believes that in the view of current developments particularly in the Mediterranean region and challenges posed to the security of the Union's external borders and management of migration flows appropriate endowment of those funds is indispensable;

41. Deplores the significant cuts presented by the Council in Frontex, External Borders Fund and European Return Fund; strongly believes that in the view of current developments particularly in the Mediterranean region and challenges posed to the security of the Union's external borders and management of migration flows reinforcement of those funds is indispensable;

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42. Intends, by restoring the DB appropriations for the prevention of crime and the prevention of terrorism in line with financial programming, to further advance the increasingly needed cooperation in areas such as a European cyber-security strategy, or confiscation of assets of criminal organisations;

43. Deems the Daphne programme to have been underfunded so far and will ensure its appropriate funding to tackle recognised needs in the fight against violence towards women;

On subheading 3b

44. Reiterates that funding for education-oriented programmes, initiatives and bodies should be increased in view of their contribution to the completion of Europe 2020 strategy's flagship initiatives 'Youth on the Move' and 'Innovation Union'; intends in particular to further increase funding for the "Youth in action" programme;

45. Is aware of the importance of involving citizens in the development of civil society and political life with a European perspective, and considers it unfortunate that expenditure related to citizenship should have been scaled down by the Council;

46. Rejects any further cut to the Civil Protection Financial Instrument's funding since the DB is already below financial programming and civil protection is a new competence of the Union; consequently restores the DB amounts;

47. In relation to European public spaces, considers that an assessment report and work programme must be presented to the budgetary authority in time to be taken into account in the budgetary procedure; decides to hold in reserve part of communication appropriations until the Commission demonstrates its willingness to improve interinstitutional collaboration in this respect;

48. Sets a number of reserves to receive specific assessment reports and a formal commitment for enhanced inter-institutional cooperation;

49. Welcomes the credits for the Public Health programme which complements and adds value to Member States' actions in the area of health promotion and prevention of illness; supports the Commission's efforts to continue the HELP campaign for a life without tobacco under the Public Health programme;

On heading 4

50. Repeats that, this year even more than in the past, heading 4 of the 2012 budget is underfinanced and the margin available under the same heading is too low to cope with the increased political challenges in our neighbourhood and worldwide;

51. Welcomes the reinforcement of appropriations for the Neighbourhood Instrument, as proposed in Amending Letter No 1/2012, as in line with its support to a clear and consistent EU response to recent political and social developments in Southern Mediterranean and the added value to the external dimension of the Union's home affairs policies and macro-regional strategies; reiterates nevertheless very clearly that such a financial assistance can in no way be detrimental to existing priorities;

52. Considers that, in order to facilitate an agreement in conciliation with the other branch of the budgetary authority, decreases in commitment appropriations can be agreed upon on several budget lines, and especially on Common Foreign and Security Policy; as regards this latter, considers the level of appropriations voted for the 2011 budget as appropriate, and decides to amend the Council's position accordingly;

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53. Believes that the increased funding for Palestine and UNRWA it proposes is crucial for better ensuring the safety and livelihood of refugees and current efforts to ensure a viable Palestinian state; calls again for a clear strategy for Palestine, linking the Union's financial assistance to an increased political role for the Union in the peace process in relation to both parties in the conflict;

54. Recalls that increasing needs in respect of cooperation with Asia and Latin America should be acknowledged in 2012 budget;

55. Regrets that all needs and limited priorities carefully identified by its specialised committees could not have been financed within the ceiling of the MFF for heading 4, and considers its reading as the minimum required for a credible stance of the Union as a global player;

56. Proposes in that regard to the other branch of the budgetary authority the mobilisation of the Flexibility Instrument for an amount of EUR 208,67 million under heading 4;

On heading 5

57. Rejects the Council's general position on heading 5 expenditure, which consists in an overall reduction of some EUR 74 million, among which EUR 33 million for the Commission, resulting from across the board cuts in each institution's budget;

58. Stresses that such a restrictive approach, while resulting in short-term savings for the EU budget and the Member States, endangers the implementation of EU policies and programmes, ultimately to the detriment of citizens and with a deferred negative effect on national budgets; further stresses that the Commission and other institutions should be provided with adequate resources to carry out their tasks, especially after the entry into force of the Treaty on the Functioning of the European Union (TFEU);

59. Notes that this decrease was reached through an increase in the so-called standard abatement rate for staff (non-financed posts) which prevents some improvement in the occupancy rates of the establishment plans approved by the budget authority (through its direct impact on recruitments); wonders in this respect how Council is able to estimate the possible staffing levels in the services of the Commission with more accuracy than the Commission services; also rejects those cuts on items of expenditure for which the Commission already proposed net savings in their draft budgets (e.g. Publications Office, studies and consultations, equipment and furniture);

60. Acknowledging the great efforts made by the Commission to freeze its administrative expenditure in nominal terms already in its DB proposal, decides to restore all heading 5 expenditure within Section III to that level;

61. Nevertheless sets reserves on certain administrative lines, pending specific actions, follow-up or proposals by the Commission or with a view to obtaining additional information;

On agencies

62. Endorses, as a general rule, the Commission's estimates of agencies' budgetary needs and rejects the principles underlying the Council's arbitrary and across the board cuts, as compared to 2011;

63. Considers indeed that any cut brought to agencies' budget during the budgetary procedure should be more closely related to the process of agencies' work planning and tasks, unless some precise sources of efficiency gains can be identified; in this respect considers the cuts brought to Frontex, the mandate of which has just been revised, as one typical example of the complete disconnection operated by Council between the tasks and activities of agencies - as enshrined by legal texts and requirements - and the budgetary resources allocated to them;

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64. Agrees in general that agencies' surpluses should be taken into account when establishing the DB and presented in a clear and transparent manner; however, reiterates that surpluses of partially self-financed agencies should be exempted from this general rule in order to cover for the unreliability of their income;

65. Further decides to increase the 2012 Budget allocation to the three new financial supervision agencies as a matter of utmost importance in the current economic and financial situation and for their build-up procedures;

On pilot projects and preparatory actions

66. Stresses that pilot projects and preparatory actions, adopted in a limited number, have been thoroughly considered and evaluated, also in the light of the first assessment by the Commission in July 2011, in order to avoid duplication of actions already covered by existing EU programmes; recalls that pilot projects and preparatory actions aim at formulating political priorities and at introducing new initiatives that might turn into future EU activities and programmes;

SECTIONS I, II, IV, V, VI, VII, VIII, IX

General Framework

67. Recalls its position adopted in its abovementioned resolution of 6 April 2011, asking that all institutions should draw up their budgets on the basis of sound and efficient management and looking for savings where possible, in line with Commissioner Lewandowski's letter of 3 February 2011 calling on every institution to make all possible efforts towards limiting expenditure increase below 1 % compared to 2011;

68. Recognises the efforts that were made by all institutions which resulted in real cuts on their own budgets; in real terms, the budget growth in all institutions is negative, despite their new competences, new jobs, actions and activities created as a consequence of the entry in force of the Lisbon Treaty;

69. Notes that the administrative and operating expenditure budget from all institutions represents 5,59 % of the global EU budget, of which heading 5 having a margin of EUR 497,9 million;

70. Reaffirms that savings measures cannot jeopardise payment of salaries and pensions, maintenance of buildings and security as institutions must have the minimum and the necessary to operate and that cuts shall be appropriate to the extent of not penalising institutions which achieved the maximum limit of savings and furthermore that savings shall be legal and retain their effectiveness in 2012;

Section I - European Parliament

General framework

71. Points out that the current voted actualisation of the 2012 budget is 1,44 % compared to 2011 (without the amending letter on Croatia) as the amending letter on Croatia will be dealt with in the conciliation committee with the Council; expects that the necessary expenses for Croatia will be added; expects the final actualisation of the budget 2012 to be therefore 1,9 % (including Croatia) after conciliation committee; 1,9 % is the lowest actualisation for 12 years and without the expenses for Croatia accession and the 18 new MEPs following the Lisbon Treaty it is only 0,8 %; 0,8 % is the lowest increase since at least 15 years; in the last 15 years the average increase was 4,5 %; due to the current inflation of 2,9 % there is a real decrease of the budget 2012; despite new competences, new posts, actions and activities, which are the consequences of the Lisbon Treaty, Parliament has made real cuts;

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72. Points out that the overall level of its 2012 budget is EUR 1 710,1 million (including the 18 MEPs following the Lisbon Treaty); this represents a net reduction of EUR 14,5 million compared to the Estimates and EUR 74,085 million to the initial budget proposals before conciliation with the Bureau;

73. Points out that the budget for 2012 is a budget of consolidation, in which the Parliament did a maximum effort to do savings without putting in danger the quality of work and the legislative excellence; this 2012 budget and the following 2013 budget are the reference for the next Multiannual Financial Framework.

74. Reiterates that the savings expected from the budget lines for translation and interpretation must not jeopardise the principle of multilingualism in Parliament and during the dialogues between other institutions; reiterates that savings will be implemented without jeopardising the right of any Member to speak during plenary, committees, coordinators meetings and trilogues in his/her own language; Members should also keep their right to write and read in their own language;

75. Believes that in times of increasing financial difficulties for numerous Europeans and ongoing austerity policies, Parliament should show an example of restraint by reducing its travel costs; asks the Bureau to create conditions for making savings of 5 % in all kind of travel expenditure including delegations of committees and interparliamentary delegations in full respect of the Statute for Members and its implementing measures; believes that a reduction in business flights by Members of Parliament would help to achieve such savings; requests that 15 % of the travel appropriations be placed in reserve pending a report by the Secretary General of Parliament to be delivered to the Bureau and the Committee on Budgets by 31 March 2012; calls for such a report to examine the feasibility of measures to ensure the utmost efficiency of Members' travel with a view to making recommendations for potential budgetary savings by considering all proposals and resolutions which Parliament has already adopted on this question, by presenting proposals to reduce its number of business class flights, encouraging the purchase of economy / flexi-economy class airfares, ensuring a proper treatment of the Frequent Flyer Points and revising the rules of the Members' Registry opening hours, in particular on Fridays; expects that the appropriations for the travels are reduced in 2012 and in the following years till the end of the legislature; suggests that savings in institutional visits have to take into account the primacy of pluralism over proportionality when defining the delegations' composition;

76. Points out that 2012 budget includes expenditure resulting from additional 18 Members following the entry into force of the Lisbon Treaty (EUR 10,6 million)

77. Maintains its position that, in any event, a policy of identifying savings wherever possible and the continued pursuit of reorganisation and redeployment of existing resources are crucial elements of its budgetary policy, especially in this time of economic crisis; considers therefore that such savings for the 2012 budget should be made in the wider context of structural changes having longer term effects; the cuts which Parliament has accepted will require structural changes to be made, which must not endanger the legislative excellence of Parliament; considers that the goal is to concentrate on Parliament's core business; considers that savings in interpretation and translation do not put at risk the principle of multilingualism, but are possible with the help of innovation, reorganisation of structures and new working methods;

78. Welcomes the good co-operation of the Committee on Budgets with the Bureau based on mutual trust and respect; considers that the agreement made in the conciliation on 22 September 2011 and in the context of the estimates (its resolution of 6 April 2011 adopted in plenary by 479 votes in favour) should not be put in question and none of the elements of that agreement should be reopened if no new circumstances have occurred since then;

79. Notes that the general expenditure allowance is frozen at the 2011 level; calls on the Bureau not to index any of the Members' allowances (including the "daily" allowance);

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80. Reiterates that a number of reserves have been proposed during Parliament's budgetary negotiations; notwithstanding the conciliation compromise between the Committee on Budgets and the Bureau, calls for the underlying questions in these reserves regarding Parliament's budget to be answered and set out transparently, providing clear information on translation and interpretation needs, catering, cleaning and maintenance as well as travel services and facilities, other external services and on price structure or any applicable subsidies for these services;

Human resources

81. Approves the following changes to the establishment plan:

- conversion of two temporary AST3 posts into two permanent AST1 posts for the Medical Service,
- 30 upgradings of AD5 posts to AD7 in order to take account the results of the internal AD7 competitions;
- conversion of 15 AST posts (five AST3, five AST5 and five AST7) into AD5 posts;

82. Decides to approve the internalisation of the security service, as suggested in the Amending Letter, and, in consequences to create 29 new posts (26 AST1 and 3 AD5) under the establishment plan;

83. Approves, the following measures contained in the Amending Letter, which have been offset by other savings:

- the release of appropriations from the reserve for the new security policy;
- offsetting of the carbon emissions generated by administrative activities;
- increase in the appropriations for contract staff in order to support the implementation of Parliament's property policy;
- increase of the annual grant to the EPA;

Buildings and communication and information policy

84. Believes that Parliament's building policy requires careful analysis and that the administration should continue to develop buildings policy in cooperation with the Committee on Budgets; requests therefore to be kept informed on a regular basis on new developments for building projects with a significant financial implications for the budget, such as e.g. the Konrad Adenauer building, the House of European History and building/acquisition projects at Parliament's places of work; asks to be kept informed about the creation of any new posts relating to DG INLO's three-year plan before they are approved by the administration; asks the administration to establish a service agreement for cost sharing with the Commission of the running costs and any other institution that may wish to use the facilities of the House of European History; calls upon the EU institutions to better coordinate their visitors' programs with a view to exploiting synergies, increasing visitor satisfaction and sharing cost; asks the Administration to improve the governance of interinstitutional projects;

85. Points out that the financing of the new contract staff to support the implementation of Parliament's property policy need to be ensured in the next budgetary years in a transparent way; furthermore, asks to be kept informed of any intention to create new posts and of any increase in the appropriations relating to DG INLO policy before they are approved by the administration;

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86. Believes that the project of the House of European History requires an active cooperation and financial contribution of other institutions; welcomes the commitment of the President of the Commission expressed in his letter of 28 September 2011 to contribute substantially to the project and ensure support to the functioning of the House of European History; recalls its resolution of 6 April 2011 asking for a business plan setting out the long-term business strategy of the House of European History and notes that the administration has provided the requested information; reiterates that decisions relating to the project should be subject to an open debate and a fruitful dialogue and should ensure a transparent decision making process; requests to be informed as soon as possible on the building project according to Article 179(3) of the Financial Regulation; calls on the Bureau to ensure that the cost plan contained in the business plan will be strictly adhered to;

87. Believes that, in view of making long-term savings making the organisation more modern and efficient, the budget of Parliament should be subject to a comparative study with the budgets of a representative sample of Member States and with the budget of the United States Congress;

Environment-related matters

88. Welcomes the putting into place of concrete incentives to make more use of less polluting means of transport by introducing the 50 % Jobcard system in Brussels; points out that the reserve on the different lines for travel costs depends also on the result of a report requested from the Bureau examining the feasibility of measures to ensure the utmost efficiency of travel costs and making recommendations for budgetary savings;

89. Calls for further measures to be taken to reduce energy, water and paper consumption in view of making savings in Parliament's budget;

Section IV - Court of Justice

90. Points out that the cuts made by the Council would place the Court in a position of not being able to properly carry out its core duties in the context of an increasing judicial workload; has therefore decided to partly restore the DB notably concerning the Members, personnel and IT appropriations;

Section V - Court of Auditors

91. Notes that the Court is making significant efforts to redeploy staff from support services to audit activities to meet the increasing demands upon the institution, as well as finding substantial economies in its administrative expenditure; notes that the Council has cut appropriations for salaries on the basis of low implementation in 2010; is expecting the implementation for 2011 to perform better and has therefore decided to partially re-establish the DB;

Section VI - European Economic and Social Committee

92. Points out that some of the reductions introduced by the Council would jeopardise the EESC's core functions and call into question its ability to meet its legal obligations towards its staff; decides therefore to restore the DB for appropriations available to EESC Members to carry out the institution's core activity of enabling civil society organisations from the Member States to express their views at EU level, which at the level of prudent estimates for inflation effectively means a freeze in real terms, to partly restore the DB for staff remuneration and allowances to enable the EESC to meet its obligations towards its staff and to partly restore the DB for interpretation to bring the level back to execution in 2009, which would still, given increased rates for interpretation, mean a decrease in real terms;

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Section VII - Committee of the Regions

93. Rejects partly the reductions introduced by Council; increases most of the concerned items because the Council has reduced the appropriations considerably below the 2010 and 2011 execution; decides therefore to restore the DB in order to allow the institution to preserve the level of political activities of 2011;

Section VIII - European Ombudsman

94. Takes the view that appropriations for this institution have already been reduced significantly over the last two years; re-establishes therefore the DB on most of the lines;

Section IX - European Data Protection Supervisor

95. Has taken a different view of the Council and accepted the creation of two additional permanent posts (1 AD 9 and 1 AD 6) in the EDPS' establishment plan because of that institution's new task, conferred on it by Article 16 TFEU, of monitoring and ensuring that the fundamental rights to privacy and protection of personal data rights are respected by all EU institutions and bodies; accepts in order to comply with legal obligations the upgrading of its director from AD 14 to AD 15, although the total staff of the EDPS is 43 posts;

96. For the same reason has decided to restore the other lines back to DB;

Section X - European External Action Service

97. Notes that the EEAS as a new organisation which represents a major European ambition needs to be endowed with sufficient means; in this regard, appropriations for staff remunerations in 2012 need to take into account the actual vacancy rates in the autumn of 2011; calls on the EEAS to exert restraint when it comes to the future creation of high-ranking posts; believes that one way of achieving this could be to replace progressively Seconded National Expert (SNE) posts by permanent posts for Member States' civil servants; notes that SNEs are not counted in the one third of EEAS staff at AD level; nevertheless, recalls the Council decision establishing the organisation and functioning of the EEAS which states that "by the date of expiry of the contract of an SNE transferred to the EEAS under Article 7, the relevant function will be converted into a temporary agent post in cases where the function performed by the SNE corresponds to a function normally carried out by staff at AD level, provided that the necessary post is available under the establishment plan"; moreover, stresses that operational requirements for establishing the EEAS with its own information technology systems in a new building need to be funded;

98. Takes into account the clarifications received from the EEAS in the letter sent to the Committee on Budgets chair on 30 September 2011 concerning the share of EU officials in the establishment plan, in line with the commitment taken by HR/VP; therefore, decides to restore the EEAS establishment plan as proposed in the Commission Draft Budget, and believes that all reserves relating to recruitment and the setting up of an EU delegation in the United Arab Emirates should be lifted;

99. Is concerned by the Council's position to cut the EEAS' DB for 2012 to + 2,25 %; has also taken a prudent approach to increases in view of the overall financial context and accepts only partly the EEAS' requests;

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100. Accepts the requested amendments to the EEAS establishment plan, notably with a view to reinforcing delegations; will however continue exercising vigilance as regards the composition of the EEAS staff and compliance with the statutory obligation that EU officials represent at least 60 % of the EEAS AD staff; demands that the EEAS provide regular reports on this matter; remarks that the increase in budgetary needs of the EEAS is a result of a reallocation of competences previously carried out by the Council and the Commission, and the development of underestimated needs such as start-up costs, new obligations and tasks currently undertaken by the Council and the Commission;

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* *

101. Instructs its President to forward this resolution to the Council and the Commission and to the other institutions and bodies concerned.

Conclusion and provisional application of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway ***

P7_TA(2011)0462

European Parliament legislative resolution of 26 October 2011 on the draft Council decision on the conclusion of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway (11114/2011 – C7-0184/2011 – 2011/0033(NLE))

(2013/C 131 E/23)

(Consent)

The European Parliament,

- having regard to the draft Council decision (11114/2011),
 - having regard to the draft Cooperation Agreement on Satellite Navigation between the European Union and its Member States and the Kingdom of Norway (06647/2010),
 - having regard to the request for consent submitted by the Council in accordance with Articles 171 and 172 and point (a) of the second subparagraph of Article 218(6), and Article 218(8) of the Treaty on the Functioning of the European Union (C7-0184/2011),
 - 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 (A7-0316/2011),
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 Kingdom of Norway.

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US-EC Agreement on the promotion, provision and use of GALILEO and GPS satellite-based navigation systems ***

P7_TA(2011)0463

European Parliament legislative resolution of 26 October 2011 on the draft Council decision on the conclusion of the Agreement on the promotion, provision and use of GALILEO and GPS satellite-based navigation systems and related applications between the European Community and its Member States, of the one part, and the United States of America, of the other part (11117/2011 – C7-0185/2011 – 2011/0054(NLE))

(2013/C 131 E/24)

(Consent)

The European Parliament,

- having regard to the draft Council decision (11117/2011),
 - having regard to the draft Agreement on the promotion, provision and use of GALILEO and GPS satellite-based navigation systems and related applications between the European Community and its Member States, of the one part, and the United States of America, of the other part (11575/2011),
 - having regard to the request for consent submitted by the Council in accordance with Articles 171 and 172 and point (a) of the second subparagraph of Article 218(6), and Article 218(8), of the Treaty on the Functioning of the European Union (C7-0185/2011),
 - 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 (A7-0332/2011),
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 United States of America.

System of taxation applicable in the case of parent companies and subsidiaries of different Member States *

P7_TA(2011)0464

European Parliament legislative resolution of 26 October 2011 on the proposal for a Council directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (recast) (COM(2010)0784 – C7-0030/2011 – 2010/0387(CNS))

(2013/C 131 E/25)

(Special legislative procedure – consultation – recast)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2010)0784),
- having regard to Article 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0030/2011),

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- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,
 - having regard to the letter of 25 March 2011 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0314/2011),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission and as amended below;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 1**Proposal for a directive
Recital 9**

(9) In relation to the treatment of permanent establishments Member States may need to determine the conditions and legal instruments in order to protect the national tax revenue and fend off circumvention of national laws, in accordance with the Treaty principles and taking into account internationally accepted tax rules.

(9) In relation to the treatment of permanent establishments Member States may need to determine the conditions and legal instruments in order to protect the national tax revenue and fend off circumvention of national law, **and to avoid extreme forms of under-taxation or non-taxation**, in accordance with the Treaty principles and taking into account internationally accepted tax rules.

Amendment 2**Proposal for a directive
Article 4 – paragraph 1 – point a**

(a) refrain from taxing such profits; or

(a) refrain from taxing such profits **if they have been taxed in the State of the subsidiary at a statutory corporate tax rate not lower than 70 % of the average statutory corporate tax rate applicable in the Member States**; or

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 3**Proposal for a directive****Article 4 – paragraph 1 – point b**

(b) tax such profits while authorising the parent company and the permanent establishment to deduct from the amount of tax due that fraction of the corporation tax related to those profits and paid by the subsidiary and any lower-tier subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

(b) tax such profits **at a statutory corporate tax rate not lower than 70 % of the average statutory corporate tax rate applicable in the Member States** while authorising the parent company and the permanent establishment to deduct from the amount of tax due that fraction of the corporation tax related to those profits and paid by the subsidiary and any lower-tier subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

Financial rules applicable to the annual budget *I**

P7_TA(2011)0465

European Parliament amendments adopted on 26 October 2011 to the proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union (COM (2010)0815 – C7-0016/2011 – 2010/0395 (COD)) ⁽¹⁾

(2013/C 131 E/26)

(Ordinary legislative procedure: first reading)

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 1**Proposal for a regulation****Recital 1**

(1) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities has been substantially amended several times. Since further amendments are to be made, including changes to take account of amendments introduced by the Treaty of Lisbon, the Regulation (EC, Euratom) No 1605/2002 should be replaced by this Regulation, in the **interests** of clarity.

(1) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities has been substantially amended several times. Since further amendments are to be made, including changes to take account of amendments introduced by the Treaty of Lisbon, the Regulation (EC, Euratom) No 1605/2002 should be replaced by this Regulation, **according to the Treaty of Lisbon adopted jointly by the European Parliament and the Council according to the ordinary legislative procedure**, in the **interest** of clarity.

Amendment 2**Proposal for a regulation****Recital 2**

(2) Regulation (EC, Euratom) No 1605/2002 laid down the budgetary principles and financial rules to be respected in all legislative acts and by all institutions. The fundamental principles, the concept and the structure of that Regulation and the basic rules of budgetary and financial management need

(2) Regulation (EC, Euratom) No 1605/2002 laid down the budgetary principles and financial rules **governing the establishment and implementation of the general budget, ensuring sound and effective management, control and protection of the financial interests of the Union, as well as**

⁽¹⁾ The matter was then referred back to committee pursuant to Rule 57(2), second subparagraph (A7-0325/2011).

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

to be maintained. Derogations to those fundamental principles should be reviewed and simplified as far as possible, taking into account their continuing relevance, their added-value for the annual budget of the Union (hereinafter the 'budget'), and the burden they impose on stakeholders. It is necessary to maintain and strengthen the key elements of the financial reform: the role of the financial actors, the integration of controls in operational services, the internal auditors, the Activity Based Budgeting, the modernisation of accounting principles and rules and the basic principles for grants.

increasing transparency, to be respected in all legislative acts and by all institutions. The fundamental principles, the concept and the structure of that Regulation and the basic rules of budgetary and financial management need to be maintained. Derogations to those fundamental principles should be reviewed and simplified as far as possible, taking into account their continuing relevance, their added-value for the annual budget of the Union (hereinafter the 'budget'), and the burden they impose on stakeholders. It is necessary to maintain and strengthen the key elements of the financial reform: the role of the financial actors, the integration of controls in operational services, the internal auditors, the Activity Based Budgeting, the modernisation of accounting principles and rules and the basic principles for grants.

Amendment 3

Proposal for a regulation
Recital 4 a (new)

DRAFT LEGISLATIVE RESOLUTION

AMENDMENT

(4a) As regards the Union's research framework programmes, further simplification and harmonisation of rules and procedures should be introduced, as stated in the European Parliament resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes ⁽¹⁾, and in the Final Report of the Expert Group on Interim Evaluation of the Seventh Framework Programme, published on 12 November 2010 on the basis of Article 7(2) of Decision No 1982/2006/EC.

⁽¹⁾ Texts adopted, P7_TA(2010)0401.

Amendment 4

Proposal for a regulation
Recital 5

(5) Regulation (EC, Euratom) No 1605/2002 was confined to stating the broad principles and basic rules governing the whole budgetary sector covered by the Treaties, while the implementing provisions were laid down in Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities¹¹ in order to produce a better hierarchy of rules and make Regulation (EC, Euratom) No 1605/2002 easier to read. Under the Treaty on the Functioning of the European Union (hereinafter the 'TFEU') the Commission **may receive delegation** to adopt acts **of general application** to supplement or **amend** certain non-essential elements of legislative **acts**. As a consequence, some provisions laid down in Regulation (EC, Euratom) No 2342/2002, should be incorporated into this Regulation. **The detailed rules for the application of this Regulation adopted by the Commission should be confined to technical details and implementing modalities.**

(5) Regulation (EC, Euratom) No 1605/2002 was confined to stating the broad principles and basic rules governing the whole budgetary sector covered by the Treaties, while the implementing provisions were laid down in Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities¹¹ in order to produce a better hierarchy of rules and make Regulation (EC, Euratom) No 1605/2002 easier to read. Under **Article 290 of** the Treaty on the Functioning of the European Union (hereinafter the 'TFEU') **a legislative act may delegate to the Commission the power to adopt non-legislative acts only** to supplement or **amend** certain non-essential elements of **the legislative act**. As a consequence, some provisions laid down in Regulation (EC, Euratom) No 2342/2002, should be incorporated into this Regulation.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 5
Proposal for a regulation
Recital 8

(8) The rules governing interest generated by pre-financing should be simplified as they generate excessive administrative burden on both recipients of Union funds and Commission services and create misunderstandings between the Commission services and operators and partners. For reasons of simplification, in particular in respect of grant beneficiaries, and in line with the principle of sound financial management, **there should no longer be an** obligation to generate interest on pre-financing and to recover such interest. However, it should be possible to include such obligation in a delegation agreement in order to allow the re-use of interests generated by prefinancing for the programmes managed by some delegates, or its recovery.

(8) The rules governing interest generated by pre-financing should be simplified as they generate excessive administrative burden on both recipients of Union funds and Commission services and create misunderstandings between the Commission services and operators and partners. For reasons of simplification, in particular in respect of grant beneficiaries, and in line with the principle of sound financial management, **the** obligation to generate interest on pre-financing and to recover such interest **should be lifted immediately**. However, it should be possible to include such obligation in a delegation agreement in order to allow the re-use of interests generated by prefinancing for the programmes managed by some delegates, or its recovery.

Amendment 6
Proposal for a regulation
Recital 11

(11) **The** Treaty **requires that** the multiannual financial framework be laid down in the form of a regulation. **It is therefore necessary** to incorporate certain provisions from the **multiannual financial framework for 2007-2013** into this Regulation. In particular, in order to ensure budgetary discipline, it is necessary to establish a link between the multiannual financial framework and the annual budgetary procedure. It is also necessary to include provisions on commitment of the European Parliament and of the Council to respect the allocations of commitment appropriations laid down in the basic acts for structural operations, rural development and the European Fisheries Fund.

(11) **As according to the** Treaty the multiannual financial framework **will in future** be laid down in the form of a regulation **and the interinstitutional agreement on budgetary discipline and sound financial management has to be amended accordingly**, it is **logical** to incorporate certain provisions from the **interinstitutional agreement** into this Regulation. In particular, in order to ensure budgetary discipline, it is necessary to establish a link between the multiannual financial framework and the annual budgetary procedure. It is also necessary to include provisions on commitment of the European Parliament and of the Council to respect the allocations of commitment appropriations laid down in the basic acts for structural operations, rural development and the European Fisheries Fund.

Amendment 7
Proposal for a regulation
Recital 13 a (new)

(13a) Revenue received by non-state third parties in the pursuit of the Union's legitimate aims such as the fight against smuggling and counterfeiting of cigarettes (e.g. the 'Phillip Morris' agreement) should be treated as assigned revenue, in particular where these are the results of agreements concluded in the process of alternative dispute resolution.

Amendment 8
Proposal for a regulation
Recital 16

(16) **Concerning provisions on proportionality, the notion of tolerable risk of error should be introduced as part of the risk assessment made by the Authorising Officer. The institutions should be able to move away from the general 2 %**

(16) **In order to assess the risk of error, taking account of the principle of sound financial management and appropriate controls, and to react accordingly, a management tool showing the risk of error should be used.**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

materiality threshold used by the Court of Auditors to conclude on the legality and regularity of the underlying transactions. Tolerable risk levels constitute more appropriate basis for the Discharge Authority to judge the quality of the management of risk by the Commission. The European Parliament and the Council should therefore determine the level of tolerable risk of error per policy area, taking into account the costs and benefits of controls.

Amendment 9

Proposal for a regulation
Recital 16 a (new)

(16a) The principle of transparency, enshrined in Article 15 TFEU which requires the institutions to work as openly as possible, requires, in the area of the implementation of the Union budget, that citizens be able to know where and for what purpose funds are spent by the Union. Such information fosters democratic debate, contributes to the participation of citizens in the decision-making process of the Union and reinforces the institutional control and scrutiny over Union expenditure. This objective should be achieved by the publication, preferably using modern communication tools, of relevant information concerning final contractors and final beneficiaries of Union funds which takes into account their legitimate interests of confidentiality and security and, as far as natural persons are concerned, their rights to respect for their private lives and the protection of their personal data. Institutions should therefore apply a selective approach in line with the principle of proportionality. Decisions to publish should be based on relevant criteria in order to provide meaningful information.

Amendment 10

Proposal for a regulation
Recital 23 a (new)

(23a) For very low and low-value grants, simplified procedures in accounting and authorisation may be applied in order to create a beneficiary-driven approach.

Amendment 11

Proposal for a regulation
Recital 23 b (new)

(23b) Grants may also be authorised in the field of basic research, where no outcome or result can be presented in consequence of the research activity.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 12
Proposal for a regulation
Recital 24

(24) The experience with Public Private Partnerships (PPPs) institutionalised as Union bodies under Article 185 of Regulation (EC, Euratom) No 1605/2002 demonstrates that further alternatives should be added in order to increase the choice of instruments to include bodies whose rules are more flexible and accessible to the private partners than those applicable to the Union institutions. Such alternatives should operate under indirect management. An alternative should be a body established by a basic act and endowed with financial rules which should take into account the principles necessary to ensure sound financial management of Union funds. These principles should be adopted in a delegated regulation and should be based on those with which third entities entrusted with budget implementation tasks have to comply. **Another alternative should be the implementation of PPPs by bodies governed by private law of a Member State.**

Amendment 13
Proposal for a regulation
Recital 25

(25) Basic control and audit obligations of Member States where they implement the budget indirectly in shared management, which currently exist only in sector-specific Regulations, should be, for the purposes of **Article** 317 of the TFEU, introduced in this Regulation. Therefore it is necessary to include provisions, setting out a coherent framework for all policy areas concerned, on a harmonised administrative structure at national level, common management and control obligations for those structures, annual management declaration of assurance with independent audit opinion thereon and an annual declaration by Member States by which they assume the responsibility for the management of Union funds they are entrusted with, financial clearance, suspension and correction mechanisms operated by the Commission. Detailed provisions should remain in sector-specific Regulations.

(24) The experience with Public Private Partnerships (PPPs) institutionalised as Union bodies under Article 185 of Regulation (EC, Euratom) No 1605/2002 demonstrates that further alternatives should be added in order to increase the choice of instruments to include bodies whose rules are more flexible and accessible to the private partners than those applicable to the Union institutions. Such alternatives should operate under indirect management. An alternative should be a body established by a basic act and endowed with financial rules which should take into account the principles necessary to ensure sound financial management of Union funds. These principles should be adopted in a delegated regulation **on which the European Court of Auditors should be consulted** and should be based on those with which third entities entrusted with budget implementation tasks have to comply.

(25) Basic control and audit obligations of Member States where they implement the budget indirectly in shared management, which currently exist only in sector-specific Regulations, should be, for the purposes of **Articles 317 and 290** of the TFEU, introduced in this Regulation. Therefore it is necessary to include provisions, setting out a coherent framework for all policy areas concerned, on a harmonised administrative structure at national level, **which does not create any additional control structures but allows the Member States to accredit bodies entrusted with the implementation of Union funds. The Member States should have the competence to determine the entity or organisation carrying out the functions of the accrediting authority, which may be at the same administrative level as the accredited body or already be responsible for the supervision of other authorities at present; this should not preclude the choice of any other structure on the part of the Member States as long as this is in line with the provisions of this Regulation. Furthermore,** common management and control obligations for those structures, annual management declaration of assurance with independent audit opinion thereon and an annual declaration by Member States by which they assume the responsibility for the management of Union funds they are entrusted with, financial clearance, suspension and correction mechanisms operated by the Commission **should be contained in this Regulation in order to create a coherent legislative framework which also improves the overall legal certainty and the efficiency of controls and remedial actions as well as the protection of the Union's financial interests.** Detailed provisions should remain in sector-specific Regulations.

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Amendment 14**Proposal for a regulation****Recital 33 a (new)**

(33a) All draft proposals submitted to the legislative authority should be suitable for the application of user-friendly information technologies ('e-government') and the interoperability of data processed in the management of the budget should be ensured, which should improve efficiency. Uniform data transmission standards for data available in electronic format should be foreseen. A transitional period of two years from the entry into force of this Regulation should be granted for the attainment of these targets.

Amendment 15**Proposal for a regulation****Recital 38 a (new)**

(38a) Lump sums and flat rates should be used on a voluntary basis and only applied where appropriate. The terminology in use on flat rates and lump sums should be clarified.

Amendment 16**Proposal for a regulation****Recital 38 b (new)**

(38b) A further clarification or a reasonable definition of eligible costs should be proposed, as it would enhance compliance with the full cost principle, namely direct and indirect costs, upstream and downstream of research.

Amendment 17**Proposal for a regulation****Recital 43 a (new)**

(43a) In order to allow its auditees sufficient time to address findings of the Court of Auditors that could have an impact on the auditees' final accounts or the legality and/or regularity of their underlying transactions, the Court of Auditors shall ensure that all such findings are transmitted to the institution or body concerned in good time.

Amendment 18**Proposal for a regulation****Recital 44**

(44) The provisions concerning provisional and final accounts should be updated, in particular in order to provide for the reporting information that should accompany the accounts sent to the Commission's Accounting officer for the purpose of consolidation. Reference should also be made to the representation letter accompanying the transmission, by the institutions and bodies financed by the budget, to the Court of Auditors of their final accounts, as well as to the representation letter accompanying the transmission of the Union's final consolidated accounts. Finally, an earlier deadline should be set out for the Court of Auditors to make its observations on the provisional accounts of institutions other than the Commission

(44) The provisions concerning provisional and final accounts should be updated, in particular in order to provide for the reporting information that should accompany the accounts sent to the Commission's Accounting officer for the purpose of consolidation. Reference should also be made to the representation letter accompanying the transmission, by the institutions and bodies financed by the budget, to the Court of Auditors of their final accounts, as well as to the representation letter accompanying the transmission of the Union's final consolidated accounts. Finally, an earlier deadline should be set out for the Court of Auditors to make its observations on the provisional accounts of institutions other than the Commission

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and bodies financed by the budget in order to allow them to draw up their final accounts taking into account the remarks by the Court of Auditors remarks.

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and bodies financed by the budget in order to allow them to draw up their final accounts taking into account the remarks by the Court of Auditors remarks. ***In order to close the discharge procedure during the year following the year being audited, a working group will be set up to make proposals aimed at shortening the time taken by the procedure.***

Amendment 19
Proposal for a regulation
Recital 45

(45) As regards the information which is to be submitted by the Commission in the context of discharge, the Commission should notably submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in accordance with Article 318 of the TFEU. Adequate provisions should therefore be introduced in this Regulation for such report in relation to other existing reporting requirements.

(45) As regards the information which is to be submitted by the Commission in the context of discharge, the Commission should notably submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in accordance with Article 318 of the TFEU. Adequate provisions should therefore be introduced in this Regulation for such report in relation to other existing reporting requirements. ***The report should include in particular elements on the achievements in the field of gender aspects of staff policy.***

Amendment 20
Proposal for a regulation
Recital 48

(48) As regards the specific provisions relating to the implementation of external actions, it is necessary to adapt them to the changes proposed for the methods of implementation.

(48) As regards the specific provisions relating to the implementation of external actions, it is necessary to adapt them to the changes proposed for the methods of implementation ***and to propose a differentiated approach when the European Union is required to respond to humanitarian emergencies, international crises or third countries undergoing a process of democratic transition.***

Amendment 21
Proposal for a regulation
Recital 54 a (new)

(54a) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level.

The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Amendment 22
Proposal for a regulation
Recital 55

(55) The revision of this Regulation should be made only when necessary. Too frequent revisions generate disproportionate cost of adjusting administrative structures and procedures to the new rules. Furthermore, time may be too short to allow for valid conclusion to be drawn from the application of the rules in force.

deleted

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Amendment 23**Proposal for a regulation****Recital 56 a (new)**

(56a) The readability of this Regulation should be improved by attaching an index that also includes the names of each article, as well as a glossary of financial terms,

Amendment 24**Proposal for a regulation****Article 1**

This Regulation lays down the rules for the establishment and the implementation of the **annual** budget of the Union, (*hereinafter* the 'budget') and the presentation and auditing of the accounts.

1. This Regulation lays down the rules for the establishment and the implementation of the **general** budget of the **European** Union, ('the budget') and the presentation and auditing of the accounts.

2. For the purposes of this Regulation:

— the term 'institution' refers to the European Parliament, the European Council and the Council, the European Commission, the Court of Justice of the European Union and the European Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service ('EEAS');

— the European Central Bank shall not be considered as an institution of the Union.

Any reference to the 'Union' shall be understood as a reference to the European Union and the European Atomic Energy Community.

Amendment 25**Proposal for a regulation****Article 2**

Any provision concerning the implementation of the revenue and expenditure of the budget, contained in another legislative act, must comply with **the budgetary principles set out in Title II**.

Any provision concerning the implementation of the revenue and expenditure of the budget, contained in another legislative act, must comply with **this Regulation and the detailed rules for the application of this Regulation in accordance with the delegated regulation referred to in Article 199**.

This Regulation shall apply to the European Parliament, the European Council and the Council, the European Commission, the Court of Justice of the European Union and the European Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service (hereinafter referred to as 'institution(s)').

Any proposal or amendment to a proposal submitted to the legislative authority shall clearly indicate the provisions containing deviations from this Regulation or from delegated regulations adopted pursuant to this Regulation and shall state the specific reasons justifying such deviations in the respective Explanatory Memorandum of any such proposal.

This Regulation shall not apply to the European Central Bank.

This Regulation shall apply to the implementation of administrative expenditure relating to the appropriations provided in the budget for the Euratom Supply Agency.

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Amendment 26**Proposal for a regulation****Article 2 a (new)****Article 2a****Protection of personal data**

This Regulation is without prejudice to the requirements of 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 and of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Amendment 27**Proposal for a regulation****Article 4 – paragraph 1**

1. The budget *is the instrument which*, for each financial year, forecasts and *authorises* all revenue and expenditure considered necessary for the Union *and the European Atomic Energy Community*.

1. *All revenue and expenditure have to be included in the budget and its annexes, including*, for each financial year, forecasts and all *authorised* revenue and expenditure considered necessary for the Union.

Amendment 28**Proposal for a regulation****Article 4 – paragraph 2**

2. The revenue and expenditure of the Union shall comprise:

(a) the revenue and expenditure of the Union, *including administrative expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to the common foreign and security policy, and the operational expenditure occasioned by implementation of those provisions where this is charged to the budget*;

(b) *the expenditure and revenue of the European Atomic Energy Community*.

2. The revenue and expenditure of the Union shall comprise:

(a) the revenue and expenditure of the Union;

(b) *the revenue and expenditure occasioned for the implementation of the respective European Development Fund*.

Amendment 29**Proposal for a regulation****Article 4 – paragraph 2 a (new)**

2a. *The expenditure of the Union referred to in paragraph 2 includes:*

(a) *administrative expenditure, including expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to the Common Foreign and Security Policy and the operating expenditure occasioned by implementation of those provisions where this is charged to the budget; and*

(b) *the operational expenditure, occasioned by implementation of those provisions where this is charged to the budget, including related support expenditure.*

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Amendment 30**Proposal for a regulation
Article 4 – paragraph 2 b (new)**

2b. The budget shall record the guarantee for borrowing-and-lending operations entered into by the Union in the management of the European Financial Stability Facility (EFSF) and the European Financial Stability Mechanism (EFSM) and payments to the Guarantee Fund for external actions.

Amendment 31**Proposal for a regulation
Article 5 – paragraph 4**

4. Interest yielded by the funds which are the property of the Union shall not be due to the Union save otherwise provided for in the agreements concluded with the entrusted entities listed in points (ii) to (viii) of Article 55(1)(b), **and in grant decisions or agreements concluded with beneficiaries.** In those cases, such interest shall be re-used for the corresponding programme or recovered.

4. Interest yielded by the funds which are the property of the Union shall not be due to the Union save otherwise provided for in the agreements concluded with the entrusted entities listed in points (ii) to (viii) of Article 55(1)(b). In those cases, such interest shall be re-used for the corresponding programme **and set off against the entitlements of the respective recipient or, where this would be impossible, impractical or inefficient, recovered.**

Amendment 32**Proposal for a regulation
Article 5 a (new)****Article 5a
Lapse of a deadline**

1. A deadline specified by days ends on the expiry of the last day of the period.

2. A deadline specified by weeks, by months or by a duration of time comprising more than one month - year, half-year, quarter - ends on the expiry of the day of the last week or of the last month which, in its designation or its number, corresponds to the day on which the event or the point of time occurs.

3. If, in the case of a deadline determined by months, the day on which it is due to expire does not occur in the last month, the period ends on the expiry of the last day of this month.

Amendment 33**Proposal for a regulation
Article 5 b (new)****Article 5b
Extension of period**

If a deadline is extended, the new deadline is calculated from the lapse of the previous deadline.

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Amendment 34**Proposal for a regulation
Article 5 c (new)****Article 5c****Sundays and holidays; Saturdays**

If an act is to be performed on a particular day or within a deadline, and if the particular day or the last day of the deadline falls on a Sunday, a general holiday which is officially recognised, or on a Saturday, the next working day takes the place of this day.

Amendment 35**Proposal for a regulation
Article 9 – paragraph 2 – point a a (new)**

(aa) or, in duly substantiated cases, amounts for building projects within the meaning of Article 195(3) which have not yet been completed if the preparatory stages of the commitment procedure have not yet been completed by 31 December and the amounts are needed so that progress with works can be stepped up or debt repaid early; these amounts may then be committed up to 31 December of the following year; and

Amendment 36**Proposal for a regulation
Article 9 – paragraph 2 – point b a (new)**

(ba) amounts corresponding from an own resource system.

Amendment 37**Proposal for a regulation
Article 9 – paragraph 4**

4. Non-differentiated appropriations corresponding to obligations duly contracted at the close of the financial year shall be carried over automatically to the following financial year only.

4. Non-differentiated appropriations corresponding to obligations duly contracted at the close of the financial year shall be carried over automatically to the following financial year only. *The same shall apply to de-committed and unused appropriations (commitments and payments) not covered by paragraphs 2 and 3 as well as available, unspent margins below the overall ceiling of the Multiannual Financial Framework for each heading, which shall constitute a 'global MFF margin' and be attributed to the different headings in the following financial year according to their needs.*

Amendment 38**Proposal for a regulation
Article 9 – paragraph 6**

6. Without prejudice to Article 10, appropriations placed in reserve and appropriations for staff expenditure may not be carried over.

6. Without prejudice to Article 10, appropriations placed in reserve and appropriations for staff expenditure may not be carried over. *For the purpose of this Article, staff expenditure comprises the remuneration and allowances for members and staff of the institutions to which the Staff Regulations apply.*

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Amendment 39**Proposal for a regulation****Article 9 a (new)****Article 9a*****Carry over of unused appropriations***

Unused appropriations both in commitments and payments as well as decommitted appropriations of year N may be carried over into N+1 budget, or in one of the future budgets in the framework of the annual budgetary procedure, by a decision of the budgetary authority.

The Commission shall present before 1 October of the year N to the budgetary authority its forecast for unused and decommitted appropriations of year N, both in commitments and payments.

Each arm of the budgetary authority shall eventually indicate how to allocate unused appropriations either in the N+1 budget or even on subsequent years.

The decision will be taken jointly by the two arms of the budgetary authority following the procedure in accordance with Article 314 TFEU.

The unused and decommitted appropriations shall be entered into one of the budgets and beyond the ceilings of the Multiannual Financial Framework.

Unused and decommitted appropriations may be allocated either to a specific programme, or entered into a provisional chapter. In this case resources from the Member States will be called for only after the decision of the budgetary authority on the specific destination.

Carry over of margin of the Multiannual Financial Framework

If, after the adoption of the annual budget, margins are left under each ceiling of the financial framework, the budgetary authority may decide, before the end of the exercise, to carry over the unused margins in any ceiling of one of the subsequent years of the Multiannual Financial Framework. The total amount of the Multiannual Financial Framework will remain unchanged.

Amendment 40**Proposal for a regulation****Article 13 – paragraph 3**

3. If the continuity of action by the Union and management needs so require, the Council, acting by a qualified majority on a proposal of the Commission, may authorise **two or more provisional twelfths** both for commitments and for payments over and above those automatically made available pursuant to paragraphs 1 and 2. It shall forward the decision on authorisation without delay to the European Parliament.

3. If the continuity of action by the Union and management needs so require, the Council, acting by a qualified majority on a proposal of the Commission, may authorise **expenditure in excess of one provisional twelfth but not exceeding the total of two provisional twelfths** both for commitments and for payments over and above those automatically made available in accordance with paragraphs 1 and 2. It shall forward the decision on authorisation without delay to the European Parliament.

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The decision shall enter into force thirty days following its adoption unless the European Parliament, acting by a majority of its Members, decides to reduce that expenditure within **those thirty days**.

If the European Parliament decides to reduce that expenditure, **the Council shall review the decision on authorisation taking into account the amount approved by the European Parliament.**

The additional twelfths shall be authorised in full and shall not be divisible.

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The decision shall enter into force thirty days following its adoption unless the European Parliament, acting by a majority of its **component** Members, decides to reduce that expenditure within **that time limit**.

If the European Parliament decides to reduce that expenditure, **that reduced amount shall apply.**

If, for a given chapter, the amount of the two provisional twelfths granted in accordance with the first subparagraph is not sufficient to cover the expenditure necessary to avoid a break in continuity of the Union's activity in the area covered by the chapter in question, authorisation may exceptionally be given to exceed the amount of the appropriations entered in the relevant chapter of the budget of the preceding financial year. The budgetary authority shall act under the procedures provided for in this paragraph. However, the available overall total of the appropriations in the budget of the preceding financial year may in no circumstances be exceeded.

**Amendment 41
Proposal for a regulation
Article 15**

Balance from financial year

1. The balance from each financial year shall be entered in the budget for the following financial year as revenue in the case of a surplus or as a payment appropriation in the case of a deficit.

2. The estimates of such revenue or payment appropriations shall be entered in the budget during the budgetary procedure and in a letter of amendment presented pursuant to Article 35. **They shall be drawn up in accordance with the Council Regulation implementing the Decision on the system of the Union's own resources.**

3. After the presentation of the accounts for each financial year, any discrepancy with the estimates shall be entered in the budget for the following financial year through an amending budget devoted **solely** to that discrepancy. **In such a case**, the draft amending budget must be submitted by the Commission within **15 days** following the submission of the provisional accounts.

Carry-over of budgetary balance

1. The balance from each financial year **after carry-overs according to Articles 9 and 10** shall be entered in the budget for the following financial year as **additional** revenue in the case of a surplus or as a payment appropriation **only** in the case of a deficit, **in strict accordance with Article 7 of the Council Decision on Own resources, not including a quasi-automatic adaptation of Member States' contributions to the Union budget.**

2. The estimates of such revenue or payment appropriations shall be entered in the budget during the budgetary procedure and in a letter of amendment presented pursuant to Article 35.

3. After the presentation of the accounts for each financial year, any discrepancy with the estimates shall be entered in the budget for the following financial year through an amending budget devoted to that discrepancy **and, in the case of a surplus, to corresponding additional appropriations.** The draft amending budget must be submitted by the Commission within **45 days** following the submission of the provisional accounts.

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Amendment 42**Proposal for a regulation
Article 15 a (new)****Article 15a****Reserve for payments and commitments**

The surplus and the unspent commitments of the previous budgetary years of the current multi-annual financial framework as well as decommitted appropriations shall be entered in the reserve for payments and commitments.

This reserve shall be used in first instance for any additional and/or unforeseen needs as well as to compensate any negative reserve, which procedure is laid down in Article 44.

The decision to mobilise this reserve will be taken jointly by the two arms of the budgetary authority following a proposal by the Commission.

Amendment 43**Proposal for a regulation
Article 16**

The multiannual financial framework and the budget shall be drawn up and implemented in euro and the accounts shall be presented in euro.

However, for the cash-flow purposes referred to in Article 65, the accounting officer and, in the case of imprest accounts, the imprest administrators, and, for the needs of the administrative management of the Commission and the European External Action Service (*hereinafter referred to as 'EEAS'*), the authorising officer responsible shall be authorised to carry out operations in national currencies as laid down in the delegated Regulation referred to in Article 199.

The multiannual financial framework and the budget shall be drawn up and implemented in euro and the accounts shall be presented in euro.

However, for the cash-flow purposes referred to in Article 65, the accounting officer and, in the case of imprest accounts, the imprest administrators, and, for the needs of the administrative management of the Commission and the European External Action Service, the authorising officer responsible shall be authorised to carry out operations in national currencies as laid down in the delegated regulation referred to in Article 199.

The results of such currency operations shall be shown under a separate heading in the respective institution's accounts; this shall apply mutatis mutandis to bodies referred to in Article 196b.

The Commission shall assure by appropriate means that currency fluctuations in the remuneration and for reimbursements of Union staff are being equalised at least at monthly intervals in order to ensure equal treatment of euro-based operations and salaries necessarily carried out in other currencies. Its calculation shall be based on the InforEURuro rate.

Amendment 44**Proposal for a regulation
Article 18 – paragraph 2 – point e a (new)**

(ea) fines imposed in the area of competition, other fines and amounts receivable as a result of out-of-court settlements, understandings, or any other similar agreements concluded with, or off payments paid by, any non-state third parties;

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Amendment 45**Proposal for a regulation****Article 18 – paragraph 2 – subparagraph 2 (new)**

However, in the case provided for in point (b), commitment appropriations may be made available upon signature by the Member State of a contribution agreement expressed in Euro. This shall not apply to cases provided for in Article 173(2) and 175(2).

Amendment 46**Proposal for a regulation****Article 18 – paragraph 3**

3. The following shall constitute internal assigned revenue:

- (a) revenue from third parties in respect of goods, services or work supplied at their request;
- (b) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are being replaced or scrapped when the book value is fully depreciated;
- (c) revenue arising from the repayment of amounts wrongly paid;
- (d) proceeds from the supply of goods, services and works for other departments, institutions or bodies, including refunds by other institutions or bodies of mission allowances paid on their behalf;
- (e) insurance payments received;
- (f) revenue from the sale, letting or any other contract concerning rights connected with real estate;
- (g) revenue from the sale of publications and films, including those on an electronic medium.

3. The following shall constitute internal assigned revenue:

- (a) revenue from third parties in respect of goods, services or work supplied at their request;
- (b) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are being replaced or scrapped when the book value is fully depreciated;
- (c) revenue arising from the repayment of amounts wrongly paid **subject to Article 77**;
- (ca) revenue arising from interest on pre-financing subject to Article 5;**
- (d) proceeds from the supply of goods, services and works for other departments, institutions or bodies, including refunds by other institutions or bodies of mission allowances paid on their behalf;
- (e) insurance payments received;
- (f) revenue from the sale, letting, **reimbursement** or any other contract concerning rights connected with real estate;
- (g) revenue from the sale of publications and films, including those on an electronic medium.

Amendment 47**Proposal for a regulation****Article 19 – paragraph 2 a (new)**

2a. All individual donations to the Commission exceeding EUR 999 or aggregate donations from one donor in excess of this amount in any one year will be traceable via a dedicated website.

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Amendment 48**Proposal for a regulation****Article 20 – paragraph 1**

1. *The delegated Regulation referred to in Article 199 may specify the cases where certain revenue may be deducted from requests for payment, which shall then be passed for payment of the net amount.*

1. *The following deductions may be made from payment requests which shall then be passed for payment of the net amount:*

(a) penalties imposed on parties to procurement contracts or beneficiaries of a grant;

(b) discounts, refunds and rebates on individual invoices and cost statements;

(c) interest generated by pre-financing payments;

(d) adjustments for amounts unduly paid.

Adjustments referred to in point (d) of the first subparagraph may be made, by means of direct deduction, against a new payment of the same type to the same payee under the chapter, article and financial year in respect of which the excess payment was made, and which give rise to interim payments or payments of balances.

To the items referred to in points (c) and (d) of the first subparagraph the Union accounting rules shall apply.

Amendment 49**Proposal for a regulation****Article 21 – paragraph 1**

1. Appropriations shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items.

1. Appropriations shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items. ***Operating appropriations and investments shall be presented separately.***

Amendment 50**Proposal for a regulation****Article 21 – paragraph 2**

2. The Commission may, within its own section of the budget, transfer appropriations ***autonomously*** as detailed in Article 23 or shall request the budgetary authority's approval for the transfer of appropriations in the cases detailed in Article 24.

2. The Commission may, within its own section of the budget, transfer appropriations as detailed in Article 23; ***alternatively the Commission or the other institutions*** shall request the budgetary authority's approval for the transfer of appropriations in the cases detailed in Article 24.

Amendment 51**Proposal for a regulation****Article 21 – paragraph 3**

3. ***Appropriations may be transferred only to budget lines for which the budget has authorised appropriations or carries a token entry 'pro memoria'.***

deleted

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Amendment 52**Proposal for a regulation****Article 21 – paragraph 4**

4. Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose to which it is assigned. *deleted*

Amendment 53**Proposal for a regulation****Article 22 – paragraph 3**

3. Any institution other than the Commission may propose to the budgetary authority, within its own section of the budget, transfers from one title to another exceeding the limit of **10 %** of the appropriations for the financial year on the line from which the transfer is to be made. Those transfers shall be subject to the procedure laid down in Article 24.

3. Any institution other than the Commission may propose to the budgetary authority, within its own section of the budget, transfers from one title to another exceeding the limit of **15 %** of the appropriations for the financial year on the line from which the transfer is to be made. Those transfers shall be subject to the procedure laid down in Article 24.

Amendments 54, 262, 267 and 268**Proposal for a regulation****Article 23**

1. The Commission may, within its own section of the budget, ***autonomously***:

1. The Commission may, within its own section of the budget:

(a) transfer commitment appropriations within each chapter;

(a) transfer commitment appropriations within each chapter;

(b) transfer payment appropriations within each title;

(b) transfer payment appropriations within each title ***after prior notification to Parliament and Council provided that neither of them opposes the transfer within three weeks;***

(c) as regards expenditure on staff and administration ***which is common to several titles***, transfer appropriations from one title to another;

(c) as regards expenditure on staff and administration, transfer appropriations from one title to another ***up to a maximum of 15 % of the appropriations for the year shown on the line from which the transfer is made, and up to a maximum of 30 % of the appropriations for the year shown on the line to which the transfer is made;***

(d) as regards operational expenditure, transfer appropriations between chapters within the same title, up to a maximum total of **10 %** of the appropriations for the year shown on the line from which the transfer is made.

(d) as regards operational expenditure, transfer appropriations between chapters within the same title, up to a maximum total of **15 %** of the appropriations for the year shown on the line from which the transfer is made;

Three weeks before making the transfers referred to in point (b) of the first subparagraph, the Commission shall inform the budgetary authority of its intention to do so. In the event of duly substantiated reasons being raised within that three-week period by either branch of the budgetary authority, the procedure laid down in Article 24 shall apply.

2. The Commission may, within its own section of the budget, decide ***on the following*** transfer ***appropriations*** from one title to another, ***provided it informs immediately the budgetary authority of its decision:***

2. The Commission may, within its own section of the budget, decide ***to*** transfer from one title to another

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(a) **transfer** appropriations from the 'provisions' title referred to in Article 43, where the only condition to lift the reserve lies in the adoption of a basic act in accordance with the ordinary legislative procedure foreseen in Article 294 TFEU;

appropriations from the 'provisions' title referred to in Article 43, where the only condition to lift the reserve lies in the adoption of a basic act in accordance with the ordinary legislative procedure foreseen in Article 294 TFEU; **provided it informs immediately the budgetary authority of its intention to do so.**

(b) **in** duly **substantiated** exceptional cases of international humanitarian disasters and crises, occurring after 1 December of the budgetary year, the Commission may transfer unused budgetary appropriations for the current budgetary year still available in the budget titles falling under heading 4 of the multiannual financial framework to the budget titles concerning the crisis management aid and humanitarian aid operations.

2a. In duly **reasoned** exceptional cases of international humanitarian disasters and crises, occurring after 1 December of the budgetary year, the Commission may transfer unused budgetary appropriations for the current budgetary year still available in the budget titles falling under heading 4 of the multiannual financial framework to the budget titles concerning the crisis management aid and humanitarian aid operations.

The Commission shall inform the two branches of the budgetary authority immediately after making such transfers or making such use of appropriations for the following year.

2b. The Commission may supply the information justifying the transfer in the form of a staff working document.

2c. The Commission may, within its own section of the budget, propose to the budgetary authority transfers other than those referred to in paragraph 1.

Amendment 55

Proposal for a regulation
Article 24 – title

Transfers by the **Commission** submitted to the budgetary authority

Transfers by the **institutions** submitted to the budgetary authority

Amendment 56

Proposal for a regulation
Article 24 – paragraph 1

1. The **Commission** shall submit **its proposal of transfers** simultaneously to the **European Parliament and the Council**.

1. The **institutions** shall submit **their proposals** simultaneously to the **two arms of the budgetary authority**.

Amendment 57

Proposal for a regulation
Article 24 – paragraph 2

2. The budgetary authority shall take decisions on transfers of appropriations as provided for in paragraphs 3 **to 6**, save as otherwise provided in Title I of Part Two.

2. The budgetary authority shall take decisions on transfers of appropriations as provided for in paragraphs 3, **4 and 6**, save as otherwise provided in Title I of Part Two.

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Amendment 58**Proposal for a regulation****Article 24 – paragraph 3**

3. Save in urgent circumstances, the Council, by a qualified majority, and the European Parliament, shall deliberate upon the **Commission** proposal within six weeks of the date on which the two institutions received the proposal for each transfer submitted to them.

3. Save in **duly reasoned** urgent circumstances, the Council, by a qualified majority, and the European Parliament, shall deliberate upon the **institution's** proposal within six weeks of the date on which the two institutions received the proposal for each transfer submitted to them.

Amendment 59**Proposal for a regulation****Article 24 – paragraph 4**

4. The transfer proposal shall be approved, if within the six-week period **in any of the following cases**:

4. The transfer proposal shall be approved, if within the six-week period:

(a) **European Parliament and the Council** approve it;

— **both arms of the budgetary authority** approve it;

(b) **either the European Parliament or the Council** approves it and the other institution refrains from acting;

— **one of the two arms of the budgetary authority** approves it and the other refrains from acting;

(c) **European Parliament and the Council** refrain from acting or have not taken a decision contrary to the **Commission** proposal.

— **both arms of the budgetary authority** refrain from acting or have not taken a decision contrary to the **transfer** proposal.

Amendment 60**Proposal for a regulation****Article 24 – paragraph 5**

5. **The six-week period referred to under point 4 shall be reduced to three weeks, unless either the European Parliament or the Council requests otherwise, in any of the following cases:**

deleted

(a) **the transfer represents less than 10 % of the appropriations of the line from which the transfer is made and does not exceed EUR 5 million;**

(b) **the transfer concerns only payment appropriations and the overall amount of the transfer does not exceed EUR 100 million.**

Amendment 61**Proposal for a regulation****Article 24 – paragraph 6**

6. If **either the European Parliament or the Council** has amended the transfer while the other **institution has** approved it or refrains from acting, or if **European Parliament and the Council** have amended the transfer, the smaller amount approved either by the European Parliament or the Council shall be deemed approved, unless the **Commission** withdraws its proposal.

6. If **one of the two arms of the budgetary authority** has amended the transfer while the other approved it or refrains from acting, or if **both arms** have amended the transfer, the smaller amount approved either by the European Parliament or the Council shall be deemed approved, unless the **institution** withdraws its proposal.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 62**Proposal for a regulation
Article 24 a (new)****Article 24a
Specific rules on transfers**

1. *Appropriations may be transferred only to budget lines for which the budget has authorised appropriations or carries a token entry 'pro memoria'.*
2. *Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose to which it is assigned.*

Amendment 63**Proposal for a regulation
Article 25 – paragraph 2**

2. Decisions on transfers to allow the use of the emergency aid reserve shall be taken by the budgetary authority on a proposal from the Commission, **or by the Commission for a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made.**

The procedure provided for in Article 24(3) and (4) shall apply. If the Commission proposal is not agreed to by **the European Parliament and the Council and** there is a failure to arrive at a common position on the use of this reserve, **the European Parliament and the Council** shall refrain from acting on the Commission's proposal **of transfers.**

2. Decisions on transfers to allow the use of the reserve for emergency aid shall be taken by the budgetary authority on a proposal from the Commission. **A separate proposal must be submitted for each individual operation.**

The procedure provided for in Article 24(3) and (4) shall apply. If the Commission proposal is not agreed to by **both arms of the budgetary authority** and there is a failure to arrive at a common position on the use of this reserve, **both arms of the budgetary authority** shall refrain from acting on the Commission's proposal **for a transfer.**

Amendment 64**Proposal for a regulation
Article 26 – paragraph 3**

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided by the spending authorities to the budgetary authority. Such information shall be provided annually and at the latest in the documents accompanying the draft budget.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided by the spending authorities to the budgetary authority. Such information, **as referred to in Article 34(2a)(d),** shall be provided annually and at the latest in the documents accompanying the draft budget.

Amendment 65**Proposal for a regulation
Article 27 – paragraph 1 a (new)**

1a. **During the budgetary procedure, the Commission shall provide the necessary information for a comparison between changes in the appropriations required and the initial forecasts made in the financial statements. This information shall include progress made and the stage reached by the legislative authority in its consideration of proposals presented. The appropriations required shall, where appropriate, be revised in the light of the progress of deliberations on the basic act.**

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Amendment 66**Proposal for a regulation****Article 27 – paragraph 2**

2. In order to reduce the risk of fraud and irregularities, the financial statement referred to in paragraph 1 shall provide information on the internal control system set up, an assessment of the risk involved, as well as existing and planned fraud prevention and protection measures.

2. In order to reduce the risk of fraud and irregularities, the financial statement referred to in paragraph 1 shall provide information on the internal control system set up, an ***estimate of the costs and benefits of controls implied by such systems and*** an assessment of the risk involved, as well as existing and planned fraud prevention and protection measures.

Amendment 67**Proposal for a regulation****Article 28 – paragraph 2 – point a a (new)**

(aa) precise, consistent and transparent rules for control with respect to the rights of involved parties;

Amendment 68**Proposal for a regulation****Article 28 – paragraph 2 – point d**

(d) prevention, detection and correction of fraud and irregularities;

(d) ***notwithstanding the responsibilities of the financial actors as defined in Chapter 3***, prevention, detection and ***follow-up of*** correction of fraud and irregularities;

Amendment 69**Proposal for a regulation****Article 28 – paragraph 2 a (new)**

2a. Effective internal control shall be based on best international practices and include in particular the following:

(a) segregation of tasks;

(b) an appropriate risk management and control strategy including controls at beneficiary level;

(c) avoidance of conflicts of interests;

(d) adequate audit trails and data integrity in data systems;

(e) procedures for monitoring of performance and for follow-up of identified internal control weaknesses and exceptions;

(f) periodic assessment of the sound functioning of the internal control system.

Amendment 70**Proposal for a regulation****Article 28 – paragraph 2 b (new)**

2b. Efficient internal control shall be based on the following elements:

(a) the implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;

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- (b) *the accessibility of control results to all appropriate actors involved in the control chain;*
- (c) *reliance where appropriate on management declarations of implementation partners and independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it has been performed in accordance with agreed standards.*
- (d) *the timely application of corrective measures including, where appropriate, dissuasive penalties;*
- (e) *clear and unambiguous legislation underlying the policies;*
- (f) *the elimination of multiple controls;*
- (g) *the principle of improving the cost-benefit ratio of controls, taking into account the risk of error referred to in Article 29.*

Amendment 71

Proposal for a regulation
Article 29**Tolerable** risk of error

The Legislative authority shall, in accordance with the procedure laid down in Article 322 of the TFEU, decide on a level of tolerable risk of error at an appropriate aggregation of the budget. That decision shall be taken into account during the annual discharge procedure, in accordance with Article 157(2).

The level of tolerable risk of error shall be based on an analysis of the costs and benefits of controls. Member States and entities and persons referred to in point (b) Article 55(1) shall on request report to the Commission on the costs of controls borne by them as well as the number and size of activities financed by the budget.

The level of tolerable risk of error shall be closely monitored and shall be reviewed in case of major changes in the control environment.

Risk of error

When presenting revised or new spending proposals, the Commission shall estimate the cost of administrative and control systems as well as the level of risk of error with the proposed legislation per fund and per Member State.

If, during the programme implementation, the level of error is persistently high, the Commission shall identify the weaknesses in the control systems and analyse the cost and benefits of possible corrective measures and take appropriate action such as simplification of the applicable provisions, re-design of the programme, tightening of controls or suggest, if necessary, termination of the activity.

Integral to the full effectiveness of national management and control systems are management declarations on these systems submitted by the bodies accredited by the Member States.

Amendment 72

Proposal for a regulation
Article 29 a (new)Article 29a
Segregation of duties

The duties of accounting officer and payments officer shall be kept separate.

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Amendment 73**Proposal for a regulation****Article 30 – paragraph 2 – subparagraph 3**

The consolidated annual accounts and the report on budgetary and financial management drawn up by each institution shall be published in the *Official Journal of the European Union*.

The consolidated annual accounts and the report on budgetary and financial management drawn up by each institution shall be published ***immediately upon adoption*** in the *Official Journal of the European Union*.

Amendment 280**Proposal for a regulation****Article 31 – paragraph 2**

2. The Commission shall make available, in an appropriate manner, information on ***the recipients*** of funds deriving from the budget held by it when the budget is implemented on a centralised basis ***and directly by its departments or by Union Delegations in accordance with the second paragraph of Article 53***, and information on the ***recipients*** of funds as provided by the entities to which budget implementation tasks are delegated under other modes of management.

2. The Commission shall make available, in an appropriate manner, information on ***its contractors and beneficiaries*** of funds as well as the ***precise nature and purpose of the measure financed*** from the budget when the budget is implemented on a centralised basis, and information on the ***contractors and beneficiaries*** of funds as provided by the entities to which budget implementation tasks are delegated under other modes of management.

This obligation shall also apply to the other institutions with regard to their contractors and, where applicable, their beneficiaries.

Amendment 75**Proposal for a regulation****Article 31 – paragraph 3**

3. This information shall be made available with due observance of the requirements of confidentiality, ***in particular*** the protection of personal data, as ***laid down*** in Directive No 95/46/EC of the European Parliament and of the Council and Regulation (EC) No 45/2001 of the European Parliament and of the Council, ***and of the requirements of security taking into account the specificities of each management mode referred to in Article 53 and where applicable in conformity with the relevant sector-specific rules.***

3. This information shall be made available with due observance of the requirements of confidentiality ***and security, and where natural persons are concerned, of the right to respect for private life and of the right to*** the protection of personal data, as ***set out*** in Directive No 95/46/EC of the European Parliament and of the Council and Regulation (EC) No 45/2001 of the European Parliament and of the Council.

Where natural persons are concerned, the publication shall be limited to the name of the contractor or the beneficiary, its localisation, the amount awarded and the purpose of the award, and the disclosure of these data, shall be based on relevant criteria such as the periodicity of award, or the type or the importance of the award. The level of details published and the criteria for disclosure shall take into account the specificities of the sector and of each management mode referred to in Article 55; the level of details and criteria shall be defined by means of the delegated regulation referred to in Article 199 and, where applicable, in the relevant sector-specific rules.

Amendment 76**Proposal for a regulation****Article 32 – paragraph 1**

The European Parliament, the European Council and the Council, the Court of Justice of the European Union, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions, the Ombudsman, the European Data-Protection Supervisor and the EEAS shall draw up an estimate of their revenue and expenditure, which they shall send to the Commission before 1 July each year.

The European Parliament, the European Council and the Council, the Court of Justice of the European Union, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions, the Ombudsman, the European Data-Protection Supervisor and the EEAS shall draw up an estimate of their revenue and expenditure, which they shall send to the Commission ***and in parallel, for information, to the budgetary authority*** before 1 July each year.

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Amendment 77
Proposal for a regulation
Article 32 – paragraph 3

These estimates shall also be sent by these institutions to the budgetary authority for information by no later than 1 July each year. The Commission shall draw up its own estimates, which it shall also send to the budgetary authority *by the same date*.

The Commission shall draw up its own estimates, which it shall also send to the budgetary authority *directly after adoption*.

Amendment 78
Proposal for a regulation
Article 33

Each body referred to in Article 200 shall, in accordance with the instrument establishing it, send to the Commission and the budgetary authority *by* 31 March each year an estimate of its revenue and expenditure, including the establishment plan, and its draft work programme.

Each body referred to in Article 200 shall, in accordance with the instrument establishing it, send to the Commission and the budgetary authority *in parallel and no later than* 31 March each year an estimate of its revenue and expenditure, including the establishment plan, and its draft work programme.

Amendment 79
Proposal for a regulation
Article 34 – paragraph 1 – subparagraph 2

The draft budget shall contain a summary general statement of the expenditure and revenue of the Union and consolidate the estimates referred to in Article 32.

The draft budget shall contain a summary general statement of the expenditure and revenue of the Union, *including a summary general statement of the reserve for payments and commitments*, and consolidate the estimates referred to in Article 32.

Amendment 80
Proposal for a regulation
Article 34 – paragraph 2 – subparagraph 1

2. *Where relevant*, the Commission shall attach to the draft budget a financial programming for the following years.

2. The Commission shall attach to the draft budget a financial programming for the following years.

Amendment 81
Proposal for a regulation
Article 34 – paragraph 2 a (new)

2a. *The Commission shall also attach to the draft budget:*

- (a) an analysis of financial management in the previous year and the commitments outstanding;*
- (b) where appropriate, an opinion on the estimates of the other institutions which may contain different estimates, accompanied by the reasons therefore;*
- (c) any working paper it considers useful in connection with the establishment plans of the institutions and the grants which the Commission awards to the bodies referred to in Article 196b and to the European Schools. Any such working paper, showing the latest authorised establishment plan, shall present:*

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- (i) *all staff employed by the Union, including its legally separate entities, displayed by type of contract,*
 - (ii) *a statement of the policy on posts and external personnel and on gender balance,*
 - (iii) *the number of posts actually filled at the beginning of the year in which the draft budget is presented, indicating their distribution by grade and administrative unit,*
 - (iv) *a list of posts broken down per policy area,*
 - (v) *for each category of external staff, the initial estimated number of full-time equivalents on the basis of the authorised appropriations as well as the number of persons actually in place at the beginning of the year in which the draft budget is presented, indicating their distribution by function group and, as appropriate, by grade; and*
- (d) *the activity statements containing:*
- (i) *information on the achievement of all previously set specific, measurable, achievable, relevant and timed objectives for the various activities as well as new objectives measured by indicators,*
 - (ii) *full justification and cost-benefit approach for proposed changes in the level of appropriations,*
 - (iii) *clear rationale for intervention at the Union level in keeping, inter alia, with the principle of subsidiarity,*
 - (iv) *information on the implementation rates of the previous year's activity and implementation rates for the current year.*

Evaluation results shall be consulted and referred to as evidence of the likely merits of proposed budget changes.

Amendment 82
Proposal for a regulation
Article 34 – paragraph 2 b (new)

2b. Where the Commission entrusts the budget implementation to public private partnerships (ppp), it shall attach to the draft budget a working document presenting:

- (a) *an annual report on the performance of existing pppts in the previous year;*

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- (b) *the targets set for the year to which the draft budget relates, indicating any specific budgetary needs dedicated to attaining this target;*
- (c) *the administrative cost and implemented budget in total and per type as defined in Article 196a and per individual ppp in the preceding year;*
- (d) *the amount of financial contributions made from the Union's budget and the value of contributions in kind made by the other partners for each ppp;*
- (e) *the staff tables, in application of paragraph (2a)(c) mutatis mutandis, of such pppts where staff are paid or partly paid by Union funds; these staff tables shall be taken into account when preparing the working document under paragraph (2a)(c).*

Where pppts make use of financial instruments, the working document shall set out the data in application of and notwithstanding paragraph 2c per ppp and per financial instrument.

Amendment 83
Proposal for a regulation
Article 34 – paragraph 2 c (new)

2c. Where the Commission makes use of financial instruments, it shall attach to the draft budget a working document presenting:

- (a) *the capital issued in the form of financial instruments and funded from the Union's budget and the overall capital invested per financial instrument, including by third parties, in total and as leverage ratio per financial instrument, the value of participations in equity and quasi-equity investments;*
- (b) *revenues and repayments received in the previous year and a forecast for the year to which the draft budget relates;*
- (c) *the total amount of contingent and existing liabilities of the Union arising from the implementation of financial instruments in the previous year and in total broken down in particular by:*
 - (i) *all potential liabilities towards third parties arising from guarantees,*

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- (ii) *all potential liabilities arising from the maximum drawing on credit lines provided to any third parties,*
- (iii) *all potential total loss of junior debt or equity or quasi-equity participations, or*
- (iv) *any other potential or contingent liability as well as any information relevant or potentially relevant for the assessment of risks;*
- (d) *the financial provisions made in the budget for anticipated risks as well as unforeseen risks in total and per financial instrument;*
- (e) *the percentage and absolute number of cases in which guarantees were drawn on or junior debt or equity or quasi-equity participations were lost as a result of impairment or bankruptcy in total and per financial instrument for the previous year and the overall running time of the respective financial instrument;*
- (f) *the average duration between the payment of financial instruments in the form of junior debt capital (mezzanine) to the beneficiaries and the withdrawal of such capital; where this exceeds three years, the Commission shall provide an action plan for the reduction of the duration in the framework of the annual discharge procedure;*
- (g) *the geographical distribution of the application (absorption) of financial instruments per Member State and per financial instrument;*
- (h) *the administrative expenditure arising from any management fees, reimbursement or other monies paid for the management of financial instruments where this has been entrusted to third parties in total and per managing party and per financial instrument managed;*
- (i) *the staff tables, in application of paragraph (2a)(c) mutatis mutandis, where staff are paid or part paid by Union funds; these staff tables shall be taken into account when preparing the working document under paragraph (2a)(c).*

Amendment 84
Proposal for a regulation
Article 34 – paragraph 3

3. The Commission shall also attach to the draft budget any working paper it considers useful to support its budget requests.

3. The Commission shall also attach to the draft budget any **further** working paper it considers useful to support its budget requests.

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Amendment 85**Proposal for a regulation****Article 34 – paragraph 4 – subparagraph 2 – point d**

(d) provide a detailed picture of all staff in place in the Union delegations at the time of presenting the draft budget, including a breakdown by geographic area, individual country and mission, distinguishing establishment plan posts, contract agents, local agents and seconded national experts and appropriations requested in the draft budget for such other types of personnel with corresponding estimates of the equivalent full-time staff that may be employed within the limits of the appropriations requested.

(d) provide a detailed picture of all staff in place in the Union delegations at the time of presenting the draft budget, including a breakdown by geographic area, **gender**, individual country and mission, distinguishing establishment plan posts, contract agents, local agents and seconded national experts and appropriations requested in the draft budget for such other types of personnel with corresponding estimates of the equivalent full-time staff that may be employed within the limits of the appropriations requested.

Amendment 86**Proposal for a regulation****Article 34 – paragraph 4 a (new)**

4a. The Commission shall accompany the draft budget with a proposal to mobilise the reserve for payments and commitments for any arising needs not initially foreseen in the annual budget or the regulation laying down the multi-annual financial framework.

Amendment 87**Proposal for a regulation****Article 34 – paragraph 4 b (new)**

4b. In addition, the Commission shall transmit to the European Parliament and Council, together with the draft budget, a working document on building policy drawn up by each institution and body within the meaning of Article 196b incorporating the following information:

- (a) for each building, expenditure and areas covered by the appropriations of the corresponding budget lines;***
- (b) expected evolution of the global programming of areas and locations for the coming years, with a description of the building projects in planning phase referred to in Article 195(3) which are already identified;***
- (c) final terms and costs as well as relevant information regarding project implementation of new building projects previously submitted to the budgetary authority under the procedure established in Article 195(3) and not included in previous year's working documents;***
- (d) final terms and costs regarding contract extensions not subject to the procedure established in Article 195(3) but exceeding an annual charge of EUR 500 000.***

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Amendment 88
Proposal for a regulation
Article 35

*Until the Conciliation Committee referred to in Article 314 of the TFEU is convened, the Commission may, on its own initiative or if requested by the other institutions, each in respect of its own section, present simultaneously to the European Parliament and the Council letters of amendment to the draft budget **on the basis of new information which was not available at the time the draft was established, including** a letter of amendment updating expenditure estimates for agriculture.*

*On the basis of new information which was not available at the time the draft budget was established, the Commission may, on its own initiative or if requested by the other institutions, each in respect of its own section, present simultaneously to the European Parliament and the Council letters of amendment to the draft budget **in due time before the Conciliation Committee referred to in Article 314 TFEU is convened. This might include** a letter of amendment updating expenditure estimates for agriculture.*

Amendment 89
Proposal for a regulation
Article 36

Approval of the outcome of the Conciliation Committee

deleted

Once the Conciliation Committee has agreed on a joint text, the European Parliament and the Council shall endeavour to approve the outcome of the Conciliation Committee as soon as possible in accordance with Article 314(6) of the TFEU, in accordance with their respective internal rules of procedure.

Amendment 90
Proposal for a regulation
Article 38

1. The Commission shall present draft amending budgets for mobilising the European Solidarity Fund and draft amending budget for each of the following purposes:

(a) surplus,

(b) revision of the forecast of traditional own resources and Value Added Tax and Gross National Income bases,

(c) increase in the forecast of revenue and decrease in payment appropriations.

1. If there are unavoidable, exceptional or unforeseen circumstances, the Commission may present draft amending budgets.

*If there are unavoidable, exceptional or unforeseen circumstances, the Commission may present **two additional** draft amending budgets per year.*

Requests for amending budgets, in the same circumstances as referred to in the preceding paragraph, from institutions other than the Commission shall be sent to the Commission.

Requests for amending budgets, in the same circumstances as referred to in the preceding paragraph, from institutions other than the Commission shall be sent to the Commission.

Before presenting a draft amending budget, the Commission and the other institutions shall examine the scope for reallocation of the relevant appropriations, taking into account any expected under-implementation of appropriations.

Before presenting a draft amending budget, the Commission and the other institutions shall examine the scope for reallocation of the relevant appropriations, taking into account any expected under-implementation of appropriations.

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2. The Commission shall, save in *exceptional circumstances*, submit *any* draft amending *budget* simultaneously to the European Parliament and the Council *by 1 September each year at the latest*. It may attach an opinion to the requests for amending budgets from the other institutions.

3. The European Parliament and the Council shall discuss them with due account for their urgency.

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2. The Commission shall, save in *duly justified exceptional circumstances or in the case of the mobilisation of the European Solidarity Fund for which a draft amending budget can be presented at any time of the year*, submit *its* draft amending *budgets*, simultaneously to the European Parliament and the Council, *in April and / or in August*. It may attach an opinion to the requests for amending budgets from the other institutions.

3. The European Parliament and the Council shall discuss them with due account for their urgency.

Amendment 91

Proposal for a regulation

Article 40 – paragraph 1 – point a

(a) a general statement of revenue and expenditure;

(a) a general statement of revenue and expenditure *making a distinction between operations and investment*;

Amendment 92

Proposal for a regulation

Article 41 – paragraph 2 a (new)

2a. Administrative expenditure shall be classified as follows:

(a) expenditure on staff authorised in the establishment plan: there shall be an amount of appropriations and a number of establishment plan posts corresponding to this expenditure;

(b) expenditure on external personnel and other expenditure referred to in point (c) of Article 23(1) and financed under the 'administration' heading of the multiannual financial framework;

(c) expenditure on buildings and other related expenditure, including cleaning and maintenance, rental and hiring, telecommunications, water, gas and electricity;

d) external personnel and technical assistance directly linked to the implementation of programmes.

The administrative expenditure of the Commission of a type which is common to several titles shall be set out in a separate summary statement classified by type.

Amendment 93

Proposal for a regulation

Article 41 – paragraph 2 b (new)

2b. Wherever possible and appropriate, articles and items shall correspond to individual operations carried out in the framework of a certain individual activity. The delegated regulation referred to in Article 199 shall lay down guidelines for the classification of articles and items aiming at maximum transparency and conciseness of the budget.

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Amendment 94
Proposal for a regulation
Article 44 – paragraph 2

This reserve must be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Articles 21 and 23.

This reserve must be drawn upon **as soon as possible and before the end of the financial year, in first instance by means of *the reserve for payments and commitments, as laid down in Article 15 (3a), or by means of*** transfer in accordance with the procedure laid down in Articles 21 and 23.

Amendments 95 and 287
Proposal for a regulation
Article 46 – paragraph 1

1. The budget shall show:

1. The budget shall show:

(a) in the general statement of revenue and expenditure:

(a) in the general statement of revenue and expenditure:

(i) the estimated revenue of the Union for the financial year concerned;

(i) the estimated revenue of the Union for the financial year concerned;

(ii) the estimated revenue for the preceding financial year and the revenue for year n - 2;

(ii) the estimated revenue for the preceding financial year and the revenue for year n - 2;

(iii) the commitment and payment appropriations for the financial year concerned;

(iii) the commitment and payment appropriations for the financial year concerned;

(iv) the commitment and payment appropriations for the preceding financial year;

(iv) he commitment and payment appropriations for the preceding financial year;

(v) the expenditure committed and the expenditure paid in year n - 2;

(v) the expenditure committed and the expenditure paid in year n - 2, **the latter also expressed as a percentage of the budget;**

(vi) appropriate remarks on each subdivision, as set out in Article 41(1);

(vi) appropriate remarks on each subdivision, as set out in Article 41(1);

(b) in each section of the budget, the revenue and expenditure shall be shown in the same structure as in point (a);

(b) in each section of the budget, the revenue and expenditure shall be shown in the same structure as in point (a);

(c) as regards staff:

(c) as regards staff:

(i) or each section of the budget, an establishment plan setting the number of posts for each grade in each category and in each service and the number of permanent and temporary posts authorised within the limits of the budget appropriations;

(i) for each section of the budget, an establishment plan **providing a comprehensive presentation of the entire human resources and** setting the number of posts for each grade in each category and in each service and the number of permanent and temporary posts authorised within the limits of the budget appropriations, **accompanied by a document presenting the full time equivalents of contract agents as well as local agents;**

(ii) an establishment plan for staff paid from the research and technological development appropriations for direct action and an establishment plan for staff paid from the same appropriations for indirect action; the establishment plans shall be classified by category and grade and shall distinguish between permanent and temporary posts, authorised within the limits of the budget appropriations;

(ii) an establishment plan for staff paid from the research and technological development appropriations for direct action and an establishment plan for staff paid from the same appropriations for indirect action; the establishment plans shall be classified by category and grade and shall distinguish between permanent and temporary posts, authorised within the limits of the budget appropriations;

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- (iii) as regards scientific and technical staff, the classification may be based on groups of grades, in accordance with the conditions laid down in each budget; the establishment plan must specify the number of highly qualified technical or scientific personnel who are accorded special advantages under the specific provisions of the Staff Regulations;
- (iv) an establishment plan setting the number of posts by grade and by category for each body referred to in Article which receives a grant charged to the budget. The establishment plans shall show next to the number of posts authorised for the financial year the number authorised for the preceding year;
- (d) as regards borrowing-and-lending operations:
- (i) in the general statement of revenue, the budget lines corresponding to the relevant operations and intended to record any reimbursements received from beneficiaries who initially defaulted, leading to activation of the performance guarantee. These lines shall carry a token entry 'pro memoria' and be accompanied by appropriate remarks;
- (ii) in the Commission section:
- the budget lines containing the Union's performance guarantees in respect of the operations concerned. These lines shall carry a token entry 'pro memoria', so long as no effective charge which has to be covered by definitive resources has arisen;
 - remarks giving the reference to the basic act and the volume of the operations envisaged, the duration and the financial guarantee given by the Union in respect of these operations;
- (iii) as regards scientific and technical staff, the classification may be based on groups of grades, in accordance with the conditions laid down in each budget; the establishment plan must specify the number of highly qualified technical or scientific personnel who are accorded special advantages under the specific provisions of the Staff Regulations;
- (iv) an establishment plan setting the number of posts by grade and by category for each body referred to in Article **196b** which receives a grant charged to the budget. The establishment plans shall show next to the number of posts authorised for the financial year the number authorised for the preceding year;
- (ca) as regards funding to international organisations, in a document annexed to the Commission section:**
- (i) a summary of all contributions, with a breakdown per Union programme/fund and per international organisation,**
- (ii) a statement of reasons explaining why it was more efficient for the Union to fund those international organisations rather than to act directly;**
- (d) as regards borrowing-and-lending operations:
- (i) in the general statement of revenue, the budget lines corresponding to the relevant operations, **in particular the implementation of financial instruments (Articles 130, 131)** and intended to record any reimbursements received from beneficiaries who initially defaulted leading to activation of the performance guarantee **as well as any revenue arising from the implementation of financial instruments**. These lines shall carry a token entry 'pro memoria' and be accompanied by appropriate remarks;
- (ii) in the Commission section:
- the budget lines containing the Union's performance guarantees **and financial instruments** in respect of the operations concerned. These lines shall carry a token entry 'pro memoria', so long as no effective charge which has to be covered by definitive resources has arisen;
 - remarks giving the reference to the basic act and the volume of the operations envisaged, the duration and the financial guarantee given, **or other financial instrument implemented** by the Union in respect of these operations;
 - **a comprehensive calculation of the rate of overall funds dedicated to financial instruments in relation to the Union's budget;**

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- (iii) in a document annexed to the Commission section, as an indication:
- ongoing capital operations and debt management;
 - the capital operations and debt management for the financial year concerned;
- (e) the total amount of CFSP expenditure shall be entered into one budget chapter, entitled CFSP, with specific budgetary articles. Those articles shall cover CFSP expenditure and shall contain specific budget **lines identifying at least the single major missions.**

- (iii) in a document annexed to the Commission section, as an indication:
- **all equity participations by means of financial instruments or ppp which shall be accompanied by specific remarks on their performance;**
 - ongoing capital operations and debt management;
 - the capital operations and debt management for the financial year concerned;
- (e) the total amount of CFSP expenditure shall be entered into one budget chapter, entitled CFSP, with specific budgetary articles. Those articles shall cover CFSP expenditure and shall contain **a specific budget line per mission;**
- (ea) all revenue and expenditure under the respective European Development Fund which shall be entered under a special budget heading within the Commission section.**

Amendment 281

Proposal for a regulation

Article 47 – paragraph 1 – subparagraph 2 – point b

- (b) that the **limit** of the **total number of posts authorised by each establishment plan is not exceeded.**

- (b) that the **institution or body has taken part in a benchmarking exercise with other bodies of the Union and other institutions as initiated by the Commission's staff screening exercise.**

Amendment 96

Proposal for a regulation

Article 49

Article 49

Where by implementation of an act of the Union the appropriations available in the budget or the allocations available in the multiannual financial framework would be exceeded, such act may be implemented in financial terms only after the budget has been amended and, if necessary, the financial framework has been appropriately revised.

Article 49

Where by implementation of an act of the Union the appropriations available in the budget or the allocations available in the multiannual financial framework would be exceeded, such act may be implemented in financial terms only after the budget has been amended and, if necessary, the financial framework has been appropriately revised. **For the purposes of this Article, and notwithstanding Article 4(2), an act of the Union shall be deemed to exist where borrowing or lending operations affect the global MFF margin (Article 9(4)) of any present or future years to which the multiannual financial framework applies.**

Amendment 97

Proposal for a regulation

Article 50 – paragraph 2

2. The Member States shall cooperate with the Commission so that the appropriations are used in accordance with the principle of sound financial management.

2. The Member States shall cooperate with the Commission so that the appropriations are used in accordance with the principle of sound financial management **and shall perform their control and audit obligations in accordance with Article 317 of the Treaty on the Functioning of the European Union.**

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Amendment 98**Proposal for a regulation****Article 51 – paragraph 1 – subparagraph 2**

A basic act is a legal act which provides a legal basis for the action and for the implementation of the corresponding expenditure entered in the budget.

A basic act is a legal act which provides a legal basis for the action and for the implementation of the corresponding expenditure entered in the budget. **Article 2 applies.**

Amendment 99**Proposal for a regulation****Article 51 – paragraph 3**

3. In application of Title V of the Treaty on European Union, a basic act may take one of the forms ***specified in Articles 26(2), 28(1), 29, 31(2), 33 and 37 of the Treaty on European Union.***

3. In application of Title V of the Treaty on European Union (***hereinafter ‘TEU’***), a basic act may take one of the ***following*** forms:

- ***Council Decision necessary for defining and implementing the common foreign and security policy (Article 26(2) TEU);***
- ***Council decision on operational action required by the international situation (Article 28(1) TEU);***
- ***Council decision defining the Union’s approach to a particular matter of geographical or thematic nature (Article 29 TEU);***
- ***Council decisions defining a Union action or position, or implementing such action or position (Article 31(2) 1st-3rd indents TEU) or on the appointment of a special representative (Article 31(2) 4th indent, Art. 33 TEU);***
- ***conclusion of agreements with one or more states or international organisations (Article 37 TEU).***

Amendment 100**Proposal for a regulation****Article 51 – paragraph 5 – point b – subparagraphs 2 a and 2 b (new)**

The total amount of appropriations for the pilot schemes referred to in point (a) may not exceed EUR 40 million in any budget year.

The total amount of appropriations for new preparatory actions referred to in the first subparagraph of this point may not exceed EUR 50 million in any budget year, and the total amount of appropriations actually committed for preparatory actions may not exceed EUR 100 million;

Amendment 101**Proposal for a regulation****Article 51 – paragraph 5 – point c**

(c) appropriations for preparatory measures in the field of Title V of the Treaty on European Union. These measures shall be limited to a short period of time and shall be designed to establish the conditions for Union action in fulfilment

(c) appropriations for preparatory measures in the field of Title V of the Treaty on European Union (***concerning General Provisions on the Union’s External Action and Specific Provisions on the Common Foreign and Security Policy***).

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of the objectives of the CFSP and for the adoption of the necessary legal instruments.

For the purpose of Union crisis management operations, preparatory measures are designed inter alia to assess the operational requirements, to provide for a rapid initial deployment of resources, or to establish the conditions on the ground for the launching of the operation.

Preparatory measures shall be agreed by the Council, **on a proposal by the High Representative of the Union for Foreign Affairs and Security Policy.**

In order to ensure the rapid implementation of preparatory measures, the High Representative shall inform the Commission as early as possible on the Council's intention to launch a preparatory measure and in particular of the estimated resources required for this purpose. In conformity with this Regulation, the Commission shall take all the necessary measures to ensure a rapid disbursement of the funds.

Amendment 102

**Proposal for a regulation
Article 54 – paragraph 1**

1. All financial actors and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any action which may bring their own interests into conflict with those of the Union. Should such a case arise, the person concerned must refrain from such actions and refer the matter to **the competent authority.**

Amendment 103

**Proposal for a regulation
Article 54 – paragraph 2**

2. There is a conflict of interests where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

AMENDMENT

These measures shall be limited to a short period of time and shall be designed to establish the conditions for European Union action in fulfilment of the objectives of the CFSP and for the adoption of the necessary legal instruments;

For the purpose of Union crisis management operations, preparatory measures are designed inter alia to assess the operational requirements, to provide for a rapid initial deployment of resources, or to establish the conditions on the ground for the launching of the operation.

Preparatory measures shall be agreed by the Council, **in full association with the Commission, and the European Parliament shall be consulted in due time in advance and shall be informed in detail about the preparatory measures, in particular those regarding the CFSP and Common Security and Defence Policy actions.**

In order to ensure the rapid implementation of preparatory measures, the High Representative of the Union for Foreign Affairs and Security Policy shall inform the **European Parliament** and the Commission as early as possible on the Council's intention to launch a preparatory measure and in particular of the estimated resources required for this purpose. In conformity with the provisions of this Regulation, the Commission shall take all the necessary measures to ensure a rapid disbursement of the funds;

1. All financial actors and any other person involved in budget implementation **and** management, **including acts preparatory thereto**, audit or control shall be prohibited from taking any action which may bring their own interests into conflict with those of the Union. Should such a case arise, the person in question must refrain from such actions and refer the matter to **his hierarchical superior who shall confirm in writing whether a conflict of interests exists. Where a conflict of interest is found to exist, the person subject to such interest shall cease all his/her activities in the pending matter. The hierarchical superior shall personally take any further appropriate action.**

2. There is a conflict of interests where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is **or might in the public perception be** compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

Acts likely to be vitiated by a conflict of interest may take inter alia one of the following forms:

(a) granting oneself or any third parties related by blood, kin or by any other specific properties unjustified direct or indirect advantages;

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(b) *refusing to grant a potential beneficiary, recipient, candidate or tenderer the rights or advantages to which he is entitled or to grant these in excess;*

(c) *committing undue or wrongful acts or failing to carry out acts that are mandatory.*

A conflict of interest shall be deemed to exist, where a potential beneficiary, applicant, candidate or tenderer is a member of staff covered by the Staff Regulations, a contract agent, local agent or seconded national expert.

Amendment 104
Proposal for a regulation
Article 55 – paragraph 1– point a

(a) by its departments, by Union Delegations in accordance with the second paragraph of Article 53, or through executive agencies referred to in Article 59;

(a) by its departments, by **staff in the** Union Delegations **under the supervision of the respective Head of Delegation**, in accordance with the second paragraph of Article 53, or through executive agencies referred to in Article 59;

Amendment 105
Proposal for a regulation
Article 55 – paragraph 1 – point b

(b) indirectly, in shared management with Member States or by entrusting budget implementation tasks to:

(b) indirectly, in shared management with Member States or, **subject to a specific provision in the basic act which shall also set out, other than in the cases of (i) and (iv), the type of implementing partners and types of operations**, by entrusting **certain specified** budget implementation tasks to:

(i) third countries or the bodies they have designated;

(i) third countries or the bodies they have designated;

(ii) international organisations and their agencies;

(ii) international organisations and their agencies;

(iii) **financial institutions entrusted with the implementation of Financial Instruments pursuant to Title VIII;**

(iv) the European Investment Bank and the European Investment Fund **or any other subsidiary of the Bank;**

(iv) the European Investment Bank and the European Investment Fund;

(v) bodies referred to in Articles **200** and **201**;

(v) bodies referred to in Articles **196b** and **196c**;

(vi) public law bodies or bodies governed by private law with a public service mission as far as these latter provide adequate financial guarantees;

(vi) public law bodies or bodies governed by private law with a public service mission as far as these latter provide adequate financial guarantees;

(vii) **bodies governed by private law of a Member State, entrusted with the implementation of a public and private partnership and providing adequate financial guarantees;**

(viii) persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on the European Union, and identified in the relevant basic act within the meaning of Article 51 of this Regulation.

(viii) persons entrusted with the implementation of specific actions **in the Common Foreign and Security Policy** pursuant to Title V of the Treaty on the European Union, and identified in the relevant basic act within the meaning of Article 51 of this Regulation.

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The Commission remains responsible for the implementation of the budget (Article 317 TFEU) and shall inform the European Parliament on the operations carried out by the entities under points (i) to (viii). The financial statement (Article 27) shall provide a full justification for the choice of a particular entity under points (i) to (viii).

Amendment 106

**Proposal for a regulation
Article 55 – paragraph 1 a (new)**

1a. The financing decision which shall be annexed to the annual activity report (Article 63(9)) shall specify the objective pursued, the expected results, the method of implementation and the total amount of the financing plan. It shall also contain a description of the actions to be financed and an indication of the amount allocated to each action, and an indicative implementation timetable.

In case of indirect management, it shall also specify the implementing partner chosen, the criteria used and the tasks entrusted to it.

Amendment 107

**Proposal for a regulation
Article 55 – paragraph 1 b (new)**

1b. The entities and persons listed in points (i) to (viii) of paragraph 1(b) shall fully cooperate in the protection of the European Union's financial interests. The European Court of Auditors as well as OLAF must in all cases have the right to comprehensively exert their competences under the TFEU in the audit of funds so managed.

The Commission shall make the entrustment of implementing tasks contingent upon the existence of transparent, non-discriminatory, efficient and effective judicial review procedures concerning the actual implementation of these tasks or the performance of an action plan for the reinforcement of such procedures.

A list of entities and persons entrusted with certain specified implementation tasks shall be kept by the accounting officer and be annexed to the annual accounts. All agreements concluded with such entities and persons shall be made available to the budgetary authority at its request.

Entities and persons listed in points (i) to (viii) of paragraph 1(b) to which implementation tasks are delegated shall ensure, in conformity with Article 31(2), adequate annual ex post publication of beneficiaries of funds deriving from the budget. The Commission shall be notified of the measures taken.

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Amendment 108
Proposal for a regulation
Article 56 – paragraph 1

Responsibilities for budget implementation in shared management

1. Member States shall respect the principles of sound financial management, transparency and non-discrimination and ensure the visibility of Union action when they manage Union funds. To this end, Member States shall fulfil **the** control and audit obligations and assume the resulting responsibilities laid down in this Regulation. Complementary provisions **may** be laid down in sector-specific rules.

1. ***Where the Commission implements the budget under shared management, implementation tasks shall be delegated to Member States.*** Member States shall respect the principles of sound financial management, transparency and non-discrimination, and ensure the visibility of Union action when they manage Union funds. To this end, ***the Commission and the*** Member States shall fulfil ***their respective*** control and audit obligations, and assume the resulting responsibilities laid down in this Regulation. Complementary provisions **shall** be laid down in sector-specific rules.

Amendment 109
Proposal for a regulation
Article 56 – paragraph 2

Specific duties of the Member States

2. Member States shall ***prevent, detect and correct irregularities and fraud when executing tasks related to the implementation of the budget. To this end they shall carry out ex ante and ex post controls including, where appropriate, on the spot checks, to ensure that the actions financed from the budget are effectively carried out and implemented correctly, recover funds unduly paid and bring legal proceedings as necessary.***

2. Member States shall, ***when executing tasks relating to the implementation of the budget, take all the legislative, regulatory and administrative or other measures necessary to protect the Union's financial interests, in particular:***

(a) ***satisfy themselves that actions financed from the budget are actually carried out and ensure that they are implemented correctly and for that purpose accredit and supervise bodies responsible for the management and control of Union funds;***

(b) ***prevent, detect and correct irregularities and fraud.***

To this effect, they shall, in accordance with the principle of proportionality, and in compliance with paragraphs 2(a), 3 to 5 as well as the relevant sector-specific rules, carry out ex ante and ex post checks including, where appropriate, on-the-spot checks on representative samples of transactions. They shall also recover funds unduly paid and bring legal proceedings as necessary. The Commission may appraise the systems set up in the Member States on its own risk assessment or in application of sector-specific rules.

As far as Member States immediately disclose errors and / or irregularities they discover to the Commission and remedy them, namely by recovering any amounts unduly paid, they shall be exempt from financial corrections concerning these errors and / or irregularities up to the time of disclosure.

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Member States shall impose effective, dissuasive and proportionate penalties on recipients **as** provided for in sector-specific rules and in national legislation.

Amendment 110

Proposal for a regulation

Article 56 – paragraph 3

3. In accordance with **the** sector-specific rules, Member States shall accredit **one or more public** sector bodies which shall be **solely** responsible for the **proper** management and control of **the** funds, for which accreditation has been granted. This shall be without prejudice to the possibility for these bodies to carry out tasks not related to the management of Union funds or to entrust certain of their tasks to other bodies.

The accreditation shall be given by a Member State authority in accordance with sector-specific rules ensuring that the body is capable of properly managing the funds. The sector-specific rules may also define a role of the Commission in the accreditation process.

The accrediting authority shall be responsible for supervising the body and for taking all necessary measures to remedy any deficiency in its operation, including the suspension and withdrawal of the accreditation.

Amendment 111

Proposal for a regulation

Article 56 – paragraph 4

4. **Bodies** accredited pursuant to paragraph 3 of this Article shall:

- (a) set up and ensure the functioning of an effective and efficient internal control system;
- (b) use an annual accounting system providing accurate, complete and reliable information in a timely manner;

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Member States shall impose effective, dissuasive and proportionate penalties on recipients **where** provided for in sector-specific rules and in **specific provisions in** national legislation.

Role and competences of the accrediting authority

3. In accordance with **criteria and procedures laid down in** sector-specific rules, Member States shall accredit bodies which shall be responsible for the management and **internal** control of **Union** funds for which accreditation was granted. This shall be without prejudice to the possibility for these bodies to carry out tasks not related to the management of Union funds or to entrust certain of their tasks to other bodies. **The accrediting authority shall further be responsible for monitoring compliance of the accredited bodies with the accreditation criteria, on the basis of existing audit and control results. It shall take all necessary measures to ensure that deficiencies in the implementation of the tasks entrusted to the bodies it has accredited are being remedied, including by suspension and withdrawal of the accreditation. The role of the Commission in the accreditation process to which paragraph 2 applies shall be further defined in sector-specific rules taking account of the risk in the policy area concerned.**

Role and competences of the accredited body

4. **Member States at the appropriate level, by means of bodies** accredited pursuant to paragraph 3 of this Article shall:

- (a) set up and ensure the functioning of an effective and efficient internal control system;
- (b) use an accounting system providing accurate, complete and reliable **annual** information in a timely manner;

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- (c) *be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the accredited body;*
- (d) ensure, *in conformity* with Article 31(2), *annual ex post publication of recipients of Union funds;*
- (f) *ensure a protection of personal data which satisfies the principles laid down in Directive 95/46/EC.*

- (c) *provide the prerequisite data and information in accordance with paragraph 5;*
- (d) ensure *ex post publication of recipients of Union funds in accordance* with Article 31(2). *Any processing of personal data shall comply with national provisions implementing Directive 95/46/EC.*

Amendment 112
Proposal for a regulation
Article 56 – paragraph 5

Content, timing and audit of data reported by the accredited bodies

5. Bodies accredited pursuant to paragraph 3 *of this Article* shall provide the Commission by **1 February** of the following financial year with:

- (a) *their accounts drawn up for the expenditure made in the execution of the tasks entrusted;*

5. Bodies accredited pursuant to paragraph 3, shall provide the Commission by **1 March** of the following financial year with:

- (a) *the annual accounts of the accredited bodies on the expenditure that is made in the execution of the tasks entrusted to them and that is presented to the Commission for reimbursement, including the payments on account and sums for which recovery procedures are underway or have been completed. That information shall be accompanied by a statement of management responsibilities confirming that, in the opinion of those in charge of the management of the funds:*

— *the information is properly presented, complete and accurate;*

— *the expenditure has been used for its intended purpose, as defined in the sector-specific rules;*

— *the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions; an annex to the declaration shall present the error rate per funds and an analysis of the errors as well as reservations, where applicable;*

- (b) a summary of the *results of all available audits* and controls carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned;

- (b) a summary of the *final* audit *reports* and *a summary of* controls carried out, including an analysis of recurrent *or systemic* weaknesses, as well as corrective actions taken or planned *and their results.*

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(c) *a management declaration of assurance as to the completeness, accuracy and veracity of the accounts, the proper functioning of the internal control systems as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management;*

(d) *the opinion of an independent audit body on the management declaration of assurance mentioned in point (c) of this paragraph, covering all its elements.*

If a Member State has accredited more than one body per policy area, it shall by **15 February** of the following financial year provide the Commission with a synthesis report consisting of an overview at national level of all management declarations of assurance and the independent audit opinions **thereon**, prepared for the policy area concerned.

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The annual accounts referred to under point (a) and the summary referred to under point (b) shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards, on whether the accounting information gives a true and fair view and whether expenditure for which reimbursement has been requested from the Commission is legal and regular, and on the proper functioning of the control systems put in place. The opinion shall state if the examination puts in doubt the assertions made in the statement of management responsibilities. An annex to the opinion shall present the error rate per funds and an analysis of the errors as well as reservations.

If a Member State has accredited more than one body **with responsibility for the management of funds** per policy area, it shall by **15 March** of the following financial year provide the Commission with a synthesis report consisting of an overview at national level of all management declarations of assurance and the **corresponding** independent audit opinions, prepared for the policy area concerned.

Member States shall, at the appropriate level, publish this information no later than 6 months after providing the Commission with these documents.

Amendment 113
Proposal for a regulation
Article 56 – paragraph 6

Specific duties of the Commission

6. The Commission shall:

(a) apply procedures for a timely financial clearance of the accounts of the accredited bodies, **ensuring that** the accounts are complete, accurate and true **and allowing for a timely clearance of irregularity cases;**

(b) exclude from Union financing expenditure the disbursements which have been made in breach of Union law.

6. **In order to ensure that the funds are used in accordance with the applicable rules,** the Commission shall:

(-a) monitor the manner in which Member States fulfil their responsibilities, in particular by carrying out audits during the programme implementation;

(a) apply procedures for a timely financial clearance of the accounts of the accredited bodies, **establishing whether** the accounts are complete, accurate and true;

(b) exclude from Union financing expenditure **for which** disbursements have been made in breach of Union law;

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Sector-specific rules shall govern the conditions under which payments to Member States may be suspended by the Commission or interrupted by the authorising officer by delegation

(ba) interrupt payment deadlines or suspend payments in the event of significant deficiencies in the monitoring by a Member State or in the functioning of a body accredited in accordance with paragraph 3, in the event that the prerequisite actions are not taken immediately.

The Commission may decide to lift all or part of the interruption or suspension on payments after a Member State has presented its observations. The annual activity report of the Commission's competent authorising officer by delegation shall report on all the obligations under this paragraph.

Amendment 114

Proposal for a regulation

Article 56 – paragraph 6 a (new)

Specific provision for European Territorial Cooperation

6a. Sector-specific rules shall take account of the needs of European Territorial Cooperation programmes as regards, in particular, the content of the annual management declaration, the accreditation process and the audit function.

Amendment 115

Proposal for a regulation

Article 56 – paragraph 6 b (new)

National declarations of assurance

6b. Member States shall provide a national declaration on the expenditure made under the method of shared management. This declaration shall be signed at the appropriate political level, and be based on the information to be provided under paragraph 5(c), and shall cover at least the effective functioning of the internal control systems in place and the legality and regularity of the underlying transactions. It shall be subject to the opinion of an independent audit body and be provided to the Commission by 15 March of the year following the financial year concerned.

The Court of Auditors and the Contact Committee of the Supreme Audit Institutions of the European Union shall be consulted on the guidelines for the establishment of such national declarations.

Where a Member State has provided a national declaration in accordance with this paragraph, this shall be taken into account in the establishment of the Commission's audit and control strategies under paragraph 6 of this Article and the establishment of risk at Member States' level in accordance with Article 29; it shall be forwarded to the budgetary authority in application of Article 63(9) mutatis mutandis.

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Amendment 116
Proposal for a regulation
Article 57 – paragraph 1

1. Entities and persons entrusted with budget implementation tasks pursuant to point (b) of Article 55(1) shall respect the principles of sound financial management, transparency and non-discrimination and ensure the visibility of Union action when they manage Union funds. They shall guarantee a level of protection of the financial interests of the Union equivalent to that required under this Regulation when they manage Union funds, with due consideration:

- (a) the nature of the tasks entrusted and the amounts involved;
- (b) the financial risks involved;
- (c) the level of assurance stemming from their systems, rules and procedures together with the measures taken by the Commission to supervise and support the implementation of the tasks entrusted.

1. Entities and persons ***other than the Member States*** entrusted with budget implementation tasks pursuant to point (b) of Article 55(1) shall respect the principles of sound financial management, transparency and non-discrimination and ensure the visibility of Union action when they manage Union funds. They shall guarantee a level of protection of the financial interests of the Union equivalent to that required under this Regulation when they manage Union funds, with due consideration ***for***:

- (a) the nature of the tasks entrusted and the amounts involved;
- (b) the financial risks involved;
- (c) the level of assurance stemming from their systems, rules and procedures together with the measures taken by the Commission to supervise and support the implementation of the tasks entrusted.

Amendments 117 and 282
Proposal for a regulation
Article 57 – paragraph 2

2. To this effect, the entities and persons referred to in paragraph 1 shall:

- (a) set up and ensure the functioning of an effective and efficient internal control system;
- (b) use an annual accounting system providing accurate, complete and reliable information in a timely manner;
- (c) be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
- (d) apply appropriate rules and procedures for providing financing from Union funds through grants, procurement and financial instruments;
- (e) ensure, in conformity with Article 31(2), ***annual ex post publication of recipients of Union funds***;

2. To this effect, the entities and persons referred to in paragraph 1 shall, ***in accordance with standards equivalent to those commonly applied in the Union or, where such standards do not exist, internationally accepted standards and defined in the agreement entrusting the certain specified implementation tasks***:

- (a) set up and ensure the functioning of an effective and efficient internal control system;
- (b) use an annual accounting system providing accurate, complete and reliable information in a timely manner;
- (c) be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
- (d) apply appropriate rules and procedures for providing financing from Union funds through grants, procurement and financial instruments;
- (e) ensure ***ex post publication of recipients of Union funds*** in conformity with Article 31(2) ***and the protection of personal data which satisfies the principles laid down in Directive 95/46/EC***;

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(f) ensure a reasonable protection of personal data.

(f) ensure a reasonable protection of personal data **as laid down in Directive 95/46/EC and Regulation (EC) No 45/2001.**

Persons referred to in point (viii) of Article 55(1)(b) may satisfy these requirements progressively. **They shall adopt their financial rules with the Commission's prior consent.**

Notwithstanding Article 196b and 196c, they shall adopt their financial rules with the Commission's prior consent. Persons referred to in point (viii) of Article 55(1)(b) may satisfy **the** requirements **laid down in points (a) to (e) of this paragraph** progressively **within the first six months of their mandate.**

Amendment 300**Proposal for a regulation**

Article 57 – paragraph 2 – subparagraph 2 a (new)

With a view to ensuring legal certainty, stricter participation rules shall not be applied retroactively and recipients shall not be required to recalculate financial statements that have already been approved by the Commission.

Amendment 288**Proposal for a regulation**

Article 57 – paragraph 3 a (new)

3a. Union institutions and bodies will actively encourage the reporting of suspected irregularities with Union funding in the Member States.

Amendment 118**Proposal for a regulation**

Article 57 – paragraph 4 – subparagraph 2

The authorising officer by delegation may interrupt payments to such entities or persons fully or partially for the purpose of further verifications when information comes to his notice indicating a significant deficiency in the functioning of the internal control system or that the expenditure certified by the entity or person concerned is linked to a serious irregularity and has not been corrected, provided the interruption is necessary to prevent significant damage to the financial interests of the Union.

Notwithstanding Article 89, the authorising officer by delegation may interrupt payments to such entities or persons fully or partially for the purpose of further verifications when information comes to his notice indicating a significant deficiency in the functioning of the internal control system or that the expenditure certified by the entity or person concerned is linked to a serious irregularity and has not been corrected, provided the interruption is necessary to prevent significant damage to the financial interests of the Union.

Amendment 119**Proposal for a regulation**

Article 57 – paragraph 5

5. The entities and persons referred to in paragraph 1 shall provide the Commission with:

5. The entities and persons referred to in paragraph 1 shall provide the Commission with:

(a) a report on the implementation of the tasks entrusted;

(a) a report on the implementation of the tasks entrusted;

(b) their accounts drawn up for the expenditure made in the execution of the tasks entrusted;

(b) their accounts drawn up for the expenditure made in the execution of the tasks entrusted;

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- (c) a summary of the results of all available audits and controls carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned;
- (d) a management declaration *of assurance as to the completeness, accuracy and veracity of the accounts, the proper functioning of the internal control systems as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management;*
- (e) *the* opinion of an independent audit body *on the management declaration of assurance mentioned in point (d) of this paragraph, covering all its elements.*

These elements shall be provided to the Commission by 1 February of the following financial year with the exception of the audit opinion referred to in point (e). The latter shall be provided at the latest by 15 March.

These obligations shall be without prejudice to the provisions made in agreements concluded with international organisations and third countries. These provisions shall include at least the obligation of such entities to provide the Commission annually with a statement that, during the financial year concerned, the Union contribution has been used and accounted for in compliance with the requirements set out in paragraph 2 of this Article and the obligations laid down in the agreement concluded with the relevant international organisations or third country.

Amendment 120
Proposal for a regulation
Article 57 – paragraph 6

6. The Commission shall:
- (a) *ensure supervision and evaluation of the implementation of the tasks entrusted;*

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- (c) a summary of the results of all available audits and controls carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned;
- (d) a management declaration *providing reasonable assurance that:*
- (i) *the information contained in the accounts presents a true and fair view;*
- (ii) *the expenditure referred in the accounts has been used for its intended purpose and in accordance with the principle of sound financial management;*
- (iii) *the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.*
- (e) *These documents shall be accompanied by* an opinion of an independent audit body, *drawn up in accordance with the internationally accepted audit standards, on the completeness, accuracy and veracity of the accounts, on the proper functioning of the control procedures put in place as well as on the legality and regularity of the underlying transactions. The audit body shall report if the examination puts in doubt the assertions made in the management declaration.*

These elements shall be provided to the Commission by 1 February of the following financial year with the exception of the audit opinion referred to in point (e). The latter shall be provided at the latest by 15 March.

These obligations shall be without prejudice to the provisions made in agreements concluded with international organisations and third countries. These provisions shall include at least the obligation of such entities to provide the Commission annually with a statement that, during the financial year concerned, the Union contribution has been used and accounted for in compliance with the requirements set out in paragraph 2 of this Article and the obligations laid down in the agreement concluded with the relevant international organisations or third country, *audited by the competent supreme audit institution. The results of the audits shall be made available to the discharge authority. This shall not preclude the European Court of Auditors' as well as the OLAF's powers of investigation.*

6. The Commission shall:
- (a) *supervise that these entities fulfil their responsibilities, in particular by carrying out audits and evaluations during the programme implementation;*

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(b) apply procedures for a timely financial clearance of the accounts of the *entrusted* entities *and persons, ensuring that* the accounts are complete, accurate and true and allowing for a timely clearance of irregularity cases;

(b) apply procedures for a timely clearance of the accounts of the entities, *establishing whether* the accounts are complete, accurate and true and allowing for a timely clearance of irregularity cases;

(c) exclude from Union financing expenditure the disbursements which have been made in breach of *the applicable rules*.

(c) exclude from Union financing expenditure for which disbursements have been made in breach of *Union law*.

Amendment 121

Proposal for a regulation

Article 57 – paragraph 7

7. Paragraphs 5 and 6 of this Article shall not apply to entities *and persons* which are subject to a separate procedure *of discharge from the budgetary authority*.

7. Paragraphs 5 and 6 of this Article shall not apply to *Union* entities which are subject to a separate *discharge* procedure *when these entities implement the Union budget*.

Amendment 122

Proposal for a regulation

Article 57 – paragraph 7 a (new)

7a. Paragraphs 1, 2 and 3 shall apply mutatis mutandis for the indirect management of the appropriations allocated by the European Parliament to its political groups. The European Parliament shall adopt implementing measures in this regard which take account of the particular requirements of the political groups.

Amendment 123

Proposal for a regulation

Article 62 – paragraph 6 a (new)

6a. The authorising officer responsible may be assisted in his duties by persons covered by staff entrusted, under his responsibility, with certain operations required for the implementation of the budget and production of the financial and management information. In order to prevent any conflict of interests, staff assisting authorising officers by delegation or subdelegation shall be subject to the obligations referred to in Article 54.

Amendment 124

Proposal for a regulation

Article 62 – paragraph 6 b (new)

6b. Each institution shall inform the budgetary authority whenever an authorising officer by delegation takes up his duties, changes duties or terminates his duties.

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Amendment 125**Proposal for a regulation****Article 62 – paragraph 6 c (new)**

6c. Each institution shall lay down in its internal rules such measures for the management of appropriations as it considers necessary for proper implementation of its section of the budget. These internal rules shall be communicated to the European Parliament in the course of the discharge procedure.

Amendment 126**Proposal for a regulation****Article 63 – paragraph 6 – subparagraph 2**

The ex ante controls shall be carried by **the** members of staff other than those responsible for the ex post controls. The members of staff responsible for the ex post controls shall not be subordinate to the members of staff responsible for the ex ante controls.

The ex ante controls shall be carried **out** by members of staff other than those responsible for the ex post controls. The members of staff responsible for the ex post controls shall not be subordinate to the members of staff responsible for the ex ante controls , **and vice versa**.

Amendment 127**Proposal for a regulation****Article 63 – paragraph 8**

8. Any member of staff, involved in the financial management and control of transactions who considers that a decision he is required by his superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he is required to observe, shall inform the authorising officer by delegation in writing and, if that officer fails to take action, the panel referred to in Article 70(6). In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, **he** shall inform the authorities and bodies designated by the applicable legislation.

8. Any member of staff, involved in the financial management and control of transactions who considers that a decision he is required by his superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he is required to observe, shall inform the authorising officer by delegation in writing and, if that officer fails to take action, the panel referred to in Article 70(6).

In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, **such a member of staff** shall inform the authorities and bodies designated by the applicable legislation. **That latter obligation shall also apply, in cases of fraud, to the independent auditors who carry out procedures in connection with the financial management of the Union. In making such a disclosure they shall not incur liability.**

For the purposes of this paragraph, the member of staff concerned shall benefit from the relevant provisions of the Staff Regulations.

Amendment 128**Proposal for a regulation****Article 65 – paragraph 7 a (new)**

7a. The accounting officer of the Commission shall lay down rules for the management of the fiduciary accounts and their use.

Amendment 129**Proposal for a regulation****Article 69 – paragraph 2**

2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and

2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and

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payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 70, 71 and 72. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation.

payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 70, 71 and 72. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, *in particular to the OLAF.*

Amendment 130
Proposal for a regulation
Section 4 – Title

AUTHORISATION OF RECOVERY**RECOVERY AND FINANCIAL CORRECTIONS**

Amendment 131
Proposal for a regulation
Article -76 (new)

Article -76
Definitions

For the purposes of this section:

- a) 'recoveries' are instruments applied to correct the receipt of irregular expenditure; in principle it is the recipients of such expenditure who repay sums incorrectly received. Where it is impossible to determine the actual amount of expenditure concerned, the amount to be recovered may be established by other scientific means. Such means should in principle be stipulated before the expenditure is committed;*
- b) 'financial corrections' are instruments that predominantly address weaknesses in management systems. They withdraw funding from Member States or third countries or others which fail to ensure that the Union's rules are correctly applied. They may also be applied for the promotion of the implementation of the Union's policies laid down in the legal basis for the respective Union's contribution.*

All financial corrections decided and outstanding per funds and per Member State shall be presented in the accounts in accordance with Article 132.

Amendment 132
Proposal for a regulation
Article 76 – paragraph 1 – subparagraph 1 a (new)

The debit note corresponding to the recovery order shall be served upon the debtor and shall be binding on the Commission in its content at the time of service.

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Amendment 133
Proposal for a regulation
Article 76 – paragraph 2

2. The **institution** may formally establish an amount as being receivable from persons other than Member States by means of a decision which shall be enforceable within the meaning of Article 299 TFEU.

2. The **Council, the Commission or the European Central Bank** may formally establish an amount as being receivable from persons other than Member States by means of a decision which shall be enforceable within the meaning of Article 299 TFEU. **As regards the other institutions, the Commission may adopt, on their behalf, such an enforceable decision within the meaning of Article 299 TFEU, under the conditions laid down in the delegated regulation referred to in Article 199.**

Amendment 134
Proposal for a regulation
Article 77 – paragraph 1 – subparagraph 2

The accounting officer shall recover amounts by offsetting them against equivalent claims that the Union *have* on any debtor who himself has a claim on the Union that is certain, of a fixed amount and due.

The accounting officer shall recover amounts by offsetting them against equivalent claims that the Union *has* on any debtor who himself has a claim on the Union. **Such claims must be certain, of a fixed amount and due.**

Amendment 135
Proposal for a regulation
Article 77 – paragraph 2

2. Where the **responsible** authorising officer by delegation is planning to waive or partially waive recovery of an established amount receivable, he shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality **in accordance with the procedures and the criteria laid down in the delegated Regulation referred to in Article 199.** The waiver decision must be substantiated. The authorising officer may delegate the decision **only as laid down in the delegated Regulation referred to in Article 199.**

2. Where the **competent** authorising officer by delegation is planning to waive or partially waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality. The waiver decision must be substantiated **and shall be presented in the annual activity reports referred to in Article 63(9).** The authorising officer may delegate the decision.

The **responsible** authorising officer may cancel an established amount receivable in full or in part **in accordance with the conditions set out in the delegated Regulation referred to in Article 199.** The partial cancellation of an established amount receivable does not imply a waiver of a Union's established entitlement.

The **competent** authorising officer may cancel an established amount receivable in full or in part. The partial cancellation of an established amount receivable does not imply a waiver of a Union's established entitlement.

The rules for the procedures and criteria of a waiver decision as well as the delegation thereof by the authorising officer and the cancellation of an established amount shall be laid down in the delegated regulation referred to Article 199.

Amendment 136
Proposal for a regulation
Article 77 – paragraph 2 a (new)

2a. Sums recovered by the Member States following the occurrence of irregularity or negligence and the interest on these sums shall be made over to the managing authority and booked by it as revenue in the month in which the money is actually received.

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Amendment 137**Proposal for a regulation****Article 77 – paragraph 2 b (new)**

2b. When the Union budget is credited, the Member State may retain 20 % of the corresponding amounts as flat rate recovery costs, except in cases of irregularity or negligence attributable to its administrative authorities or other official bodies.

Amendment 138**Proposal for a regulation****Article 77 – paragraph 2 c (new)**

2c. If there is justification for doing so, Member States may decide not to pursue recovery. A decision to this effect may be taken only in the following cases:

- (a) if the costs already and likely to be incurred total more than the amount to be recovered, or*
- (b) if recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.*

Amendment 139**Proposal for a regulation****Article 77 a (new)****Article 77a**

Financial corrections by Member States in shared management under Title II of Part 2

1. The Member States shall in the first instance bear the responsibility for investigating irregularities, acting upon evidence of any major change affecting the nature or the conditions for the implementation or control of operations or operational programmes under Title II of Part 2 and making the financial corrections required in accordance with paragraphs 2 to 4.

They shall also recover funds affected by irregularities in expenditure effected under Title I of Part 2.

2. The Member State shall make the financial corrections required in connection with the individual or systemic irregularities detected in operations or operational programmes. The corrections made by a Member State shall consist in cancelling all or part of the public contribution to the operational programme. The Member State shall take into account the nature and gravity of the irregularities and the financial loss to the Funds.

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Where this is provided for in the relevant legal basis, the resources from the funds released in this way may be reused by the Member State for operations within the operational programme concerned (replacement operation).

3. The contribution cancelled in accordance with paragraph 2 may not be reused for:

(a) the operation or operations that were the subject of the correction, nor

(b) where a financial correction is made for a systemic irregularity, for existing operations within the whole or part of the priority axis where the systemic irregularity occurred, nor

(c) where a financial correction is made in a replacement operation.

4. In the case of a systemic irregularity, the Member State shall extend its enquiries to cover all operations liable to be affected.

Amendment 140
Proposal for a regulation
Article 77 b (new)

Article 77b
Criteria for financial corrections by the Commission

1. The Commission applies financial corrections by cancelling all or part of the Union contribution to an operational programme where, after carrying out the necessary examination, it concludes that:

(a) there is a serious deficiency in the management and control system of the programme which has put at risk the Union contribution already paid to the programme;

(b) expenditure contained in a certified statement of expenditure is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph;

(c) a Member State has not complied with its obligations under Article 77a prior to the opening of the correction procedure under this paragraph.

2. The Commission shall base its financial corrections on individual cases of irregularity identified, taking account of the systemic nature of the irregularity to determine whether a flat rate or extrapolated correction should be applied.

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Flat rate corrections shall only be applied where it is impossible, due to the nature of the case, to either identify the extent and amount of the irregularity found or to extrapolate the amount to be corrected.

3. The Commission shall, when deciding the amount of a correction, take into account the nature and gravity of the irregularity and the extent and financial implications of the deficiencies found in the operational programme concerned. Unless otherwise provided for in the applicable legal basis, the following rates for correction apply:

(a) 100 % correction

The rate of correction may be fixed at 100 % when the deficiencies in the Member State's management and control system are, or an individual breach is, so serious as to constitute a complete failure to comply with Community rules, thus rendering all the payments irregular;

(b) 25 % correction

When a Member State's application of its management and control system is gravely deficient, and there is evidence of widespread irregularity, and negligence in countering irregular or fraudulent practices, a correction of 25 % is justified, as it can then reasonably be assumed that the freedom to submit irregular claims with impunity will occasion exceptionally high losses to the Fund. A correction at this rate is also appropriate for irregularities in an individual case which are serious but do not invalidate the whole operation;

(c) 10 % correction

When one or more key elements of the system do not function or function so poorly or so infrequently that they are completely ineffective in determining the eligibility of the claim or preventing irregularity, a correction of 10 % is justified, as it can reasonably be concluded that there was a high risk of widespread loss to the Fund. This rate of correction is also appropriate for individual irregularities of moderate seriousness in relation to key elements of the system;

(d) 5 % correction

When all the key elements of the system function, but not with the consistency, frequency, or depth required by the regulations, then a correction of 5 % is justified, as it can reasonably be concluded that they do not provide a sufficient level of assurance of the regularity of claims, and that the risk to the Funds was significant. A 5 %

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correction can also be appropriate for less serious irregularities in individual operations in relation to key elements.

The fact that the way in which a system operates is perfectible is not in itself sufficient grounds for a financial correction. There must be a serious deficiency of compliance with explicit Union rules or standards of good practice and the deficiency must expose the Structural Funds to a real risk of loss or irregularity;

(e) 2 % correction

When performance is adequate in relation to the key elements of the system, but there is a complete failure to operate one or more ancillary elements, a correction of 2 % is justified in view of the lower risk of loss to the Fund, and the lesser seriousness of the infringement.

A 2 % correction will be increased to 5 % if the same deficiency is established in relation to expenditure after the date of the first correction imposed and the Member State has failed to take adequate corrective measures for the part of the system at fault after the first correction.

A correction of 2 % is also justified where the Commission has informed the Member State, without imposing any correction, of the need to make improvements to ancillary elements of the system that are in place but do not operate satisfactorily, but the Member State has not taken the necessary action.

Corrections are only imposed for deficiencies in ancillary elements of management and control systems where no deficiencies have been identified in key elements. If there are deficiencies in relation to ancillary elements as well as in key elements, corrections are only made at the rate applicable to the key elements.

4. When a Member State does not comply with its obligations under the applicable legal basis, the Commission may, in relation to the degree of non-compliance with these obligations, make a financial correction by cancelling all or part of the contribution to the Member State concerned.

Unless otherwise provided for in the applicable legal basis, the financial corrections applicable to:

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- (a) *non compliance with public procurement rules, and*
- (b) *shortcomings between agreed target levels and levels achieved, as well as*
- (c) *any other obligations arising directly out of the application of the legal basis or where this is stipulated in a funding agreement, where the breach of such obligations frustrates in full or in part the Union's policy on which the funding is based or where the protection of the Union's financial interests so requires*

shall be those laid down in the delegated regulation referred to with Article 199.

5. Where the Commission bases its position on facts established by auditors other than those of its own services, it shall draw its own conclusions regarding the financial consequences after examining the measures taken by the Member State concerned under Article 77a, the reports supplied under Article 56, and any replies from the Member State.

Amendment 141
Proposal for a regulation
Article 77 c (new)

Article 77c
Reduction of financial corrections

1. The amount of financial corrections for any specific funds in any given Member State subject to such correction shall be reduced where the management body has given a true and fair management declaration:

- (a) *where the Commission has established for the two consecutive previous years that this Member State has achieved an error rate below 2 %, by 10 %;*
- (b) *where the Commission has established for the five consecutive previous years that a Member State has achieved an error rate below 2 %, by 20 %;*
- (c) *where the Commission has established for the ten consecutive previous years that a Member State has achieved an error rate below 2 %, by 50 %;*

unless the act of establishment of the error rate itself has been subject to fraud or other intentional or grossly negligent misconduct.

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2. *The financial correction shall be reduced by fifteen per cent per fund, where a Member State has submitted a national declaration on the expenditure made under the system of shared management in accordance with Article 56(6b).*

3. *Without prejudice to other measures taken by the Commission, a management body that has returned a false management declaration shall be barred from reductions in application of this Article.*

Amendment 142
Proposal for a regulation
Article 77 d (new)

Article 77d
Contradictory procedure

1. *Before taking a decision on a financial correction, the Commission shall open the contradictory procedure by informing the Member State of its provisional conclusions.*

Within two months following receipt of the provisional conclusions, the Member State shall:

- (a) confirm receipt and agree to the provisional conclusions; or*
- (b) be given the opportunity to demonstrate through an examination of the documentation concerned, that the actual extent of irregularity was less than the Commission's assessment, where the Commission proposes a financial correction on the basis of extrapolation or at a flat rate.*

In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned; or

- (c) be invited to a hearing by the Commission, and chaired by a pre-selected panel comprising experts from both the Member States and Commission in which both sides in cooperation based on the partnership shall make efforts to reach an agreement concerning the observations and the conclusions to be drawn from them.*

The time allowed for procedures under points (a) and (b) shall only be prolonged once for each party by a maximum of two months upon substantiated notice by the respective party to the other.

The time allowed for procedures under point (c) shall not exceed four months unless the expert panel by a majority of its constituent members grants an extension of up to 6 months following the date of the hearing in which the extension is decided.

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2. *The Commission shall take account of any evidence supplied by the Member State within the time limits mentioned in paragraph 1. In the absence of agreement, the Commission shall take a decision on the financial correction within three months of the final date of the examination or hearing, taking account of all information and observations submitted during the course of the procedure.*

3. *In case of an agreement, the Member State may reuse the Union funds concerned in conformity with the second subparagraph of Article 77a(2).*

Amendment 143**Proposal for a regulation****Article 77 e (new)***Article 77e**Repayment*

1. *Any repayment due to be made to the general budget of the European Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 76. The due date shall be the last day of the second month following the issuing of the order.*

2. *Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.*

Amendment 144**Proposal for a regulation****Article 81 – paragraph 2 a (new)**

2a. *The financing decision shall specify the objective pursued, the expected results, the method of implementation and the total amount of the financing plan. It shall also contain a description of the actions to be financed and an indication of the amount allocated to each action, and an indicative implementation timetable.*

In case of indirect management, it shall also specify the implementing partner chosen, the criteria used and the tasks entrusted to it.

Amendment 145**Proposal for a regulation****Article 83 – paragraph 1**

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budgetary commitment before entering into a legal obligation with third parties or transferring funds to a trust fund on the basis of Article 178.

1. **Notwithstanding Article 82(3), in** respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budgetary commitment before entering into a legal obligation with third parties or transferring funds to a trust fund on the basis of Article 178.

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However, in the case of humanitarian aid operations, civil protection operations and crisis management aid, and when an urgent situation outside the Union so demands, the budgetary commitment may be made without delay after entering into a legal obligation with third parties, provided that that is indispensable for the efficient execution of the Union's intervention.

Amendment 146**Proposal for a regulation****Article 83 – paragraph 3 – subparagraph 4**

The amount of each individual legal commitment adopted following a global commitment shall, prior to signature, be registered by the authorising officer responsible in the budgetary accounts and booked to the global commitment. ***In case of humanitarian aid operations, civil protection operations and crisis management aid, and when the urgency justifies it, the registration of the amounts may be done immediately after the signature of the corresponding individual legal commitment.***

The amount of each individual legal commitment adopted following a global commitment shall, prior to signature, be registered by the authorising officer responsible in the budgetary accounts and booked to the global commitment.

Amendment 147**Proposal for a regulation****Article 87 – paragraph 1 – subparagraph 1 a (new)**

Payments shall be made by bank credit transfer, by cheque or by debit card.

Amendment 148**Proposal for a regulation****Article 87 – paragraph 4**

4. Pre-financing payments shall be cleared regularly by the responsible authorising officer. To this effect appropriate provisions shall be included in the contracts, grant decisions and agreements as well as the delegation agreements entrusting implementation tasks to the entities and persons referred to in point (b) of Article 55(1).

4. Pre-financing payments shall be cleared regularly by the responsible authorising officer, ***following the economic substance and timing of the underlying project. For pre-financing amounts of a value in excess of EUR 2 million and representing more than 50 % of the total operation being funded, ex post verifications shall be carried out at least annually throughout the duration of the operation.*** To this effect appropriate provisions shall be included in the contracts, grant decisions and agreements as well as the delegation agreements entrusting implementation tasks to the entities and persons referred to in point (b) of Article 55(1).

Amendment 149**Proposal for a regulation****Article 89**

The validation, authorisation and payment of expenditure must be completed within the time limits laid down in the delegated Regulation referred to in Article 199, which shall also specify the circumstances in which creditors paid late are entitled to receive default interest charged to the line from which the principal was paid.

1. ***The time allowed for making payments shall be:***

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(a) 90 calendar days for contracts, grant agreements and decisions involving technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;

(b) 60 calendar days for all other contracts, grant agreements and decisions for which payment depends on the approval of a report or a certificate;

(c) 30 calendar days in all other cases.

These time limits shall not apply to payments under shared management.

2. The competent authorising officer by delegation or subdelegation may suspend the time limit for payment by informing creditors, at any time that the payment request cannot be met, either because the amount is not due or because the appropriate supporting documents have not been produced. If information comes to the notice of the competent authorising officer which puts in doubt the eligibility of expenditure appearing in a payment request, the authorising officer may suspend the time limit for payment for the purpose of further verification, including on the spot checks, in order to ascertain, prior to payment, that the expenditure has been indeed eligible.

The creditors concerned shall be informed in writing of the reasons for suspension.

Where the suspension exceeds two months, the competent clearing committee shall take a decision on the continuity of the suspension upon an application by the creditor.

On expiry of the time limits laid down in paragraph 1, the creditor shall be entitled to interest.

Amendment 150
Proposal for a regulation
Chapter 7 – Title

IT SYSTEMS

IT SYSTEMS AND E-GOVERNMENT

Amendment 151
Proposal for a regulation
Article 91

Subject to the prior agreement of the institutions concerned, any transmission of documents between **institutions** may be done by electronic means.

Subject to the prior agreement of the institutions **and Member States** concerned, any transmission of documents between **them** may be done by electronic means.

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Amendment 152
Proposal for a regulation
Article 91 a (new)

Article 91a
Electronic Government (e-government)

All draft proposals submitted to the legislative authority shall be suitable for application of user-friendly information technologies at all levels, in particular the level of final recipients of funds.

Where funds are managed in shared management in accordance with Article 56, Commission and Member States shall ensure the interoperability of data gathered or otherwise received and transmitted in the management of the budget.

Where data is available in an electronic format, possibilities for its transmission in such format must be foreseen. Where this is necessary, the Member States and the Commission shall agree on uniform data transmission standards.

The Commission's directorates and the executive agencies as well as entities referred to in Article 200 shall apply uniform standards for electronic information supplied to third parties in the process of procurements and grants procedures. They shall, to the greatest possible extent, design and apply uniform standards for the submission, storage and processing of data submitted in grants and procurement procedures, and to this end, shall designate a single 'electronic data interchange area' for potential beneficiaries, beneficiaries or candidates and tenderers.

The Commission shall designate a Chief Intelligence Officer (CIO) who shall supervise the implementation of this provision and regularly report on achievements to the budgetary authority in the framework of the budget implementation.

Amendment 153
Proposal for a regulation
Chapter 7 a (new)

CHAPTER 7A
ADMINISTRATIVE PRINCIPLES

Article 91b
Right to good administration

Where, due to an obvious clerical error on the part of the applicant or tenderer acting in good faith, there is a failure to submit evidence, to give statements or to complete applications or otherwise miss of taking procedural steps, the competent officer shall invite the applicant or tenderer to take respective remedial measures. Where appropriate, the applicant or tenderer shall be advised of his procedural rights or duties.

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The need to supply evidence and/or documentation, its form and prerequisite content shall be announced at the earliest possible convenience and discussed with potential applicants and tenderers.

Where appropriate, tenderers and applicants shall be informed immediately upon receipt of an application or tender of the time required for processing and provisional completion of the procedure as well as the completeness of the application or tender filed.

Article 91c
Indication of means of redress

Where a procedural act of an authorising officer adversely affects the rights of an applicant or tenderer, beneficiary or contractor, it shall contain an indication of the available means of administrative and/or judicial redress for challenging this act.

In particular, the nature of the redress, the body or bodies before which it can be brought as well as time limits for their exercise shall be indicated.

Unless otherwise provided, such redress shall be time barred following the expiry of two months after the service of a complete and concise indication of the available means of redress on the applicant or tenderer.

Amendment 291

Proposal for a regulation

Article 93 – paragraph 3 a (new)

3a. The contact details of the internal auditor shall be made available to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.

The internal auditor or any natural or legal person providing him/her with information may not suffer any negative consequences thereof.

The internal auditor has the duty to keep the identity of informants confidential.

The internal auditor of each institution has the right to inform the discharge authority in cases he deems useful.

Amendment 154

Proposal for a regulation

Article 93 – paragraph 4

4. Each year the institution shall forward a report to the discharge authority containing a summary of the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

4. All audit reports shall be made available to the discharge authority immediately after they are issued. Each year the institution shall forward a report to the discharge authority containing a summary of the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

In the summary report, the discharge authority shall be made aware of any review that recommends changes to any major acquisition project or grant or that recommends significant budgetary savings.

Where an audit progress committee exists, this shall report in a separate statement on the impact of actions taken on the recommendations for the institution as well as further possible improvements.

Amendment 269

Proposal for a regulation

Article 93 – paragraph 4 a (new)

4a. The reports and findings of the Internal Auditor, as well as the report of the institution, shall be accessible to the public only after validation by the Internal Auditor of the actions taken for their implementation.

Amendment 155

Proposal for a regulation

Article 95 – paragraph 3

3. This Title does not apply to grants, without prejudice to Articles 100 to 103, *or to service contracts concluded between the Commission, on the one hand, and the European Investment Bank, the European Investment Fund or any other subsidiary of the European Investment Bank, on the other hand.*

3. This Title does not apply to grants, without prejudice to Articles 100 to 103.

Amendment 156

Proposal for a regulation

Article 102 – paragraph 1

1. A central database shall be set up and operated by the Commission in compliance with Union rules on the protection of personal data. The database shall contain details of candidates and tenderers which *is* in one of the situations referred to in Article 100, point (b) of Article 103(1) and point (a) of Article 103(2). It shall be common to the institutions, executive agencies and the bodies referred to in Article 200.

1. A central database shall be set up and operated by the Commission in compliance with Union rules on the protection of personal data. The database shall contain details of candidates and tenderers which *are* in one of the situations referred to in Article 100, **Article 101**, point (b) of Article 103(1) and point (a) of Article 103(2). It shall be common to the institutions, executive agencies and the bodies referred to in Article **196b**, **as well as publicly accessible. The discharge authority shall be informed of the number of cases reported for entry and, where this differs, actually entered into the database.**

Amendment 157

Proposal for a regulation

Article 102 – paragraph 4 a (new)

4a. Access may be granted to authorities of third countries only when the rules laid down in Article 9 of Regulation (EC) No 45/2001 are fulfilled and after an evaluation on a case-by-case basis.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 158**Proposal for a regulation****Article 103 – paragraph 3**

3. *Decisions or summary of decisions indicating the name of the economic operator, a short description of the facts, the duration of the exclusion or the amount of the financial penalties may be published by the institution.*

3. *In order to reinforce the protection of the Union's financial interests, institutions may decide, in compliance with the principle of proportionality, to publish their decisions imposing administrative or financial penalties referred to in paragraph 1 after the procedure set out in paragraph 1 has been fully complied with.*

The decision to publish a decision imposing administrative or financial penalties referred to in the first subparagraph shall take into account, in particular, the seriousness of the misconduct including its impact on the Union's financial interests and image and the time which has elapsed since the misconduct took place, the duration and recurrence of the misconduct, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

The decision on the publication shall be included in the decision imposing administrative or financial penalties and shall expressly provide for publication of the decision imposing penalties, or of a summary thereof, on the internet site of the institution.

In order to ensure a deterrent effect, the summary published shall include the name of the person responsible for the misconduct, a short description of that misconduct, the programme concerned and the duration of the exclusion and/or the amount of the financial penalties.

The decision shall be published after the legal remedies against the decision have been exhausted or after the expiry of the deadlines for redress and the publication shall remain on the internet site until the end of the exclusion period or until 6 months after the payment of the financial penalties where these penalties constitute the sole measure decided.

Where natural persons are concerned, the decision to publish shall be taken with due consideration of the right to privacy and with due observance of the rights provided for in the Regulation (EC) No 45/2001.

Amendment 159**Proposal for a regulation****Article 105 – paragraph 1 a (new)**

1a. *The Commission shall ensure by appropriate means and in application of Article 91a that tenderers may enter the contents of the tenders and any supporting evidence in an electronic format (e-procurement) if they so wish and shall, with the consent of the tenderer, store such supporting evidence for the purpose of conducting future e-procurement procedures, in a central database common to all institutions and entities to which this Regulation applies. The data shall be erased after a six month period unless the tenderer applies for ongoing storage. It shall be the tenderer's responsibility to maintain and update the stored data.*

The Commission shall report to Parliament and Council on the progress of the implementation of this provision within two years after the entry into force of this Regulation and regularly afterwards.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 160**Proposal for a regulation****Article 107 – paragraph 2 – subparagraph 1**

2. The contracting authority shall notify all candidates or tenderers whose applications or tenders are rejected of the grounds on which the decision was taken, and all tenderers who meet the exclusion and the selection criteria and who make a request in writing of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

2. The contracting authority shall notify all candidates or tenderers whose applications or tenders are rejected of the grounds on which the decision was taken **as well as the date on which the standstill period referred to in Article 112(2) lapses**, and all tenderers who meet the exclusion and the selection criteria and who make a request in writing of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

Amendment 161**Proposal for a regulation****Article 109 – paragraph 1**

1. *The contracting authority shall require contractors to lodge a guarantee in advance in the cases specified in the delegated Regulation referred to in Article 199.*

deleted

Amendment 162**Proposal for a regulation****Article 109 – paragraph 2**

2. The contracting authority may, if it deems it appropriate and proportionate, require contractors to lodge **such** a guarantee in order to:

2. **Other than in the case of very low value contracts**, the contracting authority may, if it deems it appropriate and proportionate **on a case-by-case basis and subject to a risk-analysis**, require contractors to lodge a guarantee in order to:

(a) ensure full performance of the contract or

(a) ensure full performance of the contract or

(b) limit the financial risks connected with payment of pre-financing.

(b) limit the financial risks connected with payment of pre-financing.

The Commission may define criteria for the risk analysis in the delegated regulation referred to in Article 199.

Amendment 163**Proposal for a regulation****Article 113**

Participation in tendering procedures shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has with the Union a special agreement in the field of public procurement under the conditions laid down in that agreement.

Participation in tendering procedures shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has with the Union a special agreement in the field of public procurement under the conditions laid down in that agreement **and where this agreement expressly stipulates control competences equal to the standards of the European Union, in particular a right to access and inspect all relevant documents and premises by the European Court of Auditors as well as by OLAF.**

Amendment 164**Proposal for a regulation****Article 115 – paragraph 1 – point b**

(b) the functioning of a body which pursues an aim of general European interest or has an objective forming part of a Union policy (operating grants).

(b) the functioning of a body which pursues an aim of general European interest or has an objective forming part of, **and acts in support of**, a Union policy (operating grants).

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Amendment 165
Proposal for a regulation
Article 115 – paragraph 2 - point c

(c) financial instruments as referred to in Title VIII of Part One, as well as shareholdings or equity participations in international financial institutions such as the European Bank for Reconstruction and Development (EBRD) or specialised Union bodies such as the European Investment Fund;

(c) financial instruments as referred to in Title VIII of Part One, **loans, risk-sharing instruments of the Union or the Union's financial contributions to such instruments, equity instruments on the basis of the private investor's principle and quasi equity financing,** as well as shareholdings or equity participations in international financial institutions such as the European Bank for Reconstruction and Development (EBRD) or specialised Union bodies such as the European Investment Fund;

Amendment 166
Proposal for a regulation
Article 115 – paragraph 2 a (new)

2a. The following shall be assimilated to grants and shall be governed, as appropriate, by this Title:

(a) the benefit deriving from an interest subsidy on certain loans;

(b) equity investments or participations other than those referred to in point (c) of paragraph 2.

Amendment 167
Proposal for a regulation
Article 115 a (new)

Article 115a
Beneficiaries

1. For the purposes of this Title, the term 'beneficiary' shall mean one or several entities to which the grant is awarded.

2. Where the action is implemented by one or several legal entities represented by or affiliated to a coordinating legal entity, the grant agreement may be signed by the coordinating legal entity on behalf of its affiliated members who shall be regarded as co-beneficiaries.

3. Where the grant is awarded to several (co-)beneficiaries, the grant agreement shall identify these beneficiaries and specify the rights and obligations between them and the Commission. It shall stipulate in particular but not exclusively:

(a) the applicable law and legal venue,

(b) the financial responsibility of the coordinating legal entity and its affiliated members towards the Commission for the implementation of the whole action,

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(c) *the possibility to modify, following a majority decision of the co-beneficiaries, the rights and obligations between them; any modification in the number or identity of participating beneficiaries shall be subject to the approval of the competent authorising officer, which shall be granted unless there is a danger of that modification frustrating the purpose of the grant or adversely and materially affecting the Commission's legal rights under the grant agreement.*

Amendment 168
Proposal for a regulation
Article 116

Grants may take any of the following forms:

- (a) reimbursement of a specified proportion of the eligible costs actually incurred;
- (b) lump sums;
- (c) *standard scale of unit costs;*
- (d) flat-rate financing;
- (e) a combination of the forms referred to in points (a) to (d).

Grants may take any of the following forms:

- (a) reimbursement of a specified proportion of the eligible **part of the full economic** costs actually incurred;
- (aa) *reimbursement of a specified proportion of standard scale of unit costs;*
- (b) lump sums;
- (d) flat-rate financing;
- (e) a combination of the forms referred to in points (a) to (d) **and taking into account the preferences of the beneficiaries with regard to their usual accounting principles;**

Amendment 270
Proposal for a regulation
Article 116 a (new)

Article 116a

Lump sums, standard scales of unit costs and flat-rate financing

1. Without prejudice to the provisions of the basic act, the use of lump sums, standard scales of unit costs or flat-rate financing shall be authorised by way of a Commission decision ensuring the respect of the principle of equal treatment of beneficiaries for the same category of actions or work programmes.

Where the maximum amount per grant does not exceed EUR 50 000, the authorisation may be given by the competent authorising officer.

2. The authorisation shall at least be supported by the following:

- a) *justification of the appropriateness of these forms of financing with regard to the nature of the supported actions or work programmes as well as to the risks of irregularities and fraud and costs of control;*

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b) identification of the costs or categories of costs covered by lump sums, standard scales of unit costs or flat-rate financing, which shall exclude ineligible costs according to the applicable Union rules;

c) description of the methods to determine lump sums, standard scales of unit costs or flat-rate financing, which shall set conditions to reasonably ensure compliance with the no-profit and co-financing rules and avoidance of double funding of costs. These methods shall be based on:

i) statistical data or similar objective means, or

ii) a beneficiary-by-beneficiary approach, by reference to certified or auditable historical data of the beneficiary or to its usual cost accounting practices.

3. Where recourse to the usual cost accounting practices of the beneficiary is authorised, the competent authorising officer may assess compliance of these practices with the conditions set out in paragraph 2 ex ante or through an appropriate strategy for ex post controls.

If the compliance of the usual cost accounting practices of the beneficiary with the conditions set out in paragraph 2 has been established ex ante, the amounts of lump sums, standard scales of unit costs or flat-rate financing determined by application of these practices shall not be challenged by ex post controls.

The competent authorising officer may consider that the usual cost accounting practices of the beneficiary are compliant with the conditions set out in paragraph 2 if they are accepted by the national authorities under comparable funding schemes.

Amendment 169

Proposal for a regulation

Article 117 – paragraph 3

3. Grants must involve co-financing without prejudice to the specific rules laid down in Title IV of Part Two.

3. Grants must involve co-financing without prejudice to the specific rules laid down in Title IV of Part Two.

The first subparagraph shall not apply to political parties and political foundations at Union level.

Grants shall not exceed an overall ceiling expressed in terms of an absolute value which is established on the basis of estimated eligible costs.

The beneficiary may substitute other sources of funding from third parties to its own financial resources, provided that the co-financing principle is respected.

The grant shall not exceed the eligible costs.

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Amendment 170
Proposal for a regulation
Article 117 – paragraph 4

4. Grants may not have the purpose or effect of producing a profit **within the framework of the action or the work programme of** the beneficiary.

The first subparagraph shall not apply to:

(a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary or the generation of an income;

(b) study, research or training scholarships paid to natural persons;

4. Grants may not have the purpose or effect of producing a profit **within the framework of the action or the work programme of** the beneficiary.

The first subparagraph shall not apply to:

(a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary or **actions which generate an income to ensure their sustainability after the period of Union financing provided for in the grant decision or agreement;**

(b) study, research or training scholarships paid to natural persons

(ba) other direct support paid to natural persons in most need, such as unemployed persons and / or under the Union external action programmes for refugees;

(bb) grants based on flat rates and/or lump sums and/or unit costs where these comply with the conditions set out in Article 116a(2);

(bc) low value grants.

Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary to carry out the action or work programme.

Amendment 171
Proposal for a regulation
Article 117 – paragraph 4 a (new)

4a. For the purpose of this Title, ‘profit’ shall be defined as follows:

(a) in the case of a grant for an action, profit means a surplus of receipts over the costs incurred by the beneficiary, when the request is made for final payment;

(b) in the case of an operating grant, profit means a surplus balance on the operating budget of the beneficiary.

Beneficiaries shall be entitled to carry over 3 % profit into the year N+2. Funds carried over must be first used by the beneficiary. The rules on guarantees shall apply mutatis mutandis where the amount carried over exceeds the thresholds set for very low and/or low value grants.

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Amendment 172**Proposal for a regulation****Article 117 – paragraph 6**

6. For lumps sums, standard scale of unit costs and flat rate financing, the no-profit and the co-financing rules laid down in paragraphs 3 and 4 shall be reasonably ensured at the time of their determination or at the stage of the evaluation of the grant application.

deleted

Amendment 173**Proposal for a regulation****Article 117 a (new)****Article 117a****Eligible costs**

1. Grants shall not exceed an overall ceiling expressed in terms of an absolute value which is to be established on the basis of estimated eligible costs.

Grants shall not exceed the eligible costs.

2. Eligible costs are costs actually incurred by the beneficiary of a grant which meet all the following criteria:

- (a) they are incurred during the duration of the action or of the work programme, with the exception of costs relating to final reports and audit certificates;
- (b) they are indicated in the estimated overall budget of the action or work programme;
- (c) they are necessary for the implementation of the action or of the work programme which is the subject of the grant;
- (d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost-accounting practices of the beneficiary; and
- (e) they comply with the requirements of applicable tax and social legislation.

3. Without prejudice to paragraph 1 and to the basic act to which Article 2 applies, the call for proposals shall specify the categories of costs considered eligible for Union funding.

The following costs shall be considered as eligible by the competent authorising officer by delegation:

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- (a) costs relating to a bank guarantee or comparable surety to be lodged by the beneficiary of the grant pursuant to Article 125;
 - (b) costs relating to external audits required by the competent authorising officer either at the time of the request for financing or on receipt of the cost statement;
 - (c) value added tax ('VAT') paid by, and which cannot be refunded to, the beneficiary according to the applicable national legislation. The modalities of the reimbursement shall be laid down in the delegated regulation referred to in Article 199;
 - (d) depreciation costs, provided they are actually incurred by the beneficiary;
 - (e) administrative expenditure, staff and equipment costs, including the salary costs of the personnel of national administrations to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the project concerned were not undertaken;
 - (f) other than in the case of operating grants, costs incurred that are necessary for the continued functioning of the business, but which cannot be immediately associated with the products/services being offered ('indirect' or 'overhead' cost) of up to 10 % of the total direct eligible cost of the action where this does not exceed EUR 250 000, and up to 8 % thereafter on a flat-rate basis. That percentage may be increased in particular for coordinating legal entities in accordance with the delegated regulation referred to in Article 199. The ceiling may be exceeded by reasoned decision of the Commission.
4. Costs incurred by affiliated members as referred to in Article 115a shall be accepted as eligible provided that the affiliated members concerned are identified in the grant agreement or decision and abide by the rules applicable to the beneficiary under the grant agreement or decision, including those concerning the rights of the Commission, OLAF and the Court of Auditors to control the spending of expenditure in accordance with the grant rules.

Amendment 174
Proposal for a regulation
Article 117 b (new)

Article 117b
Co-financing in kind

1. For the purpose of calculating the profit generated by the grant, co-financing in the form of in-kind contributions shall not be taken into account.

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2. *The authorising officer responsible may accept in-kind contributions as co-financing, if considered necessary or appropriate. Where co-financing in kind is offered in support of low value grants and the authorising officer intends to refuse this, he shall justify why it is not necessary or inappropriate.*

Such contributions must not exceed:

- (a) either the costs actually borne and duly supported by accounting documents;*
- (b) or, in the absence of such documents, the costs generally accepted on the market in question.*

In-kind contributions shall be presented separately in the estimated budget to reflect the total resources allocated to the action. Their unit value is evaluated in the provisional budget and shall not be subject to subsequent changes.

In-kind contributions shall comply with national tax and social security rules.

Amendment 175

Proposal for a regulation

Article 118 – paragraph 1 – subparagraph 3

The first subparagraph shall not apply to crisis management aid, civil protection operations and humanitarian aid operations.

The first subparagraph shall not apply to crisis management aid, **in particular** civil protection operations **carried out in this context** and humanitarian aid operations.

Amendment 176

Proposal for a regulation

Article 120 – paragraph 1 – subparagraph 2

In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or in case of extreme urgency for crisis management aid, civil protection operations **and** humanitarian aid operations.

In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or in case of extreme urgency for crisis management aid, civil protection operations, humanitarian aid operations, **or in situations threatening to escalate into armed conflict.**

Amendment 177

Proposal for a regulation

Article 121

Article 121

Principle of degressive award

Unless otherwise specified in the basic act or in the financing decision for grants awarded under point (d) of Article 51(5) with regard to bodies pursuing an objective of general Union interest, when operating grants are renewed for a period exceeding four years, they shall be gradually decreased after the fourth year.

deleted

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TEXT PROPOSED BY THE COMMISSION

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Amendment 178**Proposal for a regulation****Article 122 – paragraph 1**

1. Grant applications shall be submitted in writing.

1. Grant applications shall be submitted in writing **or, where appropriate, in a secure electronic format. The Commission shall provide, where it deems it feasible, the possibility for online applications.**

Amendment 179**Proposal for a regulation****Article 122 – paragraph 1 a (new)**

1a. The maximum time limit for processing applications shall be six months, or, where a panel decision is prerequisite, nine months, from the expiry of the deadline set for the submission of the application. This time limit may exceptionally be exceeded where the specific nature and subject-matter of the grant so require. Where this is the case, the provisional time limit shall be announced in the respective call for proposals. Where the time limit cannot be met due to other reasons, the authorising officer by delegation shall include this into his annual activity report together with the reasons and proposals for remedial action. He shall report in the following annual activity report on the success of the remedial action.

Amendment 180**Proposal for a regulation****Article 122 – paragraph 3**

3. Articles 100 to 103 shall also apply to grant applicants. Applicants must certify that they are not in one of the situations referred to in Articles 100 to 103. However, the authorising officer **may refrain from requiring** such certification, **as specified in the delegated Regulation referred to in Article 199**, for any of the following:

3. Articles 100 to 103 shall also apply to grant applicants. Applicants must certify that they are not in one of the situations referred to in Articles 100 to 103. However, the authorising officer **shall not require** such certification, for any of the following:

(a) **very** low valued grants;

(a) low valued grants;

(b) when such certification has recently been provided in another award procedure;

(b) when such certification has recently been provided in another award procedure.

(c) **when there is a material impossibility to provide such certification.**

Amendment 181**Proposal for a regulation****Article 122 – paragraph 3 a (new)**

3a. The application shall show the legal status of the applicant and his financial and operational capacity to carry out the proposed action or work programme.

For that purpose the applicant shall submit a declaration on his honour and, unless the grant is a low value grant, any supporting documents requested, on the basis of his risks assessment, by the authorising officer responsible. The prerequisite documents shall be indicated in the call for proposals.

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AMENDMENT

The supporting documents may consist in particular in the profit and loss account or the balance sheet for the last financial year for which the accounts were closed.

The verification of financial capacity shall not apply to natural persons in receipt of scholarships, to public bodies or international organisations. The authorising officer responsible may, depending on his risk analysis, waive the obligation to verify the operational capacity of public bodies or international organisations.

Where the application concerns grants for an action for which the amount exceeds EUR 750 000 or operating grants which exceed EUR 100 000, an audit report produced by an approved external auditor shall be submitted. That report shall certify the accounts for the last financial year available and the authorising officer by delegation shall explicitly accept or reject the audit report within 90 days. Once accepted by the authorising officer by delegation, such reports shall become binding and shall not be subject to ex-post audits or evaluation unless there is new prima facie evidence of irregularities or fraud.

Amendment 182
Proposal for a regulation
Article 125

The authorising officer responsible may, if he deems it appropriate and proportionate, require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

The authorising officer responsible may, if he deems it appropriate and proportionate **on a case-by-case basis and subject to risk analysis**, require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

Guarantees shall not be required in the case of very low value grants or of low value grants where the beneficiary received at least one grant every year over the last five years.

Amendment 183
Proposal for a regulation
Article 126 – paragraph 1

1. The amount of the grant shall not become final until after the authorising officer **responsible** has accepted the final reports and accounts, without prejudice to subsequent checks by the institution.

1. The amount of the grant shall not become final until after the **competent** authorising officer **by delegation** has accepted the final reports and accounts, without prejudice to subsequent checks by the institution, **which shall be carried out in a timely manner**.

Amendment 184
Proposal for a regulation
Article 126– paragraph 2

2. Where substantial errors, irregularities or fraud **are committed during the award procedure or the implementation of the grant and after the beneficiary has been given the opportunity to make his observations, the responsible authorising officer may take any of the measures referred to in Article 110.**

2. Where **the award procedure proves to have been subject to** substantial errors, irregularities or fraud, **the authorising officer responsible shall suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure. He shall inform OLAF immediately of suspected cases of fraud.**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 185**Proposal for a regulation****Article 126 – paragraph 2 a (new)**

2a. Where, after the award of the grant, the award procedure or the implementation of the grant proves to have been subject to substantial errors, irregularities or fraud, the authorising officer responsible may, depending on the stage reached in the procedure, refrain from signing the grant agreement or notifying the grant decision, suspend implementation of the grant or, where appropriate, terminate the grant agreement or decision after the applicant or beneficiary has been given the opportunity to make his observations.

Amendment 186**Proposal for a regulation****Article 126 – paragraph 2b (new)**

2b. Where those errors, irregularities or fraud are attributable to the beneficiary, or should the beneficiary fail to comply with his obligations under a grant agreement or decision, the authorising officer responsible may in addition reduce the grant or recover amounts unduly paid under the grant agreement or decision, in proportion to the seriousness of the errors, irregularities or fraud or of the breach of obligations, after the beneficiary has been given the opportunity to make his observations.

Amendment 187**Proposal for a regulation****Article 126 – paragraph 3**

3. Where controls or audits demonstrate that recurrent errors exist for one beneficiary which also have an impact on non-audited projects in which that beneficiary participates or has participated, the authorising officer may extend the findings to those non audited projects which may still be audited in accordance with the grant agreement and request the reimbursement of the related amount.

3. In case of systemic or recurrent errors or irregularities attributable to the beneficiary, exceeding the materiality threshold and having an impact on a number of grants awarded to him under similar conditions, the authorising officer responsible may suspend implementation of all the grants concerned or, where appropriate, terminate the concerned grant agreements or decisions with this beneficiary, in proportion to the seriousness of the errors, irregularities or fraud, after the beneficiary has been given the opportunity to make his observations. The authorising officer responsible may in addition proceed to financial corrections for all the grants concerned by the systemic or recurrent errors or irregularities referred to above that may be audited in accordance with the grant agreements or decisions by either reducing the grants or recovering amounts unduly paid under the grant agreements or decisions.

The amount of financial corrections to be made shall be determined wherever possible and practicable on the basis of costs unduly declared as eligible for each grant concerned. Where it is not possible or practicable to quantify the amount of ineligible costs precisely, financial corrections may be based on extrapolation or a flat rate, having regard to the principle of proportionality.

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TEXT PROPOSED BY THE COMMISSION

The beneficiary may, within an adversarial procedure, challenge the correction applied by demonstrating that the calculation of corrections is erroneous and **submitting** new calculation.

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3a. The beneficiary may, within an adversarial procedure **before the competent clearing committee**, challenge **decisions taken under paragraphs 2a to 3.**

The beneficiary may in particular challenge the correction applied by demonstrating **on the balance of probabilities** that **no recurrent or systemic error exists or that** the calculation of corrections is erroneous and **submit a** new calculation. **The beneficiary shall be entitled to the reimbursement of the cost of legal representation to the extent to which he succeeds.**

Amendment 188

Proposal for a regulation

Article 126 a (new)

Article 126a

Periods for record keeping

1. Beneficiaries shall keep records, supporting documents, statistical records and other records pertinent to a grant for five years following the payment of the balance and for three years for low value grants.

2. Records related to audits, appeals, litigation or the settlement of claims arising out of the performance of the project shall be retained until such audits, appeals, litigation or claims have been disposed of.

3. The Commission may define periods for record keeping by the accredited bodies and by the Commission in the delegated regulation referred to in Article 199.

Amendment 189

Proposal for a regulation

Article 128

Article 128

Definition

For the purposes of this Regulation, 'prizes' shall mean financial contributions awarded following contests.

Article 128

Scope of prizes

Prizes are financial contributions given as rewards following contests. The use of prizes shall be encouraged but not as a substitute for properly structured funding.

Amendment 190

Proposal for a regulation

Article 129 – paragraph 1

1. Prizes are subject to the principles of transparency and equal treatment.

1. Prizes are subject to the principles of transparency and equal treatment and must promote the achievement of European added value. Prizes in excess of EUR 5 000 000 may only be awarded in accordance with a legal act of the Union within the meaning of Articles 288, 289 and 290 TFEU, expressly laying down the conditions for participation, the award criteria, the amount of the prize as well as the procedure for the selection of the evaluating experts. Prizes shall lapse automatically on the expiry of the Regulation laying down the multiannual financial framework in which their implementation started or five years following their publication, whichever is the later.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Revenue arising from the lapse of a prize shall be treated as internal assigned revenue.

Amendment 191

Proposal for a regulation

Article 129 – paragraph 2 – subparagraph 1

2. Prizes shall be *part* of the work programme *referred to in Article 118 and adopted by the Commission and* shall be *subject to Article 118(2).*

2. *For this purpose, prizes shall be subject to a work programme to be published at the start of the year of implementation. The work programme shall be implemented through the publication of contests.*

Amendment 192

Proposal for a regulation

Article 129 – paragraph 2 – subparagraph 3

Prizes may not be awarded directly without a contest and shall be *subject to publication in the same way as call for proposals.*

Prizes may not be awarded directly without a contest and shall be *published annually in application of Article 31(2) and (3).*

Amendment 193

Proposal for a regulation

Article 129 – paragraph 3

3. Prizes shall be awarded by the *responsible* authorising officer *or by a jury. They shall be* free to decide whether or not to *award* prizes depending on their appraisal of the quality of the entries *by reference to the rules of the contest.*

3. *Entries in a contest shall be evaluated by a panel of experts on the basis of the published rules of the contest.*

Prizes shall *then* be awarded by the authorising officer *responsible, on the basis of the evaluation provided by the panel of experts, who are* free to decide whether or not to *recommend* the award of prizes, depending on their appraisal of the quality of the entries. *The competent authorising officer by delegation shall annex the award decision together with a list of the experts participating in the evaluation and a justification of their selection to his annual activity report.*

Amendment 271

Proposal for a regulation

Article 130 – paragraph 1

1. For the purpose of this Regulation, "financial instruments" shall mean Union measures of financial support provided from the budget in order to address *a* specific policy *objective* by way of loans, guarantees, equity or quasi-equity investments or participations, or other risk-bearing instruments, possibly combined with grants.

1. For the purpose of this Regulation, "financial instruments" shall mean Union measures of financial support provided from the budget *where authorised in the main sector-specific basic act in*, order to address *one or more* specific policy *objectives* by way of loans, guarantees, equity or quasi-equity investments or participations, or other risk-bearing instruments, possibly combined with grants. *The basic act shall state the type of financial instrument that is allowed to be used to achieve the policy objectives.*

The following definitions shall apply:

(a) 'quasi-equity investment' means a type of financing that involves a mix of equity and debt, where the equity allows investors to achieve a high rate of return upon the success of the company or where the debt component entails a premium price contributing to the return of the investor such as mezzanine debt or subordinated debt;

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(b) *'risk-sharing instrument' means a financial instrument which guarantees the total or partial coverage of a defined risk, where appropriate in exchange for an agreed remuneration;*

(c) *'risk-sharing instrument for project bonds' means a credit enhancement in the form of a loan or a guarantee. It covers the debt service risk of a project and mitigates the credit-risk of bond holders.*

Where several entities jointly participate in an operation covered by a risk-sharing instrument, the risk borne by the Union budget shall be proportionately no greater than the amount of the Union contribution.

Amendment 272

Proposal for a regulation

Article 130 – paragraph 3

3. The Commission may implement financial instruments in direct management mode, or in indirect management mode by entrusting tasks to the entities referred to in points (iii) and (iv) of Article 55(1)(b).

3. The Commission may implement financial instruments in direct management mode, or in indirect management mode, **where defined in the basic act**, by entrusting tasks to the entities referred to in points (iv) and (vi) of Article 55(1)(b). **The statute and nature of the operator to which the management is entrusted should be defined in the basic act.**

The Commission shall remain responsible for ensuring that the implementation framework for financial instruments complies with sound financial management and is conducive to the attainment of the defined policy objectives. The Commission shall be accountable for the implementation of financial instruments without prejudice to the entrusted entities' legal and contractual responsibility, in accordance with the applicable law.

The European Parliament shall be regularly informed of the implementation of financial instruments.

Amendment 273

Proposal for a regulation

Article 130 – paragraph 3 a (new)

3a. *Financial operations benefitting from a financial instrument of the Union issued in the form of, or jointly with, a grant or subsidy may not give rise to tax evasion with regard to the European beneficiaries and other concerned countries and legislations.*

The financial operators managing the respective financial instruments shall be jointly liable with any perpetrators for all financial loss arising from the infringement of this provision.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 195
Proposal for a regulation
Article 131 – paragraph 1

1. Financial instruments shall be provided to final recipients of Union funds in accordance with sound financial management, transparency and equal treatment and in accordance with the objectives established in the basic act that applies to those financial instruments.

1. Financial instruments shall be provided to final recipients of Union funds in accordance with **the principles of** sound financial management, transparency, **proportionality, non-discrimination** and equal treatment and in accordance with the objectives established in the basic act that applies to those financial instruments.

Amendment 196
Proposal for a regulation
Article 131 – paragraph 1 a (new)

1a. Revenues and repayments under a financial instrument shall constitute internal assigned revenue according to Article 18(3) and shall be carried over automatically with a view to being re-invested.

In any case, the Union's contribution to a project shall not be distributed to third parties in the form of dividends or profits.

Amendment 274
Proposal for a regulation
Article 131 – paragraph 1 b (new)

1b. The Commission shall ensure when implementing financial instruments that there is a common interest in achieving the policy objectives defined for a financial instrument, which may be fostered by provisions such as co-investment, risk-sharing requirements or financial incentives, while preventing conflict of interest with other activities of the entrusted entity.

Except in cases of market failure or micro-credit facilities, financial instruments shall have a multiplier effect, which means that the Union contribution to a financial instrument shall mobilise a global investment exceeding the size of the Union contribution.

The Commission shall report to the budgetary authority, if the minimum expected return has not been achieved by the mid-term duration foreseen for a respective financial instrument;

This mid-term review shall further report on

- the progress achieved in the implementation of the intended policy objective;***
- the total amount of money paid into the financial instrument;***
- the total amount of money paid out in the progress of implementation;***

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- *where applicable, the total amount of money for which repayment is at risk of default or has been defaulted;*
- *where applicable, the value of equity generated in the progress of implementation.*

Amendment 304/rev
Proposal for a regulation
Article 131 – paragraph 1 c (new)

1c. The Commission shall report annually to the budgetary authority on the activities supported by financial instruments, on the financial institutions involved in their implementation, on the performance of financial instruments, including reinvestments realised, balance on the trust accounts, revenues and repayments, multiplier effect achieved, and value of participations. The Commission shall attach its report to the annual activity report referred to in Article 63(9).

Amendment 275
Proposal for a regulation
Article 131 – paragraph 2

2. Without prejudice to **points (d) and (e) of article 46(1)**, the budgetary expenditure linked to a financial instrument shall **be kept within** the relevant budgetary commitment made for it.

2. Without prejudice to **borrowing and lending operations and guarantees given to the EIB for loans on the EIB's own resources**, the budgetary expenditure linked to a financial instrument **and the financial liability of the Union** shall **not exceed** the **amount of the** relevant budgetary commitment made for it, **thus excluding contingent liabilities for the Union budget.**

Amendment 276
Proposal for a regulation
Article 131 – paragraph 3

3. Financial intermediaries involved in the execution of financial operations under a financial instrument shall comply with relevant standards on the prevention of money laundering and fight against terrorism. They shall not be established in territories whose jurisdictions do not co-operate with the Union in relation to the application of internationally **agreed** tax standards.

3. **The entities referred to in points (iv) and (vi) of Article 55(1)(b) and all** financial intermediaries involved in the execution of financial operations under a financial instrument shall comply with relevant standards on the prevention of money laundering and fight against terrorism. They shall not be established **and shall not interact with entities incorporated** in territories whose jurisdictions do not co-operate with the Union in relation to the application of internationally **recognised** tax standards.

Amendment 277
Proposal for a regulation
Article 131 – paragraph 4

4. Each **agreement between an** entity referred to in point (iii) and (iv) of Article 55(1)(b) and **a** financial intermediary referred to in paragraph 3 shall provide **expressly for the** Commission **and** the Court of Auditors **to** exercise their powers of control, **on** documents and **on the premises and on** information, **even** stored on electronic media, **over** all third parties who have received Union funds.

4. Each entity referred to in points (iv) and (vi) of Article 55(1)(b) and financial intermediary referred to in paragraph 3 **involved in managing Union financial instruments** shall **be in a position to** provide, **upon request, access for the** Commission, the Court of Auditors **and OLAF**, in exercise **of** their powers of control, **to the premises**, documents, and information, **including those** stored on electronic media, **of** all third parties who have received **and/or are involved in the management of** Union funds.

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Amendment 200
Proposal for a regulation
Article 131 – paragraph 4 a (new)

4a. The Commission shall report annually to the discharge authority on the activities supported by financial instruments, on the financial institutions involved in their implementation, on the performance of financial instruments, including reinvestments realised, on the balance on the trust accounts, on revenues and repayments, on the multiplier effect achieved, and on the value of participations. The Commission shall attach its report to the summary of the annual reports referred to in Article 63(9).

Amendment 278
Proposal for a regulation
Article 131 – paragraph 4 b (new)

4b. The mid-term report referred to in paragraph 1b shall also include a list of the final beneficiaries of the financial instruments and the amounts of financing they received.

The specific legal form of the financial instruments, their purpose and, where applicable, their legal place of registration shall be published on the Commission website.

Amendment 293
Proposal for a regulation
Article 133 – paragraph 2

2. The report referred to in paragraph 1 shall give an account, at least, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.

2. The report referred to in paragraph 1 shall give an account, **both in absolute terms and expressed as a percentage**, at least, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.

Amendment 201
Proposal for a regulation
Article 134 – paragraph 1

The financial statements referred to in Article 132 shall be the **Union accounting rules as adopted by the Accounting Officer of the Commission** and shall present a true and fair view of the assets and liabilities, charges, income and cash flow.

The financial statements referred to in Article 132 shall **be based on the international accounting standards applicable to the public sector** and shall present a true and fair view of the assets and liabilities, charges, income and cash flow.

Amendment 202
Proposal for a regulation
Article 135

The financial statements referred to in Article 132 shall present information, including accounting policies, in a manner that provides relevant, reliable, comparable and understandable information. They shall be drawn up in compliance with the generally accepted accounting principles as outlined in the Union's accounting rules.

The financial statements referred to in Article 132 shall present information, including accounting policies, in a manner that provides relevant, reliable, comparable and understandable information. They shall be drawn up in compliance with the generally accepted accounting principles as outlined in the Union's accounting rules, **and be based on international accounting standards applicable to the public sector.**

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TEXT PROPOSED BY THE COMMISSION

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Amendment 203
Proposal for a regulation
Article 135 a (new)

Article 135a
Exceptions from accounting principles

Where, in a specific case, the accounting officers consider that an exception should be made to the content of one of the accounting principles, defined in Articles 187 to 194, that exception shall be duly substantiated and reported in the annex to the financial statements referred to in Article 136.

Amendment 294
Proposal for a regulation
Article 136 – paragraph 1 – point a

(a) the balance sheet and the statement of financial performance, which represent the assets and liabilities and financial situation and the economic result at 31 December of the previous year; they shall be presented in accordance with the relevant accounting rules adopted by the Accounting Officer of the Commission;

(a) the balance sheet and the statement of financial performance, which represent the assets and liabilities **(including pension liabilities)** and financial situation and the economic result at 31 December of the previous year; they shall be presented in accordance with the relevant accounting rules adopted by the Accounting Officer of the Commission;

Amendment 204
Proposal for a regulation
Article 136 – paragraph 2

2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information ***prescribed by the relevant accounting rules adopted by the Accounting Officer of the Commission.***

2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the ***requisite*** additional information.

Amendment 205
Proposal for a regulation
Article 138 – paragraph 3

The accounting officer of the Commission shall consolidate these provisional accounts with the Commission's provisional accounts and shall send to the Court of Auditors, by 31 March of the following year at the latest, the Commission's and the consolidated Union provisional accounts.

The accounting officer of the Commission shall consolidate these provisional accounts with the Commission's provisional accounts and shall send to the Court of Auditors ***and the European Parliament,*** by 31 March of the following year at the latest, the Commission's and the consolidated Union provisional accounts.

Amendment 206
Proposal for a regulation
Article 139 – paragraph 1

1. The Court of Auditors shall, by the 1st of June at the latest, make its observations on the provisional accounts of other institutions and each body referred to in Article 132, and ***by 15 June at the latest,*** make its observations on the provisional accounts of the Commission and the consolidated Union provisional accounts.

1. The Court of Auditors shall, by the 1st of June at the latest, make its observations on the provisional accounts of other institutions and each body referred to in Article 132, and make its observations on the provisional accounts of the Commission and the consolidated Union provisional accounts.

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Amendment 207**Proposal for a regulation****Article 139 – paragraph 2 – subparagraph 1**

2. The institutions other than the Commission, and each of the bodies referred to in Article 132, shall draw up their final accounts and send them to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council by **1 July** of the following year at the latest with a view to drawing up the final consolidated accounts.

2. The institutions other than the Commission, and each of the bodies referred to in Article 132, shall draw up their final accounts and send them to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council by **28 February** of the following year at the latest with a view to drawing up the final consolidated accounts.

Amendment 208**Proposal for a regulation****Article 139 – paragraph 5 – subparagraph 1**

5. After approving the final consolidated accounts and its own final accounts, the Commission shall send them both to the European Parliament, the Council and the Court of Auditors before **31 July** of the following financial year.

5. After approving the final consolidated accounts and its own final accounts, the Commission shall send them both to the European Parliament, the Council and the Court of Auditors before **31 March** of the following financial year.

Amendment 209**Proposal for a regulation****Article 139 – paragraph 6**

6. The final consolidated accounts shall be published in the *Official Journal of the European Union* together with the statement of assurance given by the Court of Auditors in accordance with Article 287 of the TFEU and Article 160c of the Euratom Treaty by **15 November** of the following financial year.

6. The final consolidated accounts shall be published in the *Official Journal of the European Union* together with the statement of assurance given by the Court of Auditors in accordance with Article 287 of the TFEU and Article 160c of the Euratom Treaty by **31 July** of the following financial year

Amendment 210**Proposal for a regulation****Article 141 – paragraph 3**

3. The figures and the report on implementation of the budget shall at the same time be sent to the Court of Auditors.

3. The figures and the report on implementation of the budget shall at the same time be sent to the Court of Auditors **and published on the internet.**

Amendment 211**Proposal for a regulation****Article 141 – paragraph 3 a (new)**

3a. During the financial year, a simplified consolidated interim statement of the accounts of the European Union shall be drawn up for the period from 1 January to 30 June. It shall be drawn up by the Commission and be subject to limited review by the European Court of Auditors. The consolidated interim statement of accounts as at 30 June shall be forwarded to the European Parliament, along with the report of the European Court of Auditors and, possibly, the Commission's observations, by 30 October of the same year.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 212**Proposal for a regulation****Article 143 – paragraph 2 – subparagraph 1 a (new)**

He/she shall justify and document all such departures and communicate this justification to the Court of Auditors at the time of adoption or updating of a given accounting rule.

Amendment 213**Proposal for a regulation****Article 145 – paragraph 3**

3. The accounting system must be such as to leave a trail for all accounting entries.

3. The accounting system must be such as to leave a **clear audit** trail for all accounting entries.

Amendment 214**Proposal for a regulation****Article 147 – paragraph 1**

1. The budgetary accounts provide a detailed record of **budgetary** implementation.

1. The budgetary accounts provide a detailed record of **the** implementation **of the budget**.

Amendment 296**Proposal for a regulation****Article 149 – paragraph 2**

2. Each institution shall inform the Court of Auditors and the budgetary authority of any internal rules it adopts in respect of financial matters.

2. Each institution shall inform the Court of Auditors and the budgetary authority of any internal rules it adopts in respect of financial matters **within a week of adoption of those rules**.

Amendment 215**Proposal for a regulation****Article 150 – paragraph 1**

1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the provisions of the Treaties, the budget, this Regulation, the delegated Regulation referred to in Article 199 and all other acts adopted pursuant to the Treaties.

1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the provisions of the Treaties, the budget, this Regulation, the delegated Regulation referred to in Article 199 and all other acts adopted pursuant to the Treaties. **The Court of Auditors shall carry out its audit task on a permanent basis.**

Amendment 216**Proposal for a regulation****Article 150 – paragraph 2 – subparagraph 1**

2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 152, all documents and information relating to the financial management of departments or bodies with regard to operations financed or co-financed by the Union. It shall have the power to make enquiries of any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to the aforementioned departments or bodies. The audit in the Member States shall be carried out in **conjunction** with the national audit institutions or, where they do not have the necessary powers, with the national departments **responsible**. The Court of Auditors and the national audit **bodies** of the Member States shall cooperate in a spirit of trust while maintaining their independence.

2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 152, all documents and information relating to the financial management of departments or bodies with regard to operations financed or co-financed by the Union. It shall have the power to make enquiries of any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to the aforementioned departments or bodies. The audit in the Member States shall be carried out in **liaison** with the national audit institutions or, where they do not have the necessary powers, with the **competent** national departments. The Court of Auditors and the national audit **institutions** of the Member States shall cooperate in a spirit of trust while maintaining their independence.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 217**Proposal for a regulation****Article 152 – paragraph 1 – subparagraph 1**

1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Union's behalf and the final beneficiaries of payments from the budget shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on the spot and, for the same purposes, all documents and data created or stored on a *magnetic medium*.

1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Union's behalf and the final beneficiaries of payments from the budget shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on the spot and, for the same purposes, all documents and data created or stored on a *data carrier*.

Amendment 218**Proposal for a regulation****Article 153 – paragraph 1**

1. The Court of Auditors shall transmit to the Commission by 15 June and to other institutions and bodies referred to in Article 132 by **1st of June** at the latest, any observations which are, in its opinion, such that they should appear in the annual report. These observations must remain confidential and are subject to a contradictory procedure. Each institution shall address its reply to the Court of Auditors by **15 October** at the latest. The replies of institutions other than the Commission shall be sent to the Commission at the same time.

1. The Court of Auditors shall transmit to the Commission by 15 June and to other institutions and bodies referred to in Article 132 by **15 June** at the latest, any observations which are, in its opinion, such that they should appear in the annual report **or should be taken into account by the competent accounting officer when preparing the accounts**. These observations must remain confidential and are subject to a contradictory procedure. Each institution shall address its reply to the Court of Auditors by **30 September** at the latest. The replies of institutions other than the Commission shall be sent to the Commission at the same time.

Amendment 219**Proposal for a regulation****Article 153 – paragraph 2**

2. *After completion of the contradictory procedure, each institution or body concerned shall address its reply to the Court of Auditors by 15 October at the latest. The replies of institutions other than the Commission and of the bodies shall be sent to the Commission at the same time.*

*deleted***Amendment 220****Proposal for a regulation****Article 153 – paragraph 5**

5. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by **15 November** at the latest, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the *Official Journal of the European Union*.

5. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by **31 October** at the latest, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the *Official Journal of the European Union*.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 221
Proposal for a regulation
Article 155

Article 155**Statements of preliminary findings***deleted*

1. The Court of Auditors shall transmit to the institutions, bodies or Member States concerned the statements of preliminary findings resulting from its audits. The statements of preliminary findings which are, in the Court's opinion, such that they should appear in the annual report, shall be transmitted no later than by 1st of June of the exercise following the one to which they refer. The statements of preliminary findings must remain confidential.

2. The institution, the body or the Member State concerned shall have two and a half months within which to inform the Court of Auditors of any comments it wishes to make on the statements of preliminary findings.

Amendment 264
Proposal for a regulation
Article 156

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before **15 May** of year n + 2 give a discharge **to the Commission** in respect of the implementation of the budget for year n.

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before **15 April** of year n + 2 give a discharge in respect of the implementation of the budget for year n **to:**

— *the institutions referred in the first indent of Article 1(2)*

— *the entities mentioned under Article 196b(1),*

— *other bodies responsible for the implementation of Union funds, insofar as a requirement of discharge to those bodies by the European Parliament is foreseen in Union legislation.*

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the **Commission** of the reasons for the postponement.

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the **institutions, entities and bodies concerned**, of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the **Commission** shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

3. If the European Parliament postpones the decision giving a discharge, the **institutions, entities and bodies concerned** shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

Amendment 265
Proposal for a regulation
Article 157 – paragraph 3

3. The **Commission** shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year concerned, in accordance with Article 319 of the TFEU.

3. The **institutions, entities and bodies concerned** shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year concerned, in accordance with Article 319 of the TFEU.

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TEXT PROPOSED BY THE COMMISSION

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Amendment 266
Proposal for a regulation
Article 158

1. In accordance with Article 319 of the TFEU and Article 180b of the Euratom Treaty, the Commission and the other institutions shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the institutions shall report on the measures taken in the light of these observations and comments, and, in particular, on the instructions they have given to those of their departments which are responsible for the implementation of the budget. The Member States shall cooperate with the Commission by informing it of the measures they have taken to act on these observations so that the Commission may take them into account when drawing up its own report. The reports from the institutions shall also be transmitted to the Court of Auditors.

1. In accordance with Article 319 of the TFEU and Article 180b of the Euratom Treaty, the Commission and the other institutions, **entities and bodies concerned** shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the institutions, **entities and bodies concerned** shall report on the measures taken in the light of these observations and comments, and, in particular, on the instructions they have given to those of their departments which are responsible for the implementation of the budget. The Member States shall cooperate with the Commission by informing it of the measures they have taken to act on these observations so that the Commission may take them into account when drawing up its own report. The reports from the institutions shall also be transmitted to the Court of Auditors.

Amendment 224
Proposal for a regulation
Article 167 – paragraph 1

1. Parts One and Three of this Regulation shall apply to expenditure effected by the authorities and bodies referred to in the Regulation (EC) No 1290/2005 on European Agricultural Fund for Rural Development, Regulation (EC) No 1080/2006 of the European Parliament and of the Council²³ on the European Regional Development Fund, Regulation (EC) No 1081/2006 of the European Parliament and of the Council²⁴ on the European Social Fund, Council Regulation (EC) No 1084/2006²⁵ on the Cohesion Fund, Council Regulation (EC) No 1198/2006²⁶ on the European Fisheries Fund, and funds in the area of Freedom, Security and Justice managed in shared management pursuant to Article 56 of this Regulation, (hereinafter the 'Funds'), and to their revenue, save as otherwise provided in this Title.

1. Parts One and Three of this Regulation shall apply to expenditure effected by the authorities and bodies referred to in the Regulation (EC) No 1290/2005 on European Agricultural Fund for Rural Development, Regulation (EC) No 1080/2006 of the European Parliament and of the Council²³ on the European Regional Development Fund, Regulation (EC) No 1081/2006 of the European Parliament and of the Council²⁴ on the European Social Fund, Council Regulation (EC) No 1084/2006²⁵ on the Cohesion Fund, Council Regulation (EC) No 1198/2006²⁶ on the European Fisheries Fund, and funds in the area of Freedom, Security and Justice, **including the Funds under the 'Solidarity and Management of Migration Flows' Programme**, managed in shared management pursuant to Article 56 of this Regulation, (hereinafter the 'Funds'), and to their revenue, save as otherwise provided in this Title.

Amendment 225
Proposal for a regulation
Article 168

Article 168
Respect of the allocations of commitment appropriations

deleted

The European Parliament and the Council undertake to respect the allocations of commitment appropriations provided for in the relevant basic acts for structural operations, rural development and the European Fisheries Fund.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 226
Proposal for a regulation
Article 169 – paragraph 3

3. In accordance with the regulations referred to in Article 167 the repayment in full or in part of payments on account in respect of a given operation shall not have the effect of reducing the contribution from the funds to the operation concerned.

Amounts repaid shall constitute assigned revenue in accordance with Article 18(3)(c).

3. The treatment of repayments by the Member States and the implications for the amount of contributions from the Funds shall be governed by the regulations referred to in Article 167.

The treatment of repayments by the Member States and the implications for the amount of contributions from the Funds shall be governed by the regulations referred to in Article 167.

Amendment 227
Proposal for a regulation
Title III – Chapter 1 – new heading (before Art. 173)

CHAPTER 1
General provisions

Amendment 228
Proposal for a regulation
Article 175 – paragraph 2 – subparagraph 1

2. *Shall be treated as assigned revenue within the meaning of Article 18(2) the* appropriations relating to:

- (a) grant and procurement procedures in which the JRC participates or;
- (b) activities of the JRC on behalf of third parties or;
- (c) activities undertaken under an administrative agreement with other institutions or other Commission's departments for the provision of technical-scientific services.

2. Appropriations relating to

- (a) grant and procurement procedures in which the JRC participates or;
- (b) activities of the JRC on behalf of third parties or;
- (c) activities undertaken under an administrative agreement with other institutions or other Commission's departments for the provision of technical-scientific services.

shall be treated as assigned revenue within the meaning of Article 18(2).

Amendment 279
Proposal for a regulation
Title III – Chapter 2 (new)

CHAPTER 2
Funding and eligible cost

Article 175a
Average personnel cost

1. The following criteria for the acceptance of average personnel costs shall apply:

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

- (a) *the average personnel costs shall be the beneficiary's usual cost accounting practice; this includes cost-centre approaches.*
 - (b) *the average personnel costs shall be based on the actual personnel costs of the beneficiary as registered in its statutory accounts, or cost accounting as required by applicable national rules, including budgeted or estimated amounts where necessary;*
 - (c) *the average personnel cost methodology shall exclude from the average personnel rates any ineligible cost item as defined in Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) ⁽¹⁾ and Council Regulation (Euratom) No 1908/2006 of 19 December 2006 laying down the rules for the participation of undertakings, research centres and universities in action under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007 to 2011) ⁽²⁾ and the model Grant Agreements; costs claimed under other costs categories shall not be included;*
 - (d) *the number of productive hours used to calculate the average hourly rates shall correspond to the usual management practice of the beneficiary provided that this is based on auditable accounting records.*
2. *The criteria referred to in paragraph 1 shall be applicable provided that all other aspects of the methodology are compliant with the provisions of the model Grant Agreements.*
3. *The criteria referred to in paragraph 1 shall serve as the reference for all average costs charged under the grant agreement: those which have an ex-ante certification on the methodology and those which do not have an ex-ante certification including the grant agreements already signed. Therefore, these criteria shall apply also in the frame of ex-post audits carried out by the Commission including the grant agreements already signed.*
4. *Personnel costs charged on the basis of methodologies compliant with the criteria referred to in paragraph 1 shall be deemed not to differ significantly from the actual costs.*

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5. In the case of ex-ante approval of the methodology under the criteria referred to in paragraph 1, the approval shall remain valid for the entire duration of the Framework Programmes unless the methodology is altered by the beneficiary, or the Commission services notice weaknesses in the methodology during audits either as a result of inaccuracy, improper use or any other eventuality invalidating the basis on which such approval was granted.

6. Beneficiaries having obtained the approval of their average personnel costs methodology under the conditions defined in Commission Decision C(2009) 4705 are entitled either to continue applying the approved methodology or to revert to their usual accounting practice if compliant with the criteria adopted by this Article.

⁽¹⁾ OJ L 391, 30.12.2006, p. 1.

⁽²⁾ OJ L 400, 30.12.2006, p. 1.

Article 175b

SME (small- and medium-sized enterprises) owners and natural persons

1. In all grants for indirect actions concluded under the Framework Programmes, the Union financial contribution related to their own personal work under the project for SME owners who do not receive a salary and natural persons who do not receive a salary shall take the form of a flat rate.

2. The value of the personal work of those SME owners and natural persons shall be based on a flat rate to be determined by multiplying the hours worked in the project by the hourly rate to be calculated as follows:

(a) the standard number of productive hours is equal to 1 575;

(b) the total number of hours claimed for Union projects in a year cannot be higher than the standard number of productive hours per SME owner or natural person.

The value of the personal work shall be considered as a direct eligible cost of the project.

3. This form of financing shall also apply to SME owners and natural persons who do not receive a salary under the framework programmes' grant agreements already signed, unless a certificate on the methodology for average personnel costs has already been submitted and accepted by the Commission for these beneficiaries. In the latter case, beneficiaries may opt to continue applying the certified methodology.

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Amendment 230
Proposal for a regulation
Title III – Chapter 3 (new)

CHAPTER 3
Research clearing committee

Article 175c
Research clearing committee

1. A specialised clearing committee for research questions ('Research clearing committee') is set up between the Directorates-General responsible for the implementation of the respective framework programmes, with the mandate to take final and uniform positions upon any legal and financial matter related to the implementation of the whole project cycle as well as to all business process-related matters for which the usual working modalities between the services did not allow a consensus to be reached.

The Research clearing committee shall act as the competent clearing committee referred to in Article 126b for all matters related to research projects and programmes, including the Framework Programme.

No member of the Research clearing committee shall be liable as a result of the application of Articles 70 and 71 for decisions made in its capacity as a member of the Research clearing committee.

2. The Research clearing committee is composed of the Directors-General of the Directorates-General for Research and Innovation, Education and Culture, Enterprise and Industry, Information Society and Media, Mobility and Transport and Energy or of one representative per Director-General duly empowered. It shall sit at least four times per year, and may take consensual decisions by written procedure.

3. The following rules shall apply to its procedure:

- (a) the Research clearing committee shall be chaired by the Director-General for Research and Innovation or his/her representative;
- (b) if necessary, the Research clearing committee may request the opinion of the Commission's horizontal central services, in particular the Legal Service and the Directorate-General for Budget;
- (c) the Research clearing committee may invite stakeholders or their representatives or any experts it considers apt to give an opinion;
- (d) decisions shall be taken by consensus or, where this is impossible, by majority decision and shall be binding for the Directorates-General referred to in paragraph 1;

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- (e) *the final and uniform positions taken shall also be binding for the Executive Agencies which implement parts of the Framework Programme;*
- (f) *a dedicated sector within the Directorate-General for Research and Innovation shall provide secretarial support for the Research clearing committee. The decisions of the Research clearing committee shall be made available to the public in the form of an electronic database, giving due regard to the applicable data protection legislation;*
- (g) *the Research clearing committee shall adopt its rules of procedure, in accordance with Article 126c.*

Amendment 231**Proposal for a regulation****Title IV– Chapter 2 – Section 1 (new) – heading (new) (before Article 177)****Section 1****General provisions****Amendment 232****Proposal for a regulation****Article 177 a (new)****Article 177a****Use of budget support**

1. Where provided for in the relevant basic acts, the Commission may use sectoral or general budget support within a third country if the partner country's management of public spending is sufficiently transparent, reliable and effective.

2. The Commission includes in the corresponding financing agreements concluded in accordance with Article 176(2)(b), the appropriate provisions following which the concerned beneficiary country commits to immediately reimburse all or part of the relevant operation funding, in the event that it is established that the management of the concerned Union funds has been vitiated by serious irregularities.

For processing the reimbursement referred to in the first subparagraph, Article 77(1) concerning recovery by offsetting may be applied.

3. The Commission shall support the development of parliamentary control and audit capacities and to increase transparency and public access to information.

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Amendment 233**Proposal for a regulation****Title IV – Chapter 2 – Section 2 (new) – heading (new) (before Article 178)****Section 2****Multi donor trust funds****Amendment 234****Proposal for a regulation****Article 178 – paragraph 2**

The contributions of the Union and the donors shall be entered into a specific bank account. These contributions are not integrated in the budget and are managed by the Commission under the responsibility of the authorising officer by delegation. *The entities and persons referred to in point (b) of Article 55(1) may be entrusted with budget implementation tasks in accordance with the relevant rules for indirect management.*

The contributions of the Union and the donors shall be entered into a specific bank account. These contributions are not integrated in the budget and are managed by the Commission under the responsibility of the authorising officer by delegation. **Article 55(3) applies.**

Amendment 235**Proposal for a regulation****Title IV – Chapter 2 – Section 3 (new) – heading (new) (before Article 179)****Section 3****Other management modes****Amendment 236****Proposal for a regulation****Article 195 – paragraph 3**

3. The institutions shall inform the budgetary authority as soon as possible of any building project likely to have significant financial implications for the budget.

3. The institutions **and bodies within the meaning of Article 196b** shall inform the budgetary authority as soon as possible of any building project likely to have significant financial implications for the budget.

If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the building project notify the institution concerned of its intention to issue such an opinion. Failing a reply, the institution concerned may proceed with the planned operation under its administrative autonomy, subject to Article 335 of the TFEU and Article 185 of the Euratom Treaty with regard to Union representation.

In particular, they shall inform the budgetary authority **in connection with:**

That opinion shall be forwarded to the institution concerned within two weeks of such notification.

(a) construction and renovation projects, before invitations to tender are issued, about the specific planning arrangements and, once detailed cost plans have been drawn up but before contracts are concluded, about all aspects with a bearing on decision-taking and about project financing, as well as, after completion of the works, about the extent to which the works were carried out as planned and on budget;

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(b) other building contracts, before invitations to tender are issued or any prospecting of the local market takes place, about the specific building surface area required and, before contracts are concluded, about all aspects with a bearing on decision-taking and about project financing, as well as, after completion of projects, about budget compliance and project implementation.

Where appropriate, the institutions and bodies may provide information in the working document on building policy referred to in Article 34(4a).

The approval of the budgetary authority shall be obtained before contracts are concluded. The budgetary authority shall take a decision on giving approval within eight weeks after receipt of the application and of all information with a bearing on decision-taking.

The institutions shall request the approval of the budgetary authority for the acquisition of real state assets or any other building project, financed through a loan.

Amendment 237

Proposal for a regulation

Article 195 – paragraph 3 a (new)

3a. Building projects likely to have significant financial implications for the budget are:

- (i) the acquisition, sale, renovation or construction of buildings exceeding EUR 2 million, or the extension of existing building contracts exceeding EUR 2 million per annum,
- (ii) any acquisition of land,
- (iii) all new building contracts (including usufruct and long term leases) for new property with an annual charge of at least EUR 500 000,
- (iv) all building projects which have an inter-institutional nature.

Amendment 238

Proposal for a regulation

Article 195 – paragraph 3 b (new)

3b. A building project may be financed from the budget or, in derogation from Article 14, with the agreement of the budgetary authority, through loans. Loans shall be repaid within an appropriate period.

The financing plan to be submitted, together with the application for approval, by the institution concerned shall specify, in particular, the maximum level of financing, the financing period and the type of financing.

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Amendment 239**Proposal for a regulation****Title VII a (new)****TITLE VIIa****AGENCIES, BODIES AND PUBLIC PRIVATE PARTNERSHIPS****Amendment 240****Proposal for a regulation****Article 196 a (new)****Article 196a****Types of public-private partnerships**

The following types of public-private partnerships may be established:

- (a) bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget in accordance with Article 196b;*
- (b) bodies with legal personality set up by a basic act defining their statute as well as the scope and nature of their operations and entrusted with the implementation of a public-private partnership in accordance with Articles 196b and 196c, where this creates European added value and the intervention by means of public funds is justified.*

Amendment 241**Proposal for a regulation****Article 196 b (new)****Article 196b**

Framework financial regulation for agencies, bodies and public-private partnerships set up under specific provisions of the TFEU and the Euratom Treaty

1. A framework financial regulation shall be adopted, following consultation of the Court of Auditors by means of a delegated regulation in accordance with Articles 202, 203 and 204 of this Regulation for entities which are set up under specific provisions of the TFEU and the Euratom Treaty and which have legal personality.

This framework financial regulation will be based on the principles and rules provided under this Regulation.

The financial rules of those bodies may not deviate from the framework financial regulation except where their specific needs so require. Such deviations may not concern the budgetary principles referred to in Title II of Part One, the principle of equality of treatment of operators, and specific provisions set out in the basic acts establishing such bodies. Where the financial rules of these ppps deviate from the framework financial regulation, the Commission shall be notified of these deviations and their justification. The Commission shall have the right to object to such deviations within six weeks following the notification.

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The rules of these bodies may deviate from the Staff Regulations.

1a. Deviations and specific reasons for such deviations shall be communicated to the European Parliament and the Council in a working document annually and no later than 31 October in a working document. The working document shall also set out the progress in the completion of the purpose for which the individual entities were set up, and the relevance of the aforementioned deviations for the progress achieved; the information mentioned in Article 34(2b); and the completion of the previously defined specific targets in the year to which the discharge relates. Where the targets have not been fully met, the management of the entity shall set out the specific reasons for this and propose remedial action which may also comprise the reasoned demand for a temporary increase in administrative allocations for not more than one subsequent year.

The working document shall further present the governance structures of all entities under this Article including a comprehensive overview of the size of the individual governing structures in relation to the respective staff.

2. Discharge for the implementation of the budgets of the entities referred to in paragraph 1 shall be given by the European Parliament on the recommendation of the Council. Whenever it deems necessary to do so, the European Parliament shall be entitled to invite their management in the process of the discharge, in particular where the targets described in paragraph 1a are not met for two consecutive years.

3. The Commission's internal auditor shall exercise the same powers over the entities referred to in paragraph 1 as he/she does in respect of Commission departments.

4. Each of the agencies shall appoint by contract, after consultation of the Court of Auditors, an independent auditor whose mission is to verify the conformity of the body's accounts with Article 134 and to undertake an analysis, under the direction of the Court of Auditors, of the legality and regularity of the revenue and expenditure of this body. The Court of Auditors shall examine the report prepared by any such independent auditor and, together with carrying out any other procedures it deems necessary, may rely on the independent auditor's report when forming its opinion.

Amendment 242

Proposal for a regulation

Article 196 c (new)

Article 196c

Model Financial Regulation for public-private partnership bodies not based on specific provisions of the TFEU

1. The bodies having legal personality set up by a basic act in application of Articles 288 and 289 TFEU and entrusted with the implementation of a public-private partnership shall

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adopt their financial rules covering the establishment, implementation, accounting and discharge of the ppp's budget.

2. *Those rules shall include a set of principles necessary to ensure sound financial management of Union funds, and be based on Articles 55 and 57 and a model financial regulation adopted by means of a delegated regulation in accordance with Articles 202, 203 and 204 after consultation of the Court of Auditors.*

Where the financial rules of these ppps deviate from the model financial regulation, the Commission shall be notified of these deviations and their justification. The Commission shall have the right to object to such deviations within six weeks following the notification.

The rules of these bodies may deviate from the Staff Regulations insofar as the acts establishing these bodies according to Art. 1a(2) of the Staff Regulations do not foresee an application of the Staff Regulations.

3. *Deviations and specific reasons for such deviations shall be communicated to the European Parliament and the Council annually and no later than 31 October in a working document. The working document shall also set out the progress in the completion of the purpose for which the individual bodies were set up, and the relevance of the aforementioned deviations for the progress attained; the information mentioned in Article 34(2b); and the completion of the previously defined specific targets in the year to which the discharge relates. Where the targets have not been fully met, the management of the body shall set out the specific reasons for this and propose remedial action which may also comprise the reasoned demand for a temporary increase in administrative allocations for not more than one subsequent year. The working document shall further present the governance structures of all entities under this Article including a comprehensive overview of the size of the individual governing structures in relation to the respective staff.*

4. *Discharge for the implementation of the budgets of the bodies referred to in paragraph 1 shall be given by the European Parliament on the recommendation of the Council.*

5. *The Commission's internal auditor shall exercise the same powers over the bodies referred to in paragraph 1 as he/she does in respect of Commission departments.*

Amendment 243
Proposal for a regulation
Article 199

The Commission shall adopt a delegated Regulation *on detailed rules for the application of this Regulation in accordance* with Articles 202, 203 and 204. *The delegated Regulation shall include rules on the implementation of administrative expenditure relating to the appropriations provided in the budget for the Euratom Supply Agency.*

The Commission shall *be empowered to* adopt a delegated regulation *in accordance* with Articles 202, 203 and 204 *concerning detailed rules to supplement or amend certain non-essential elements of the following Articles: 5, 8, 9, 16, 18, 19, 20, 22, 23, 25, 26, 27, 30, 31, 34, 38, 41, 46, 50, 51, 55, 56, 57, 58, 61, 63, 65, 66, 67, 69, 70, 71, 72, 75, 76, 77,*

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77b, 78, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90, 92, 93, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 117a, 118, 119, 120, 122, 123, 124, 125, 126, 126a, 126c, 127, 133, 135, 136, 137, 139, 142, 145, 147, 148, 173, 175, 176, 178, 179, 180, 181, 182, 183, 184, 187, 188, 191, 193, 195, 196, 197.

An annex to this Regulation lists the objectives, content and scope of the delegation with reference to the aforementioned Articles.

The delegated regulation shall also include rules on the implementation of administrative expenditure relating to the appropriations provided in the budget for the Euratom Supply Agency.

Amendment 244
Proposal for a regulation
Article 200

Article 200

Framework financial regulation for agencies and bodies set up under the TFEU and the Euratom Treaty

deleted

1. The Commission shall adopt a framework financial regulation for bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget by means of a delegated act in accordance with Articles 202, 203 and 204 of this Regulation.

This framework financial regulation will be based on the principles and rules provided under this Regulation.

The financial rules of those bodies may not depart from the framework financial regulation except where their specific needs so require and with the Commission's prior consent. Such exception may not concern the budgetary principles referred to in Title II of Part One, the principle of equality of treatment of operators, and specific provisions set out in the basic acts establishing such bodies.

2. Discharge for the implementation of the budgets of the bodies referred to in paragraph 1, shall be given by the European Parliament on the recommendation of the Council.

3. The Commission's internal auditor shall exercise the same powers over the bodies referred to in paragraph 1 as he does in respect of Commission departments.

4. Unless otherwise provided in the basic act referred to in paragraph 1, the Court of Auditors shall examine the legality and regularity of the revenue and expenditure of this body before its accounts are consolidated with the Commission's accounts. This examination shall rely on the audit report established by an independent external auditor designated by the body and whose mission is to verify the conformity of the body's accounts with Article 134.

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Amendment 245
Proposal for a regulation
Article 201

Article 201
Model Financial Regulation for public-private partnership bodies

deleted

The bodies having legal personality set up by a basic act and entrusted with the implementation of a public-private partnership pursuant to point (v) of Article 55(1)(b) shall adopt their financial rules.

Those rules shall include a set of principles necessary to ensure sound financial management of Union funds, and be based on Article 57 and a model financial regulation adopted by the Commission by means of a delegated act in accordance with Articles 202, 203 and 204.

Amendment 246
Proposal for a regulation
Article 202 – paragraph 1

1. The powers to adopt the delegated **act** referred to in Articles 199, **200 and 201** shall be conferred on the Commission for **an indeterminate** period of **time**.

1. The powers to adopt the delegated **regulations** referred to in Articles **196b, 196c and 199** shall be conferred on the Commission for **a period of 3 years from (*) and subject to the conditions laid down in Articles 203 and 204.**

(*) *Date of entry into force of this Regulation.*

Amendment 247
Proposal for a regulation
Article 202 – paragraph 2

2. As soon as it adopts **this** delegated **act**, the Commission shall notify it simultaneously to the European Parliament and to the Council.

2. As soon as it adopts a delegated **regulation**, the Commission shall notify it simultaneously to the European Parliament and to the Council.

The Commission shall carry out appropriate consultations during its preparatory work, including with the European Parliament and at expert level, and shall ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Amendment 248
Proposal for a regulation
Article 202 – paragraph 3

3. *The powers to adopt the delegated act are conferred on the Commission subject to the conditions laid down in Articles 203 and 204.*

3. **Whenever this Regulation is subject to a review, the Commission shall submit a revised delegated regulation.**

Amendment 249
Proposal for a regulation
Article 203 – Title

Revocation of delegation

Revocation of *the* delegation and **repeal of the delegated regulation**

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Amendment 250
Proposal for a regulation
Article 203 – paragraph 1

1. The delegation of power referred to in **Article** 199 may be revoked at any time by the European Parliament or by the Council.

1. The delegation of power referred to in **Articles 196b, 196c and 199** may be revoked **in full or in part with effect for the future** at any time by the European Parliament or by the Council. **The European Parliament or the Council may, in addition, repeal, in full or in part, the delegated regulations that were adopted pursuant to the delegated powers revoked under the previous sentence.**

Amendment 251
Proposal for a regulation
Article 203 – paragraph 2

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power **and whether to repeal the delegated regulation, in full or in part,** shall inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers **and, where applicable, the delegated regulation or the part of it** which could be subject to revocation **or repeal** and possible reasons for a revocation **or repeal**.

Amendment 252
Proposal for a regulation
Article 203 – paragraph 3

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. **It shall not affect the validity of the delegated acts already in force.** It shall be published in the *Official Journal of the European Union*.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. **In addition, the decision may also put an end to the validity of the delegated regulation in force or parts of it.** It shall take effect immediately or at a later date specified therein. It shall be published in the *Official Journal of the European Union*.

Amendment 253
Proposal for a regulation
Article 203 – paragraph 3 a (new)

3a. Within a reasonable time after a decision has been taken on a revocation of part of the delegation of power and, where applicable, a repeal, in full or in part, of the delegated regulation, the Commission shall submit a proposal for the revision of this Regulation and/or a revised delegated regulation.

Amendment 254
Proposal for a regulation
Article 204 – Title

Objection to delegated acts

Objection to a delegated **regulation**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 255
Proposal for a regulation
Article 204 – paragraph 1

1. The European Parliament and the Council may object to **the** delegated **act** within a period of **two** months from the date of notification.

1. The European Parliament and the Council may object to **a** delegated **regulation proposed by the Commission under Articles 196b, 196c and 199** within a period of **three** months from the date of notification.

Amendment 256
Proposal for a regulation
Article 204 – paragraph 2 – subparagraph 1

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated **act** it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated **regulation** it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

Amendment 257
Proposal for a regulation
Article 204 – paragraph 3

3. If the European Parliament or the Council **objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.**

3. If **either** the European Parliament or the Council **object to the delegated regulation and propose modifications to it within the period indicated in paragraph 1, the Commission shall take note of the modifications and may adopt a revised delegated regulation. The European Parliament or the Council may object to such a revised delegated regulation in accordance with this Article.**

Amendment 258
Proposal for a regulation
Article 204 – paragraph 3 a (new)

3a. The European Parliament or the Council may request the Commission at any time to submit a partially or completely revised delegated regulation. They shall inform each other of their intention for such request at the earliest possible convenience.

Amendment 259
Proposal for a regulation
Article 205

Revision

This Regulation shall be revised whenever it proves necessary to do so, in accordance with the procedure laid down by Article 322 of the TFEU and Article 183 of the Euratom Treaty.

Review

Every three years or whenever it proves necessary to do so, **this Regulation shall be subject to a review** in accordance with the procedure laid down by Article 322(1) of the TFEU and Article 183 of the Euratom Treaty.

The thresholds laid down in this Regulation may be adjusted to the inflation rate by means of a delegated regulation referred to in Article 199 in accordance with Articles 202, 203 and 204.

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Amendment 260
Proposal for a regulation
Article 208

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply as of 1 January 2012.

Article 56 shall apply **only to commitments made** as of 1 January 2014 of **funds referred to** in Article 167.

1. This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

2. It shall apply as of 1 January 2012.

3. Article 56 shall **only** apply as of 1 January 2014 **until which time Article 53b of Regulation (EC, Euratom) No 1605/2002 remains in force**.

However, Member States may already apply Article 56(2) as of 1 January 2012.

Where Member States provide a national declaration in the meaning of Article 56(6b) also the final subparagraph of Article 56(6b) shall apply as of 1 January 2012.

The functions of existing bodies under Council Regulation (EC) No 1083/2006 ⁽¹⁾ shall remain unaffected by the accreditation of such bodies. From 1 January 2014, the accredited bodies shall be competent for performing their functions.

4. Article 5(4) shall have immediate effect as from the publication of this Regulation.

Where beneficiaries have applied Article 5(5) of Regulation (EC, Euratom) No 1605/2002 without having made use of an interest-bearing bank account, this shall not be considered as an error or irregularity.

⁽¹⁾ OJ L 210, 31.7.2006, p. 25.

Amendment 261
Proposal for a regulation
Annex (new)

Annex on the delegated regulation according to Article 199 of this Regulation

Article 5
The delegated regulation may define rules on the accounting of interest yielded for pre-financing.

Article 8
The delegated regulation may contain detailed rules concerning appropriations for a financial year.

Article 9
The delegated regulation may contain detailed rules for the cancellation and carry over of appropriations.

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Article 16

The delegated regulation may establish rules concerning the rate of conversion between the euro and other currencies.

Article 18

The delegated regulation may establish the structure to accommodate external and internal assigned revenue and the provision of the corresponding appropriations and determine rules for the contribution from Member States to research programmes. Further, the delegated regulation may complement this Regulation with regard to the proceeds of sanctions imposed on Member States declared to have an excessive deficit, and relating to assigned revenue resulting from the participation of EFTA states in certain Union programmes.

Article 19

The delegated regulation may contain detailed rules on the acceptance of donations made to the Union.

Article 20

The delegated regulation may contain detailed rules concerning the accounts for recoverable taxes.

Article 22

The delegated regulation may establish detailed rules concerning the calculation of percentages of transfers by institutions other than the Commission, and the grounds for transfer requests.

Article 23

The delegated regulation may establish detailed rules concerning the calculation of percentages of internal transfers by the Commission, and grounds for transfer requests.

Article 25

The delegated regulation may contain detailed rules concerning requests for transfers from the emergency aid reserve.

Article 26

The delegated regulation may contain detailed rules concerning ex ante midterm and ex post evaluations.

Article 27

The delegated regulation may contain detailed rules concerning the requirements of the financial statement.

Article 30

The delegated regulation may establish detailed rules concerning the provisional publication of the budget.

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Article 31

The delegated regulation may establish detailed rules on the publication of information on recipients of funds awarded in indirect management.

Article 34

The delegated regulation may define detailed rules concerning financial programming.

Article 38

The delegated regulation may contain detailed rules concerning the draft amending budgets.

Article 41

The delegated regulation may contain detailed rules concerning the classification of the budget.

Article 46

The delegated regulation may contain detailed rules concerning the presentation of the budget, including a definition of actual expenditure in the last financial year for which the accounts have been closed, budget remarks and the establishment plan.

Article 50

The delegated regulation may contain detailed rules concerning the budget implementation according to sound financial management, and information on transfers of personal data for audit purposes.

Article 51

The delegated regulation may contain detailed rules concerning the basic act and the exceptions enumerated in Article 51.

Article 55

The delegated regulation may contain detailed rules concerning the methods of implementation of the budget, including direct centralised management, the exercise of powers delegated to executive agencies, specific provisions for indirect management with international organisations and the designation of public law bodies or bodies governed by private law with a public service mission.

Article 56

The delegated regulation may contain detailed rules concerning shared management with Member States, including sector-specific rules that govern conditions under which payments to Member States may be suspended, the compilation of a register of bodies responsible for management, certification and audit activities under the sector-specific regulations, measures to promote best practices and the establishment the clearance-of-account procedures.

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Article 57

The delegated regulation may contain detailed rules concerning the indirect management of entities and persons other than Member States, including the content of the agreement entrusting budget implementation tasks, the establishment of the conditions in indirect management where the systems, rules and procedures of the Commission are equivalent with those of entities and persons other than Member States, management declarations of assurance, and the establishment of the clearance-of-account procedures.

Article 58

The delegated regulation may contain detailed rules concerning the ex ante assessments of rules and procedures under indirect management.

Article 61

The delegated regulation may contain detailed rules concerning the rights and obligations of the financial actors.

Article 63

The delegated regulation may contain detailed rules concerning ex ante and ex post controls, the keeping of supporting documents, code of professional standards, failure of the authorising officer to act, transmission of information to the accounting officer, and reports on negotiated procedures.

Article 65

The delegated regulation may contain detailed rules concerning the powers and duties of the accounting officer, including his/her appointment and termination of duties, the opinion on accounting and inventory systems, treasury and bank account management, signatures on accounts, management of account balances, transfer and conversion operations, methods of payment, legal entity files and keeping of supporting documents.

Article 66

The delegated regulation may lay down detailed rules concerning the persons empowered to administer accounts in a local unit.

Article 67

The delegated regulation may establish the conditions of imprest accounts and rules also for external actions, including rules regarding the choice of imprest administrators, the endowment of imprest accounts, and checks by authorising and accounting officers.

Article 69

The delegated regulation may contain detailed rules concerning the liability of the authorising officer, accounting officer and imprest administrator in case of illegal activity, fraud or corruption.

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Article 70

The delegated regulation may lay down detailed rules applicable to authorising officers by delegation, including confirmation of instructions and the role of the Financial Irregularities Panel.

Article 71

The delegated regulation may contain detailed rules concerning the liability of accounting officers in case of other forms of misconduct.

Article 72

The delegated regulation may contain detailed rules concerning the liability of imprest officers in case of other forms of misconduct.

Article 75

The delegated regulation may contain detailed rules concerning the estimates of amounts receivable and the establishment of amounts receivable, including procedure and supporting documents, and default interest.

Article 76

The delegated regulation may contain detailed rules concerning the establishment of the recovery order.

Article 77

The delegated regulation may contain detailed rules on the way of recovery, including recovery by offsetting, recovery procedure failing voluntary payment, additional time for payment, recovery of fines and other penalties, waiving of recovery and cancellation of an established amount receivable.

Article 77b

The delegated regulation may contain detailed rules for the implementation of the criteria and procedures for financial corrections by the Commission.

Article 78

The delegated regulation may contain detailed rules concerning the limitation period.

Article 80

The delegated regulation may establish rules with regard to the amounts received by way of fines, penalties and accrued interest.

Article 81

The delegated regulation may contain detailed rules concerning the financing decision.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 82

The delegated regulation may contain detailed rules regarding the types of commitment, adoption of global commitments, single signature, and administrative expenditure covered by provisional commitments.

Article 83

The delegated regulation may contain detailed rules on the budgetary and legal commitment including registration of individual commitments.

Article 84

The delegated regulation may contain detailed rules concerning the verifications applicable to the different commitments.

Article 85

The delegated regulation may establish detailed rules concerning validation of expenditure, including passing for payment of staff expenditure and for interim and balance payments of procurement and grant, certified correct for pre-financing and interim payments, and material forms of 'passed for payment' and 'certified correct'.

Article 86

The delegated regulation may contain detailed rules on the authorisation of expenditure, including the establishment of the mandatory details on a payment order and the checks by the authorising officer of payments orders.

Article 87

The delegated regulation may contain detailed rules concerning the types of payments and supporting documents.

Article 89

The delegated regulation may contain detailed rules concerning payment time limits.

Article 90

The delegated regulation may contain detailed rules on the electronic management of operations.

Article 92

The delegated regulation may contain detailed rules concerning the appointment of the internal auditor.

Article 93

The delegated regulation may contain detailed rules concerning the powers and duties of the internal auditor.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 94

The delegated regulation may contain detailed rules concerning the independence and the liability of the internal auditor.

Article 95

The delegated regulation may contain detailed rules concerning the different contracts under procurement, including framework contracts and specific contracts.

Article 97

The delegated regulation may contain detailed rules concerning the requirements for the advertising of contracts and publication of notices.

Article 98

The delegated regulation may contain detailed rules concerning the types of procurement procedure, joint procurement with Member States and low value contracts.

Article 99

The delegated regulation may contain detailed rules concerning the content of tender documents, including the possibility and the conditions for revision of the price and the technical specifications.

Article 100

The delegated regulation may contain detailed rules concerning the exclusion criteria applicable for participation in tenders. It may establish what evidence may be satisfactory to show that an exclusion situation does not exist. Furthermore, in case of an exclusion situation it may establish the duration of the exclusion.

Article 101

The delegated regulation may contain detailed rules concerning the exclusion criteria applicable during the procurement procedure. It may establish what evidence may be satisfactory to show that an exclusion situation does not exist. Furthermore, in case of an exclusion situation it may establish the duration of the exclusion.

Article 102

The delegated regulation may define detailed rules concerning the Central Exclusion Database.

Article 103

The delegated regulation may establish detailed rules concerning different administrative and financial penalties for tenderers or candidates who have made false declarations, have made substantial errors, have committed irregularities or fraud or have been found in serious breach of their contractual obligations.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 104

The delegated regulation may define the selection criteria and the award criteria. It furthermore may define the documents that give proof of economic and financial capacity and the evidence of technical and professional capacity. The delegated regulation may also contain detailed rules on electronic auctions and abnormally low tenders.

Article 105

The delegated regulation may contain detailed rules concerning the submission of tenders. It may establish the time limits for receipt of tenders and requests to participate, the time allowed for access to invitation to tender documents and the time limits in urgent cases. It may also define the different methods of communication. Furthermore, it may establish rules on the possibility of a tender guarantee, the opening of tenders, the requests to participate and the Committee for the evaluation of tenders and requests to participate.

Article 106

The delegated regulation may contain detailed rules concerning the principles of equal treatment and transparency. It may define the contact that is allowed between contracting authorities and tenderers during the contract award procedure, the minimum requirements of the written record of an evaluation and the minimum details of the decision taken by the contracting authority.

Article 107

The delegated regulation may contain detailed rules concerning the award decision, information to tenderers, and the signature and implementation of the contract.

Article 108

The delegated regulation may contain detailed rules concerning information for tenderers, including on the cancellation of the procurement procedure.

Article 109

The delegated regulation may contain detailed rules concerning the guarantees that are required from contractors.

Article 110

The delegated regulation may contain detailed rules on the suspension of a contract in case of errors, irregularities and fraud.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 111

The delegated regulation may contain detailed rules concerning the function of contracting authority, including the identification of the appropriate levels for the calculation of thresholds.

Article 112

The delegated regulation may contain detailed rules on the thresholds applicable, separate contracts and contracts with lots, and estimating the value of certain contracts.

Article 113

The delegated regulation may contain detailed rules concerning tender participation ne evidence of access to contracts.

Article 114

The delegated regulation may contain detailed rules on the procurement rules of the World Trade Organization.

Article 115

The delegated regulation may specify in more detail the scope and content of grants, and may contain rules determining whether grant agreements or grant decisions are to be used. Further, the delegated regulation may contain details on the use of framework partnership agreements.

Article 116

The delegated regulation may define rules for the different forms of grants.

Article 117

The delegated regulation may complement the general principles applicable to grants, including the non-profit rule and the co-financing principle.

Article 117a

The delegated regulation may contain further specifications on eligible costs

Article 118

The delegated regulation may define the requirements regarding the annual work programme, the content of the calls for proposals, the exceptions to a call for proposals, the information to applicants and the publication of the grant award decision.

Article 119

The delegated regulation may contain detailed rules concerning the principle of non-cumulative award.

Article 120

The delegated regulation may contain detailed rules concerning retroactive award.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 122

The delegated regulation may contain detailed rules concerning the arrangements for grant applications, evidence of non-exclusion, applicants without legal personality, legal entities forming one applicant, financial and administrative penalties, eligibility criteria and very low value grants.

Article 123

The delegated regulation may contain detailed rules concerning selection and award criteria.

Article 124

The delegated regulation may contain detailed rules concerning the evaluation and award of grants and information to applicants.

Article 125

The delegated regulation may contain detailed rules concerning the pre-financing guarantee.

Article 126

The delegated regulation may specify rules for payment of grants and controls, including rules concerning the supporting documents and the suspension and reduction of grants.

Article 126a

The delegated regulation may stipulate periods for record keeping by the accredited bodies and the Commission

Article 126c

The delegated regulation may contain detailed rules on the competences and composition of the clearing committees.

Article 127

The delegated regulation may contain detailed rules concerning implementation contracts and support to third parties.

Article 133

The delegated regulation may contain detailed rules concerning the report on budgetary and financial management.

Article 135

The delegated regulation may specify the general accepted accounting principles, including the going-concern principle, the principle of prudence, the principle of consistency of preparation, the principle of comparative information, the materiality and aggregation principle, the no-netting principle, and the principle of substance over form, and rules on supporting documents.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 136

The delegated regulation may contain detailed rules concerning the financial statements, including statements of financial performance, cash flow statements, notes to the financial statements and explanatory notes.

Article 137

The delegated regulation may contain detailed rules concerning the content of budgetary accounts.

Article 139

The delegated regulation may contain detailed rules concerning the approval of accounts, including the transmission of the final consolidated accounts.

Article 142

The delegated regulation may contain detailed rules concerning the organisation of the budgetary accounts, including the use of computerised systems.

Article 145

The delegated regulation may contain detailed rules concerning the entries in the accounts. Furthermore, it may contain detailed rules concerning accounting ledgers, the trail balance, accounting reconciliations, recording in the journal and the reconciliation of accounts.

Article 147

The delegated regulation may contain detailed rules on the keeping and the content of the budgetary accounts.

Article 148

The delegated regulation may contain detailed rules concerning the property inventory and the procedure for the resale and disposing of property, including rules on inventories in delegations.

Article 173

The delegated regulation may contain detailed rules concerning types of operations under research.

Article 175

The delegated regulation may contain detailed rules concerning the Joint Research Centre.

Article 176

The delegated regulation may contain detailed rules concerning the actions which may be financed under external actions.

Article 178

The delegated regulation may contain detailed rules concerning trust funds for external actions.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 179

The delegated regulation may contain detailed rules concerning the implementation of external actions through indirect management.

Article 180

The delegated regulation may contain detailed rules concerning agreements with entities on the implementation of external actions, including rules on special loans and bank accounts.

Article 181

The delegated regulation may contain detailed rules on external action procurement.

Article 182

The delegated regulation may contain detailed rules on the participation in tender procedures.

Article 183

The delegated regulation may contain detailed rules on the full financing of an external action and financing applications.

Article 184

The delegated regulation may contain detailed rules on grant procedures applicable in indirect management.

Article 187

The delegated regulation may contain detailed rules concerning the scope of the European offices and the delegations by the institutions to the European offices.

Article 188

The delegated regulation may contain detailed rules concerning the appropriations for the European offices, including the delegation of certain tasks by the accounting officer, treasury and bank accounts.

Article 191

The delegated regulation may contain detailed rules concerning the delegation of authorising officer powers to the director of an inter-institutional office.

Article 193

The delegated regulation may contain detailed rules regarding the scope of administrative appropriations and rent guarantees.

Wednesday 26 October 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Article 195

The delegated regulation may contain detailed rules concerning specific administrative appropriations, including buildings and advances to staff members of the institutions.

Article 196

The delegated regulation may contain detailed rules concerning external experts.

Article 197

The delegated regulation may contain detailed rules concerning transitional provisions, including on the liquidation of the guarantee account and updating of thresholds and amounts.

Thursday 27 October 2011

Sexual abuse and sexual exploitation of children and child pornography *I**

P7_TA(2011)0468

European Parliament legislative resolution of 27 October 2011 on the proposal for a directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA (COM(2010)0094 – C7-0088/2010 – 2010/0064(COD))

(2013/C 131 E/27)

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0094),
 - having regard to Article 294(2) and Articles 82(2) and 83(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0088/2010),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 15 September 2010 ⁽¹⁾,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 29 June 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Culture and Education and the Committee on Women's Rights and Gender Equality (A7-0294/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Approves the joint statement by Parliament and the Council 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.

⁽¹⁾ OJ C 48, 15.2.2011, p. 138.

Thursday 27 October 2011

P7_TC1-COD(2010)0064

Position of the European Parliament adopted at first reading on 27 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2011/93/EU.)

ANNEX

Joint statement of the European Parliament and of the Council on solicitation of children for sexual purposes

Having regard to the fact that 'real-life' solicitation of children for sexual purposes (off-line grooming) means intentional manipulation of a child under the age of sexual consent by means of speech, writing, audio-visual material or by similar presentations, to meet him or her for the purpose of committing any of the offences referred to in Article 3(4) and Article 5(6) of the Directive on combating the sexual abuse and sexual exploitation of children and child pornography,

having regard to the fact that 'real-life' solicitation of children for sexual purposes is already covered by the national law of Member States in different forms, as attempt, a preparatory offence or a particular form of sexual abuse;

the European Parliament and the Council call on the Member States to check carefully their criminal law definitions as regards the criminalisation of 'real-life' solicitation of children for sexual purposes, and to improve and correct their criminal law, if necessary, as regards any legal lacunae that might still exist in that regard.

Qualification and status of third country nationals or stateless persons as beneficiaries of international protection *I**

P7_TA(2011)0469

European Parliament legislative resolution of 27 October 2011 on the proposal for a directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (recast) (COM(2009)0551 – C7-0250/2009 – 2009/0164(COD))

(2013/C 131 E/28)

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2009)0551),
- having regard to Article 251(2) and Article 63(1), points 1(c), 2(a) and 3(a) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0250/2009),
- having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),
- having regard to Article 294(3) and Article 78(2)(a) and (b) of the Treaty on the Functioning of the European Union,

Thursday 27 October 2011

- having regard to the opinion of the European Economic and Social Committee of 28 April 2010 ⁽¹⁾,
 - having regard to the undertaking given by the Council representative by letter of 7 July 2011 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽²⁾,
 - having regard to the letter of 2 February 2010 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0271/2011),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Endorses the Joint Political Declaration of the European Parliament, the Council and the Commission on explanatory documents annexed to this resolution;
 3. Takes note of the Joint Political Declaration of Member States and the Commission on explanatory documents annexed to this resolution;
 4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ OJ C 18, 19.1.2011, p. 80.

⁽²⁾ OJ C 77, 28.3.2002, p. 1.

P7_TC1-COD(2009)0164

Position of the European Parliament adopted at first reading on 27 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2011/95/EU.)

Thursday 27 October 2011

ANNEX

Joint Political Declaration of the European Parliament, the Council and the Commission on explanatory documents

The institutions acknowledge that the information Member States supply to the Commission as regards the transposition of directives in national law "*must be clear and precise*" ⁽¹⁾, in order to facilitate the achievement by the Commission of its task of overseeing the application of Union law.

Against this background, the European Parliament and the Council welcome the Joint Political Declaration of Member States and the Commission on explanatory documents.

Consequently, where the need for, and the proportionality of, the transmission of such documents is justified in accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents, the Institutions agree to include the following recital in the directive concerned:

"In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of [date], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified."

By 1 November 2013, the Commission will report to the European Parliament and to the Council on the implementation of the two Joint Political Declarations on explanatory documents.

The Institutions undertake to apply these principles as from 1 November 2011 to new and pending directive proposals, with the exception of those on which the European Parliament and the Council have already reached an agreement.

⁽¹⁾ See Judgment of the Court of Justice of 16 July 2009 in case C-427/07, point 107 and the case-law cited therein.

Joint Political Declaration of Member States and the Commission on explanatory documents

Pursuant to Article 288 TFEU, "*A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods*".

Member States and the Commission recognise that the effective implementation of Union law is a prerequisite for achieving the policy objectives of the Union and that, whilst the responsibility for such implementation lies primarily with Member States, it is a matter of common interest since it aims, *inter alia*, to create a level playing field in all Member States.

Member States and the Commission acknowledge that the correct and timely transposition of Union directives is a legal obligation. They note that the Treaties entrust the Commission with the task of overseeing the application of Union law under the supervision of the Court of Justice and share the common understanding that the notification of transposition measures should facilitate the achievement by the Commission of this task.

In this context, Member States acknowledge that the information they supply to the Commission as regards the transposition of directives in national law "*must be clear and precise*" and "*must indicate unequivocally the laws, regulations and administrative provisions*", or any other provisions of national law, as well as, where relevant, the jurisprudence of national courts, by means of which the Member States consider that they have satisfied the various requirements imposed on them by the directive ⁽¹⁾.

In order to improve the quality of information on the transposition of Union directives, where the Commission considers that documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments are required, it shall justify on a case by case basis, when submitting the relevant proposals, the need for, and the proportionality of, providing such documents, taking into account, in particular and respectively, the complexity of the directive and of its transposition, as well as the possible additional administrative burden.

In justified cases, Member States undertake to accompany the notification of transposition measures with one or more explanatory documents, which can take the form of correlation tables or other documents serving the same purpose.

⁽¹⁾ See Judgment of the Court of Justice of 16 July 2009 in case C-427/07, point 107 and the case-law cited therein.

Thursday 27 October 2011

EU-Australia agreement on the processing and transfer of PNR data ***

P7_TA(2011)0470

European Parliament legislative resolution of 27 October 2011 on the draft Council decision on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (09825/2011 – C7-0304/2011 – 2011/0126(NLE))

(2013/C 131 E/29)

(Consent)

The European Parliament,

- having regard to the draft Council decision (09825/2011),
- having regard to the draft Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service annexed to the above-mentioned draft Council decision (10093/2011),
- having regard to the Communication from the Commission on the global approach to transfers of Passenger Name Record (PNR) data to third countries (COM(2010)0492),
- having regard to its resolution of 14 February 2007 on SWIFT, the PNR agreement and the transatlantic dialogue on these issues ⁽¹⁾, its recommendation of 22 October 2008 on the evaluation of the Australia-EU PNR agreement ⁽²⁾, its resolution of 5 May 2010 on the launch of negotiations for Passenger Name Record (PNR) agreements with the United States, Australia and Canada ⁽³⁾, and its resolution of 11 November 2010 on the global approach to transfers of PNR data to third countries ⁽⁴⁾,
- having regard to the opinions of the European Data Protection Supervisor of 19 October 2010 on the Communication from the Commission on the global approach to transfers of Passenger Name Record (PNR) data to third countries ⁽⁵⁾ and of 15 July 2011 on the proposal for a Council Decision on the conclusion of an Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service ⁽⁶⁾,
- having regard to Opinion 7/2010 of 12 November 2010 on the European Commission's Communication on the global approach to transfers of Passenger Name Record (PNR) data to third countries adopted by the Article 29 Data Protection Working Party,
- having regard to the request for consent submitted by the Council in accordance with Article 218(6), second subparagraph, point (a), in conjunction with Article 82(1), second subparagraph, point (d), and Article 87(2), point (a), of the Treaty on the Functioning of the European Union (C7-0304/2011),
- having regard to Article 16 of the Treaty on the Functioning of the European Union and Articles 7 and 8 of the Charter of Fundamental Rights of the European Union,
- having regard to Rules 81 and 90(7) of its Rules of Procedure,

⁽¹⁾ OJ C 287 E, 29.11.2007, p. 349.

⁽²⁾ OJ C 15 E, 21.1.2010, p. 46.

⁽³⁾ OJ C 81 E, 15.3.2011, p. 70.

⁽⁴⁾ Texts adopted, P7_TA(2010)0397.

⁽⁵⁾ OJ C 357, 30.12.2010, p. 7.

⁽⁶⁾ Not yet published in the Official Journal.

Thursday 27 October 2011

— having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee of Foreign Affairs (A7-0364/2011),

1. Consents to the conclusion of the Agreement;
 2. Considers that procedure 2009/0186(NLE) has lapsed as a result of the 2008 PNR Agreement between the European Union and Australia having been replaced by the new PNR Agreement;
 3. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and the government of Australia.
-

III *Preparatory acts*

EUROPEAN PARLIAMENT

Tuesday 25 October 2011

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P7_TC1-COD(2009)0164

Position of the European Parliament adopted at first reading on 27 October 2011 with a view to the adoption of Directive 2011/.../EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) 272

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2013/C 131 E/29

EU-Australia agreement on the processing and transfer of PNR data ***

European Parliament legislative resolution of 27 October 2011 on the draft Council decision on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (09825/2011 – C7-0304/2011 – 2011/0126(NLE)) 274

Key to symbols used

*	Consultation procedure
**I	Cooperation procedure: first reading
**II	Cooperation procedure: second reading
***	Assent procedure
***I	Codecision procedure: first reading
***II	Codecision procedure: second reading
***III	Codecision procedure: third reading

(The type of procedure is determined by the legal basis proposed by the Commission.)

Political amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ***||***.

Technical corrections and adaptations by the services: new or replacement text is highlighted in italics and deletions are indicated by the symbol *||*.

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