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## Information and Notices

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*Key to symbols used*

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

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

Amendments by Parliament:

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

**EUROPEAN PARLIAMENT**

2016-2017 SESSION

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TEXTS ADOPTED

Tuesday 13 September 2016

I

*(Resolutions, recommendations and opinions)*

RESOLUTIONS

EUROPEAN PARLIAMENT

P8\_TA(2016)0320

**Cohesion Policy and Research and Innovation Strategies for smart specialisation (RIS3)**

**European Parliament resolution of 13 September 2016 on Cohesion Policy and Research and Innovation Strategies for Smart Specialisation (RIS3) (2015/2278(INI))**

(2018/C 204/01)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union and in particular Articles 4, 162 and 174-178 thereof,
- having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 <sup>(1)</sup> (hereinafter ‘the Common Provisions Regulation’),
- having regard to Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 <sup>(2)</sup>,
- having regard to Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 <sup>(3)</sup>,
- having regard to Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal <sup>(4)</sup>,
- having regard to Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings <sup>(5)</sup>,

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 289.

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 470.

<sup>(4)</sup> OJ L 347, 20.12.2013, p. 259.

<sup>(5)</sup> OJ L 347, 20.12.2013, p. 303.



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- having regard to Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 <sup>(1)</sup>,
- having regard to Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 <sup>(2)</sup>,
- having regard to its resolution of 14 January 2014 on smart specialisation: networking excellence for a sound Cohesion Policy <sup>(3)</sup>,
- having regard to its resolution of 9 September 2015 on 'Investment for jobs and growth: promoting economic, social and territorial cohesion in the Union' <sup>(4)</sup>,
- having regard to the Commission brochure of 22 February 2016 entitled 'Investment Plan for Europe: new guidelines on combining European Structural and Investment Funds with the EFSI',
- having regard to the Commission communication of 10 June 2014 entitled 'Research and innovation as sources of renewed growth' (COM(2014)0339),
- having regard to the Commission's sixth report on economic, social and territorial cohesion, entitled 'Investment for jobs and growth', of 23 July 2014,
- having regard to the Commission communication of 26 November 2014 entitled 'An Investment Plan for Europe' (COM(2014)0903),
- having regard to the Commission communication of 14 December 2015 entitled 'Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds' (COM(2015)0639),
- having regard to the guide published by the Commission in 2014 entitled 'Enabling synergies between European Structural and Investment Funds, Horizon 2020 and other research, innovation and competitiveness-related Union programmes',
- having regard to the Commission communication of 6 October 2010 entitled 'Regional Policy contributing to smart growth in Europe 2020' (COM(2010)0553),
- having regard to the Commission communication of 13 September 2013 entitled 'Measuring innovation output in Europe: towards a new indicator' (COM(2013)0624),
- having regard to the opinion of the Committee of the Regions of 4 May 2012 entitled 'Active ageing: innovation — smart health — better lives' <sup>(5)</sup>,
- having regard to the opinion of the Committee of the Regions of 30 May 2013 entitled 'Closing the Innovation Divide' <sup>(6)</sup>,
- having regard to the opinion of the Committee of the Regions of 7 October 2014 entitled 'Measures to support the creation of high-tech start-up ecosystems' <sup>(7)</sup>,
- having regard to the Commission staff working document published in 2014 containing guidance for policy-makers and implementing bodies on 'Enabling synergies between European Structural and Investment Funds, Horizon 2020 and other research, innovation and competitiveness-related Union programmes' (SWD(2014)0205),

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 281.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 487.

<sup>(3)</sup> Texts adopted, P7\_TA(2014)0002.

<sup>(4)</sup> Texts adopted, P8\_TA(2015)0308.

<sup>(5)</sup> OJ C 225, 27.7.2012, p. 46.

<sup>(6)</sup> OJ C 218, 30.7.2013, p. 12.

<sup>(7)</sup> OJ C 415, 20.11.2014, p. 5.

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- having regard to the pilot project ‘Cohesion Policy and the synergies with the research and development funds: the stairway to excellence’,
  - having regard to the European Parliament Preparatory Action in the Region of Eastern Macedonia and Thrace (REMTh),
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development (A8-0159/2016),
- A. whereas in these times of economic, financial and social crisis the EU must step up its efforts to create smart, sustainable and inclusive economic growth;
- B. whereas strengthening research, technological development and innovation (R&D&I) is one of the investment priorities under the European Regional Development Fund (ERDF) for 2014-2020; whereas support for innovation varies widely across the EU and within Member States, especially for the exploitation of knowledge and technology in promoting innovation;
- C. whereas for the 2014-2020 programming period, Member States are required, for the first time, to develop national and/or regional smart specialisation strategies by involving national and regional managing authorities and stakeholders, such as higher education institutions, industry and social partners, in an entrepreneurial discovery process;
- D. whereas smart specialisation combines and brings together different policies, including those for entrepreneurship, education and innovation, in order for regions to identify and select priority areas for their development and related investments by focusing on their strengths and comparative advantages;
- E. whereas RIS3 should help make the European economy more competitive, develop European added value in innovation, create more and better high-quality jobs, and take on board a wide range of new experiences; whereas they should contribute to the dissemination of good practices and to the development of a new entrepreneurial spirit, combined with a functioning digital single market and smart specialisation that could lead to new skills, knowledge, innovation and employment in order to better exploit research results and take advantage of all forms of innovation;
- F. whereas the development of a RIS3 strategy involves a process of developing multi-stakeholder governance mechanisms identifying the place-based areas of greatest strategic potential, setting strategic priorities and designing efficient support service for enterprises in order to maximise the knowledge-based development potential of a region;
- G. whereas RIS3 contribute to the efficient use of EU funds, affect all Member States and regions of the Union, and unlock the potential of all regions, thus helping the EU to fight its innovation gaps both internally and externally in order to become more competitive at the global level;
- H. whereas the timely and successful development of RIS3 in the Member States is to an important degree dependent on their increasing administrative capacity for programming, budgeting, implementation and evaluation within the policy framework with the aim of enhancing private investment in R&D&I; whereas this development has to take account of the fact that the initial assessments of smart specialisation strategies have delivered a mixed picture, notably regarding the choice of priorities, which is often seen as too generic or insufficiently connected to regional economic and innovation structures, meaning that smart specialisation strategies need to improve in this regard;
- I. whereas the RIS3 platform assists bottom-up and peer-to-peer exchanges and transfers of knowledge among participating regions; whereas this process needs to be prioritised with respect to the future design and practice of smart specialisation initiatives;

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***The central role of RIS3 in the contribution of cohesion policy to the Europe 2020 goals***

1. Underlines that smart specialisation strategies support thematic concentration and strategic programming of the European Structural and Investment Funds (ESI Funds) and lead to increased performance orientation on the ground, thus contributing to the achievement of the Europe 2020 objectives; emphasises that the aim of these strategies is to create knowledge-based, sustainable growth, balanced development and high quality jobs in all regions, not only in well-developed areas but also in regions in transition as well as in less developed, rural and island regions;
2. Requests that the new ex ante conditionality provisions for the attribution of ESI Funds be fully respected in order to make smart specialisation strategies work;
3. Calls on all actors involved to develop RIS3 on the basis of analyses of each region's existing capabilities, assets and competences, and to focus on entrepreneurial discovery in order to detect emerging niches or comparative advantages for smart specialisation, avoid forced and artificial overspecialisation, and enhance a stronger partnership between public and private sectors while always avoiding possible conflicts of interest between the private and public sectors;
4. Supports a broad definition of innovation as signifying the transformation of an idea into a new or improved product or service introduced on the market, into a new or improved operational process used in industry and commerce, or into a new approach to a social service;
5. Asks regions to design schemes for innovative support services aimed at complementing or replacing existing support services, in order to allow a given region to achieve its full competitive potential, help enterprises absorb new knowledge and technology in order to remain competitive, and ensure that research and innovation resources achieve critical mass;
6. Asks the Commission to align the general block exemption regulation in order to allow the Seal of Excellence conditions to be offered by the ESI Funds;
7. Asks national authorities to invest in regional intelligence and big data mining so that they are enabled both to demonstrate their unique competitive advantage and to understand trends relating to regional enterprises in the global value chain;
8. Is of the opinion that the S3 platform, established by the Commission's DG REGIO and located at the JRC in Seville, plays a key role in advising regions and setting benchmarks on their innovation strategies, helping lagging regions and enhancing multi-level governance and synergies between regions, by providing information, methodologies, expertise and advice to national and regional policymakers; stresses that this platform should make a continuous effort to update its database, taking into account the local needs, specificities and priorities of regions and cities;
9. Takes the view that the S3 platform in Seville should pay particular attention to lagging regions and, in particular, should help them to shape and direct their strategies;
10. Believes that smaller regions have more problems in developing and implementing strategies, and calls for the development of proposals to increase support for such regions in order to enhance the implementation of the S3 strategies and the exchange of best practices;
11. Welcomes the Commission's latest focus on lagging regions in the form of a recent pilot project relating to the European Parliament Preparatory Action in the Region of Eastern Macedonia and Thrace, scaled up to regions from eight Member States until the end of 2017;
12. Welcomes the continuation of the Regional Innovation Monitor Plus platform (RIM Plus), established by the Commission's DG Growth, the creation of a Research Innovation Observatory (RIO), established by DG RTD, and the different policy-related Knowledge Centres at DG JRC (EC), providing comprehensive data, indicators and guidelines to national and regional S3 stakeholders;

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13. Looks forward to future details regarding the European Innovation Council (EIC), aimed at creating a 'one-stop shop' for innovators and, therefore, a bridge between the achievements of science and the needs of businesses and public authorities in Europe;

14. Recalls that public funding remains a powerful engine for innovation; calls on the authorities concerned to exercise caution as regards putting a stronger focus on financial instruments, since innovation should not only be focused on grants but should also be able to identify alternative means of finance such as loans and guarantees and to strike a balance between grants and alternative means of funding (public and private financing);

***Multi-level governance and its capacity***

15. Regrets that some Member States have decided to opt for national RIS3 without giving local and regional authorities a chance to develop their own views, thus undermining the bottom-up entrepreneurial discovery process that RIS3 should enshrine; underlines the importance of a regional approach, as the implementation of RIS3 can only be successful if based on local and regional assets; calls on the Member States concerned to reconsider replacing the national RIS3 by regional ones in order not to miss out on growth opportunities, and calls for a better coordination between national and regional S3 strategies wherever appropriate, in order to adapt them if necessary to future needs and requirements for sustainable development, in particular in the food and energy sectors; regrets that the partnership principle enshrined in Article 5 of the CPR has not always been respected; calls on Member States to respect the partnership principle at all stages of the preparation and implementation of the Partnership Agreement and Operational Programmes;

16. Believes that the quality of cooperation between government and the relevant actors in the regions will have a decisive influence on the RIS3 strategy, and will markedly reduce the risk of wrong priority choices being made; underscores, in this connection, the importance of consulting with businesses, and with SMEs in particular, since a 'vision of innovation' will only be successful if businesses have the appropriate potential to put it into practice;

17. Highlights the importance of better coordination between all levels of governance in order to foster a bottom-up vision of the regional strategies, including all smart specialisation authorities and stakeholders, as well as experts, civil society and end-users, in order to break down 'silo mentalities'; points out that the failure to adapt relevant Member State regulations is creating barriers to the implementation of investments in research and innovation;

18. Points out the limited role that civil society has played in RIS3 strategies, and calls for the enhancement of its participation through platforms and collaborative partnerships, as this can help better shape strategies, enhance cooperation with society and lead to better governance;

19. Highlights the importance of close coordination throughout the whole implementation phase between the operational programmes and the RIS3;

20. Calls for closer dialogue and cooperation between EU institutions (the EP and the Council) as well as at executive level (the Commission and the national implementing authorities), in order to achieve a favourable framework for innovation and research and a reinforcement of the RIS 3 implementation in the context of the upcoming review of the Multiannual Financial Framework 2014;

21. Calls on the Commission and the other bodies concerned to provide additional assistance to those Member States in need of it for the implementation of the RIS3 strategy;

22. Calls for continued efforts to encourage a change of mentality and to promote innovative policy approaches to boost intra-regional, inter-regional, extra-regional, cross-border and transnational collaboration, including through macro-regions, by means of existing tools such as INTERREG, in order to continue boosting European added value in the strategies;

23. Recalls the importance of stressing social innovation, since it can help establish new business models and cultures, thus creating an appropriate environment for the implementation of the circular economy;

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24. Calls on the Commission to come forward with an integrated communication on the added value of the RIS3 strategies and their implementation in the operational programmes, to be followed by proposals for further action in the 7th Cohesion report;

25. Regrets the lack of interregional cooperation on the basis of the smart specialisation theme; notes that the Common Strategic Framework offers the possibility of using up to 15 % of the funds under the Common Provisions Regulation (the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund) for such cooperation outside one's own region; emphasises that the Article 16.3 report 'Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds' shows that these possibilities have been under-used until now; calls on Member States and regional authorities to make increased use of the possibilities offered;

26. Calls for the development of flexibility and coordination mechanisms to link the results of the RIS3 process to the implementation of Horizon 2020 and other programmes; encourages regions to engage in forms of transnational cooperation such as the Vanguard Initiative, the Seal of Excellence, the Knowledge Exchange Platform (KEP), the S3 platforms, the Stairway to Excellence, and the regional innovation schemes for the co-location centres of the European Institute of Innovation and Technology (EIT); calls for facilitation of the development of strategic cluster partnerships, with a view to boosting investment, enhancing coordination, creating synergies and promoting exchanges of views in order to avoid duplication and inefficient spending of public resources;

27. Encourages national and European institutions to continue monitoring the 'innovation divide', not only among EU Member States and across NUTS 2 regions, but, also and increasingly, within Member States;

28. Believes that procedures should be simplified and bottlenecks in the administrative process of the strategies should be reduced;

29. Calls on the relevant authorities at all levels to simplify procedures and reduce bottlenecks in the administrative process of the strategies; encourages investment in human capital, including via EU interregional partnerships, with a view to boosting administrative capacities and managing, implementing and monitoring the RIS3 process successfully while avoiding creating additional layers of administration; encourages authorities to give priority to research and innovation in regions that have the corresponding potential but where investment in this area is sparse;

30. Urges regions and Member States to intensify the use of the budget available for technical assistance to ensure effective and efficient implementation of the RIS3;

31. Recalls that smart specialisation strategies should also be a powerful instrument for tackling social, environmental, climate and energy challenges and promoting knowledge spillover and technological diversification;

### ***Better synergies for growth and job creation***

32. Criticises the lack of synergies across ESI Funds and other EU financing instruments, which hinders coordination, coherence and integration in EU funding, as well as reducing its results and impact; calls for more attention to and research into how to achieve an improved strategic approach to synergies and take account of the combination, complementarity and potential of funding instruments in such a way as to ensure full use of EU guarantees to finance investment platforms;

33. Emphasises the need to continue and deepen the triple and quadruple helix approaches to smart specialisation at the regional level, involving public administrations, businesses, universities and citizens; stresses that the role of the latter two sets of participants (i.e. higher education/research institutions and citizens' organisations) should be reinforced in terms of the new EU programming and types of financing;

34. Calls for increased support for SMEs and start-ups, as the vast majority of these are at the forefront of disruptive innovation, as well as contributing significantly to identifying local talent in a variety of fields and employing young people;

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35. Encourages continuous attempts to seek reliable indicators for monitoring innovation performance at all levels of governance, by better mobilising and coordinating the resources of Eurostat and other relevant Commission DGs, also taking account of the achievements of the OECD, ESPON and other players in this field such as national statistical offices;

36. Underlines that the coordinated and complementary use of ESI Funds together with Horizon 2020 and EFSI funds, in accordance with the guidelines on complementarities between EFSI and the European Fund for Strategic Investment issued by the Commission in February 2016, provides excellent options for boosting innovation at regional, national and EU levels by enhancing the attractiveness of investment in research and innovation in order to attract private capital to complement public funding; calls on local and regional authorities to make the most of the possibilities for combining these tools;

37. Calls for action to obtain the necessary information for achieving synergies between the various policies and instruments available in the RIS3, such as the cohesion policy for 2014-2020, the smart specialisation platform, the European Cluster Observatory, the European Innovation Partnership, the European Strategy Forum, the Key Enabling Technologies (KETs) and the research infrastructures;

38. Encourages regions, when implementing their RIS3, to strengthen the open innovation mentality and ecosystem collaboration on the basis of the quadruple helix model;

39. Stresses the importance of tailoring education and research to the real needs of the market, in an effort to ensure that new innovations meet demand and lead to economic growth;

### ***Smart cities as catalysts for RIS3***

40. Reiterates the key role that EU urban areas have to play in the economic and social development of the Union by acting as hubs for various actors and sectors, combining the challenges and opportunities of smart, sustainable and inclusive growth, and serving as frontrunners in the integrated and place-based policy approach; emphasises the importance of urban areas in catalysing human resources, infrastructure and investment potential for the development of innovation clusters;

41. Calls on the Commission to take into account RIS3 and other programmes of innovation, with special regard to the Integrated Territorial Investments, when developing the European Urban Agenda in order to create synergies and strong links for an efficient use of resources;

42. Underlines the importance of facilitating innovative cross-sectoral, triple helix and cross-border cooperation related to European challenges in order to make regions and cities smarter, greener and more enjoyable places to live and work in;

43. Stresses the need for the further development and extension throughout Europe of the concept of 'smart and connected cities'; welcomes the intention of the Dutch EU Presidency to create a bottom-up approach empowering cities in coordination with regional authorities, to develop the EU Urban Agenda, and to evolve from smart to excellent cities; supports, in this context, the preparation of the Pact of Amsterdam, with its focus on sustainable growth and job creation, on fostering connections between all parties, citizens and social organisations, and on promoting sustainable and socially inclusive development;

44. Draws attention to the promotion of different city-to-city cooperation and knowledge exchange schemes in the field of smart specialisation and innovation, such as the 'Open and Agile Smart Cities' scheme supported by the Commission;

45. Supports the initiatives on the part of the Commission and the Council in favour of the EU Urban Agenda in the context of the Pact of Amsterdam; calls on the Commission to foster coherence between urban and regional policies; asks the Commission to come forward with proposals to align the initiatives and methodology of 'Smart Cities' and RIS3 in the 7th Cohesion report;



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**Monitoring and evaluation**

46. Notes that, although most regions have adopted a RIS3, a considerable number of them still need to work on complying with the ex ante conditionality requirements, the main challenges being the monitoring mechanism, the budgetary framework and the measures to stimulate private-sector research and innovation investments;

47. Reminds local and regional decision-makers of the importance of their commitment to use the RIS3 as an economic transformation instrument within their own region, thus also influencing EU policy;

48. Welcomes the focus of these regional strategies on energy, health, information and communications technologies, advanced materials, food, services, tourism, sustainable innovation and transport, the bio-based economy, manufacturing systems, and cultural and creative industries, as well as other specialisations and particularly competitive sectors of a given region; regrets, however, a lack of granularity in many of the strategies, and calls for the refinement of the prioritisation process, thus avoiding the risk of focusing all strategies on the same topics; calls for the development of strategies not only in high technology but also in low technology and social innovation, and encourages all stakeholders to seek crossovers between sectors, since such crossovers can foster innovation;

49. Believes that the promotion of national observatories for smart specialisation strategies can help build stronger indicator systems for monitoring RIS3, especially regarding methodology and training;

50. Observes that some RIS3 are poorly documented when it comes to demonstrating the unique competitive advantages of the region concerned, while others do not provide evidence regarding the capacity of stakeholders to support enterprises in innovation or of researchers to supply applied research or find commercial applications for results; notes also that some regions have wide strategies and simplistic monitoring indicators; urges, therefore, an increase in the capacity of public authorities to collect and assess the relevant information received, as well as boosting a coordinated effort by regions and central authorities to identify and standardise existing databases and make them accessible to stakeholders;

51. Calls on the EU and the Member States to use existing tools such as the Community Innovation Survey (CIS) to carry out periodic (annual and mid-term) monitoring — both quantitative and qualitative — of the implementation of the strategies, and to involve all stakeholders, including civil society, in the process; notes that both regions and Member States face similar problems in terms of evaluation of monitoring, and calls on the regions to publish regular reports on the achievement of their objectives, in order to better analyse the impact of RIS3 and guarantee transparency and public access to monitoring information; is, however, aware that strategies will take many years to bear fruit and that early monitoring should thus be tailored to reasonable expectations;

52. Encourages regions and Member States to be proactive with the timely implementation of the action plans, in view of the target date of December 2016 for compliance with the ex ante conditionality; asks them to set and implement their monitoring mechanism in a continuous review of the RIS3, focused on specifying investment niches where the regional innovation actors can gain or sustain a competitive advantage;

53. Is of the opinion that joint participation in the monitoring and evaluation of relevant instruments under the RIS3, as well as an alignment of monitoring and evaluation for reporting of different instruments, can help considerably in this field; calls, therefore, on all stakeholders and decision-makers to create synergies and develop arrangements that collect and synthesise data from policies and instruments included in specific RIS3;

54. Recalls that a good 'paper strategy' will not generate the expected results without the implementation of support services for enterprises;

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***Main lessons and the future of RIS3***

55. Regrets that RIS3 often recognise the need to help enterprises exploit all forms of innovation, but then only support innovation based on technological knowledge; suggest in this regard that the RIS3 should also consider innovation in other areas, such as services and the creative sector, and recalls the importance of all kinds of innovation systems and institutions regardless of their size, as well as of their linkage to local and regional clusters;

56. Points out that RIS3 have to be well implemented if they are to tackle the innovation gap and boost jobs and growth in Europe; stresses that, to this end, it is essential to promote bottom-up strategies and to enhance scrutiny regarding the potential of RIS3 at all governance levels; considers, in this regard, that Member States should involve their national statistical office(s) in order to help the regions develop their evaluation and monitoring mechanisms;

57. Believes that the participatory approach in the strategies has to be included in all processes, including the monitoring and evaluation process, as this will increase the scope for cooperation in achieving RIS3 objectives;

58. Urges the EU and the Member States not to forget that this instrument must be viable, operational and efficient so as to avoid burdening beneficiaries with bureaucracy;

59. Calls on the Commission to push for a review of the strategies in 2017 in order to boost their efficiency and effectiveness, and to provide information on their contribution to both future cohesion and research and innovation policies after 2020, taking into account the experience acquired from the first years of their implementation; calls on the Commission to launch a public consultation and to organise a Europe-wide conference prior to the 7th Cohesion Report, with Parliament, the Committee of the Regions and other stakeholders;

60. Recognises that smart specialisation strategies could be powerful instruments for tackling energy challenges, resource efficiency and energy security;

61. Calls on the Commission to continue to support the role of the S3 platform, to help increase the granularity of the strategies, and to remain focused on the importance of leverage of private investments;

62. Asks DG REGIO and the S3 platform to draft, and widely disseminate, a short policy paper on the past RIS3 experience, focused on the following areas: (1) a SWOT analysis of the experience; (2) lessons learned by regions and main pitfalls observed for each of the six steps described in the RIS3 guide; (3) recommendations and standardised templates for a continuous improvement of the RIS3 with a view to better designing the strategies after 2020; and (4) human capacity needed to successfully design and implement an RIS3; considers that regional networks concerned with research and innovation should be encouraged and supported in actions to promote the successes and the lessons learned, in order to embed the relevant thinking in the regions at all levels;

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

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P8\_TA(2016)0321

**European territorial cooperation — best practices and innovative measures****European Parliament resolution of 13 September 2016 on European Territorial Cooperation — best practices and innovative measures (2015/2280(INI))**

(2018/C 204/02)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union, and in particular Title XVIII thereof,
- having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 <sup>(1)</sup> (hereinafter ‘the Common Provisions Regulation’),
- having regard to Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 <sup>(2)</sup>,
- having regard to Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal <sup>(3)</sup>,
- having regard to Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings <sup>(4)</sup>,
- having regard to Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union’s instruments for financing external action <sup>(5)</sup>,
- having regard to Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) <sup>(6)</sup>,
- having regard to Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument <sup>(7)</sup>,
- having regard to Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 <sup>(8)</sup>,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 <sup>(9)</sup>,

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 289.

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 259.

<sup>(4)</sup> OJ L 347, 20.12.2013, p. 303.

<sup>(5)</sup> OJ L 77, 15.3.2014, p. 95.

<sup>(6)</sup> OJ L 77, 15.3.2014, p. 11.

<sup>(7)</sup> OJ L 77, 15.3.2014, p. 27.

<sup>(8)</sup> OJ L 347, 20.12.2013, p. 884.

<sup>(9)</sup> OJ L 298, 26.10.2012, p. 1.

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- having regard to the ‘Territorial Agenda of the European Union 2020: Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions’, agreed on at the Informal Ministerial Meeting of Ministers responsible for Spatial Planning and Territorial Development meeting in Gödöllő, Hungary on 19 May 2011,
- having regard to its resolution of 14 January 2014 on EU Member States preparedness to an effective and timely start of the new Cohesion Policy Programming period <sup>(1)</sup>,
- having regard to its resolution of 27 November 2014 on delays in the start-up of cohesion policy for 2014-2020 <sup>(2)</sup>,
- having regard to the Commission communication of 26 November 2014 entitled ‘An Investment Plan for Europe’ (COM(2014)0903),
- having regard to the Sixth Report on Economic, Social and Territorial Cohesion (COM(2014)0473),
- having regard to its resolution of 9 September 2015 on ‘Investment for jobs and growth: promoting economic, social and territorial cohesion in the Union’ <sup>(3)</sup>,
- 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 its resolution of 28 October 2015 on cohesion policy and the review of the Europe 2020 strategy <sup>(4)</sup>,
- having regard to its resolution of 26 November 2015 entitled ‘Towards simplification and performance orientation in cohesion policy 2014-2020’ <sup>(5)</sup>,
- having regard to Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments <sup>(6)</sup>,
- having regard to the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the added value of macro-regional strategies (COM(2013)0468), and to the relevant Council conclusions of 22 October 2013,
- having regard to the study by its Directorate-General for Internal Policies (Department B — Structural and Cohesion Policies) of January 2015 entitled ‘New Role of Macro-Regions in European Territorial Cooperation’,
- having regard to the study by its Directorate-General for Internal Policies (Department B — Structural and Cohesion Policies) of July 2015 entitled ‘European Grouping of Territorial Cooperation as an instrument for promotion and improvement of territorial cooperation in Europe’,
- having regard to the Commission brochure of 22 February 2016 entitled ‘An Investment Plan for Europe: new guidelines on combining European Structural and Investment Funds with the European Fund for Strategic Investments (EFSI)’,
- having regard to the opinion of the Committee of the Regions issued in May 2015 entitled ‘Financial Instruments in support of territorial development’,
- having regard to the Commission communication of 14 December 2015 entitled ‘Investing in jobs and growth — maximising the contribution of ESI Funds’ (COM(2015)0639),

<sup>(1)</sup> Texts adopted, P7\_TA(2014)0015.

<sup>(2)</sup> Texts adopted, P8\_TA(2014)0068.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0308.

<sup>(4)</sup> Texts adopted, P8\_TA(2015)0384.

<sup>(5)</sup> Texts adopted, P8\_TA(2015)0419.

<sup>(6)</sup> OJ L 169, 1.7.2015, p. 1.

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- having regard to the declaration of the Committee of the Regions of 2 September 2015 entitled ‘25 years of Interreg: new impetus for cross-border cooperation’,
  - having regard to the opinion of the Committee of the Regions issued in December 2015 entitled ‘Territorial Vision 2050: what future?’,
  - having regard to the opinion of the Committee of the Regions of 17 December 2015 entitled ‘Strengthening Cross-border Cooperation: the need for a better regulatory framework’,
  - having regard to the background document prepared by the Luxembourg Presidency of the Council, ‘Looking back on 25 years of Interreg and preparing the future of territorial cooperation’,
  - having regard to the Council’s conclusions on ‘25 years of Interreg: its contribution to Cohesion Policy goals’,
  - having regard to the initiative of the Luxembourg Presidency on specific legal provisions for border regions with a view to responding to the needs and challenges in these areas, entitled ‘A tool for the attribution and application of specific provisions for the improvement of cross-border cooperation’<sup>(1)</sup>,
  - having regard to the Commission’s EU-wide public consultation on remaining obstacles to cross-border cooperation, launched on 21 September 2015 on the occasion of the European Cooperation Day<sup>(2)</sup>,
  - having regard to the results of the first-ever Eurobarometer survey conducted by the Commission in 2015 to identify and map attitudes of citizens living in the border areas with a view to arriving at more targeted EU interventions<sup>(3)</sup>,
  - having regard to the OECD report of 2013 entitled ‘Regions and Innovation: collaborating across borders’,
  - having regard to the report by the Committee of the Regions entitled ‘EGTC monitoring report for 2014 — Implementing the Strategy Europe 2020’<sup>(4)</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development (A8-0202/2016),
- A. whereas around 38 % of Europe’s population lives in border regions and whereas the EU is confronted with a major economic, financial and social crisis that particularly handicaps women on all fronts; whereas the EU must include gender equality as a main element in all policies and practices relating to European Territorial Cooperation (ETC);
- B. whereas the overarching objective of ETC is to lessen the influence of national borders in order to reduce disparities between regions, removing the remaining obstacles to investment and cooperative working across borders, reinforce cohesion, and promote the harmonious economic, social, cultural and territorial development of the Union as a whole;
- C. whereas ETC is an integral part of cohesion policy, as it strengthens the territorial cohesion of the Union;

<sup>(1)</sup> [http://www.dat.public.lu/eu-presidency/Events/Informal-Ministerial-Meetings-on-Territorial-Cohesion-and-Urban-Policy-\\_26-27-November-2015\\_-Luxembourg-City\\_/Material/IMM-Territorial-\\_LU-Presidency\\_-\\_Input-Paper-Action-3.pdf](http://www.dat.public.lu/eu-presidency/Events/Informal-Ministerial-Meetings-on-Territorial-Cohesion-and-Urban-Policy-_26-27-November-2015_-Luxembourg-City_/Material/IMM-Territorial-_LU-Presidency_-_Input-Paper-Action-3.pdf)

<sup>(2)</sup> Commission press release IP/15/5686.

<sup>(3)</sup> Flash Eurobarometer 422 — Cross-border cooperation in the EU.

<sup>(4)</sup> [http://cor.europa.eu/en/documentation/studies/Documents/EGTC\\_MonitoringReport\\_2014.pdf](http://cor.europa.eu/en/documentation/studies/Documents/EGTC_MonitoringReport_2014.pdf)

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- D. whereas Member States have the possibility of making use of ETC in order to respond to challenges arising from the migration crisis;
- E. whereas there is still only a low number of European citizens using the full potential of the EU internal market and freedom of movement;
- F. whereas following the principles of shared management, multi-level governance and partnership, ETC programmes have been developed through a collective process bringing together a wide range of European, national, regional and local actors to tackle common challenges across borders and facilitate the exchange of good practice;
- G. whereas there is a need for a joint reflection on the structure of ETC post-2020;

***European Added Value of ETC, best practices and contribution to the goals of the Europe 2020 strategy***

1. Notes that ETC has become one of the two equally important goals of cohesion policy for 2014-2020, with its own regulation; underlines, however, that the ETC budget of EUR 10,1 billion represents 2,8 % of the cohesion policy budget, does not match the great challenges that ETC has to meet, and does not reflect the high level of its European added value; recalls, in this connection, Parliament's disappointment at the outcome of the negotiations on the MFF 2014-2020 regarding the cut in appropriations for ETC; believes that an increased budget for ETC in the next programming period will boost the added value of cohesion policy; calls for greater respect for Article 174 TFEU on territorial cohesion, in particular as regards rural areas and areas affected by industrial transition, and regions that suffer from severe and permanent natural or demographic handicaps, such as outermost regions, northernmost regions with low population density, and island, cross-border and mountain regions; asks the Commission and the Member States to pay particular attention to the most geographically and demographically disadvantaged areas when implementing cohesion policy;

2. Notes that, in line with the Europe 2020 targets, ETC has been reshaped with a view to achieving a greater impact through focusing on thematic concentration and results orientation, without any prejudice to a territorially sensitive approach allowing for regional priorities to be continued; believes that further attention to the specificities of ETC is needed; calls, therefore, for better evaluation of ETC programmes in order to demonstrate their impacts and added value;

3. Acknowledges that cross-border cooperation (CBC) is a key tool for the development of border regions, which are considered true laboratories of European integration; underlines that during the periods 2000-2006 and 2007-2013 CBC was marked by a clear orientation to more strategically focused priorities, and achieved best practices in the fields of better connectivity and accessibility, knowledge and innovation transfer, strengthening regional identity, tackling environmental challenges, enhancing institutional capacity, healthcare, education, employment and labour mobility, as well as civil protection, creating new partnerships and consolidating existing ones;

4. Acknowledges that transnational cooperation has helped in terms of supporting research, innovation and the knowledge economy, adapting to climate change, and promoting sustainable transport and mobility through transnational approaches, and has contributed to enhancing institutional capacity; stresses that an integrated territorial approach and transnational cooperation are particularly important for the protection of the environment, especially in the areas of water, biodiversity and energy;

5. Acknowledges that interregional cooperation has allowed cities and regions to cooperate on a variety of issues and themes, involving exchange of experience and good practices, and that this has improved the effectiveness of many regional and local policies; considers that the significant development gaps between rural and urban areas and the problems of metropolitan regions should be addressed;

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6. Believes that efficient cross-border and transnational cooperation makes a geographical area more attractive for trading companies, by using local, regional and cross-border potential, as well as human capital, as effectively as possible in order to better address the needs and expectations of trading companies, but also to avoid company relocation to third countries, depopulation of EU regions and increased unemployment;

7. Is convinced that ETC offers significant European added value, contributing to peace, stability and regional integration, including in the framework of enlargement and neighbourhood policy, as well as across the world by dissemination of best practices; believes that cross-border cooperation can bring added value to the management of the migration crisis;

8. Points out that for 2014-2020 about 41 % of the ETC ERDF budget <sup>(1)</sup> will be invested in measures to improve the environment, while 27 % will be invested in strengthening smart growth, including research and innovation, and 13 % will go to promote inclusive growth through activities linked to employment, education and training, while 33 programmes will be aimed at improving general connectivity across borders; further notes that EUR 790 million will be allocated to enhancing institutional capacity through setting up or strengthening cooperation structures and improving the efficiency of public services;

9. Underlines that the concept of results orientation requires that Interreg programmes ensure high-quality project-level cooperation and adopt a new type of evaluation, taking into account the specific nature of each programme and contributing to reducing the administrative burden for recipients and managing authorities; calls on the Commission, the Member States and the managing authorities to work together and exchange information and good practices in order to undertake assessments and issue guidelines as to how results orientation can be adapted to ETC specificities; acknowledges that the full added value of ETC programmes cannot be only evaluated by quantitative indicators, and calls on the Commission to establish more qualitative indicators in order to better reflect the results achieved by territorial cooperation;

10. Notes with concern the late adoption of Interreg programmes, and urges the Commission and the Member States to mobilise their efforts for their efficient and successful implementation and for the removal of barriers to cross-border cooperation, in order to avoid the critical issues already highlighted in the 2007-2013 programming period; calls on the Commission to take all necessary measures in order to accelerate the implementation of ETC programmes;

11. Deplores the lack of reliable cross-border data and evidence on the effectiveness of cross-border cooperation with regard to reporting on performance framework; calls, accordingly, on the Commission, Eurostat and the managing authorities to cooperate to set up common evaluation criteria and to jointly coordinate a single database and set out methodologies for the provision and use and exchange of reliable data across borders; notes the existing challenges to the implementation of integrated territorial approaches stemming from the highly variable degree of empowerment of Member States' regional and local authorities;

12. Calls on the Commission, the Member States and the managing authorities to set up appropriately structured monitoring systems and evaluation plans in order to better evaluate the achievements of the results in terms of the Europe 2020 goals and territorial integration;

### ***Contribution to territorial cohesion***

13. Highlights that ETC makes a significant contribution to strengthening the EU's objective of territorial cohesion through integrating diverse sectoral policies on a territorial scale; welcomes the study by the European Observation Network for Territorial Development and Cohesion (ESPON) entitled 'ET2050: Territorial Scenarios and Visions for Europe', which can function as a reference framework for further discussions on cohesion policy preparation post-2020;

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<sup>(1)</sup> Annex I (European Territorial Cooperation/Interreg) to the Commission communication 'Investing in jobs and growth — maximising the contribution of ESI Funds'.

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14. Recalls the importance of Integrated Territorial Investment (ITI) and Community-Led Local Development (CLLD), which are not implemented widely enough in the Interreg programmes for 2014-2020, and encourages Member States to make greater use of them, stressing that this will require stronger participation of regional and local bodies; calls on the Commission and the Member States to propose information and training programmes for the beneficiaries;

15. Is of the opinion that the new territorial development instruments, such as ITI and CLLD, can translate into investments in social, health and education infrastructure, the regeneration of deprived urban areas, job creation, and other measures aimed at reducing migrants' isolation and supporting their inclusion;

16. Recommends that special focus be placed on projects that strive to adapt localities and regions to the new demographic situation and counteract the inequalities resulting from it, namely through: (1) the adaptation of social and mobility infrastructure to demographic change and migratory flows; (2) the creation of specific goods and services aimed at an ageing population; (3) support for job opportunities for older people, women and migrants that contribute to social inclusion; (4) enhanced digital connections and the creation of platforms that enable and foster the participation of the citizens of more isolated regions and their interaction with the various administrative, social and political services of authorities at all levels (local, regional, national and European);

17. Points out the role of ETC in island regions, outermost regions, sparsely populated regions and mountain and rural areas, as an important tool for strengthening their regional cooperation and integration; calls on the Commission and the Member States to pay particular attention to the use of the Funds in these regions, including those bordering on third countries, with a view to improving the implementation of cross-border projects funded by ETC;

18. Points out the complementary nature of ETC and macro-regional strategies in addressing common challenges in larger functional areas, as well as the positive role that macro-regional strategies can play in helping to address common challenges faced by macro-regions;

19. Considers that better coordination, synergy and complementarity should be sought between cross-border and transnational strands with a view to improving cooperation and integration over wider strategic territories; calls for better coordination between managing authorities and macro-regional strategies' actors; urges the Commission to enhance the cooperation, as well as to reinforce the links and consistency of the ETC programmes with national and regional programmes at the development stage, with the aim of boosting complementarity and avoiding overlaps;

20. Notes that some regions face serious migration challenges, and encourages the use of Interreg programmes and their urgent implementation in order to respond to, among other things, the challenges of tackling the refugee crisis and the exchange of good practices between local and regional authorities in border areas, including third countries in particular through macro-regional strategies;

### ***Support for research and innovation***

21. Highlights the achievements in the field of research and innovation, such as joint research projects, cooperation between research institutes and companies, establishment of international border universities, cross-border research centres and cross-border training institutes, creation of cross-border clusters and networks of companies, cross-border incubators and advisory services for SMEs, high-tech branding to attract foreign investors, etc.; notes the important role that Interreg programmes play in enhancing the competitiveness and innovation potential of regions, by fostering synergies between smart specialisation strategies, collaboration between clusters and development of innovation networks; asks the Commission to come forward with a comprehensive overview of territorial cooperation in the ERDF and ESF on the basis of the Common Strategic Framework (Annex I to the Common Provisions Regulation (Regulation (EU) No 1303/2013));



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22. Is aware that investments for strengthening smart growth, including research and innovation, represent 27 % of ERDF allocation to CBC programmes for 2014-2020<sup>(1)</sup>; notes also that 35 % of the budget of the transnational programmes goes to support smart growth by strengthening research and innovation;

23. Stresses the need to create cross-border innovation policy approaches, such as joint research and mobility programmes, joint research infrastructures, partnerships and cooperation networks; draws attention to the fact that differing legislation across Member States is hampering joint efforts to extend research and innovation across borders;

24. Urges that synergies and complementarity between programmes and funds including the European Structural and Investment Funds (ESI), Horizon 2020, the European Fund for Strategic Investments (EFSI), etc., and other EU funds need to aim at maximising the quantity, quality and impact of research and innovation investments; recommends that local and regional authorities take full advantage of the possibilities of combining those funds to support SMEs and research and innovation projects, including cross-border projects, where appropriate; calls on SMEs to make full use of the opportunities offered by those funds to contribute to the implementation of those ETC programmes;

25. Urges the adoption of cross-border innovation strategies while establishing complementarities with already existing Smart Specialisation Strategies, as well as with other existing programmes and strategies; encourages assessing the potential for cross-border synergies and mobilising different sources of funding;

26. Considers that financial instruments need to be an integral part of ETC programmes through complementing grants with a view to supporting SMEs' access to financing, research and innovation; considers that increased use of financial instruments could attract more investment to the Interreg projects, creating new jobs and allowing better results to be achieved; recalls the fundamental importance of technical support and adapted training initiatives for reaping the full benefit of the use of financial instruments, even in less developed regions;

### ***Governance and policy coordination***

27. Recalls that the Sixth Cohesion Report has paid insufficient attention to ETC, given that it has been a fully-fledged cohesion policy objective since the 2007-2013 programming period; recalls the potential of the European Grouping of Territorial Cooperation (EGTC), not only as an instrument supporting and promoting European territorial cooperation and managing cross-border projects, but also as a vehicle contributing to a comprehensive integrated territorial development and a flexible platform for multilevel governance;

28. Welcomes the simplified EGTC Regulation (Regulation (EU) No 1302/2013), and calls on Member States to intensify their efforts to facilitate the creation of EGTCs; points out, however, that this regulation is not sufficient to overcome all existing legal obstacles to cross-border cooperation; welcomes, therefore, the initiative of the Luxembourg Presidency, which proposed a specific legal tool for border regions, giving Member States the opportunity to agree on specific legal provisions; welcomes the Commission's initiative of carrying out, by the end of 2016, an analysis of the barriers to cross-border cooperation that will look at solutions and examples of good practices; asks the Commission to include a study on border regions' needs in this analysis; awaits with interest the results of the Commission's EU-wide public consultation on the remaining obstacles to cross-border cooperation, launched on 21 September 2015; asks the Commission to take into account in its analysis the recommendations of Parliament and the results of the public consultation;

29. Considers that Interreg programmes should, while respecting agreed programme priorities and agreed intervention logic and in complementarity with other appropriate funding, support responses in matters of migration and asylum and foster effective integration policies; calls for advantage to be taken of the Commission's openness to quickly examine and approve changes to the 2014-2020 operational programmes, where they are requested by the Member States concerned and only with the objective of dealing with the imperatives of the refugees crises;

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<sup>(1)</sup> Annex I (European Territorial Cooperation/Interreg) to the Commission communication 'Investing in jobs and growth — maximising the contribution of ESI Funds'.

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30. Considers the broader use of financial instruments (FIs) as flexible mechanisms to be used alongside grants; highlights that financial instruments, if implemented effectively, can significantly increase the impact of financing; stresses, in this regard, the need for clear, consistent and focused rules on FIs to help simplify the preparation and implementation process for fund managers and recipients; draws attention to the opportunity to benefit from specific expertise and know-how through financial engineering and technical assistance instruments from the EIB;

31. Underlines that during the programming period 2007-2013 the possible complementarities between the Interreg programmes and other EU-funded programmes were not sufficiently assessed; calls for the setting-up of appropriate coordination mechanisms to ensure effective coordination, complementarity and synergy between the ESI Funds and other Community and national funding instruments, such as Horizon 2020, as well as with the EFSI and the EIB;

32. Encourages the inclusion in the evaluation plans of the managing authorities of ongoing evaluations focusing on specific assessment of the effectiveness of the synergies between programmes;

33. Stresses the ever increasing importance of cross-border labour markets with huge dynamics for wealth and job creation; calls on the Commission and the Member States to make full use of the opportunities provided by the Interreg programmes to facilitate cross-border labour mobility, including by promoting the principle of equal opportunities, by adjusting, if necessary, the administrative and social regulatory framework, as well as by reinforcing the dialogue between all governance levels;

34. Considers it crucial to increase synergies and complementarity between ETC programmes and EURES services, since these have a particularly important role to play in cross-border regions with significant levels of cross-border commuting; calls on the Member States and regions to fully exploit the opportunities offered by EURES services for employment and job mobility across the EU;

35. Is convinced that the multi-level governance principle, the partnership principle and the actual implementation of the European code of conduct are particularly significant for the development of Interreg programmes;

### ***Simplification***

36. Stresses that, irrespective of the existence of a separate regulation for ETC, the implementation of territorial cooperation programmes should be further simplified, and calls on the High Level Group on Simplification to consider measures for simplification and reducing the administrative burden on beneficiaries prior to the ETC legislative proposal and the programming of the Interreg programmes for the period after 2020;

37. Calls on the Commission to propose specific actions to simplify the rules on reporting, auditing and state aid and to harmonise procedures; urges drawing up standard requirements for all Interreg programmes on a strand-by-strand basis;

38. Calls on the Member States to simplify their national provisions and to avoid 'gold-plating'; urges the implementation of e-cohesion and streamlining of administrative procedures;

39. Stresses that the arrangements for involving civil society and private stakeholders must be broadened and simplified, always taking into account the need for transparency and accountability; recommends that the establishment of public-private partnerships could offer a number of potential benefits but entails a risk of conflict of interests that should be adequately addressed by both hard-law and soft-law tools; calls on the Commission to provide timely, consistent and clear guidance on the application of financial instruments in ETC programmes;

40. Stresses that all simplifications of growth and jobs programmes must also apply to Interreg programmes;



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41. Stresses the importance of creating mechanisms for monitoring beneficiaries within the scope of the simplification measures;
42. Considers that priority should be given to joining forces on the ground and fostering mutual trust among the actors across the borders, and that financial instruments can provide valuable assistance to these efforts;

#### ***Future recommendations***

43. Considers that ETC has proved its effectiveness and that its potential should be further developed; highlights its potential beyond regional policy, in areas such as the single market, the digital agenda, employment, mobility, energy, research, education, culture, health and the environment, and therefore calls on the Commission and the Member States to consider preserving ETC as an important instrument, allocating it a more distinct role within cohesion policy post-2020 and significantly increasing its budget;
44. Considers that the basic cooperation philosophy and current structure of ETC should be maintained, including compliance with the lead beneficiary principle, as well as the emphasis on the cross-border component; calls on the Commission to analyse the possible development of a set of harmonised criteria, drawing on the experience of its 25-year history, on the basis not only of population size but also of socio-economic and territorial specificities;
45. Stresses the importance of cross-border cooperation at the external borders of the EU under the Instrument for Pre-Accession Assistance and the European Neighbourhood Instrument; calls on the Member States to ensure that good practices that allow the administrative burden for beneficiaries of Interreg programmes to be reduced can also be applied to programmes implemented at the external borders of the EU;
46. Recalls the potential for grassroots cooperation among citizens offered by the so-called 'small projects fund', in relation to amounts for small and micro projects for the promotion of civil engagement, paying particular attention to small cross-border cooperation projects between neighbouring border areas; calls for the funding of such projects to be encouraged, recalling that this will require additional efforts in terms of simplification and flexibility;
47. Encourages the joint establishment of strategies for border areas in order to boost integrated and sustainable territorial development, including implementation and dissemination of integrated approaches and harmonisation of administrative procedures and legal provisions across borders; notes the importance of promoting balanced territorial development within regions;
48. Takes the view that greater attention should be paid to promoting cross-border cooperation between mountainous border areas, with rural areas prioritised;
49. Stresses that cultural cooperation should be one of the objectives of European territorial cooperation; considers, therefore, that greater encouragement should be given to cultural and educational cooperation between cross-border areas that share a single cultural and linguistic heritage;
50. Calls for regional and local bodies to play a greater and more significant role in proposing, managing and evaluating ETC, especially as regards cross-border cooperation, taking into account that some regions already have such powers;
51. Calls on the Commission to consider the role of financial instruments in complementing grants; considers it essential to work more closely with the EIB in supporting SMEs and mobilising the financial and technical expertise of both the Commission and the EIB as a catalyst for investments; calls on the Commission and the EIB to make the financial instruments more coherent with the objectives of territorial cooperation;
52. Calls on the Commission, the Member States and the managing authorities to consider the proposal by the Luxembourg Presidency for the creation of a new legal instrument for cohesion policy post-2020, following the results of the ex post evaluations, the implementation of the 2014-2020 programmes and an appropriate impact assessment;

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53. Calls on the Commission and the Member States to initiate in 2016 a structured multi-stakeholder debate at EU level on the future of ETC post-2020, with a view to preparing the post-2020 cohesion policy; stresses that the debate should, first and foremost, cover matters related to the structure of ETC and the procedure for the allocation of programme budgets, and also work on new mechanisms to ensure wider application of the concept of results orientation; urges the Commission to work alongside the Committee of the Regions and relevant civil society and regional stakeholders;

54. Calls for a territorial vision of the EU based on the Green Paper on territorial cohesion (COM(2008)0616), and notes that the future White Paper on territorial cohesion could also be important for the next programming period after 2020;

***Raising public awareness and visibility***

55. Deplores the low public awareness with regard to ETC programmes and their insufficient visibility, and calls for more effective communication of their objectives, the possibilities they offer and the channels through which projects can be undertaken and, a posteriori, of the achievements of completed projects; calls on the Commission, the Member States and the managing authorities to establish mechanisms and broad institutionalised platforms for cooperation in order to ensure better visibility and awareness-raising; calls on the Commission to map and widely disseminate the achievements of the ETC programmes and projects so far;

56. Calls on the Commission and the Member States to promote the role that the EGTC can play as a tool for greater efficiency in meeting local needs in cross-border regions;

57. Recognises the important role played by actors on the ground and support for project preparation, and encourages managing authorities to reinforce existing promotional instruments such as regional contact points;

58. Notes that good cooperation between the Commission, the EIB and local and regional authorities is essential to ensure the successful use of financial instruments for territorial development and for the entire cohesion policy; stresses, in this context, the need to intensify the exchange of experience and knowledge between the EC and the EIB, on the one hand, and local and regional authorities, on the other;

59. Acknowledges the importance of the role played by territorial (field) animation, information dissemination, awareness-raising at local level and project support, and therefore encourages managing authorities to reinforce useful tools such as territorial contact points;

60. Calls for better coordination between the Commission, managing authorities and all stakeholders with a view to providing a critical analysis of projects' thematic achievements, highlighting both success stories and gaps and making recommendations for post-2020, while at the same time ensuring transparency and closeness to the citizens;

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61. Instructs its President to forward this resolution to the Council, the Commission and the national parliaments.

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P8\_TA(2016)0322

**Inquiry into emission measurements in the automotive sector****European Parliament resolution of 13 September 2016 on the inquiry into emission measurements in the automotive sector (2016/2090(INI))**

(2018/C 204/03)

*The European Parliament,*

- having regard to Article 226 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry <sup>(1)</sup>,
  - having regard to its decision (EU) 2016/34 of 17 December 2015 on setting up a Committee of Inquiry into emission measurements in the automotive sector, its powers, numerical strength and term of office <sup>(2)</sup>,
  - having regard to Rule 198 of its Rules of Procedure,
  - having regard to the interim report of the Committee of Inquiry into Emission Measurements in the Automotive Sector (A8-0246/2016),
- A. whereas Article 226 of the TFEU provides a legal basis for the establishment by the European Parliament of a temporary Committee of Inquiry to investigate alleged contraventions or maladministration in the implementation of Union law, without prejudice to the jurisdiction of national or Union courts, and whereas this constitutes an important element of the Parliament's supervisory powers;
- B. whereas, on the basis of a proposal by the Conference of Presidents, Parliament decided on 17 December 2015 to set up a Committee of Inquiry to investigate the alleged failures in the application of Union law in relation to emission measurements in the automotive sector, and that the Committee would make any recommendations that it deemed necessary in that matter;
- C. whereas the Committee of Inquiry operates according to a working plan, which includes:
- a programme of hearings of invited witnesses and experts with a view to gathering relevant oral evidence;
  - requests for written evidence from witnesses and experts invited to hearings;
  - requests for documents with a view to gathering relevant written evidence from the Commission, Member State authorities and other relevant actors;
  - two missions to gather on-site information;
  - briefings and studies commissioned under its expertise budget;
  - a formal written opinion from Parliament's Legal Service as regards inviting guests who may be subject to legal proceedings to testify;
- D. whereas the Committee of Inquiry has sent various questionnaires to Member States, Union institutions and other bodies, and has opened a public call for evidence on its website;

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<sup>(1)</sup> OJ L 113, 19.5.1995, p. 2.

<sup>(2)</sup> OJ L 10, 15.1.2016, p. 13.

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- E. whereas the results of the ongoing investigation could bring added value to the Union's type-approval framework;
  - F. whereas in its decision of 17 December 2015 Parliament required the Committee of Inquiry to present an interim report within six months of starting its work;
  - G. whereas the nature of a Committee of Inquiry prevents it from putting forward any final conclusions arising out of its investigations before it considers that its mandate has been fulfilled; whereas, therefore, it is premature for the Committee to submit any observations on the various aspects of its mandate in this interim report;
  - H. whereas the oral and written evidence submitted to and examined by the Committee to date confirms the need to investigate further all the points contained in its mandate;
1. Encourages the Committee of Inquiry to pursue its work and to implement fully the mandate given by Parliament in its decision of 17 December 2015, and supports all the actions and initiatives leading to the accomplishment of the mandate;
  2. Asks the Conference of Presidents and the Bureau to support all measures needed to enable the Committee of Inquiry to fulfil its mandate, in particular regarding the authorisation of hearings and extraordinary meetings, the reimbursement of experts' and witnesses' expenses, missions and any other technical means which are duly justified;
  3. Asks the Commission to ensure prompt support and full transparency in assisting the work of the Committee of Inquiry, with full respect for the principle of loyal cooperation, providing all the technical and political support possible, in particular through swifter submission of requested documentation; expects full cooperation from the relevant current Commissioners and Directorate-Generals as well as from those who were in charge during past terms; asks the Member States, with full respect for the principle of loyal cooperation, to provide the Committee of Inquiry with the necessary technical and political support, in particular by enabling the Commission to submit documents that are requested more swiftly and, if the submission of documents requires the Member States' consent, by accelerating their internal proceedings for the granting of such consent;
  4. Requires that the governments, parliaments and competent authorities of Member States assist the Committee of Inquiry in its tasks with full respect for the principle of loyal cooperation established in Union law;
  5. 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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P8\_TA(2016)0333

**Towards a New Energy Market Design****European Parliament resolution of 13 September 2016 on Towards a New Energy Market Design (2015/2322(INI))**

(2018/C 204/04)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union (TFEU), and in particular Articles 114 and 194 thereof,
- having regard to the Paris Agreement of December 2015 concluded at the 21st Conference of the Parties (COP 21) to the UN Framework Convention on Climate Change,
- having regard to the Commission communication of 15 December 2011 entitled ‘Energy Roadmap 2050’ (COM(2011)0885),
- having regard to the Commission communication of 5 November 2013 entitled ‘Delivering the internal electricity market and making the most of public intervention’ (C(2013)7243) and the Commission staff working document entitled ‘Generation Adequacy in the internal electricity market — guidance on public interventions’ (SWD(2013)0438),
- having regard to the Commission communication of 9 April 2014 entitled ‘Guidelines on State aid for environmental protection and energy 2014-2020’<sup>(1)</sup>,
- having regard to the Commission communication of 16 December 2014 entitled ‘Commission Work Programme 2015 — A New Start’ (COM(2014)0910),
- having regard to the Commission communication of 15 July 2015 entitled ‘Delivering a New Deal for Energy Consumers’ (COM(2015)0339),
- having regard to the Commission communication of 25 February 2015 entitled ‘Energy Union Package — A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy’ (COM(2015)0080),
- having regard to the Commission communication of 25 February 2015 entitled ‘Achieving the 10 % electricity interconnection target — Making Europe’s electricity grid fit for 2020’ (COM(2015)0082),
- having regard to the Commission communication of 15 July 2015 entitled ‘Launching the public consultation process on a new energy market design’ (COM(2015)0340),
- having regard to the Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework,
- having regard to the Council conclusions of 19 March 2015 on the Energy Union,
- having regard to the Council conclusions of 26 November 2015 on the governance system of the Energy Union,
- having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators<sup>(2)</sup>,

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<sup>(1)</sup> OJ C 200, 28.6.2014, p. 1.

<sup>(2)</sup> OJ L 211, 14.8.2009, p. 1.

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- having regard to Regulation (EC) No 714/2009 of the European Parliament and the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 <sup>(1)</sup>,
- having regard to Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 <sup>(2)</sup>,
- having regard to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') <sup>(3)</sup>,
- having regard to Regulation (EU) No 256/2014 of the European Parliament and of the Council of 26 February 2014 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96 <sup>(4)</sup>,
- having regard to Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment <sup>(5)</sup>,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council <sup>(6)</sup>,
- having regard to the Third Energy Package,
- having regard to its resolution of 19 June 2008 on Towards a European Charter on the Rights of Energy Consumers <sup>(7)</sup>,
- having regard to its resolution of 14 March 2013 on the Energy roadmap 2050, a future with energy <sup>(8)</sup>,
- having regard to its resolution of 4 February 2014 on the local and regional consequences of the development of smart grids <sup>(9)</sup>,
- having regard to its resolution of 14 October 2015 on Towards a new international climate agreement in Paris <sup>(10)</sup>,
- having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC <sup>(11)</sup>,

<sup>(1)</sup> OJ L 211, 14.8.2009, p. 15.

<sup>(2)</sup> OJ L 115, 25.4.2013, p. 39.

<sup>(3)</sup> OJ L 149, 11.6.2005, p. 22.

<sup>(4)</sup> OJ L 84, 20.3.2014, p. 61.

<sup>(5)</sup> OJ L 33, 4.2.2006, p. 22.

<sup>(6)</sup> OJ L 304, 22.11.2011, p. 64.

<sup>(7)</sup> OJ C 286 E, 27.11.2009, p. 24.

<sup>(8)</sup> OJ C 36, 29.1.2016, p. 62.

<sup>(9)</sup> Texts adopted, P7\_TA(2014)0065.

<sup>(10)</sup> Texts adopted, P8\_TA(2015)0359.

<sup>(11)</sup> OJ L 140, 5.6.2009, p. 16.

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- having regard to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC <sup>(1)</sup>,
  - having regard to its resolution of 10 September 2013 on making the internal energy market work <sup>(2)</sup>,
  - having regard to its resolution of 15 December 2015 on Towards a European Energy Union <sup>(3)</sup>,
  - having regard to its resolution of 15 December 2015 on achieving the 10 % electricity interconnection target — Making Europe's electricity grid fit for 2020 <sup>(4)</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A8-0214/2016),
- A. whereas the Commission's plans with regard to the electricity market must lead to real market transformation, contribute to efficiency, security of supply, development of renewables and interconnectors, and ensure the completion of the European internal energy market;
- B. whereas the integration of energy markets, coupled with the integration of all market players, including prosumers, will contribute to achieving the Treaty goal of secure, affordable, efficient and sustainable energy;
- C. whereas, in order to achieve the climate and energy targets, the energy system of the future will need more flexibility, which requires investment in all four flexibility solutions — flexible production, network development, demand flexibility and storage;
- D. whereas more than half of all the electricity in the EU is generated without producing greenhouse gases;
- E. whereas the integration of electricity markets must comply with Article 194 TFEU, according to which European energy policy shall ensure the functioning of the energy market and the security of energy supply, and promote energy efficiency savings, the development of renewable energy and the interconnection of energy networks; whereas defining the Member States' energy mix and the conditions governing the use of their energy resources remains a national competence;
- F. whereas positive experiences of multilateral cooperation serve as models for greater regional market responsibility (e.g. regional security coordination initiatives (RSCIs) such as Coreso and the Transmission System Operator Security Cooperation (TSC), the Pentalateral Energy Forum, the High Level Group for South-West Europe on interconnections, the Baltic Energy Market Interconnection Plan (BEMIP), the common multinational Nordic reserve and balancing markets, and market coupling in central and eastern Europe); whereas their design includes rules to ensure that capacity is allocated sufficiently in advance to provide investment signals in respect of less polluting plants;
- G. whereas a number of Member States anticipate inadequate generation capacity, which will pose a threat of blackouts in the near future unless the necessary back-up mechanisms are put in place;
- H. whereas national capacity markets make it harder to integrate electricity markets and run contrary to the objectives of the common energy policy, and should only be used as a last resort once all other options have been considered, including increased interconnection with neighbouring countries, demand-side response measures and other forms of regional market integration;

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<sup>(1)</sup> OJ L 211, 14.8.2009, p. 55.

<sup>(2)</sup> OJ C 93, 9.3.2016, p. 8.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0444.

<sup>(4)</sup> Texts adopted, P8\_TA(2015)0445.



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- I. whereas Europe is committed to successfully achieving the energy transition and especially to facilitating the integration of renewable energy sources, which implies new needs for flexibility and the implementation of market schemes dedicated to security of supply;
  - J. whereas the objective of energy security defined by the Treaties will be essential for the consolidation of the Energy Union, and whereas instruments adequate to ensure it must therefore be preserved and/or implemented;
  - K. whereas in order to make public investment as efficient as possible by taking the necessary measures to create a secure, sustainable and competitive energy market, it is vital to combine the European Fund for Strategic Investments with other specific sources of energy funding, such as the Connecting Europe Facility;
  - L. whereas increased cooperation at regional level is indispensable, and should serve as a catalyst for deeper market integration at the European level;
  - M. whereas energy taxes, high taxation costs, indiscriminate price regulation, high market concentration, administrative burden, subsidies, a lack of cross-border cooperation and interconnectors in some regions, and under-exploited demand-side management are preventing a functioning internal market in electricity and thus delaying the full market integration of renewable energy sources;
  - N. whereas all market participants should contribute to system balancing in order to ensure maximum security of electricity supply at a reasonable cost for society and the economy;
  - O. whereas a medium-term increase in the degree of interconnection between certain Member States — to 15 % subject to cost-benefit analysis — which addresses existing bottlenecks in a targeted way could improve security of supply and end energy islands; stresses that, in addition to the quantitative target, open access and the availability of interconnectors are also imperative if the remaining barriers to the functioning of the European electricity market are to be overcome;
  - P. whereas the growing share of variable renewable energy sources in the electricity mix requires stable backup from flexible and sustainable energy sources, and flexible technologies such as storage and demand-response;
  - Q. whereas energy storage is a key tool for bringing greater flexibility and efficiency to energy markets, but whereas there is still no regulatory mechanism in place making it possible to take advantage of an efficient storage system;
  - R. whereas the International Energy Agency (IEA) recently came forward with meaningful recommendations in its 'Re-Powering Markets' study <sup>(1)</sup>;
  - S. whereas a European energy market, if well designed and properly implemented, holds the potential to substantially boost European energy security and independence, in particular vis-à-vis major suppliers on which the Union is dependent;
  - T. whereas the EU's remaining energy islands need to be eliminated as a matter of urgency if a genuine energy market is to be created;
1. Welcomes the aforementioned Commission communication of 15 July 2015 on a new energy market design, and endorses the view that the transformed electricity market, coupled with the implementation of existing legislation, should enhance regional cooperation on all dimensions of energy supply and demand, and should focus on improved, more decentralised and more flexible markets, in order to ensure a well-regulated, market-based system which is capable of delivering on all of the EU's established energy and climate goals for 2030;

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<sup>(1)</sup> <http://www.iea.org/publications/freepublications/publication/REPOWERINGMARKETS.pdf>



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2. Considers that the innovative elements which have necessitated a redesign of the energy market are:
  - the increased presence of renewables with market-driven remuneration;
  - stronger integration of national markets through the development of interconnections;
  - the development of smart grids and new decentralised generation technologies, which will allow consumers to play a more active role as both consumer and producer, and will foster better demand-side management;
3. Welcomes the fact that the new Energy Union strategy is designed to make the EU a leader in renewable energies, and notes that achieving this objective will require a fundamental shift in Europe's electricity system;
4. Welcomes the fact that the new Energy Union strategy brings fresh benefits for energy consumers, offers them a much wider range of options for participating in energy markets and ensures better consumer protection;
5. Calls for the existing regulatory framework for European markets to be adjusted in order to allow a growing share of renewable energy sources and to close existing cross-border regulatory gaps; stresses that a new market design for electricity as part of an increasingly decentralised energy system must be based on market principles, which would stimulate investment, ensure that SMEs have access to the energy market and unlock a sustainable and efficient electricity supply through a stable, integrated and smart energy system; considers that this framework should promote and reward flexible storage solutions, demand-side response technologies, flexible generation, increased interconnections and further market integration, which will help to promote a growing share of renewable energy sources and integrate them into the market; stresses that security of supply and decarbonisation will require a combination of liquid short-term (day-ahead and intraday) markets and long-term price signals;
6. Considers the full implementation of the Third Energy Package in all Member States to be one of the most important steps towards a European energy market; urges the Commission, therefore, to secure the implementation of the current regulatory framework;
7. Calls for the new electricity market design to embrace a holistic, future-oriented approach by recognising the increasing importance of so-called prosumers in the decentralised production of electricity through renewables; calls on the Commission, in this context, to guide a participative process aimed at reaching a common practical understanding of the definition of prosumers at the EU level; asks the Commission to include a new chapter on prosumers in the revised Renewable Energy Directive in order to address the main barriers and boost investment in self-generation and self-consumption of renewables;
8. Believes that the best way to move towards an integrated EU-wide electricity market is to determine strategically the necessary level of integration which should be achieved, to restore confidence among market players and, especially, to ensure proper implementation of existing legislation;
9. Calls on the Member States to be more proactively involved in designing a flexible and decentralised European internal market in electricity in order to enhance coordination between national transition strategies and avoid undermining the objectives of Articles 114 and 194 TFEU by means of permanent capacity markets and mechanisms;
10. Believes that a strengthened European internal market in electricity is possible, on the basis of stronger price signals on the wholesale market through prices that reflect actual scarcity and surplus of supplies, including price spikes, which, along with other measures, play the role of investment signals for new capacity and flexibility services; recalls that the transition to scarcity pricing implies improved mobilisation of demand response and storage, along with effective market

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monitoring and controls to address the risk of market power abuse, in particular to protect consumers; believes that consumer engagement is one of the most important objectives in the pursuit of energy efficiency, and that whether prices that reflect the actual scarcity of supply in fact lead to adequate investment in electricity production capacity should be evaluated on a regular basis;

11. Emphasises that the internal EU electricity market is also influenced by imports from third countries with fundamentally different legal and regulatory systems, including as regards nuclear safety and security and environmental and climate change requirements; calls on the Commission to take this into due account in working on new energy market design, so as to ensure a level playing field between power producers in EU and non-EU countries and to provide European consumers with secure, sustainable and affordable energy;

12. Considers that investments in the field of energy require a stable and predictable long-term framework, and that the challenge EU has to face will be that of instilling confidence in the outcome of the new rules;

13. Calls for appropriate transition periods, with detailed cost-benefit analyses, for all the proposals under discussion;

14. Stresses the importance of a common analysis of system adequacy at regional level, facilitated by the Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission System Operators (ENTSO-E), and calls for the transmission system operators (TSOs) of neighbouring markets to devise a common methodology, approved by the Commission, to that end; highlights the enormous potential of strengthened regional cooperation;

15. Stresses the importance of coordinated long-term planning for the efficient development of transmission infrastructure and electricity markets in Europe; highlights, in this connection, the need for better regional cooperation and notes the success of existing regional market approaches such as Nord Pool;

16. Stresses the right of Member States to determine the conditions governing the use of their energy resources in their national energy mix, subject to the Treaty provisions stipulating that European energy policy shall ensure the functioning of the energy market, ensure security of energy supply, promote energy efficiency and savings and the development of renewable forms of energy and promote the interconnection of energy networks; emphasises that regional cooperation would allow cost savings and benefits for the European energy system and should be based on a standard, transparent regional system methodology for assessing their long-term adequacy needs, and for agreeing on the action to be taken in the event of an electricity crisis, in particular when such a crisis has cross-border effects; calls on the Commission, therefore, to propose a revised framework to that end; also calls on the Commission to reflect this in its legislative proposal;

17. Recalls that those Member States which choose to use nuclear energy should do so in compliance with EU safety standards, internal energy market regulations and State aid rules;

18. Notes that energy efficiency savings, demand-side responsiveness, energy storage capacity and network expansion, in particular through smart grids, efficient use of interconnections and the further expansion and development of national networks, are indispensable with a view to completing the internal market in electricity with a growing share of renewables, and recalls the 'efficiency first' principle, whereby consideration must first be given to demand-side investment before network and supply investment; considers it regrettable that there are still large gaps in the interconnections within and between some Member States, leading to network bottlenecks and significantly impairing operational security and cross-border energy trading; regrets the practice of limiting transmission capacity in order to balance national production and as a means of dealing with internal bottlenecks; calls for electricity interconnection objectives to be differentiated by region, reflecting real market flows, to be subject to relevant cost-benefit analysis and to be based on the ENTSO-E 10-year network

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plan, as long as the minimum objectives set for the EU are fulfilled; considers that, to this end, it is also very important to counteract uncoordinated loop flows, especially in the central and eastern Europe region; stresses that, once built, the availability of cross-border capacity is equally important, given the increasing levels of capacity curtailment by Member States;

19. Notes that new approaches should be developed with a view to overcoming bottlenecks and achieving a smart distribution grid that allows the smooth integration and provision of services by decentralised generators, prosumers and consumers;

20. Reiterates its support for EU regional interoperability targets; recognises, however, that suboptimal use of existing infrastructure threatens the vitality of such targets; stresses that optimal use of existing infrastructure is crucial for a European energy market, and asks the Commission, therefore, to address this issue in any upcoming proposal for legislation;

21. Calls for optimised implementation and enforcement of the legislative framework for the internal electricity market, and for the Commission and ACER to further address issues in the wholesale markets where current practices are not consistent with Regulation (EC) No 714/2009; calls on ACER to increase regulatory oversight of the restraint of existing interconnector capacity;

22. Notes that a targeted and ambitious network upgrade and the removal of structural network bottlenecks are important preconditions for realising the internal market in energy and thereby stepping up competition; takes the view that a configuration of price zones should be discussed, with the participation of all relevant stakeholders and taking into account ACER competences as well as the ENTSO-E bidding zone review; stresses that the splitting of bidding zones as a last resort could be a sensible market economy approach with a view to reflecting actual electricity shortages in certain regions; takes the view that in closely integrated electricity networks the allocation of price zones should be decided in conjunction with all the neighbouring countries concerned, in order to prevent both the inefficient use of networks and the reduction of cross-border capacity, which is incompatible with the internal market;

23. Understands that, because of the low price of energy on the wholesale markets and its impact on investment, and the need to develop mechanisms for adapting production capacity to the flexibility required to respond to the demand side, several Member States, in the absence of a European approach and on account of specific components of their consumption market, have had to develop capacity mechanisms;

24. Is sceptical of purely national and non-market-based capacity mechanisms and markets, which are incompatible with the principles of an internal energy market and which lead to market distortions, indirect subsidies for mature technologies and high costs for end-consumers; stresses, therefore, that any capacity mechanism in the EU must be designed from the perspective of cross-border cooperation following the completion of thorough studies on its necessity, and must comply with EU rules on competition and State aid; believes that better integration of national energy production into the EU energy system and the reinforcement of interconnections could reduce the need for, and cost of, capacity mechanisms;

25. Calls for cross-border capacity mechanisms to be authorised only when the following criteria, inter alia, are met:

- (a) the need for them is confirmed by a detailed regional adequacy analysis of the production and supply situation, including interconnections, storage, demand-side response and cross-border generation resources, on the basis of a homogeneous, standardised and transparent EU-wide methodology which identifies a clear risk to uninterrupted supply;
- (b) there is no possible alternative measure that is less costly and less market-intrusive, such as full regional market integration without restriction of cross-border exchanges, combined with targeted network/strategic reserves;

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- (c) their design is market-based and is such that they are non-discriminatory in respect of the use of electricity storage technologies, aggregated demand-side response, stable sources of renewable energy and participation by undertakings in other Member States, so that there is no cross-border cross-subsidisation or discrimination against industry or other customers, and it is ensured that they only remunerate the capacity strictly necessary for security of supply;
  - (d) their design includes rules to ensure that capacity is allocated sufficiently in advance to provide adequate investment signals in respect of less polluting plants;
  - (e) sustainability and air quality rules are incorporated in order to eliminate the most polluting technologies (consideration could be given to an emissions performance standard in this connection);
26. Stresses that, in addition to the new energy market design, the upcoming reviews of the Renewable Energy Directive and the Energy Efficiency Directive are key to unlocking the opportunities offered by energy storage;
27. Believes that developing new and existing electricity storage solutions will be an indispensable element of the energy transition, and that new market design rules should help to put in place a supportive framework for the various technologies involved;
28. Considers that energy storage has numerous benefits, not least enabling demand-side response, assisting in balancing the grid and providing a means to store excess renewable power generation; calls for the revision of the existing regulatory framework to promote the deployment of energy storage systems and other flexibility options, which allow a larger share of intermittent renewable energy sources (RES), whether centralised or distributed, with lower marginal costs to be fed into the energy system; stresses the need to establish a separate asset category for electricity or energy storage systems in the existing regulatory framework, given the dual nature — generation and demand — of energy storage systems;
29. Calls, therefore, for a new market design to address technical barriers and discriminatory practices in network codes for energy storage, and for fees and taxes to be applied fairly, avoiding double costs for the charging and discharging of energy and resulting in a market which rewards fast-reacting, flexible sources; suggests that if and when storage options become more abundant and affordable, the rationale for capacity markets will quickly disappear;
30. Stresses the need to promote the deployment of energy storage systems and to create a level playing field on which energy storage can compete with other flexibility options, on the basis of a technology-neutral design of the energy market;
31. Calls, therefore, for a technology-neutral design of the energy market to give various renewable-based energy storage solutions, such as lithium-ion batteries, heat pumps and hydrogen fuel cells, a chance to complement RES generation capacity; calls, also, for the establishment of clearly defined mechanisms in order to take advantage of excess production and of curtailment;
32. Calls on the Commission to clarify the position of storage in different steps of the electricity chain, and to allow transmission and distribution operators to invest in, use and exploit energy storage services for the purpose of grid balancing and other ancillary services;
33. Notes the increasing range of energy and ancillary services that energy storage may provide in the future; calls, therefore, for a definition of electricity storage that would cover its dual nature (electricity uptake and release), and for the removal of regulatory barriers to electricity storage;

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34. Calls for the current regulatory framework to be revised in order to promote the use of energy storage systems and other flexibility options with the aim of feeding into the energy system, on a centralised or decentralised basis, a larger share of renewable intermittent energy sources with low marginal costs;
35. Calls for a definition of an electricity-system energy storage device to be incorporated into the regulatory framework;
36. Calls for a separate category for electricity storage systems to be created in the current regulatory framework alongside generation, grid operation and consumption;
37. Stresses that gas interconnections and the coordination of national emergency measures represent methods through which Member States can cooperate in the event of severe gas supply disruptions;
38. Notes that cross-border competition could bring benefits for consumers through the presence of several energy suppliers in a decentralised market, leading to the emergence of innovative new energy service companies;
39. Calls for the further development of the energy-only market, with costs and benefits to be shared fairly by all energy users and producers, on the basis of the consistent application of existing legislation, the targeted upgrade of transmission and distribution infrastructure, greater regional cooperation, better interconnection, energy efficiency, demand-response schemes and storage, which can send the right long-term signals to maintain the electricity system securely and develop renewable energy sources, while taking into account the particular features of the electricity markets of regions that are isolated from the national electricity system, and thus promoting energy diversification and encouraging greater competition in order to increase security of supply;
40. Stresses that energy efficiency is a core principle of the Energy Union strategy, since this is an effective way of reducing emissions, generating savings for consumers and reducing the EU's dependency on fossil fuel imports;
41. Recognises that energy flexibility and capacity are currently essential and should be properly evaluated as part of a future-proof market design, given that they are complementary elements;
42. Stresses that a European electricity market must be market-driven; emphasises, in this connection, that dynamic price formation has a signal and guidance function and is doubtless an important factor in efficiency, and therefore in ensuring a well-functioning electricity market;
43. Points out that time-varying electricity prices can trigger demand-side flexibility, which can help balance demand and supply and smooth out variable renewable production patterns; stresses the importance, in this connection, of electricity prices reflecting actual electricity costs;
44. Notes that the expectation of future price surges can create incentives for producers and investors to invest in flexible solutions such as energy storage, energy efficiency, demand-side management, renewable production capacity, high-efficiency modern gas-fired power stations and pumped-storage power stations; urges that restraint be shown as regards intervention in the wholesale market, even in the event of large price surges; calls for any planned phasing-out of regulated consumer prices which are below the cost of production to take into account the needs of vulnerable consumers at risk of energy poverty;
45. Stresses that full integration of renewables into the electricity market is essential; calls for efforts to encourage and maximise their participation in balancing services, and considers that shortening gate closure times, aligning trading intervals with the imbalance settlement period and allowing the submission of aggregated bids from generators located in different Member States would contribute significantly to achieving this aim;

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46. Calls for the completion of the integration of internal market and balancing and reserve services by fostering liquidity and cross-border trading in all market timeframes; urges that efforts to achieve the ambitious goals of the Target Model regarding intraday and balancing markets be speeded up, starting with the harmonisation of gate closure times and the balancing of energy products;

47. Calls on the Commission to submit proposals to allow instruments to mitigate the revenue risk over 20 to 30 years, so that investments in new low-carbon generation are actually driven by the market, such as co-investments with contractual sharing of risks between large consumers and electricity producers, or a market for long-term contracts based on average cost pricing;

48. Calls for power supply and ancillary services contracts to be awarded on a free-market basis; states that such open tendering, whether organised nationally or on a cross-border basis, should be technology-neutral and also make it possible for energy storage operators to take part;

49. Supports the increasing share of renewables in the EU; stresses the importance of stable and cost-effective renewable support schemes for long-term investment that remain responsive and adaptable in the short term and are tailored to national needs and circumstances, allowing the gradual phasing-out of subsidies for mature renewable technologies; welcomes the fact that a number of renewable energy technologies are rapidly becoming cost-competitive with conventional forms of generation; notes that care should be taken to ensure that support schemes are well designed and that any impact on energy-intensive industries at risk of carbon leakage is kept to a minimum;

50. Stresses the importance of digital technologies in sending price signals that allow demand-response to work as a source of flexibility; calls, therefore, for an ambitious strategy with regard to digitisation in the energy sector, from the deployment of smart grids and smart meters to the development of mobile applications, online platforms and data hubs;

51. Notes that under the 2020 framework the Member States must meet specific quantitative objectives for the share of renewables in final energy consumption, irrespective of the market situation, and stresses, therefore, the importance of promoting renewables through policies that focus on competition and cost efficiency, while recognising that there are many different renewable technologies, which are at different stages of maturity and have different characteristics and therefore cannot be subject to a one-size-fits-all approach; recalls the important role of the EU Emissions Trading System (ETS) in this connection, and regards the promotion of investment as being more compatible with the market than fixed feed-in tariffs and general preferential treatment;

52. Insists that, with the increasing technical maturity and widespread use of renewable energy sources, subsidy rules must be geared to market conditions, such as feed-in premiums, in order to keep costs for energy consumers within reasonable bounds;

53. Warns against mixing energy supply objectives with climate policy objectives; calls for the ETS to be consistently reinforced and the market to be redesigned with a view to greater flexibility, so that in future CO<sub>2</sub> and fuel prices can give more support to the expansion of renewables;

54. Recalls that, as from 2016, the 2014 State aid guidelines require large RES generators to take on balancing responsibilities, which are defined as an obligation on producers to compensate for short-term deviations from their previous delivery commitments in cases where a liquid intraday market exists; stresses that, in the event of departure from the schedule announced by the operator, an appropriate compensatory energy price should be charged; recalls the existing provisions of the Renewable Energy Directive, which grant priority access and dispatch for renewables; suggests that these provisions should be evaluated and revised once a redesigned electricity market has been implemented which ensures a more level playing field and takes greater account of the characteristics of renewable energy generation;



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55. Calls, bearing in mind the subsidiarity principle, for coordinated action by the Member States, starting at regional level, in connection with the further expansion of renewables, in order to boost the economic efficiency of the energy market with a view to attaining the common European objectives and strengthening the stability of the grid; considers that a Member State should not take a unilateral decision which has a substantial impact on neighbouring states without broader discussion and cooperation at the regional or EU level; recalls that renewable energy sources have most of the time a strong local component; calls on the Commission to work towards a more convergent European framework for the promotion of renewables;

56. Recommends that Member States give consideration to the regulatory framework encouraging end-users to turn to self-production and local energy storage;

57. Is convinced that, alongside renewables, all safe and sustainable energy sources which serve the objective of gradual decarbonisation in line with the recent COP 21 global agreement will continue to have a role to play in electricity generation;

58. Draws attention to the importance of coordination at EU level in defining concession regimes for the use of hydroelectric power and opening up the sector to competition, in order to avoid market distortions and promote the efficient use of resources;

59. Notes that reorganising the electricity market will respond to consumer expectations by providing real benefits arising from the use of new technologies, in particular as regards renewable energy with low carbon dioxide emissions, resulting in interdependence among Member States in relation to energy security;

60. Emphasises that, in the absence of a fully interconnected electric grid system with adequate storage possibilities, conventional baseload generation remains essential for maintaining security of supply;

61. Stresses that greater consideration must be given to distribution system operators' local and regional responsibility for the Energy Union, given that the energy landscape is becoming more and more decentralised, 90 % of renewables are connected to the distribution grid and distribution system operators (DSOs) are locally embedded; recalls the importance of all Member States implementing the requirements of the Third Energy Package with regard to the unbundling of transmission and distribution systems, especially in light of the increased role of DSOs in data access and management; stresses that greater consideration must be given to the TSO-DSO interface; considers that the implementation of appropriate business models, dedicated infrastructure and harmonised support could foster an effective kick-start of demand-side response in each Member State and across borders;

62. Urges the Member States to establish the judicial and administrative mechanisms needed to spur the involvement of local communities in electricity generation by making them stakeholders in small-scale renewable electricity generation projects;

63. Stresses that in most cases renewables are fed in at distribution system level, close to the level of consumption, and therefore calls for DSOs to play a greater role as facilitators and to be more closely involved in the design of European regulatory framework and in the relevant bodies when it comes to drawing up guidelines on issues of concern to them, such as demand-side management, flexibility and storage, and for closer cooperation between DSOs and TSOs at the European level;

64. Calls for measures to incentivise the necessary investment in smart grid technologies and in distribution systems, with a view to better integrating growing quantities of renewables and being better prepared for digitisation; considers, in this connection, that DSOs must be given a greater role in collecting and sharing data, and that data protection must be guaranteed in all circumstances, bearing in mind the experience gained in countries with full roll-out of smart meters;

65. Stresses the importance of the regional approach in building the missing electricity infrastructure that is crucial for the security of sustainable electricity supply, with a view to eliminating the bottleneck in the (power) network and completing the internal energy market;



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66. Regards DSOs as neutral market facilitators that receive data from various sources, which they can then make available in a non-discriminatory manner to authorised third parties with the consent of the consumer, thus ensuring that consumers remain in control of their data; considers that DSOs foster the development of the market and play an increasingly important role as active system managers, technological enablers, data managers and innovators; considers that clear rules are required to ensure that DSOs act as neutral market facilitators; points out that DSOs, among other market participants, can also support local authorities by providing them with data to enable energy transition within their territory;
67. Stresses the need to speed up permit issuing for energy infrastructure projects at all decision-making levels;
68. Takes the view that it makes sense to step up cooperation within and between regions under the coordination of ACER and with the cooperation of ENTSO-E, particularly as regards evaluating cross-border impacts, but without the Member States abandoning their responsibility for security of supply; stresses that cross-border cooperation and interconnectors are key to ensuring security of supply;
69. Welcomes the work of ACER and calls for the agency to be provided with sufficient financial and human resources to carry out its current and future tasks and duties and to be able to plan strategically within a reliable mid-term horizon;
70. Notes the importance of effective, impartial and ongoing market monitoring of European energy markets as a key tool to ensure a true internal energy market characterised by free competition, proper price signals and supply security; underlines the importance of ACER in this connection, and looks forward to the Commission's position on new and strengthened powers for ACER on cross-border issues;
71. Calls for ACER to support and coordinate efforts towards increased regional cooperation regarding system security and adequacy; takes the view that the transfer of competences for security-of-supply issues to supranational bodies should take place only if it allows clear gains for the whole electricity system and is accompanied by sufficient accountability;
72. Calls for ACER to be given decision-making power as regards the coordination of increased regional cooperation in respect of cross-border and interregional issues, in particular in the context of RSCIs, with a view to optimising energy resource management, for such coordination to accommodate national specificities, to be cost-based and to apply market criteria, and for the development of adequate tools to monitor the energy market effectively with a view to creating the Energy Union without necessitating the creation of a massive new authority;
73. Notes that the Commission proposals for a new energy market design are confined to the power sector; calls on the Commission to analyse the opportunity to review the design of the natural gas market in order to address challenges in the gas sector (e.g. changing EU gas demand, stranded assets, pricing systems, further market integration and the respective roles of ACER and the European Network of Transmission System Operators for Gas (ENTSO-G));
74. Instructs its President to forward this resolution to the Council, the Commission and the Member States.
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P8\_TA(2016)0334

**EU strategy on heating and cooling****European Parliament resolution of 13 September 2016 on an EU Strategy on Heating and Cooling (2016/2058(INI))**

(2018/C 204/05)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union, and in particular Article 194 thereof,
- having regard to the Paris Agreement made in December 2015 at the 21st Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change,
- having regard to the Commission communication of 15 December 2011 entitled ‘Energy Roadmap 2050’ (COM(2011)0885),
- having regard to the Commission communication entitled ‘An EU Strategy on Heating and Cooling’ (COM(2016)0051),
- having regard to the Commission communication of 25 February 2015 entitled ‘A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy’ (COM(2015)0080),
- having regard to the Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework,
- having regard to the Third Energy Package,
- having regard to Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC,
- having regard to Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings,
- having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC,
- having regard to the Commission communication entitled ‘Roadmap for moving to a competitive low-carbon economy in 2050’ (COM(2011)0112),
- having regard to its resolution of 5 February 2014 on a 2030 framework for climate and energy policies <sup>(1)</sup>,
- having regard to Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC <sup>(2)</sup>,
- having regard to its resolution of 9 July 2015 on resource efficiency: moving towards a circular economy <sup>(3)</sup>,

<sup>(1)</sup> Texts adopted, P7\_TA(2014)0094.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 104.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0266.

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- having regard to its resolution of 15 December 2015 entitled ‘Towards a European Energy Union’ <sup>(1)</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0232/2016),
- A. whereas almost 50 % of the EU’s final energy demand is used for heating and cooling, of which 80 % is used in buildings; whereas the heating and cooling sector should reflect the 2015 Paris Agreement on climate change (COP 21); whereas a heating and cooling sector compatible with the EU’s energy and climate goals needs to be based on 100 % renewables by 2050 at the latest, which can only be achieved through reducing our energy consumption and making full use of the ‘energy efficiency first/first fuel’ principle;
- B. whereas every 1 % increase in energy savings reduces gas imports by 2,6 % <sup>(2)</sup>;
- C. whereas more must be done both to reduce heating demands from buildings and to switch remaining demands away from burning imported fossil fuels in individual boilers towards sustainable heating and cooling options in line with EU 2050 objectives;
- D. whereas buildings represent a huge share of the total final energy consumption, and whereas a higher energy efficiency in buildings and demand-response programmes can play a crucial role in balancing energy demand and topping off peak demand, leading to reduced overcapacity and a lowering of generation, operational and transport costs;
- E. whereas the share of renewables has slowly been increasing (accounting for 18 % of primary energy supply in 2012), but there is still huge potential at all levels, and the share of renewables, and of recovered heat energy in heating and cooling, in the Member States should be further increased;
- F. whereas the EU heating and cooling market is fragmented as a result of its local nature, and of the different technologies and economic players involved; whereas the local and regional dimension are essential in setting the right policies for heating and cooling, in planning and implementing heating and cooling infrastructure and in consulting consumers in order to remove obstacles and make heating and cooling more efficient and sustainable;
- G. whereas biomass represents 89 % of total EU renewable heat consumption, and 15 % of total EU heat consumption, and has great potential to deliver further significant and cost-effective solutions to a growing heat demand;
- H. whereas heating and cooling is a prime example of the need for a holistic, integrated systems-based approach to energy solutions, encompassing horizontal approaches to energy system design and the wider economy;
- I. whereas the share of primary energy from fossil fuels in heating and cooling remains very high at 75 % and presents a major barrier to decarbonisation, thereby accelerating climate change and causing significant harm to the environment; whereas the heating and cooling sector should contribute fully to the EU’s climate and energy objectives, and subsidies for the use of fossil fuels in this sector should gradually be phased out, in line with the European Council conclusions of 22 May 2013, in accordance with local conditions;

<sup>(1)</sup> Texts adopted, P8\_TA(2015)0444.

<sup>(2)</sup> European Commission (2014), ‘Communication Energy Efficiency and its contribution to energy security and the 2030 Framework for climate and energy policy’ (COM(2014)0520).

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- J. whereas it is estimated that the amount of heat produced from industrial and other commercial processes that is then wasted into the atmosphere or water (rather than utilised in some productive way) is enough to cover the EU's entire heating needs in residential and tertiary buildings;
- K. whereas the buildings sector emits around 13 % of all CO<sub>2</sub> emissions in the EU;
- L. whereas the use of progressive, efficient heating or cooling systems in buildings must go hand in hand with a thorough process of thermal insulation in a homogenous way, thereby reducing energy demand and costs for consumers and contributing to alleviating energy poverty as well as creating qualified local jobs;
- M. whereas measures for developing a comprehensive and integrated strategy for heating and cooling within the Energy Union, if implemented correctly, offer significant opportunities for both businesses and consumers in the EU, in terms of reducing overall energy costs for industry, boosting competitiveness and delivering cost savings to consumers;
- N. whereas EU regulatory frameworks serve to underline broad objectives, but true progress in transforming heating and cooling as part of a wider energy-system overhaul is essential;
- O. whereas the aim of optimising the role of renewables, particularly electricity, into the overall energy grid through better integration with heating and cooling applications and transport, contributes to decarbonising the energy system, reducing energy import dependency, lowering energy bills for households and boosting competitiveness of EU industry;
- P. whereas the most effective way of delivering on these joint objectives is to empower and support local and regional authorities, in conjunction with all relevant stakeholders, to apply a fully integrated systems-based approach to urban planning, infrastructure development, building and renovation of housing stock, and new industrial development, in order to maximise potential cross-overs, efficiencies and other mutual benefits;
- Q. whereas the energy efficiency of buildings also depends on the use of adequate energy systems; whereas the 'energy efficiency first' and 'energy efficiency as the first fuel' principles should be respected in the heating and cooling sector;
- R. whereas ambitious goals for deep renovation of the existing building stock would create millions of European jobs, especially in SMEs, increase energy efficiency and play a vital role in ensuring that energy consumption for heating and cooling is minimised;
- S. whereas architecture, urban planning, density of heat streams demand and the diversity of European climate zones and types of building must be taken into account in the planning of energy-efficient, low-emission public and residential buildings;
- T. whereas there is huge untapped potential for the use of waste heat and district heating systems, given that the excess heat available in Europe exceeds the total heat demand in all European buildings, and the fact that 50 % of the total EU heat demand can be supplied via district heating;
- U. whereas a significant proportion of Europe's population lives in areas, especially cities, where exceedances of air quality standards occur;

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- V. whereas heating and cooling are expected to remain the biggest sources of energy demand in Europe, whereas natural gas and LPG are widely used to meet this demand and its use could be optimised through highly efficient energy storage; whereas continued reliance on fossil fuels runs counter to the EU's climate and energy obligations and decarbonisation goals;
- W. whereas there are currently major differences in annual expenditure on energy for heating purposes between the various climate zones in Europe, with an average of 60 to 90 kWh/m<sup>2</sup> in southern European countries and 175 to 235 kWh/m<sup>2</sup> in central and northern Europe;
- X. whereas the deployment of effective heating and cooling solutions has significant potential to stimulate the development of Europe's industrial and service sectors, particularly in the renewable energy sector, and the creation of higher value added in remote and rural regions;
- Y. whereas energy has become a social asset, access to which must be guaranteed; whereas, however, not all citizens can gain access to energy, there being more than 25 million people in Europe who have serious difficulties in doing so;
- Z. whereas energy efficiency policies should focus on the most cost-effective ways to improve buildings performance by reducing heat demands and/or connecting buildings to high-efficiency alternatives;
- AA. whereas the low level of awareness among consumers concerning the lack of efficiency of heating systems is one of the factors having the greatest impact on energy bills;
- AB. whereas homes that have good thermal insulation are of benefit both to the environment and to the user, who enjoys lower energy bills;
- AC. whereas 72 % of the heating and cooling demand of single-family houses is consumed in rural and intermediate areas;
- AD. whereas nature-based solutions, such as well-designed street vegetation, green roofs and walls providing insulation and shade to buildings, reduce energy demand by limiting the need for heating and cooling;
- AE. whereas 85 % of the energy consumed in buildings is used for space heating and hot water production, and 45 % of the heating and cooling in the EU is used in the residential sector;
- AF. whereas industry, in cooperation with local authorities, has an important role to play in the better use of wasted heat and cool;
- AG. whereas, on average, Europeans spend 6 % of their consumption expenditure on heating and cooling, and 11 % cannot afford to keep their homes warm enough in winter;
- AH. whereas the cooling sector still needs to be analysed in a more thorough way, and to be taken more into account, in the Commission strategy and in Member State policies;
- AI. whereas it is important to promote studies on energy saving in historic buildings in order to optimise energy performance where possible, while ensuring that the cultural heritage is protected and preserved;

1. Welcomes the Commission communication 'an EU Strategy on Heating and Cooling' as an important step in providing a holistic approach to transforming heating and cooling in the European Union, and identifying priority areas of action; fully endorses the Commission's ambition of recognising and exploiting the synergies between the electricity and heating sectors, with the aim of achieving an efficient sector that increases energy security and facilitates cost-effective

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achievement of the EU's climate and energy goals; calls on the Commission to consider heating and cooling sectors as part of European energy market design;

2. Points out the necessity to take along specific measures for heating and cooling when revising the Energy Efficiency Directive (2012/27/EU), the Renewable Energy Directive (2009/28/EC) and the Energy Performance of Buildings Directive (2010/31/EU);

3. Considers that the strategy on heating and cooling must allow for both of these necessities in equal measure, taking into account that Europe has different climate zones and that needs, in terms of energy use, differ accordingly;

4. Underlines that the strategy on heating and cooling should prioritise sustainable and cost-efficient solutions enabling the Member States to reach EU climate and energy policy goals; notes that the Member States' heating and cooling sectors are very diverse owing to different energy mixes, climatic conditions, grades of efficiency of the building stock and industry intensity, and stresses, therefore, that flexibility in choosing adequate strategy solutions should be ensured;

5. Calls for specific sustainable heating and cooling strategies to be developed at national level, giving special attention to combined heat and power, cogeneration, district heating and cooling, preferably based on renewables, as is stated in Article 14 of the Energy Efficiency Directive;

6. Notes that high energy efficiency, high-performance thermal insulation and the use of renewable energy sources and recovered heat are fundamental priorities for the EU's heating and cooling strategy; considers, therefore, that the 'energy efficiency first' principle should be respected, as energy efficiency offers one of the highest and fastest rates of financial return available and is a key part of the strategy for achieving a successful transition towards a secure, resilient and smart heating and cooling sector;

7. Notes that a more decentralised and flexible energy system, with power and heat sources placed closer to the point of consumption, can facilitate decentralised energy generation, thereby empowering consumers and communities to be more involved in the energy market, and to control their own energy use, as well as allowing them to become active participants in a demand-side response; takes the view that the shorter the chain by which primary energy is converted into other forms to generate usable heat, the higher the energy efficiency of the energy system overall; recognises, moreover, that such an approach diminishes transmission and distribution losses, improves the resilience of energy infrastructure and simultaneously provides local business opportunities for SMEs;

8. Underlines the complementarities between eco-design and energy labelling legislation, on the one hand, and the Energy Efficiency and Performance of Buildings directives, on the other, in reducing heating and cooling consumption; considers that domestic appliances (washing machines, dishwashers, etc.) should be as efficient as possible and designed in such a way that they can use the hot water supply at the place where they are installed; believes, therefore, that eco-design requirements and energy-labelling policies should be reviewed and improved on a regular basis, in order to achieve additional energy savings, and improve competitiveness, through more innovative products and reduced energy costs;

9. Recalls that heating and cooling constitute the largest share of the EU's energy demand; emphasises the importance of respecting the technology-neutral principle between the currently available renewable sources and market- and state-based incentives in the transition to a low-carbon and secure energy supply to the heating and cooling sector;

10. Stresses the need for a favourable framework for tenants and those living in multi-dwelling buildings, to enable them as well to benefit from the self-generation and consumption of renewable heating and cooling, and energy efficiency measures, thereby tackling the challenges of split incentives and, on occasion, impeding tenancy rules;

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11. Highlights the fundamental role of renewable energy technologies, including the use of sustainable biomass, of aerothermal, geothermal and solar energy, and of photovoltaic cells in combination with electric batteries, to heat water and provide heating and cooling in buildings, in conjunction with thermal storage facilities that can be used for daily or seasonal balancing; calls on the Member States to provide incentives for the promotion and take-up of such technologies; calls on the Member States to implement fully the current Energy Efficiency and Performance of Buildings directives, including the 'Nearly Zero Energy Buildings' (nZEB) requirements and long-term renovation strategies, taking into account the need to mobilise sufficient investment for the modernisation of their building stocks; asks the Commission to present an EU-wide vision of an nZEB stock by 2050;

12. Considers that issues surrounding energy security in the EU largely concern the security of heat supply; considers, therefore, the diversification of sources for heating to be of utmost importance, and calls on the Commission to explore ways to further support and accelerate the increased deployment of renewable heat technologies;

13. Considers that the use of mapping resources for heating purposes, appropriate architectural solutions, facility management best practices and urban design principles, including urban level network solutions such as district heating and cooling, in the planning of whole residential and commercial areas should be the basis for energy-efficient and low-emission construction in the various climate zones in Europe; underlines that a properly insulated building fabric has a high thermal storage capacity, resulting in significant heating and cooling savings;

14. Stresses that energy demand in the building sector is responsible for about 40 % of energy consumption in the EU, and a third of the natural gas use, and could be reduced by up to three quarters if the renovation of buildings is speeded up; highlights that 85 % of this energy consumption is used for heating and domestic hot water, and that, as such, modernisation of old and inefficient heating systems, increased utilisation of electricity from renewables, better use of 'waste heat' through highly efficient district heating systems, and deep renovation of buildings with improved thermal insulation, remain key to delivering a more secure and sustainable approach to heat supply; recommends the continuation of increasing energy efficiency standards for buildings, taking account of and encouraging technical innovation, particularly as regards ensuring homogeneity of insulation; further recommends continued support for the construction of nZEBs;

15. Encourages the Member States to develop long-term heating and cooling strategies based on an integrated approach, harmonised mapping and the assessment made following Article 14 of the Energy Efficiency Directive; stresses that the strategy should identify priority areas for intervention and enable optimised urban energy planning; calls on the Commission to assist the Member States in this exercise by elaborating general guidance for national heating and cooling strategies;

16. Draws attention to the economic effect of renovating and insulating buildings, often resulting in up to 50 % lower heating and cooling costs, and calls on the Commission to provide adequate co-financing for initiatives aimed at renovating public housing and apartment blocks with low levels of energy efficiency;

17. Welcomes the Commission's intention to develop a toolbox of measures to facilitate the renovation in multi-apartment buildings; considers that a harmonised and comprehensive toolbox should also be developed for the energy planning of cities, to enable the mapping of local heating and cooling potential, optimised and integrated building renovation, and heating and cooling infrastructure development;

18. Reiterates the importance of developing EU schemes that provide incentives for energy-efficient retrofits of public buildings, dwellings and social housing, and for the construction of ecological new buildings, that go beyond the minimum legal requirements;



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19. Points out the local character and potential of heating and cooling; calls on local and regional authorities to facilitate further thermo-modernisation through the renovation of existing public, commercial and residential buildings with low energy performance; highlights the importance of movements such as the Covenant of Mayors, which allow a sharing of knowledge and best practices;
20. Stresses the need to carry out mapping of local heating and cooling potentials throughout Europe, so that cities are better able to identify locally available resources, allowing them to contribute to increasing the EU's energy independence, boost growth and competitiveness through the creation of local, non-outsourcable jobs, and provide clean and affordable energy to consumers;
21. Calls on local authorities to assess existing heating and cooling potential, as well as future heating and cooling needs, in their areas, taking into account the potential of locally available renewable energy sources, thermal energy from cogeneration and district heating volumes;
22. Believes that an attractive financing system should be set up for households located outside areas with centralised heating and cooling systems, to promote new technologies for heating households using renewable energy sources;
23. Calls on local authorities to address the specific problems of rural buildings, which tend to be older, less energy efficient and less beneficial to health, and which tend to provide lower thermal comfort;
24. Considers that the shorter the chain by which primary energy is converted into other forms to generate usable heat, the higher the energy efficiency, and, noting the wide range of climatic and other conditions in the Union, calls on the Commission to promote technology-neutral instruments enabling each community to develop cost-efficient solutions to reduce the carbon intensity of the heating and cooling sector;
25. Notes that while EU regulatory frameworks serve to underline broad objectives, true progress in revolutionising heating and cooling, as part of a wider energy system overhaul, is essential;
26. Highlights that EU policy tools and capacities are not yet sufficiently developed to drive the transformation of the heating and cooling sector, to maximise the use of potentials or to deploy solutions for demand reduction and decarbonisation at the required scale and pace;
27. Stresses the importance of district energy networks that offer an alternative to more polluting systems for individual heating, given that it is a particularly efficient and cost-effective means of delivering sustainable heating and cooling, integrating renewable energy sources, recovered heat and cold, and storing surplus electricity at times of low consumption, thereby offering flexibility to the grid; highlights the need to integrate a greater share of renewable energy sources, taking into account that over 20 % of district heating and cooling is already generated from renewable energy, in line with Article 14 of the Energy Efficiency Directive, which requires comprehensive assessments of the potential for efficient district heating and cooling; calls for the modernisation and extension of existing district heating systems to shift to high-efficiency and renewable alternatives; encourages the Member States to put in place fiscal and financial mechanisms to encourage the development and use of district heating and cooling, and to tackle regulatory barriers;
28. Calls on the Commission to assess seriously the Member States' comprehensive assessments of the potential for cogeneration and district heating in accordance with Article 14 of Energy Efficiency Directive, so that these plans reflect the true economic potential of these solutions and provide a sound basis for policies in line with EU objectives;
29. Stresses that in dense urban agglomerations it is imperative that the use of inefficient and unsustainable individual or district heating/cooling systems gradually be replaced with efficient district heating/cooling systems or are modernised with state-of-the-art heating/cooling technologies, shift to high-efficiency local cogeneration systems and renewable alternatives;

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30. Calls on the Commission to propose, in its initiatives on the Renewable Energy Directive and market design, measures that contribute to a more efficient and flexible energy system by further integrating electricity, heating and cooling systems;
31. Calls on the Commission to establish a common European framework to promote and provide legal certainty for self-generation, in particular by encouraging and supporting neighbourhood cooperatives that make use of renewable sources;
32. Calls for the development of a heating and cooling energy demand indicator for buildings at a national level;
33. Calls for a strategic approach to reduce the CO<sub>2</sub> emissions of industrial heating and cooling demands, by improving efficiency of the processes, substituting fossil fuels by sustainable sources and integrating industries in the surrounding thermal energy environment;
34. Highlights the huge potential of clustering energy and resource flows to save primary energy use, especially in industrial environments, where, according to the cascading system, excess heat or cold from one process can be re-used in another one that demands less extreme temperatures, and, where possible, in heating and cooling buildings via district heating systems;
35. Notes that outdated heating plants with low energy efficiency should urgently be replaced with the best available alternatives that are fully compatible with the EU's energy and climate objectives, such as more environmentally friendly cogeneration plants making use of sustainable fuels in accordance with sustainability criteria for biomass;
36. Notes that heating and cooling is a very local sector, since availability and infrastructure, as well as the demand for heat, depends essentially on local circumstances;
37. Agrees with the Commission that, as stated in the heating and cooling strategy, the economic potential of cogeneration is not exploited, and calls on the Commission and the Member States to further promote high-efficiency cogeneration and district heating, in line with the Commission's communication on the state of the Energy Union (COM(2015)0572);
38. Takes the view that a system-level approach on cooling is required, including for the built environment and other activities, such as transport refrigeration;
39. Expresses the view that, in Europe's temperate climate zone, reverse systems for heating and cooling using efficient heat pumps could become very important under certain conditions, given their flexibility; highlights that hybrid heating systems, which provide heat from two or more energy sources, can facilitate a growing role for renewable heating, in particular for existing buildings where they can be introduced with limited refurbishment needs; calls on the Commission and the Member States to provide, with regard to heat pumps, adequate aligned calculation methods, and to promote the sharing of best practices for support mechanisms in order to support efficient, sustainable and low-carbon solutions to various thermal needs;
40. Encourages the Commission to closely monitor compliance with EU legislation on fluorinated greenhouse gases with a view to reducing the emission of such gases in the atmosphere; asks the Commission to ensure that the use of alternative refrigerants is safe, cost-effective and in line with other EU objectives with regard to the environment, climate change and energy efficiency;
41. Takes the view that the Member States should explore the possibility of using heat from geothermal waters, from energy recovered directly from industrial processes and from other lower-temperature heat sources, such as heat contained in deep-sea mines for heating (cooling), which could, with the help of huge heat pumps, heat whole towns through existing and new district heating networks, not just individual buildings, if suitable district heating infrastructure is available or developed;

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42. Stresses the role of technologies capable of reducing both thermal energy demand and greenhouse gas emissions, such as the use of low-enthalpy geothermal energy, renewable-based heating/cooling districts, small-scale tri- or co-generating power plants burning natural gas and/or biomethane, or combinations of these;

43. Expresses the view that heat storage facilities that use electric resistance during off-peak demand hours (i.e. by storing energy in the form of heat), thereby improving the quality of electricity supply by facilitating the integration of variable renewable sources, could play a very important role in heating and help balance the grid and lower energy production, imports and prices;

44. Takes the view that waste heat and cold obtained through industrial processes and cogeneration, in the production of electric energy in conventional power plants, from well-insulated residential buildings using recuperative methods, and from micro-generation, should play a much greater role in heating and cooling than they have in the past; stresses that harnessing industrial waste heat and cold should be recognised and encouraged through research, as it presents a great opportunity for investment and innovation; stresses that industries and nearby residential or service buildings should be encouraged to cooperate and share their energy production and needs;

45. Stresses that public funding or public ownership of district heating infrastructure should not contribute to a costly lock-in of high-carbon infrastructure; calls on national, regional and local authorities to scrutinise public financial support for district heating infrastructure in the light of the EU's objective of 80-95 % greenhouse gas reductions by 2050 compared to 1990 levels and an orderly transition of the energy economy;

46. Takes the view that integrating the production, consumption and reuse of waste cold creates environmental and economic benefits and reduces the primary energy demand for cold;

47. Emphasises that waste-to-energy will continue to play a significant role in heating since the alternative is often landfill and the use of fossil fuels, recalling that there is a need to increase recycling;

48. Calls on the Member States to use legal and economic means to accelerate the gradual phasing-out of outdated solid-fuel furnaces with an energy efficiency level of less than 80 %, and to replace them, where possible, with efficient, sustainable heating systems at local level (such as district heating systems) or micro level (such as geothermal and solar systems);

49. Points out that the introduction of smart heating systems can help consumers understand their energy consumption better and help renew inefficient heating systems, promoting energy savings;

50. Reminds the Commission and the Member States that 75 % of the existing European building stock is energy inefficient, and that estimates show that 90 % of these buildings will still be in use by 2050; highlights, therefore, the urgent need to specifically target these buildings for deep renovation;

51. Calls on the Commission to draw up a plan, as part of the 'waste to energy' programme, to promote and exploit the potential contribution of the sustainable use of organic waste to heating and cooling connected to district heating and cooling systems;

52. Stresses that biogas represents an important sustainable source for heating and cooling systems, and that, for this reason it is necessary to set up a clear target for organic recycling in order to incentivise investments in the collection and treatment of bio-waste;

53. Calls on the Member States to phase out the use in urban areas of outdated furnaces for heating purposes that generate 'low height' emissions — releasing into the atmosphere natural pyrolytic gases from incomplete combustion, NO<sub>x</sub>, soot, particulate matter and fly ash dispersed by convection — in the heating of agglomerations, and to promote, through incentives, the use of sustainable — including renewable — alternatives;

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54. Calls on the Member States to take measures to phase out energy-inefficient furnaces and boilers using heating oil and coal that currently fuel over half of the building stock in the countryside; takes the view that energy provision should stem from lower carbon and renewable sources;

55. Stresses that renewable-based district heating prevents the spread of more polluting individual heating systems, which increase air pollution in residential areas and are much more difficult to control than widespread district heating systems; emphasises, however, that infrastructure and climate conditions vary within the Union and that these systems often need modernising in order to enhance their efficiency; calls, therefore, for an analysis of the need to support district heating infrastructure, and of taxation practices as regards renewable energy sources and district heating;

56. Takes the view that the Member States should, as a matter of urgency, take steps towards phasing out low-temperature furnaces used for the combustion of solid fossil fuels and organic waste, which, during the combustion process, release into the atmosphere a variety of harmful substances; takes the view that the Member States should, where possible, encourage the phasing out of old and inefficient wood-burning fireplaces in densely built towns and cities, and facilitate their replacement with modern efficient, environmentally and health-friendly alternatives, in conjunction with initiatives to raise awareness about potential health risks and best practices regarding wood fires;

57. Calls on the Commission and the Member States to close the regulatory gap stemming from the Ecodesign Directive and the Medium Combustion Plants Directive, which results in emissions leakage of installations below 1 MW that fall outside of the scope of the Directives;

58. Takes the view that the increasing need for cooling requires further consideration of this issue, including an integrated approach to the entire cooling chain — from demand for industrial cooling from high temperatures to cooling for households and cooling requirements in the food industry;

59. Notes that the availability of quality data is a precondition if consumers and authorities are to be able to make rational choices about energy efficiency and heating solutions; highlights the importance of extending the possibilities offered by digitalisation to the heating and cooling sector; calls on the Commission to develop a definition of, and methodology for calculating, renewable cooling;

60. Considers that water-efficient heat exchangers can play a vital role in cooling in industrial processes by transferring heat to natural bodies of water close to the sites at which products are stored, the temperature of which does not exceed 6 °C throughout the year (free cooling);

61. Takes the view that high-power stationary fuel cells could, in the very near future, be an environmentally friendly alternative to coal as a solid fuel;

62. Considers that power-to-gas has great future potential as a way of storing and transmitting renewable energy and using it for the purpose of central and local heat generation; observes that the use of power-to-gas is an efficient way of using renewable energy for heat generation, particularly in conurbations, thanks to the possibility of using existing infrastructure; calls, therefore, on the Commission and the Member States to promote research and pilot projects relating to power-to-gas;

63. Believes that the European Union's strategy for innovative heating and cooling requires intensive research, providing a basis for the creation of industries making environmentally-friendly equipment to serve this purpose;

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64. Stresses the benefits of research and technological innovation for European industry, strengthening its competitive advantage and commercial viability, as well as contributing to the EU's energy and climate goals; highlights, in this context, the need for increased research, development and innovation in the field of energy efficiency and renewable heating and cooling (RHC) technologies, with a view to reducing costs, enhancing performance and increasing deployment and integration into the energy system; calls on the Commission to work with sector stakeholders to maintain updated technology roadmaps on RHC to coordinate, track and identify gaps in RHC technology development;

65. Takes the view that, given the urgent need to achieve quick and effective results in the thermo-modernisation process of the EU's thermal sector, the EU should focus on research to increase the deployment of the currently best available technologies;

66. Takes the view that research under the Horizon 2020 framework programme should cover the development of sustainable heating and cooling solutions, waste heat and waste cold valorisation technologies, new materials with maximum thermal conductivity (heat exchangers), minimum conductivity — i.e. maximum thermal resistance (thermal insulation), and maximum heat accumulation rates (heat stores);

67. Takes the view that progress should be made under the Horizon 2020 framework programme in R&D relating to sustainable and efficient heating and cooling systems and materials, such as small-scale renewable generation and storage solutions, district heating and cooling systems, cogeneration and insulation materials, as well as innovative materials such as structural window glass that lets in high levels of short-wave radiation (sunlight) from outside and lets out only a minimum of the long-wave thermal radiation that would otherwise escape to the outside;

68. Emphasises the importance of extensive scientific research into the development of innovative technological solutions designed to deliver appliances and entire heating and cooling systems that are energy efficient and based on renewables;

69. Calls for a review of existing legislation focused on safeguarding technology neutrality and cost efficiency so as to ensure that it does not promote or discredit one technology over another — renewable energy produced on-site, such as by means of residential solar panels, or near a building should, for instance, be accounted for when calculating the building's energy performance, regardless of the source;

70. Highlights the importance of combining the most advanced technologies with smart energy management, for example through home automation and smart heating control systems, especially in a connected world where the appliance can easily adapt to weather conditions and electricity price signals and contribute to the stabilisation of the grid by shifting demand; calls on the Commission to integrate smart technologies in the relevant Energy Union initiatives in a better way, in order to ensure real interconnectivity of smart appliances, connected homes and smart buildings with smart grids; takes the view that such solutions should be promoted when renovating the existing building stock as they help consumers understand their consumption patterns better, and adjust the operation of their heating system accordingly;

71. Stresses that the building sector has a high potential in reducing energy demand and CO<sub>2</sub> emissions; underlines that further efforts are needed to increase the building renovation rate; notes that attractive financial incentives, the availability of highly competent experts at various levels, and the exchange and promotion of best practices are necessary to achieve this;

72. Calls on the Commission to identify and remove remaining barriers to energy efficiency measures, particularly domestic renovations by households, and to develop a genuine market in energy efficiency in order to foster the transfer of best practices and ensure the availability of products and solutions throughout the EU, with the aim of building a true single market in energy efficiency products and services; underlines the job creation and economic growth potential not only of initial roll out of such products and services, but also in the on-going maintenance and day-to-day running of an integrated energy system encompassing heating and cooling;

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73. Believes that industry needs clear signals from policy makers in order to make the necessary investments in achieving the EU's energy objectives; highlights the need for ambitious binding targets and a regulatory framework that promotes innovation, without creating unnecessary administrative burdens, in order to best promote cost-effective and environmentally sustainable heating and cooling solutions;

74. Believes that investment in energy efficiency in buildings should go hand in hand with investment in renewable heating and cooling (RHC); considers the synergies that are found between energy efficiency in buildings and RHC to present a significant opportunity in the move towards a low-carbon economy; welcomes efforts at national level to increase the number of nZEBs;

75. Recommends that individual thermal renovation systems be designed for architectural landmarks, with a dual focus on investments on the building's shell, combined with the optimisation of building control and automation systems and the supply of efficient heating and cooling, while taking care not to compromise the unique architectural style of the buildings concerned;

76. Notes that the architectural design of intelligent buildings should take a holistic approach to ensuring thermal comfort (cooling) through the shape and mass of buildings, the adaptation of space and the adjustment of parameters such as the amount of daylight and ventilation and recuperation intensity, while at the same time having low running costs;

77. Underlines the importance of standardised thermal energy audits, and the cost-effectiveness of remediating problems with industrial insulation to save energy and reduce emissions; points out that industrial energy costs could be further reduced with investments in existing and proven sustainable technologies;

78. Underlines that the European Structural and Investment Funds are an important tool for modernising the energy system; takes the view that the restrictions that have been in place thus far on ERDF funding for the low carbon transition priority have not been effective; considers that, for the post-2020 programming period, the budget percentage earmarked for this priority should be increased;

79. Underlines the importance of ensuring access to finance, both short- and long-term, for investments in projects of all sizes related to the modernisation of the heating and cooling sector, including for district heating and cooling, the upgrading of relevant grid infrastructure, the modernisation of heating systems, including a shift to renewable sources, and an acceleration in the rate of building renovation; calls, in this regard, on the Commission to develop a robust innovative and long-term financial mechanism; highlights the role that the European Fund for Strategic Investments (EFSI) and other applicable European funds, such as those available from the European Investment Bank (EIB) or through the EU emissions trading system (ETS), could play in terms of finance and technical assistance, ensuring that projects are attractive to investors by offering stable regulatory conditions, particularly by minimising bureaucracy and encompassing an expedient application and approval process; calls on the Commission to strengthen the current provisions on heating and cooling in the post-2020 programming period for all applicable European funds, and for the elimination of barriers that hinder local authorities in allocating useful resources to renovating public buildings; supports the 'smart finance for smart buildings' initiative, promoting a greater uptake of energy efficiency in combination with renewables in the building sector; believes that the modernisation and thermal insulation of buildings should take priority over other measures in terms of access to funding in light of their enormous job-creation potential;

80. Reiterates the need to use Structural Funds for a wider range of building and building system upgrades, especially in the form of preferential loans to private building owners, which would facilitate a much stronger drive towards a greatly-needed upgrade on existing buildings, especially in the lesser-developed parts of the EU;



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81. Underlines that to stimulate improvements in the heating and cooling sector, the Commission should fully use the 'ex ante conditionalities' foreseen by Article 19 of Regulation (EU) No 1303/2013, and ensure that existing EU legislation with relevant measures on heating and cooling is adequately transposed and implemented;

82. Considers that the State Aid Guidelines for efficient technologies — which are indispensable for the decarbonisation path of the heating and cooling sector, especially as community-based solutions — should take into account the need of adequate public support;

83. Is of the view that initiatives such as the European Local ENErgy Assistance (ELENA) facility, Smart Cities and Communities, and the new integrated Covenant of Mayors for Climate and Energy could support local and regional operators in the renovation of energy systems in buildings;

84. Calls on the Commission to ensure that the EU budget is used in accordance with the decarbonisation and energy efficiency goals;

85. Calls on the Member States to take targeted measures to strongly incentivise energy efficiency improvements and a broader use of renewable energy support (RES) in low-income and vulnerable households; calls on the Commission to allocate a much higher share of EU funds to energy efficiency and RES programmes for vulnerable, energy-poor households and to provide guidance to the Members States on specific energy poverty measures;

86. Considers that citizens should be provided with better information about the energy consumption of their respective households, and the possible energy savings and benefits of renewable-based upgrades of their heating systems, including the possibility of producing and consuming their own renewable energy for heating and cooling;

87. Takes the view that the Member States must make sure — through, inter alia, information campaigns, one-stop shops, collective purchasing schemes (helping consumers club together to make purchases at reduced prices) and the clustering of individual projects (bringing several small projects into one larger cluster to enable them to find investments at better rates) — that consumers are fully aware of, and have access to, the technological and economic benefits of more sustainable heating and cooling systems, and energy efficiency improvements, so as to enable them to make the best possible choices according to their individual circumstances, and to benefit from the economic, health and quality of life improvements available; notes that households in remote and isolated locations may require particular attention and unique solutions; highlights the potential of 'prosumers' in establishing energy systems providing renewable heating and cooling; emphasises the importance of ongoing education, training, certification and supervision of installers and architects, given that they are the first point of contact for household consumers;

88. Considers the continuing training of experts assessing the thermal condition of buildings, and the efficiency of the way in which they are heated (cooled), to be essential; believes that optimally located service groups that are accessible to end users are becoming a necessity;

89. Emphasises the importance of giving consumers the freedom to choose from a variety of high-efficiency and renewable heating technologies that best meets their personal heating needs;

90. Underlines that it is therefore necessary to enable consumers, through information and incentives, to accelerate the modernisation of their old and inefficient heating systems in order to deliver high energy-efficiency gains, which are already attainable through the use of existing technologies, including renewable heating systems; points out the lack of awareness among consumers about the often low performance of their installed heating systems; calls on the Commission to bring forward proposals to help raise awareness about, and increase the modernisation rate of, existing heating and cooling systems as part of the forthcoming revision of the Energy Performance of Buildings Directive; and consider introducing an energy labelling system for installed heating systems;



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91. Emphasises the active role that consumers can play in the path to a sustainable European heating and cooling system; takes the view that an efficient outcome of the new regulation on 'energy labelling', whereby the scales of the new labels are forward-looking, allowing the differences in terms of energy efficiency of different products to be highlighted, can make it easier for consumers to address their choices in terms of energy savings, and to reduce their bills;
  92. Urges the Commission and the Member States to come up with specific strategies to tackle the ever-growing problem of energy poverty in order to help all consumers, especially the most vulnerable, to ameliorate their housing, heating and cooling conditions, on an individual or collective basis, whether they are home owners or tenants;
  93. Stresses the need to achieve a high level of energy independence through the priority use of local resources;
  94. Calls for waste heat from existing industrial concerns to be used for domestic heating;
  95. Takes the view that the key to combating energy poverty is to cut overall heating costs for individual households by ensuring that there is a significant increase in energy efficiency at the three main stages of energy use: during conversion from primary energy to useful energy, during further transport of that energy and, in particular, during use by the end user; calls on the Member States to make energy-efficiency measures and the switch to renewable heating and cooling a true priority;
  96. Considers it important to ensure that a share of energy efficiency funding is dedicated to improvements for energy-poor households, or for those living in the most deprived areas, by, for example, helping them invest in more energy-efficient heating and cooling equipment;
  97. Believes that under the Energy Efficiency Directive, the Member States should establish state building renovation plans with a view to making buildings energy efficient, not least by offering incentives for the renovation of buildings owned by private individuals, and that such plans should also encompass specific measures for the most vulnerable groups to help combat energy poverty;
  98. Calls on the Commission, when implementing the Energy Efficiency Directive, to develop training for practitioners in the fields of energy efficiency auditing and planning, and to help private individuals, and the most vulnerable groups in particular, to carry out activities of this kind;
  99. Underlines that while a large proportion of European buildings today suffer from the wasting of energy because of their poor insulation quality and their old and inefficient heating systems, energy poverty affects nearly 11 % of the EU population;
  100. Calls on the Commission, the Member States and local authorities, in light of the risk of possible future gas supply crises, to fully integrate the production of biogas from manure processing in the implementation of the circular economy;
  101. Instructs its President to forward this resolution to the Commission.
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P8\_TA(2016)0335

**Enhancing the competitiveness of SMEs****European Parliament resolution of 13 September 2016 on implementation of the thematic objective ‘enhancing the competitiveness of SMEs’ — Article 9(3) of the Common Provisions Regulation (2015/2282(INI))**

(2018/C 204/06)

*The European Parliament,*

- having regard to Common Provisions Regulation (EU) No 1303/2013, Article 9(3) on the thematic objective of enhancing the competitiveness of SMEs,
- having regard to Common Provisions Regulation (EU) No 1303/2013, Article 37 on financial instruments supported by ESI Funds,
- having regard to its position of 15 April 2014 on the proposal for a decision of the European Parliament and of the Council on the participation of the Union in a Research and Development Programme jointly undertaken by several Member States aimed at supporting research performing small and medium-sized enterprises <sup>(1)</sup>,
- having regard to its resolution of 5 February 2013 on improving access to finance for SMEs <sup>(2)</sup>,
- having regard to Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions,
- having regard to its resolution of 19 May 2015 on green growth opportunities for SMEs <sup>(3)</sup>,
- having regard to the COSME programme for small and medium-sized enterprises,
- having regard to the Eurobarometer survey on SMEs, resource efficiency and green markets (Flash Eurobarometer 381), and the Eurobarometer survey on the role of public support in the commercialisation of innovations (Flash Barometer 394),
- having regard to its resolution of 4 December 2008 on steps towards improving the environment for SMEs in Europe — Small Business Act <sup>(4)</sup>,
- having regard to the Commission Communication of 25 June 2008 entitled “Think Small First” — A ‘Small Business Act’ for Europe’ (COM(2008)0394),
- having regard to the European Charter for Small Enterprises, adopted by the European Council at its meeting in Feira on 19 and 20 June 2000,
- having regard to its resolution of 16 February 2011 on practical aspects regarding the revision of EU instruments to support SME finance in the next programming period <sup>(5)</sup>,

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<sup>(1)</sup> Texts adopted, P7\_TA(2014)0364.

<sup>(2)</sup> OJ C 24, 22.1.2016, p. 2.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0198.

<sup>(4)</sup> OJ C 21 E, 28.1.2010, p. 1.

<sup>(5)</sup> OJ C 188 E, 28.6.2012, p. 7.

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- having regard to its resolution of 23 October 2012 on Small and Medium Size Enterprises (SMEs): competitiveness and business opportunities <sup>(1)</sup>,
- having regard to its resolution of 14 January 2014 on smart specialisation: networking excellence for a sound Cohesion Policy <sup>(2)</sup>,
- having regard to its resolution of 9 September 2015 on 'Investment for jobs and growth: promoting economic, social and territorial cohesion in the Union' <sup>(3)</sup>,
- having regard to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small, and medium-sized enterprises (SMEs) <sup>(4)</sup>,
- having regard to the Commission Communication of 10 June 2014 entitled 'Research and innovation as sources of renewed growth' (COM(2014)0339),
- having regard to the Commission's sixth report on economic, social and territorial cohesion of 23 July 2014, entitled 'Investment for jobs and growth',
- having regard to the Commission Communication of 26 November 2014 entitled 'An Investment Plan for Europe' (COM(2014)0903),
- having regard to the Commission Communication of 14 October 2011 entitled 'Industrial Policy: Reinforcing Competitiveness' (COM(2011)0642),
- having regard to the Commission Communication of 9 November 2011 entitled 'Small Business, Big World — a new partnership to help SMEs seize global opportunities' (COM(2011)0702),
- having regard to the Commission Report of 23 November 2011 entitled 'Minimising regulatory burden for SMEs — Adapting EU regulation to the needs of micro-enterprises' (COM(2011)0803),
- having regard to the Commission Communication of 23 February 2011 entitled 'Review of the "Small Business Act" for Europe' (COM(2011)0078),
- having regard to the Commission Communication of 6 October 2010 entitled 'Regional Policy contributing to smart growth in Europe 2020' (COM(2010)0553),
- having regard to the Commission Communication of 3 March 2010 entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth' (COM(2010)2020),
- having regard to the Commission Communication of 14 December 2015 entitled 'Investing in jobs and growth — maximising the contribution of European Structural and Investment Funds' (COM(2015)0639),
- having regard to the Opinion of the Committee of the Regions of 30 May 2013 entitled 'Closing the Innovation Divide' <sup>(5)</sup>,
- having regard to the Opinion of the Committee of the Regions of 7 October 2014 entitled 'Measures to support the creation of high-tech start-up ecosystems' <sup>(6)</sup>,
- having regard to Rule 52 of its Rules of Procedure,
- having regard to the report of the Committee on Regional Development (A8-0162/2016),

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<sup>(1)</sup> OJ C 68 E, 7.3.2014, p. 40.

<sup>(2)</sup> Texts adopted, P7\_TA(2014)0002.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0308.

<sup>(4)</sup> OJ L 124, 20.5.2003, p. 36.

<sup>(5)</sup> OJ C 218, 30.7.2013, p. 12.

<sup>(6)</sup> OJ C 415, 20.11.2014, p. 5.

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- A. whereas cohesion policy represents the main tool for investment in growth and jobs in the EU, with a budget of over EUR 350 billion until 2020; whereas the tangible results of cohesion policy investment can help shape the current and future growth of regions within Member States;
- B. whereas, as a consequence of the economic and financial crisis, levels of poverty and social exclusion have increased in many Member States, as have long-term unemployment, youth unemployment and social inequalities, and SMEs can therefore play a relevant and important role in Europe's recovery;
- C. whereas the 23 million small and medium-sized enterprises (SMEs) in the EU, which account for around 99 % of all businesses, make a fundamental contribution to economic growth, social cohesion, innovation and high-quality job creation, providing over 100 million jobs which generate 2 out of every 3 private sector jobs, and maintaining double the employment growth rate of larger enterprises; whereas only 13 % of European SMEs are engaged in commercial activities and investments in the global markets;
- D. whereas European SMEs are very diverse and include a vast number of microenterprises based at local level, which often operate in traditional sectors, and a growing number of new start-ups and fast-growing innovative enterprises, as well as social economy enterprises focused on specific targets and groups; whereas these business models have different problems and, therefore, different needs; whereas the simplification of European, national and regional legislation is pivotal in facilitating access to credit for SMEs;
- E. whereas SMEs are highly adaptable to change and well able to keep step with technological progress;
- F. whereas microcredit, which mostly targets microentrepreneurs and disadvantaged people who wish to enter into self-employment, is pivotal in overcoming obstacles in accessing traditional banking services and whereas JASMINE (Joint Action to Support Microfinance Institutions) and the Microfinance and Social Entrepreneurship axis of EaSI can provide valid support for improving access to finance, including for social enterprises;
- G. whereas Cohesion Policy in the 2007-2013 programming period provided EUR 70 billion of support to SMEs, creating more than 263 000 SME jobs, and helped SMEs modernise through increased use of ICT, access skills, innovation or the modernisation of working practices;
- H. whereas Cohesion Policy in the 2014-2020 programming period will further support SMEs by doubling the 2007-2013 support to EUR 140 billion;
- I. whereas the thematic objective entitled 'enhancing the competitiveness of SMEs' (TO 3) is one of the thematic objectives with the highest percentage of overall funding (13,9 %) and is of primary importance in order to achieve the objectives of cohesion policy and the Europe 2020 strategy;
- J. whereas the SMEs which would be eligible for ESI Funds, in that they operate in a competitive environment and have to deal with a wide range of constraints, including cash-flow constraints, are being hit particularly hard by the complexity and instability of the rules and by the red tape involved, in particular the fact that the administrative costs are out of all proportion to the funding allocated, the time taken to process funding applications and the need to advance funds;
- K. whereas the introduction of thematic concentration into cohesion policy programming for 2014-2020 provided an effective tool for the design of operational programmes with a better focus on investment priorities in order to have sufficient resources to make real impacts;

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- L. whereas the partnership agreements and operational programmes provided for in Articles 14, 16 and 29 of the Common Provisions Regulation are strategic tools to guide investments in Member States and regions;
- M. whereas SMEs will ensure that industrial production represents a share of at least 20 % of Member States' GDP by 2020;
- N. whereas only a small percentage of European SMEs are currently able to identify and exploit the opportunities offered by international trade, trade agreements and the global value chains, and only 13 % of European SMEs have been active at international level outside the EU over the past three years;
- O. whereas the process of internationalisation of SMEs should rely on corporate social responsibility, on respect for human and workers' rights and on the highest possible protection of the environment, in order to ensure fair competition and an increase in quality jobs;
1. Notes that, through thematic concentration, operational programmes have been better targeted towards a limited number of strategic goals, in particular in terms of growth enhancement and high-quality job creation potential for SMEs, including microenterprises; considers that SMEs are the driving forces behind the European economy and are key to the success of Cohesion Policy, but that they often face multiple challenges owing to their size; recommends, therefore, further enhancing the support from ESI Funds directed towards SMEs;
2. Calls on the Commission and the Member States to take into account the added value of SME projects for the development and innovation of traditional sectors, as this will not only stimulate job creation, but also maintain local and regional business specificities, whilst respecting the principles of sustainability; highlights the need to also take into account the context of such sectors and to not disrupt the delicate balance between traditional knowledge-based production techniques and innovation; points out that SMEs play an important role in the services sector, which is undergoing a significant change as a result of digitalisation, and considers, therefore, that the skills gap with regard to ICT skills should be dealt with by placing more emphasis on relevant training and education;
3. Highlights that there is an overall need for mechanisms that help to simplify the business environment and speed up the process of setting up new businesses with REFIT to support SME competitiveness and absorption of ESI Funds; stresses also the need for fulfilment of ex ante conditionalities;
4. Asks the Commission to take into consideration the principles of the circular economy package in the implementation of TO 3, in order to foster more sustainable economic growth and generate new high-quality jobs for SMEs, with special attention being paid to promoting green jobs; believes, in this respect, that it is important to continue efforts to promote the green competitiveness of SMEs by improving access to finance, providing more information, simplifying legislation, cutting red tape, promoting e-cohesion and strengthening a green business culture; points out, moreover, that a greener value chain, which involves remanufacturing, repair, maintenance, recycling and eco-design, could provide considerable business opportunities for many SMEs, provided that economic behaviour changes and that legislative, institutional and technical barriers are removed or reduced;
5. Points out that the problems being experienced by SMEs are partly caused by the fact that the austerity policies implemented by Member States have stifled demand;
6. Encourages the Member States and regional authorities to consider the use of the financial instrument opportunities; emphasises the need to ensure the transparency, accountability and scrutiny of such financial instruments and of the SME Initiative Programme aimed at financially supporting SMEs; highlights that financial instruments should always be used consistently with the goals of cohesion policy, and that proper technical and administrative support should be provided;

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7. Calls for simplified and less regulated access to credit, taking into account the particular characteristics of microenterprises and start-ups and the regions in which they operate; regrets that investors and banks are often reluctant to finance businesses in their start-up and early expansion phases and that many SMEs, especially small start-ups, have found it hard to gain access to external funding; asks the Commission, the Member States and regional authorities, therefore, to pay particular attention to improving access to finance for microenterprises and start-ups that want to scale-up; points out the need to equalise interest rates for financing of SMEs with interest rates for larger companies;

8. Considers that European small businesses tend to lean on financing sources such as banks, and are not fully aware of the existence of additional funding sources, or of their financial options; notes that the Commission, taking into account the fragmentation of the markets, has proposed a series of initiatives, such as the Capital Markets Union, aimed at diversifying the financing sources, facilitating free movement of capital and improving access to finance, in particular with regard to SMEs;

9. Notes the lack of evidence on the outcomes and results achieved by financial instruments and the loose link between those financial instruments and the overarching objectives and priorities of the EU; calls on the Commission to further improve the provision of grants instead of primarily promoting the use of financial instruments;

10. Notes that in the 2007-2013 programming period several obstacles, such as the effects of the economic crisis, the complex management of structural funds and administrative burdens, as well as limited access to financing for SMEs and complexity of implementation of support schemes, led to an insufficient absorption of such funds by SMEs; warns that the underlying reasons for the low absorption rate need to be addressed in order to avoid any recurrence of the same problems in the 2014-2020 programming period, and that excessive bureaucracy prevented some SMEs from applying for the available funds; regrets the too general and incomplete nature of the existing studies on the efficiency and real impact of the ESI Funds on SMEs and asks the Commission to rapidly prepare an assessment of this issue, in cooperation with the Member States, and submit it to Parliament; stresses that poor administrative capacity may hinder the successful and timely implementation of TO 3;

11. Takes note that the Commission is paying increased attention to good governance and high-quality public services; recalls the importance for SMEs to have a transparent, consistent and innovative public procurement set-up; urges, therefore, that obstacles faced by SMEs in bidding for contracts be removed as far as possible, eliminating unnecessary administrative burdens, avoiding the creation of additional requirements at national level and implementing the existing legislative framework provisions with a view to resolving public purchasing disputes as rapidly as possible; welcomes Directive 2014/24/EU and the European Single Procurement Document (ESPD), which should considerably reduce the administrative burden for companies, in particular SMEs; stresses the need to continue with the strict application of anti-error and anti-fraud measures without adding to the administrative burden, and to simplify administrative procedures in order to prevent errors; calls on contracting authorities wishing to group contracts together to take care not to exclude SMEs from the process by the sheer scale of the final lot, since larger contracts could involve more cumbersome criteria;

12. Reiterates its calls to enhance transparency and the participation of all relevant regional and local authorities, civil society stakeholders, entrepreneurs and other interested parties, especially in the process of defining the requirements in calls for project proposals in order to better target final beneficiaries' needs; underlines, therefore, the need for actual implementation and respect of the partnership principle also at the drafting, preparation and implementation stages of partnership agreements and operational programmes, as detailed in the Common Provisions Regulation and the Code of Conduct on Partnership; notes with concern that many SME organisations in the Member States are not really involved and are often only informed without being adequately consulted; encourages organisations representing future-oriented, sustainable and eco-innovative sectors of the economy to get involved in the partnership and calls on the Commission and the Member States to empower them by making use of technical assistance and capacity building;



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13. Calls on the Commission and the Member States to ensure enhanced coordination and consistency among all EU investment policies targeted at SMEs; notes that enhancing the synergy between ESI funding and other policies and financial instruments targeted at SMEs will maximise the impact of investments; welcomes the plan to ease access to ESI Funds through the introduction of a 'seal of excellence' for projects which have been evaluated as 'excellent' but are not financed by Horizon 2020; urges the Member States, in partnership with relevant social and economic stakeholders, to create either a one-stop shop at regional level, thus promoting the already existing ones, or a consolidated platform for the various EU financing instruments aimed at SMEs, as well for administrative support for preparation and implementation of projects;

14. Highlights the role that Integrated Territorial Investments (ITI), Community-Led Local Development (CLLD), macro-regional strategies and European territorial cooperation in general could play in the successful implementation of TO 3 objectives, given that some projects may involve cross-border areas, including several regions and countries, and are able to develop place-based innovative practices;

15. Notes that according to the first evaluation released by the Commission the amounts allocated to support for SMEs have increased substantially as compared with the previous programming periods; highlights that the ESI Funds, and notably operational programmes aimed at supporting research and development, could help SMEs increase their capacity to submit patent applications to the European Patent Office by providing viable and user-friendly financing schemes;

16. Regrets the delays in implementing cohesion policy during the current programming period; points out the urgent nature of access to finance by SMEs and that, although all operational programmes have now been approved, implementation itself is still at a very early stage; notes that delays create gaps in the implementation of cohesion policy and urges the Commission to develop measures for accelerated elimination of such delays;

17. Urges the Commission to monitor and encourage the acceleration of implementation of cohesion policy, in particular the setting up of projects with sustainable growth and quality job creation potential, also focusing on projects launched in rural areas in order to create new services and avoid rural depopulation; calls on the Commission, in determining eligibility criteria, to consider the added value in economic and social terms and the environmental impact of projects;

18. Emphasises Parliament's role in the supervision of results-oriented implementation of cohesion policy; calls on the Commission to identify and reduce, at the earliest possible stage, obstacles preventing the efficient use of funds for SMEs and start-ups, to identify potential synergies among ESI Funds and between ESI Funds and other SME-relevant funds, and to provide specific recommendations for action and guidance aimed at further simplifying, monitoring and assessing the use of such financial instruments; notes that there are increased difficulties in this sector, especially in outermost regions and in those areas where the poor quality of key infrastructure leads to low amounts of private investment;

19. Stresses the need for structured dialogue between the European Investment Bank and the European Investment Fund in order to improve and facilitate the access of SMEs to diversified funding sources;

20. Highlights that the main obstacles preventing SMEs from broadly accessing ESI Funds include administrative burden, a large number of aid schemes, complexity of rules and procedures, delays in introducing executive acts and the risk of gold-plating; asks the High Level Group on Simplification, therefore, to deliver concrete proposals, also bearing in mind the Better Regulation Strategy, to reduce the administrative burden and simplify procedures in the management of ESI Funds by SMEs, with special emphasis on the requirements relating to the audit, management flexibility, risk and interim assessment, control system and coherence with competition rules and other EU policies; requests that such simplification measures respect the Small Business Act (SBA) rules of 'Only once' and 'Think small first', and be conceived and implemented at different levels in cooperation with representatives of different categories of SMEs; calls on the High Level Group (HLG) to communicate the results of its activities to Parliament's Committee on Regional Development on an ongoing basis and calls on the Commission to consult the representatives of the Member States on the issues being dealt with by the HLG;



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21. Calls on the Commission to establish conditions for State aid at national and regional level which will not discriminate against SMEs and which should be in line with Cohesion Policy support for enterprises, and to make full use of aid schemes based on the general block exemption regulation, so as to reduce the administrative burden for administrations and beneficiaries and increase the take-up of ESI Funds, while clarifying the link between the rules on ESI Funds for SMEs and the rules on State aid;

22. Asks the Commission to encourage the Member States to exchange data, knowledge and best practices in this respect, ensuring appropriate reporting and motivating them to support projects with high job creation potential;

23. Calls on the Commission and the Member States to urgently find a lasting solution to the backlog of payments related to regional policy and to properly apply the Late Payment Directive (2011/7/EU), so as to ensure that SMEs, as project partners, will not be deterred from taking part in support programmes and projects during the current programming period on account of payment delays; also points out that more thorough compliance with this directive, requiring, *inter alia*, that public authorities make payments within 30 days for the goods and services that they procure, would contribute to creating the conditions for stabilisation and growth of SMEs;

24. Stresses that smart specialisation strategies, although not formally required as *ex ante* conditionalities in TO 3, are a crucial tool in guaranteeing innovation and the adaptability of thematic objectives, and underlines, at the same time, that these strategies should target not only science and technology-led innovation but also non-science based innovation; asks the Commission to report to Parliament on the results of smart specialisation strategies devoted to SMEs at national and/or regional level; highlights the coherence of smart specialisation strategies adopted by every single region with the related territorial economy, and the challenge of implementing smart specialisation in non-urban areas which may not have sufficient supporting infrastructure; welcomes the *ex ante* conditionality relating to the SBA in TO 3 and calls on the Member States to undertake the necessary action and speed up achievement of the targets set in the SBA; supports the European Entrepreneurial Region (EER) Award, aimed at identifying and rewarding EU regions with outstanding, future-oriented entrepreneurial strategies applying ten principles of the SBA;

25. Asks the managing authorities to take into consideration the characteristics and specific competences of individual territories, with a focus on those suffering from underdevelopment, depopulation and high unemployment rates, in order to promote both traditional and innovative economic sectors; calls on the Commission to draw up specific programmes which embody all relevant sustainable, smart and inclusive growth elements for SMEs; recalls the existence of the gender gap, as also identified in the SBA, and expresses its concern about the ongoing low participation of women in starting up and running a business; calls on the Commission and the Member States to encourage the implementation of specific strategies to support youth and female entrepreneurship in the context of green growth, as a way to reconcile economic and employment growth, social inclusion and professionalism with environmental sustainability;

26. Asks the Commission to establish a participatory platform within existing budgets for the dissemination of SME project results, including examples of good practice also carried out under the ERDF during the 2000-2006 and 2007-2013 programming periods;

27. Notes that the 'smart guide to innovation services' drawn up by the Commission stresses the importance of public support strategies, developed in consultation with social and economic stakeholders at regional level, in providing SMEs with a favourable environment and helping them maintain a competitive position in global value chains;

28. Underlines the challenges and opportunities facing SMEs in adapting and complying with the recent decisions taken at the COP21 conference;

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29. Considers that suitable support and incentives for the action of SMEs can deliver innovative opportunities for the integration of refugees and migrants;
  30. Emphasises that as SMEs are the main source of employment in the EU, the setting up of enterprises should be facilitated by the promotion of entrepreneurial skills and the introduction of entrepreneurship in school curricula, as identified in the SBA, and that, especially in microcredit schemes, adequate training and business support is crucial and special training is needed to prepare young people for the green economy;
  31. Calls on the Commission, in cooperation with the Member States and managing authorities, to stimulate the creation of an ecosystem composed of universities, research centres, social and economic stakeholders and public institutions to foster entrepreneurial skills, while encouraging managing authorities to engage the available funds intended for technical assistance, including the innovative uses of ICT by SMEs; notes also, in this regard, that the technical assistance provided for in thematic objective 11 must benefit all the partners referred to in Article 5 of the Common Provisions Regulation on partnership; calls, therefore, for access by the territorial SME organisations to the provisions of TO 11 and to capacity building measures to be ensured;
  32. Highlights that only about 25 % of EU-based SMEs carry out export activities in the EU and that internationalisation of SMEs is a process that needs support also at local level; calls, therefore, on the Commission to make greater use of ESI Funds to help SMEs to seize the opportunities offered, and address the challenges posed, by international trade, while supporting them in addressing adjustment costs and the negative impacts of increased international competition;
  33. Calls on the Commission, when preparing cohesion policy for the post-2020 period, to increase funding for the strengthening of the competitiveness of SMEs;
  34. Instructs its President to forward this resolution to the Council and the Commission.
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**EU strategy for the Alpine region****European Parliament resolution of 13 September 2016 on an EU Strategy for the Alpine region (2015/2324(INI))**

(2018/C 204/07)

*The European Parliament,*

- having regard to Articles 192, 265(5) and 174 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Commission communication of 28 July 2015 concerning the European Union Strategy for the Alpine Region (COM(2015)0366) and the accompanying action plan and supporting analytical document (SWD(2015) 0147),
- having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 <sup>(1)</sup> (the Common Provisions Regulation or CPR),
- having regard to Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal <sup>(2)</sup>,
- having regard to Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings <sup>(3)</sup>,
- having regard to the Council conclusions of 19 and 20 December 2013 on the European Union Strategy for the Alpine Region,
- having regard to the opinion of the European Economic and Social Committee of 8 October 2015 on the Commission communication concerning a European Union strategy for the Alpine Region <sup>(4)</sup>,
- having regard to the opinion of the Committee of the Regions of 3 December 2014 on an Alpine macro-regional strategy for the European Union <sup>(5)</sup>,
- having regard to its resolution of 3 July 2012 on the evolution of EU macro-regional strategies: present practice and future prospects, especially in the Mediterranean <sup>(6)</sup>,
- having regard to its resolution of 23 May 2013 on a macro-regional strategy for the Alps <sup>(7)</sup>,

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 259.

<sup>(3)</sup> OJ L 347, 20.12.2013, p. 303.

<sup>(4)</sup> OJ C 32, 28.1.2016, p. 12.

<sup>(5)</sup> OJ C 19, 21.1.2015, p. 32.

<sup>(6)</sup> OJ C 349 E, 29.11.2013, p. 1.

<sup>(7)</sup> OJ C 55, 12.2.2016, p. 117.

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- having regard to the report of 20 May 2014 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the governance of macro-regional strategies (COM(2014)0284),
- having regard to the Commission communication of 26 January 2011 entitled 'Regional policy contributing to sustainable growth in Europe 2020' (COM(2011)0017),
- having regard to Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment,
- having regard to Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
- having regard to Council Decision 2005/370/EC of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention),
- having regard to the launch conference on the European Union Strategy for the Alpine Region held in Brdo (Slovenia) on 25 and 26 January 2016,
- having regard to the stakeholder conference on the European Union Strategy for the Alpine Region, held in Innsbruck on 17 September 2014,
- having regard to the stakeholder conference on the European Union Strategy for the Alpine Region, held in Milan on 1 and 2 December 2014,
- having regard to Council decision 96/191/EC of 26 February 1996 concerning the conclusion of the Convention on the Protection of the Alps (Alpine Convention),
- having regard to the Commission's summary report on the public consultation on the European Union Strategy for the Alpine Region,
- having regard to the expression of stakeholder views contained in the 'Political Resolution towards a European Strategy for the Alpine Region' adopted in Grenoble on 18 October 2013,
- having regard to the study entitled 'New Role of Macro-Regions in European Territorial Cooperation', published in January 2015 by the European Parliament's Directorate-General for Internal Policies (Department B: Structural and Cohesion Policies),
- having regard to the Commission white paper of 1 April 2009 entitled 'Adapting to climate change: Towards a European framework for action' (COM(2009)0147),
- having regard to the Commission's Innovation Union Scoreboard for 2015,
- having regard to the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'Green Infrastructure (GI) — Enhancing Europe's Natural Capital' (COM(2013)0249),
- having regard to the Commission guidance document of 2014 entitled 'Enabling synergies between European Structural and Investment Funds, Horizon 2020 and other research, innovation, and competitiveness-related Union programmes',
- having regard to the Commission communication of 26 November 2014 to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank entitled 'An Investment Plan for Europe' (COM(2014)0903),
- having regard to Rule 52 of its Rules of Procedure,

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- having regard to the report of the Committee on Regional Development and the opinions of the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Transport and Tourism and the Committee on Agriculture and Rural Development (A8-0226/2016),
- A. whereas in order to promote an overall harmonious development, economic, social and territorial cohesion across the EU needs to be strengthened;
- B. whereas macro-regional strategies are the current fundamental tool for contributing to the objective of economic, social and territorial cohesion; whereas these strategies are supported under the principle of the 'three no's', i.e. no new legislation, no new funding and no new institutions;
- C. whereas the macro-regional strategy for the Alps could help to reverse the economic decline through investment in research, innovation and business support, taking into account the region's unique characteristics and assets;
- D. whereas the objective of macro-regional strategies should be to better achieve common goals of different regions by a voluntary and coordinated approach without entailing the creation of additional regulation;
- E. whereas climate change is happening at a faster rate in the Alpine region than the global average and is leading increasingly to natural disasters such as avalanches and floods;
- F. whereas the macro-regional strategy seeks to identify resources and exploit the regions' shared development potential;
- G. whereas macro-regional strategies represent a model of multi-level governance in which the involvement of stakeholders representing local, regional and national levels is essential for the success of the strategies; whereas mutual cooperation between different macro-regions should be encouraged in order to improve their policy coherence in line with European goals;
- H. whereas macro-regional strategies can contribute to the development of cross-border strategies and international projects for the creation of cooperation networks benefiting the region as a whole;
- I. whereas the regional identities and the cultural heritage, notably the popular cultures and the customs, of the Alpine region deserve special protection;
- J. whereas the strong bottom-up approach adopted by the regions of the Alpine area has led to the development of the European Union Strategy for the Alpine Region (EUSALP), aimed at effectively addressing challenges that are common to the entire Alpine region;
- K. whereas the Alpine region plays an important role for the economic development of Member States and provides numerous ecosystem services for the urban and peri-urban areas adjoining it;
- L. whereas the macro-strategy for the Alpine region will affect 80 million people living in 48 regions in seven countries, of which five are EU Member States (Austria, France, Germany, Italy and Slovenia) and two are non-EU countries (Liechtenstein and Switzerland);
- M. whereas the EU Strategy for the Alpine region must reconcile environmental sustainability and economic development, in a natural environment area which is also a major tourist destination;
- N. whereas depopulation is the main problem of some Alpine areas and most inhabitants of the Alpine region cannot survive solely on Alpine tourism, and therefore need to further develop agriculture, forestry and other environment-friendly industries and services;

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- O. whereas considerable differences exist between regions included in the strategy, and therefore coordination of policies and sectors is required between different regions (horizontally) as well as within individual regions (vertically);
- P. whereas the Alpine region possesses unique geographical and natural features, and constitutes an interconnected macro-region and transit region which has substantial potential for development; whereas, however, specific responses are needed to challenges arising from environmental, demographic, transport, tourism and energy-related issues, seasonality and multi-activity, and coordinated territorial planning could produce better results and added value for territorial cohesion in Alpine and peri-Alpine areas;
- Q. whereas the Alpine region is Europe's 'water tower' and the Alps supply enough water to provide up to 90 % of the needs of the foothill areas in summer; whereas water is important for hydroelectricity, the irrigation of agricultural land, the sustainable management of forests, preserving biodiversity and the landscape and providing drinking water; whereas it is essential to preserve the quality of waters and the low water levels of rivers in the Alps and to find a fair balance between the interests of local populations and the needs of the environment;
- R. whereas the Alpine region is criss-crossed by borders, and tackling these barriers is a prerequisite for cooperation in this area, for the free movement of people, services, goods and capital and thus for economic, social and environmental interaction; whereas the Alpine strategy also provides an opportunity to strengthen cross-border cooperation, create links and networks connecting people and economic activities, and thus dismantle the borders and the barriers they create;
- S. whereas in its communication on the EU Strategy for the Alpine Region the Commission points both to the need to reduce the impact of transport across the Alps, so as to preserve the Alpine environmental heritage, and to the importance of implementing a strategy to deliver a healthier and better preserved living environment for local people;
- T. whereas the free movement of people is a fundamental right and a prerequisite — particularly in border areas — for achieving the goals of economic, social, territorial and environmental cohesion, strong and sustainable competitiveness and equitable access to employment;
- U. whereas the EUSALP territory comprises the mountain areas at its heart and the peri-Alpine areas, including metropolitan areas, which are linked together by close interactions and functional relationships, all of which influence economic, social and environmental development;
- V. whereas this region with preserved ecosystems and its services can provide a basis for many economic activities, with the emphasis on farming, forestry, tourism and energy, taking into account the cultural and natural heritage of the region;
- W. whereas the European Union Strategy for the Alpine Region, as the first macro-regional strategy relating to a mountain area, can be a model and an inspiration for other mountain areas in the EU;
- X. whereas earlier EU macro-regional strategies have proved the success of a cooperation arrangement of this type and have provided useful experience for drawing up new macro-regional strategies;

### ***General considerations and governance***

1. Welcomes the communication from the Commission concerning the European Union Strategy for the Alpine Region and the accompanying Action Plan; believes this is a step forward for the development of the region in line with the Europe 2020 objective of smart, sustainable and inclusive growth; notes that the Strategy and the Action Plan can play a significant role in efforts to counter the depopulation of the region, especially the outflow of young people;

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2. Highlights the valuable experience gained in the implementation of the Alpine Convention, which balances out economic, social and environmental interests; calls on the participating countries to respect the agreements reached and to maintain a high level of commitment for the sustainable development and protection of the Alps;
3. Welcomes the fact that the European Structural and Investment Funds (ESIFs) offer potentially significant resources and a wide range of tools and options for the Strategy; calls for greater synergies to promote coordination and complementarities between the ESIF and other funds and instruments relevant to the Strategy pillars, notably Horizon 2020, the Connecting Europe Facility, the LIFE programme, the COSME programme for SMEs, the Interreg Alpine Space Programme and the European Fund for Strategic Investments (EFSI), for which the Commission should investigate the possible added value of specific calls focused on the particular challenges of the Alpine region;
4. Calls on the Commission and on the national, regional and local bodies which are responsible for the preparation, management and implementation of ESIF programmes to stress the importance of macro-regional projects and actions; expects an increased coactivity through the coordination of those EU policies, programmes and strategies that play a role in the Alps, and invites the Commission to scrutinise the practical application of the programmes in question in order to avoid overlap and maximise complementarity and added value; calls on the Commission, in addition, to ensure ease of access to the relevant documents, both for European citizens and Member States' institutions, with a view to providing full transparency concerning the procedure to be followed;
5. Reiterates the importance of the 'three No's' principle, given that macro-regions are frameworks that build on the added value of cooperation initiatives and synergies between different EU funding instruments;
6. Calls on the Member States' competent authorities and the participating regions to align their national and regional policies and funding arrangements, wherever possible, to the EUSALP actions and objectives, and to adapt their adopted operational programmes in order to ensure that future projects under the EUSALP strategy are promptly implemented and that managing authorities take due account of EUSALP priorities when implementing the operational programmes (e.g. by way of dedicated calls, bonus points or budget earmarking); calls for the enhancing of the macro-regional approach, ahead of the post-2020 reform of cohesion policy, and underlines the importance of integrated macro-regional projects and measures;
7. Calls on the EIB, in cooperation with the Commission, to examine the possibility of setting up an investment platform for the Alpine region that would enable mobilisation of funding from public and private sources; calls for the creation of a project pipeline for the region which would attract investors; in this context, encourages the Commission, the EIB and the participating countries to fully exploit the possibilities available under the EFSI so as to finance projects in the region with a view to bringing about sustainable development and economic growth and stimulating employment at macro-regional level;
8. Stresses the need for appropriate information campaigns regarding the EU strategy for Alpine region, and encourages the Member States to ensure that the strategy has a sufficiently high profile and that its aims and outcomes are adequately communicated at all levels, including cross-border and international levels; calls for the promotion of coordination and exchanges of best practices in the implementation of EU macro-regional strategies, especially in the field of managing natural and cultural heritage with the intention of creating sustainable tourist opportunities;
9. Calls for the setting-up at macro-regional level of a supporting implementation structure for the governing bodies of EUSALP, in cooperation and agreement with the Commission, Member States and regions; furthermore welcomes Parliament's representation on its governing bodies, and believes that Parliament should be involved in the monitoring of the strategy's implementation;



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10. Calls for an active role for the Commission in the implementation phase of EUSALP; believes that it should be involved alongside the Member States and regions, on a shared management basis and in accordance with the principles of subsidiarity and proportionality, at all stages in the planning and implementation of projects coming under the strategy, not least in order to ensure the effective participation of local and regional stakeholders from public authorities, economic and social partners and organisations representing civil society concerning the macro-region and proper coordination with other EU-supported strategies and funding arrangements;

11. Calls for the implementation of EUSALP to be evaluated by the Commission, with objective criteria and measurable indicators;

12. Supports strategic planning among both urban and rural areas of the Alpine region, with a view to promoting networking and common targets in a coherent, coordinated and integrated policy framework (e.g. with reference to renewable energies, welfare, logistics, and business and social innovation); encourages the pooling of best practice on, e.g., sustainable tourism among regions, as well as with other existing macro-regional strategies;

13. Insists that for the decision-making procedures local and regional authorities, in partnership with local and regional civil society, should have a leading role in the managing bodies and in the operational, technical and implementing bodies of the Strategy, in full respect of the principles of subsidiarity and multi-level governance;

14. Considers that investment should be channelled towards equal and effective access to healthcare and to first aid units and emergency assistance for the whole population of the region, especially in rural areas, so as to prevent depopulation;

15. Calls on the Commission to submit, every two years, a report on the implementation of EUSALP to the Parliament and the Council, based on objective criteria and measurable indicators, in order to assess its functioning and its added value in terms of growth and jobs, reduction of disparities and sustainable development;

16. Calls on the participating countries to continue their efforts to diversify energy supply sources, taking account of the environment; underlines the need for sustainability, competitiveness and modernisation in respect of the existing hydropower infrastructure, which was developed at a very early stage, while taking into account the impact that hydropower infrastructures can have on the environment and on geology, as well as promoting small (mini, micro and pico) ones; stresses that the integrated management and protection of water resources is one of the keys to sustainable development of the Alps and that, therefore, the local population should be able to commit to hydropower and use the added value it generates; calls on the participating countries to contribute to well-functioning networks in the macro-region, in order to ensure security of supply and set up structures for the exchange of best practices on cross-border cooperation;

17. Stresses the need to strengthen further the social dimension, in order to ensure the pursuit of a growth model that can secure sustainable growth, social inclusion and social protection for all, in particular in border areas; in this context, underlines the importance of setting priorities and taking measures against any form of discrimination;

18. Recalls the principle of universal access to public services, to be guaranteed in all territories of the EU, in particular in the areas of education, healthcare, social services and mobility and paying particular attention to the needs of people with disabilities; stresses the need for the participating countries to encourage alternative and innovative solutions for the Alpine region in the provision of public services, including tailor-made solutions adapted to local and regional needs; in this context, calls on the participating countries to elaborate incentives for the development of public-private partnerships; recalls, however, the principles of affordability and accessibility of quality public services for all;

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19. Is concerned at the degradation of ecosystems and the risk of natural disasters in certain parts of the Alpine region; stresses the need to apply full natural disaster risk management and climate change adaptation strategies; underlines the need to develop and implement common contingency plans in response to cross-border pollution; calls for the establishment of joint rapid response teams for tourist areas affected by natural disasters such as mudslides, landslides and flooding; in this context, points to the need to better promote the EU Civil Protection Mechanism;

### ***Jobs, economic growth and innovation***

20. Acknowledges that the Alpine regions have an environmental heritage which needs to be preserved, with their vast reserve of natural landscapes, as well as having an extraordinary variety of ecosystems, ranging from upland to lowland and even to the Mediterranean coasts, thus enabling an economic area and biosphere based on coexistence between nature and humans; highlights, therefore, the need for active synergistic cooperation between farming and other economic activities in protected areas (Natura 2000 sites, national parks, etc.), in order to develop integrated tourism products, as well as the importance of preserving and protecting the unique habitats of mountain regions;

21. Highlights the opportunities opened up by the strategy for the development of its labour market, which has/sees different important levels of cross-border commuting; considers that increasing the qualifications of the workforce and creating new jobs in the green economy should be part of the investment priorities of the Alpine strategy; underlines however that SMEs — very often family businesses, such as small farmholdings and small processing enterprises — in agriculture, tourism, commerce, crafts and manufacturing form the core of economic activity in an integrated and sustainable way in the Alpine region, and thus constitute the backbone of the living, cultural and natural environment in the Alps and an important source of employment; underlines the need for further diversification of economic activities and employment opportunities in the Alpine region;

22. Highlights the need to prioritise investment in digital infrastructures and the importance of ensuring quick and efficient access to high-speed internet, and, thereby, to digital and online services, such as e-commerce and the use of digital market channels and teleworking, as well as other opportunities for people living in areas remote from large urban centres, while promoting where possible alternatives to physical travel;

23. Considers that innovation and the use of new technologies in key areas of the economy, driven by smart specialisation strategies and financed by existing EU funding sources (e.g. the ERDF, the ESF, COSME, Horizon 2020 or Erasmus +), could help generate quality jobs in strategic sectors, such as life sciences, the bioeconomy, energy, organic products, new materials or e-services; recalls the importance of ensuring strong backing for SMEs, which could help reverse the current depopulation trend observed in certain areas and territories of the Alpine region;

24. Calls on the competent authorities of the Alpine Member States and regions to come together with the Commission to look into the feasibility of carrying out during the next programming period a joint programme (based on Article 185 TFEU) to foster the integration of research and innovation activities in the Alpine area, in the context of cogent European value chains incorporated into smart specialisation strategies;

25. Encourages clustering and cooperation between public and private enterprises, universities, research institutes and other relevant stakeholders with the aim of promoting innovation and making it possible to benefit from synergies between Alpine and peri-Alpine areas; considers that envisaged actions should build on the national and regional Research and Innovation Strategies for Smart Regional Specialisation with a view to securing more efficient and effective investment;

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26. Recognises how important it is to the success of the EUSALP strategy to develop projects for associations, institutions, micro-enterprises and SMEs working in the cultural and creative sectors, because of the influence they have on investment, growth, innovation and employment and also because of the key role they play in preserving and promoting cultural and linguistic diversity;

27. Emphasises that a macro-regional strategy for the Alps should not only provide opportunities to preserve, sustain, and adapt where necessary, forms of traditional economic activity, such as agriculture and forestry and craft-based economic activities, as well as fostering innovation and the development of new initiatives in this field, e.g. through the EU's InnovFin instrument; points to the need for small and medium-sized enterprises to be given easier access to support and financing, bearing in mind their role in creating jobs;

28. Underlines that cooperation between regions, above all cross-border cooperation, is essential for the further development of tourism in the wider region; encourages the formulation of tourism strategies based on existing natural and cultural heritage, sustainability and innovation; stresses the social, cultural and economic dimension of the various Alpine traditions and customs, which should be encouraged and sustained in their diversity;

29. Notes that the management and reintroduction of birds of prey and carnivores in the Alpine regions is carried out at national and local level, while these species do not recognise administrative borders, and that migration is a cross-border phenomenon by nature; however, in order avoid clashes linked to this reintroduction, calls on the Member States to improve coordination between the various authorities while exchange of information, and that best practices need to be enhanced in order to improve the management and protection of farm and grazing animals as part of the Alpine strategy, in relation to the Large Carnivores, Wild Ungulates and Society Platform of the Alpine Convention;

30. Supports diversification of tourism supply via the development of new tourism opportunities adapted to regional needs and exploiting regional resources, such as for example tourist theme parks and routes, food and wine tourism, cultural, health and educational tourism and sporting tourism, in order to prolong the tourist season, while easing pressure on the infrastructure and achieving year-round employment in the tourist cycle, as well as agri-tourism aimed at attracting visitors to rural and wildlife activities in hotels outside the mainstream, and enhance the competitiveness and sustainability of tourist destinations; supports the promotion of new tourist activities that are better adapted to climate change and environmental protection; stresses also the need to support and to enhance the coordination of mountain rescue services;

31. Supports measures to help ease pressure on transport infrastructure by staggering school holidays and related holiday periods, smart road toll design, and the provision of incentives by tourism providers during peak travel times and rush hours;

32. Recalls the economic importance of promoting the development of soft and sustainable touristic activities for the entire Alpine region, including in lake and spa towns; also encourages Member States to make use of cycling in combination with rail travel or intermodal transport services; points, on the basis of best practice, to tourism platforms created as part-EU-funded projects;

33. Notes that the same person is often required to carry out different activities over the course of a year's cycle, sometimes on a cross-border basis; calls on the Commission, the Member States and regional and local authorities to encourage cooperation between bodies providing initial and in-service professional training; stresses the benefits which an Erasmus+ programme devoted to cross-border apprenticeships could bring;

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***Mobility and connectivity***

34. Stresses the importance of improving transport and energy connectivity among the participating countries, including local, regional and cross-border transport and intermodal connections with the hinterland (including large conurbations), also on in order to boost the development of the region, enhance the quality of life of its inhabitants and attract new residents, while at the same time assessing whether existing networks can be renovated and/or expanded with the overall goal of better implementation of the TEN-T networks; stresses the importance of building a 'smart' infrastructure; believes that newly-built infrastructures should become proper 'technological corridors' within which to build all the separate infrastructure, namely electrical power lines, telephone lines, broadband and ultra-wideband lines, gas pipelines, fibre optic networks, water pipes, etc.;

35. Calls for a holistic approach to the future design and implementation of Alpine transport and environment policy; in this context, underlines the need to prioritise modal transfers with a view to achieving a shift from road to rail, in particular for freight, and asks the Commission to support this transition; also in this context, calls for the revenues generated from road transport to be used to boost the implementation and the development of efficient and environment-friendly passenger and freight rail transport and for reducing noise and environmental pollution, and notes potential projects in fields such as traffic management, technological innovation, interoperability, etc.; calls in addition for an extension of the existing infrastructure, including intermodal and interoperable systems of quality, in the Alpine region; stresses the importance of ensuring connectivity and accessibility for all inhabitants of the region;

36. Underlines the importance of connecting transport routes with other parts of Europe and the relevance of interconnections with TEN-T corridors, while making optimum use of existing infrastructure; points out that mountainous terrain is still an obstacle to rapprochement between EU citizens and that the EU has pledged to increase funding for cross-border transport infrastructure; calls, therefore, on the participating countries also to focus their efforts on implementing and planning complementary projects that are sustainable and inclusive, while linking and developing the current TEN-T network;

37. Draws attention to the lack of effective, non-polluting connections within mountain areas and between mountain and peri-mountain areas; urges the Commission and the Member States to facilitate clean, low carbon and better connections, notably for rail networks, at regional and local level in order to enhance cohesion and quality of life in these areas; encourages and promotes settling in the Alpine region;

38. Calls on the countries participating in the macro-regional strategy to take into account the specific conditions of cross-border workers and to develop cross-border worker agreements for the Alpine macro-region;

39. Supports the development of innovative forms of local transport on demand, including smart transport information, traffic management and telematics and multimodality, also considering the potential of the inter-regional sharing of activities in this field;

40. Stresses the lack of effective digital connections within mountain areas; urges the Commission and the Member States to facilitate better connections at regional and local level in order to enhance the quality of life and promote the development of new activities and the creation of job opportunities in these areas, and to encourage resettlement;

41. Stresses the importance of public investment in mountain areas in order to tackle the failure of the market to provide digital connectivity in these areas; emphasises the importance of complete and universal coverage with broadband internet, including in mountain regions, in order to ensure the long-term viability of remote settlements and economic areas; calls on the Commission to propose concrete solutions for this issue;

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*The environment, biodiversity, climate change and energy*

42. Underlines the importance of protecting and enhancing biodiversity in the Alpine region; calls for joint efforts to introduce innovative measures for preserving and maintaining it, while calling for a thorough examination of the role of large predators and the possible introduction of adjustment measures, and also fully complying with the Union acquis on the protection of the environment and biodiversity, soil and water; stresses the importance of ensuring that all possible measures are taken to avoid duplication of already existing legislative initiatives;

43. Points out that the Alpine macro-region offers great opportunities in terms of innovative solutions that could make it into a unique testing laboratory for the circular economy; will table, in the 2017 budgetary procedure, a pilot project to explore the potential of this area for developing specific strategies related to the circular economy, for example in the areas of production, consumption and waste management;

44. Stresses the importance of promoting the self-generation of energy, improving energy efficiency and supporting the development of the most efficient renewable energy sources in the region, from hydro to solar, wind and geothermal, and also of promoting the development of forms of renewable energy specific to the Alps; notes the impact on air quality arising from the use of different types of combustion in the heating sector; supports the sustainable use of forest wood without reducing the existing forest area, which is important for the balance within the mountain ecosystem and for protection against avalanches, landslides and flooding;

45. Underlines the urgent need to develop new strategies to combat air pollution, which is raising public health concerns, as well as climate change, particularly in the more industrialised and populated areas of the macro region, while also identifying existing sources of pollution and closely monitoring pollution emissions; calls, accordingly, on the Member States to introduce sustainable transport policies in line with the Paris COP21 targets, and to support the preservation and maintenance of ecosystem services throughout the entire Alpine macro-region;

46. Stresses the importance of energy transport infrastructure, and supports smart energy distribution, storage and transmission systems, as well as investment in energy infrastructure for both the production and the transport of electricity and gas, in line with the TEN-E network and in implementation of the concrete projects mentioned in the list of Projects of Energy Community Interest (PECIs); stresses the importance of exploiting local, especially renewable, energy sources in order to reduce dependence on imports; calls for the promotion of decentralised/self-generated energy production, and for the improvement of energy efficiency in all sectors;

47. Urges the participating countries to make joint efforts to implement spatial planning and integrated territorial management, involving multiple stakeholders (national, regional and local authorities, the research community, NGOs, etc.) from the region;

48. Calls for the further strengthening of the collaboration and work done in the framework of the World Glacier Monitoring Service, in view of the recent decisions of the COP21 conference in Paris and the strategy to be followed thereafter;

49. Is concerned that climate change and rising temperatures are a serious threat to the survival of species living at high altitudes, and the melting of glaciers is a further cause of concern as it has a major impact on groundwater resources; calls for a wide-ranging transnational plan to combat the melting of glaciers and to respond to climate change throughout the Alps;

50. Calls on the participating countries to continue their efforts to diversify energy supply sources, and to develop the renewable sources available, such as solar and wind energy, within the energy production mix; underlines the sustainability and competitiveness of hydropower plants; calls on the participating countries to contribute to the setting-up of well-functioning electricity infrastructure networks in the macro-region;

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51. Stresses that diversifying energy supply sources will not only improve the energy security of the macro-region, but will also bring more competition, with important benefits for the economic development of the region;

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52. Instructs its President to forward this resolution to the Council, the Commission, and the governments and national and regional parliaments of the EUSALP participating countries (France, Italy, Switzerland, Liechtenstein, Austria, Germany and Slovenia).

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## **EU Trust Fund for Africa: implications for development and humanitarian aid**

**European Parliament resolution of 13 September 2016 on the EU Trust Fund for Africa: the implications for development and humanitarian aid (2015/2341(INI))**

(2018/C 204/08)

*The European Parliament,*

- having regard to Article 41(2) of the Treaty on European Union (TEU),
  - having regard to Article 208 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to the EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displacement of persons in Africa (EU Trust Fund for Africa), established at the Valletta Summit on Migration held on 11 and 12 November 2015,
  - having regard to the Joint Action Plan adopted at the Valletta summit,
  - having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000 <sup>(1)</sup>, to its successive revisions and to Annex IC thereto (Multiannual Financial Framework for the period 2014-2020), corresponding to the 11th European Development Fund (EDF),
  - having regard to the Multiannual Financial Framework for the period 2014-2020, constituting the EU budget, and to budget heading 4 contained therein ('Global Europe'),
  - having regard to the 2030 Agenda for Sustainable Development, adopted at the UN Sustainable Development Summit held in New York in 2015,
  - having regard to the Joint Staff Working Document on 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020' (SWD(2015)0182) and to the Council conclusions of 26 October 2015 in which the corresponding Gender Action Plan 2016-2020 is endorsed,
  - having regard to the Beijing Platform for Action (1995) and the Programme of Action of the International Conference on Population and Development (ICPD) (1994) and to the outcomes of their review conferences,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Development and the opinion of the Committee on Budgets (A8-0221/2016),
- A. whereas the main goal of the EU Trust Fund for Africa (EUTF), signed by the President of the Commission along with 25 EU Member States, as well as Norway and Switzerland, and launched at the Valletta Summit on Migration on 12 November 2015 by the European and African partners, is to help foster stability in the regions and contribute to better migration management; whereas, more specifically, the EUTF aims to address the root causes of destabilisation, forced displacement and irregular migration by promoting resilience, economic opportunities, equal opportunities, security and development;

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<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.



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- B. whereas the European Consensus on Development remains the doctrinal framework for EU development policy, and the European Consensus on Humanitarian Aid reaffirms the fundamental principles of humanitarian aid; whereas peace has been recognised as crucial for development in the new 2030 Agenda for Sustainable Development and Sustainable Development Goal (SDG) 16 on peace and justice that has been introduced; whereas the EU and its partners in the humanitarian field must be able to ensure assistance and protection based on needs and on respect for the principles of neutrality, impartiality, humanity and independence of humanitarian action, as enshrined in international law and in particular in international humanitarian law;
- C. whereas Africa continues to experience very high rates of population growth and only a slow decline in fertility rates, a situation which will lead in the near future to a sharp rise in the young working-age population, bringing great potential social and economic benefits; whereas equipping young people with the education and skills they need to realise their potential and creating employment opportunities are essential to foster stability, sustainable economic growth, social cohesion and development in the region;
- D. whereas the EUTF is intended to be a development tool that pools resources from different donors in order to enable a quick, flexible, complementary, transparent and collective response by the EU to the different dimensions of an emergency situation;
- E. whereas 1,5 billion people live in fragile and conflict-affected regions worldwide and fragile states and ungoverned spaces are spreading, leaving many in poverty, lawlessness, thriving corruption and violence; whereas the EUTF has been conceived in order to assist 23 countries across three African regions (the Horn of Africa; the Sahel and Lake Chad basin; and North Africa) that contain some of the most fragile African countries, are affected by migration as countries of origin, transit or destination if not all three, and will draw the greatest benefit from this form of EU financial assistance; whereas the eligible countries' African neighbours may also benefit, on a case-by-case basis, from EUTF projects having a regional dimension with a view to addressing regional migration flows and related cross-border challenges;
- F. whereas the EUTF aims to tackle the root causes of irregular migration and displacement in countries of origin, transit and destination, through five priority sectors, namely: (1) development benefit of migration; (2) legal migration and mobility; (3) protection and asylum; (4) prevention of and fight against irregular migration; and (5) return, readmission and reintegration;
- G. whereas the EU's contribution amounts to EUR 1,8 billion, while the Commission can also draw on additional funds from EU Member States and other donors for an equivalent amount; whereas the EUTF serves to complement the existing EU aid to the regions covered to the sum of over EUR 10 billion up to 2020, with the objective of supporting inclusive and sustainable economic growth;
- H. whereas two EUTFs were created in 2014, namely the Bekou Trust Fund focusing on the stabilisation and reconstruction of the Central African Republic, which has shown positive results, and the Madad Fund dealing with the response to the Syrian crisis;
- I. whereas the report of the United Nations Population Fund (UNFPA) 'ICPD Beyond 2014 Global Report', published on 12 February 2014, stresses that the protection of women and adolescents affected by violence must be a priority on the international development agenda;
- J. whereas trust funds are part of an ad hoc response — thus laying bare the scarcity of recourses and limited flexibility characterising the EU's financial framework — but are vital for ensuring a rapid and comprehensive response to humanitarian crises, including long-term crises;

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- K. whereas the EU will continue to pursue efforts to effectively implement UN Security Council resolution 1325 and the subsequent UN resolutions on women, peace and security;

***Financial allocation and budgetary aspects***

1. Recalls that financial allocation is characterised by three main phases: promise, commitment and action/payment; points out, however, that lessons need to be learnt from previous EUTFs; regrets the fact that to date Member States' contributions have remained too low, amounting only to a small fraction of the Union contribution and are thus far from reaching the official commitment, totalling only EUR 81,71 million in April 2016 (or 4,5 % of the projected EUR 1,8 billion); insists that promises and commitments must translate into action; reminds the Council and Commission that effective aid is characterised by timely and predictable funding, and calls for disbursement of this funding to be expedited;

2. Welcomes the intention to disburse funds more quickly and flexibly in an emergency situation, and to bring together various sources of funding in order to address the migration and refugee crisis in its multiple dimensions; criticises the fact that the Commission has diverted appropriations from the objectives and principles of the basic acts to channel them through the EUTF, as this is in breach of the financial rules, and furthermore jeopardises the success of long-term Union policies; calls, therefore, for fresh appropriations to be used wherever possible and for full transparency to be ensured as to the origin and destination of funds;

3. Observes that in the field of external action, EUTFs are mainly designed to enable a swift response to a specific emergency or post-emergency crisis by leveraging the contribution of EU Member States and other donors while increasing the global visibility of European efforts; stresses, however, that Member States should not overlook their commitment as regards achieving the target of 0,7 % of Gross National Income (GNI) for official development assistance (ODA); calls on the Member States accordingly to respect their commitments as regards both the ODA 0,7 % target and their contribution to the EUTF for Africa;

4. Stresses the volatility of voluntary contributions and urges the Member States to honour their pledges and to rapidly and effectively match the Union contribution, in order to allow the EUTF to develop its full potential rather than provide the minimum required to obtain voting rights on the Strategic Board;

5. Deplores the fact that the trust funds result in bypassing the budgetary authority and undermining the unity of the budget; notes that the fact that this ad hoc instrument has been set up is an acknowledgement that the 2014-2020 Multiannual Financial Framework (MFF) is undersized; points out that Member State contributions make up 85 % of the Union budget; considers that setting up the EUTF is de facto tantamount to revising the ceilings for the current MFF by increasing Member State contributions; stresses, therefore, that the creation of funding instruments outside the EU budget must remain exceptional; deplores the fact that Parliament is not represented on the Strategic Board, despite the fact that substantial funds come from the Union budget; calls for the budgetary authority to be invited to participate in the Strategic Board;

6. Notes that the EU's financial allocation for the EUTF for Africa currently comes mainly from the 11th EDF; stresses that the EUTF was established because the EU budget and the MFF lack the resources and the flexibility needed to address the different dimensions of such crises promptly and comprehensively; calls for the EU to agree to find a more holistic solution for emergency funding in the framework of this year's revision of the 2014-2020 MFF and the revision of the external financing instruments in 2016, with a view to increasing the effectiveness and reactivity of humanitarian and development assistance available under the EU budget;

7. Calls, in particular, for an adequate revision of the ceiling to allow for the inclusion of the crisis mechanisms in the MFF in order to restore the unity of the budget; considers that revision of the MFF would provide greater budgetary, democratic and legal certainty; stresses, moreover, the need to review the financial rules with a view to facilitating the

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management of EU budget funds and to achieving, as part of an integrated approach, greater synergies between the Union budget, the EDF and bilateral cooperation so as to increase the impact of development funding and pave the way for the budgetisation of the EDF, while maintaining the level of resources as foreseen as of 2021; urges the Commission to take immediate steps to improve the involvement of the budgetary authority and to better align the trust funds and other mechanisms with the budgetary norm, notably by making them appear in the Union budget;

8. Observes that Parliament has demonstrated responsibility, as one arm of the budgetary authority, by agreeing to release emergency funds; deplores the fact, however, that, as a result of the proliferation of emergency instruments, the Community method is being abandoned; gives an assurance of its intention to safeguard the fundamental principles of the Union budget, notably budget unity and codecision; considers that a rethink of the Union's ability to respond to large-scale crises, in particular as regards their budgetary implications, is what is genuinely imperative; makes its agreement to future proposals for crisis instruments subject to incorporation of those implications into the mid-term review of the MFF, which is scheduled to take place before the end of 2016;

9. Observes that further funding has been drawn from other financial instruments under the EU budget, such as the Development Cooperation Instrument (DCI), for EUR 125 million, the Instrument for Humanitarian Aid, for EUR 50 million, and the European Neighbourhood Instrument (ENI), for EUR 200 million;

10. Notes that of the total EU contribution of EUR 1,8 billion, only the EUR 1 billion from the EDF reserve is an additional resource; is concerned that financing of the EUTF may be implemented to the detriment of other development objectives; recalls that the EUTF tool should be complementary to already existing instruments, and calls on the Commission to ensure transparency and accountability over the use and amount of current budget lines contributing to the EUTF;

11. Strongly underlines that funds from EDF and ODA sources must be devoted to the economic, human and social development of the host country, with particular focus on the development challenges identified in the Trust Fund decision; emphasises that development is not possible without security; condemns any use of EDF and ODA funds for migration management and control of any other actions without development objectives;

#### ***Funding least developed countries***

12. Stresses that the use of the EDF to finance the EUTF for Africa may have an impact on the aid recipient African countries which are not covered by the Trust Fund, and in particular the least developed countries (LDCs);

13. Deeply regrets the fact that, despite the continued importance of ODA for LDCs, the already low levels of development assistance to LDCs declined for the second year in a row in 2014, and that the proportion of aid allocated to those countries is at its lowest for ten years; calls on the Commission and the Member States, accordingly, to make sure that aid is not diverted away from the poorest countries to cover the cost of the current crises;

#### ***The role of civil society, NGOs, local authorities and international organisations***

14. Considers that the EUTF for Africa should contribute to development in countries of transit and origin of migrants, the strengthening and improvement of local public services (social services, health, education, nutrition, culture), of political participation and of governance, especially through community-based projects; considers that the Fund should contribute to the development of employment in local sectors, while respecting human rights and the environment; believes, in this framework, that local government authorities must be consulted as full partners as long as there are full guarantees of efficiency and good governance in accordance with the principles of aid effectiveness, and that they should also be the main actors in charge of public services delivered at the local level; believes that civil society, non-governmental organisations (NGOs), international organisations and diaspora communities should play a complementary and pivotal role in addressing the root causes of migration and improving local services;

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15. Recalls that regional and local authorities, civil society organisations and NGOs are natural partners for an effective development policy, and that a constant dialogue with national authorities and local communities is essential in order to define common strategies and priorities and allow an evidence-based approach in the implementation of the Fund, particularly in states demonstrating insufficient guarantees of good governance and transparency; calls for respect for the principle of subsidiarity and ownership also in this field of action; stresses that local government bodies, local civil society, NGOs and international organisations should be strongly involved in the planning, implementation and evaluation phases of the EUTF; calls on the Commission to clarify and formalise the consultation procedures with these stakeholders so as to ensure their effective participation in the discussions taking place in the Operational Committees, with clear and transparent eligibility criteria;

16. Stresses the importance of ensuring a better balance of funding for recipient country governments and especially for reliable civil society actors, who tend to be more aware of societal deficiencies which are in need of support;

17. Recalls the importance of a people- and community-centred approach to resilience, and strongly believes that the EUTF should focus not only on economic development but also on grassroots projects specifically aimed at improving quality, equity and universal accessibility of basic services as well as training to develop local competences as well as to responding to the needs of vulnerable communities, including minorities;

#### ***Transparency and clarity for better achievement of goals***

18. Acknowledges the complexity and the multidimensional nature of the current refugee crisis; warns, however, against the serious risk of misuse of EU development aid, in particular in conflict-affected countries where security, migration and development issues are closely interconnected; emphasises that the projects covered by the EUTF, which have been created using sources mainly devoted in principle to development purposes, must have development objectives; stresses that projects aimed at reinforcing security capacity in particular countries must be designed in such a way that their final outcomes are focused on poverty reduction, as well as the stability of the recipient countries;

19. Reminds the Commission and the authorities directly entrusted with the managing of the Trust Fund that the resources coming from the EDF or other development funding must be used exclusively for actions directly devoted to development assistance; asks the Commission to provide express assurance as regards such use and to ensure regular and comprehensive reporting of the use of these funds;

20. Emphasises that the EU budget cannot be used to directly finance military or defence operations (Article 41(2) TEU), but that there is no explicit exclusion of peacekeeping operations with development objectives; recalls furthermore that Articles 209 and 212 TFEU do not explicitly exclude the financing of capacity-building in the security sector;

21. Calls on the Commission, the Strategic Board and the Operational Committee to focus primarily on capacity-building, stability and peace, resilience, wellbeing and empowerment of local populations, promotion, protection and fulfilment of human rights, and creation of work opportunities and training, particularly for women and young people;

22. Emphasises strongly that the ultimate purpose of EU development policy, as enshrined in Article 208 TFEU, must be the reduction and eradication of poverty; in this regard, deplores the fact that while the EU contribution to the EUTF will be made mostly using ODA resources, this financing mechanism will not be focused exclusively on development-oriented objectives; stresses that a clear, transparent, and communicable distinction must be made within the EUTF between the funding envelopes for development activities on the one hand, and those for activities related to migration management, border controls and all other activities on the other; stresses that diluting ODA so that less funds are used to fight extreme poverty would undermine the significant progress made in international development and threaten the newly adopted Sustainable Development Goals (SDGs);

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***EU policy coherence and commitment on human rights***

23. Calls for the EU to show greater coherence when acting in the field of international cooperation for development, from a twofold point of view: the EU and the Member States should, on the one hand, act according to their commitments and, on the other, exhibit overall coherence in their external policies and instruments for the African region, with particular regard to the co-management spirit of the ACP-EU Cotonou Agreement; from the latter perspective, considers that the EUTF should reflect the principles of policy coherence for sustainable development and complementarity between all development stakeholders, and should avoid any contradiction between development aims and security, humanitarian and migration policies; hopes that the Better Regulation package will contribute to furthering policy coherence for sustainable development by taking into account development and human rights in all its impact assessments;

24. Recalls that the rules and criteria that govern development aid for projects financed by the EUTF must be set according to shared values and common interests, in particular as to the respect and promotion of human rights; in this regard, underlines that EU policy regarding cooperation on security, migration management and human trafficking and smuggling should include specific provisions aimed at ensuring respect for human rights and the rule of law, with particular attention to women's rights, the rights of LGBTI persons, sexual and reproductive health and rights, children's rights, and the rights of minorities and other particularly vulnerable groups; points out that the EU must encourage efforts to combat discrimination on grounds of religion or personal beliefs, sex, race or ethnic origin, disability and sexual orientation;

25. Points out that trust funds must contribute to achieving the long-term objectives of ensuring peace and strengthening governance in recipient countries; stresses the need to carefully and systematically evaluate the impact of the actions funded under the EUTF for Africa on the delivery of humanitarian aid; underlines that the EUTF should not undermine the long-term development cooperation of the EU; stresses that ownership and complementarity of long-term and short-term projects must be ensured, safeguarded and aligned with the EU's existing regional and country strategies for the Sahel, the Gulf of Guinea, the Horn of Africa and North Africa; stresses that a comprehensive country and sector diagnosis is required for a good allocation of funds, as well as in terms of developing close partnerships with a wide range of civil society actors; welcomes the research component integrated in the EUTF as a potential opportunity to create development opportunities and synergies between the EU and the countries concerned;

***Objectives and follow-up***

26. Calls on the Commission to systematically monitor how the EUTF funds are employed and how they are allocated, and to increase Parliament's scrutiny powers over the EUTF; in particular, calls on the Council and the Commission to regularly communicate on the specific actions undertaken by both the EU and the African states when employing these funds and the results achieved;

27. Is concerned at the lack of coordination among all the actors involved in managing the EUTF (and in particular between the Commission's Directorate-General for International Cooperation and Development (DG DEVCO) and its Humanitarian Aid and Civil Protection department (ECHO)), and at the lack of clear guidelines as to how funding can be secured; deplores the lack of clarity and transparency regarding the funding criteria and the volume of funds available for civil society under the EUTF; recalls the need for better communication between the Commission, the Member States and Parliament in programming and implementing actions of the EUTF in general, in the interests of the further planning of potential additional Trust Funds; recalls that the Commission must take particular care to ensure that its actions are consistent and coordinated with the Regional Development Programmes (RDPs), in order to avoid duplication of effort and ensure that the main focus is on development, and not on border control and security to the detriment of migrants; calls on the Commission, for the same reason as well as in order to maximise the impact and effectiveness of global aid, to maintain a strong dialogue with the UN in the context of the EUTF; also calls on the Commission to strengthen its efforts with a view to the more systematic impact assessment of its policies and funding, including the EUTF, especially with regard to their effects on sustainable development, human rights and gender equality, and to integrate the results of these assessments into its policies and programming;

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28. Underlines the lack of involvement of Parliament thus far in the establishment of the EUTF, and insists on the need to guarantee, through detailed and regular reporting by the Commission, Parliament's scrutiny as to how the Fund is being implemented;

29. Believes that, given the extraordinary flexibility and rapidity proper to a Trust Fund, periodical reporting to Parliament should be undertaken at least once every six months; strongly underlines the need for transparent performance monitoring, evaluation and accountability;

30. Believes that transparency, communication and visibility in relation to projects developed in the framework of the EUTF are of the utmost importance with a view to disseminating the results and involving and sensitising European private actors, local and regional authorities, NGOs and civil society, in order to create the conditions for broader involvement and facilitate participation by Member States;

31. Underlines the need for thorough monitoring of the implementation of the provisions on redistribution, replacement in countries of origin, and Member States' financial commitments, paying particular attention to human rights;

32. Recalls that EU migration policies should primarily focus on addressing the root causes of migration; stresses that EU migration policies should work to help create peace and stability and foster economic development, in line with goals 3, 4 and 5, target 7 of goal 10, and goal 16 of the SDGs Agenda 2030 by working more closely with third countries to improve cooperation on incentives for return to and reintegration in the countries of origin of migrants, including high-skilled migrants, voluntary return and readmission, in a way that enhances their opportunities;

33. Stresses that instability and physical insecurity are prominent causes of forced displacement, and therefore supports a conflict-sensitive approach to implementation of the Fund that would prioritise conflict prevention, state-building, good governance and the promotion of the rule of law; believes that the EUTF is a great opportunity for the EU, enabling it to reinforce its cooperation and political dialogue with its African partners, in particular concerning the effective implementation of return and readmission agreements, and to build up on common strategies for the management of migration flows; points to the need for sharing of responsibilities between the EU and its African partners, in line with the conclusions of the Valletta summit of November 2015; considers, however, that development aid should not be used to stem the flows of migrants and asylum seekers, and that the projects covered by the EUTF should not serve as a pretext for preventing departure or tightening borders between countries while ignoring the factors that drive people from their homes; expresses grave concern at the impact which the EUTF may have on human rights, if containing migratory flows involves cooperating with countries which commit systematic and/or serious violations of fundamental rights; asks the Commission to make sure that the Fund serves its purposes, directly helping those in need and not financing governments responsible for human rights violations; calls for respect for migrants' human rights to be improved in EU-financed projects;

34. Emphasises that it is important to understand the causes and consequences of international migration from a gender perspective, including the process of decision-making involved and the mechanisms leading to migration; recalls that women and girls, as refugees and migrants, are particularly vulnerable when they find themselves in situations where their safety cannot be ensured and where they may be subject to sexual violence or exploitation; stresses that the EUTF needs to contribute to the protection, support and/or assistance of vulnerable migrants, refugees and victims of trafficking, and that special attention should be given to women and children;

35. Notes that the EUTF for Africa was created following the Valletta summit of African and European Heads of State and Government held on migration issues; calls on the Commission to provide Parliament with an overview of the concrete actions that followed this summit, notably in the field of development, the fight against smugglers and the signature of return, readmission and reintegration agreements; calls on the Council to provide the Commission with the necessary mandates to conclude such agreements with the countries concerned by the EUTF;



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36. Instructs its President to forward this resolution to the President of the European Council, the Vice-President of the Commission/High Representative for Foreign Affairs and Security Policy, the Council, the Commission, the parliaments of the Member States, the Co-Presidents of the ACP-EU Joint Parliamentary Assembly and the President of the Pan-African Parliament.

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P8\_TA(2016)0338

## **Creating labour market conditions favourable for work-life balance**

**European Parliament resolution of 13 September 2016 on creating labour market conditions favourable for work-life balance (2016/2017(INI))**

(2018/C 204/09)

*The European Parliament,*

- having regard to Articles 2 and 3(3) of the Treaty on European Union,
- having regard to Articles 6(a), 8, 10, 153(1), 153(2) and 157 of the Treaty on the Functioning of the European Union,
- having regard to Articles 7, 9, 23, 24 and 33 of the Charter of Fundamental Rights of the European Union,
- having regard to the European Social Charter of 3 May 1996, in particular Part I and Part II, Articles 2, 4, 16 and 27, on the right of workers with family responsibilities to equal opportunities and equal treatment,
- having regard to Council Directive 92/85/EEC of 19 October 1992 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 <sup>(1)</sup> (the Maternity Leave Directive),
- having regard to the Commission proposal for a Directive of the European Parliament and of the Council amending the Maternity Leave Directive (COM(2008)0637),
- having regard to its position adopted at first reading on 20 October 2010 with a view to the adoption of Directive 2011/.../EU 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 and on the introduction of measures to support workers in balancing work and family life <sup>(2)</sup>, asking — among other things — for a two-week period of paternity leave,
- having regard to Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC <sup>(3)</sup>,
- having regard to Council Directive 2013/62/EU of 17 December 2013 amending Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC, following the amendment of the status of Mayotte with regard to the European Union <sup>(4)</sup>,
- having regard to Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC <sup>(5)</sup>,

<sup>(1)</sup> OJ L 348, 28.11.1992, p. 1.

<sup>(2)</sup> OJ C 70 E, 8.3.2012, p. 163.

<sup>(3)</sup> OJ L 68, 18.3.2010, p. 13.

<sup>(4)</sup> OJ L 353, 28.12.2013, p. 7.

<sup>(5)</sup> OJ L 180, 15.7.2010, p. 1.

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- having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation <sup>(1)</sup>,
- having regard to Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time <sup>(2)</sup>,
- having regard to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC <sup>(3)</sup>,
- having regard to its resolution of 25 February 2016 on European Semester for economic policy coordination: Employment and Social Aspects in the Annual Growth Survey 2016 <sup>(4)</sup>,
- having regard to its resolution of 20 May 2015 on maternity leave <sup>(5)</sup>,
- having regard to its resolution of 12 September 2013 on the application of the principle of equal pay for male and female workers for equal work or work of equal value <sup>(6)</sup>,
- having regard to its resolution of 12 March 2013 on eliminating gender stereotypes in the EU <sup>(7)</sup>,
- having regard to its resolution of 10 March 2015 on progress on equality between women and men in the European Union in 2013 <sup>(8)</sup>,
- having regard to its resolution of 9 June 2015 on the EU Strategy for equality between women and men post-2015 <sup>(9)</sup>,
- having regard to its resolution of 8 October 2015 on the application of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation <sup>(10)</sup>,
- having regard to its resolution of 3 February 2016 on the new Strategy for Women's Rights and Gender Equality in Europe post-2015 <sup>(11)</sup>,
- having regard to its resolution of 12 May 2016 on the application of Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC <sup>(12)</sup>,
- having regard to the Council conclusions of 15 June 2011 on early childhood education and care: providing all our children with the best start for the world of tomorrow <sup>(13)</sup>,
- having regard to the Council conclusions of 19 June 2015 on equal income opportunities for women and men: Closing the gender gap in pensions,
- having regard to the European Pact for gender equality for the period 2011-2020 adopted by the Council conclusions of 7 March 2011 <sup>(14)</sup>,
- having regard to the Presidency conclusions of the Barcelona European Council of 15 and 16 March 2002,

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<sup>(1)</sup> OJ L 303, 2.12.2000, p. 16.

<sup>(2)</sup> OJ L 299, 18.11.2003, p. 9.

<sup>(3)</sup> OJ L 14, 20.1.1998, p. 9.

<sup>(4)</sup> Texts adopted, P8\_TA(2016)0059.

<sup>(5)</sup> Texts adopted, P8\_TA(2015)0207.

<sup>(6)</sup> OJ C 93, 9.3.2016, p. 110.

<sup>(7)</sup> OJ C 36, 29.1.2016, p. 18.

<sup>(8)</sup> OJ C 316, 30.8.2016, p. 2.

<sup>(9)</sup> Texts adopted, P8\_TA(2015)0218.

<sup>(10)</sup> Texts adopted, P8\_TA(2015)0351.

<sup>(11)</sup> Texts adopted, P8\_TA(2016)0042.

<sup>(12)</sup> Texts adopted, P8\_TA(2016)0226.

<sup>(13)</sup> OJ C 175, 15.6.2011, p. 8.

<sup>(14)</sup> 3073rd Employment, Social Policy, Health and Consumer Affairs Council meeting, Brussels, 7 March 2011.

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- having regard to the EU Presidency Trio declaration on gender equality of 7 December 2015 by the Netherlands, Slovakia and Malta,
- having regard to the Commission communication of 3 March 2010 entitled 'Europe 2020: A strategy for smart, sustainable and inclusive growth' (COM(2010)2020),
- having regard to the Commission's initiative 'Roadmap: A new start to address the challenges of work-life balance faced by working families' (December 2015), as well as to the public and stakeholder consultation,
- having regard to the Commission communication entitled 'Commission Work Programme 2016: No time for business as usual' (COM(2015)0610),
- having regard to the Commission communication entitled 'Launching a consultation on a European Pillar of Social Rights' (COM(2016)0127),
- having regard to the Commission communication entitled 'Towards Social Investment for Growth and Cohesion — including implementing the European Social Fund 2014-2020' (COM(2013)0083) and its Recommendation 2013/112/EU of 20 February 2013 on 'Investing in children: breaking the cycle of disadvantage',
- having regard to the Commission communication 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 17 February 2011 on Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow (COM(2011)0066),
- having regard to the Commission progress report on the Barcelona objectives of 29 May 2013 entitled 'The development of childcare facilities for young children in Europe with a view to sustainable and inclusive growth' (COM(2013)0322),
- having regard to the Commission's staff working document 'The Strategic engagement for gender equality 2016-2019', in particular its Chapter 3.1 'Increasing female labour-market participation and the equal economic independence of women and men',
- having regard to the Commission's 2015 report on equality between women and men in the European Union (SWD(2016)0054), in particular to the chapter on equal economic independence,
- having regard to the Commission staff working document 'Employment and Social Developments in Europe 2015' of 21 January 2016, in particular its Chapter III.2 on social protection,
- having regard to the studies of the European Foundation for the Improvement of Living and Working Conditions (Eurofound) entitled 'Working time and work-life balance in a life course perspective' (2013), 'Caring for children and dependants: Effect on careers of young workers' (2013), and 'Working and caring: Reconciliation measures in times of demographic change' (2015) and to the Sixth European Working Conditions Survey (EWCS) (2016),
- having regard to the study of the European Foundation for the Improvement of Living and Working Conditions on 'Working time development in the 21st century' of 2015,
- having regard to the study of the European Foundation for the Improvement of Living and Working Conditions entitled 'Promoting parental and paternity leave among fathers',
- having regard to the report of the European Network of Equality Bodies, Equinet, entitled 'Equality bodies promoting a better work-life balance for all' of 8 July 2014,

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- having regard to the European Institute for Gender Equality's 2015 Gender Equality Index and its 2015 report entitled 'Reconciliation of work, family and private life in the European Union: Policy review',
  - having regard to the European Parliamentary Research Service study of May 2015 entitled 'Gender equality in employment and occupation — Directive 2006/54/EC, European Implementation Assessment',
  - having regard to the study by Parliament's Directorate-General for Internal Policies of the Union entitled 'Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union',
  - having regard to the study by Parliament's Directorate-General for Internal Policies of the Union entitled 'Costs and benefits of maternity and paternity leave',
  - having regard to the study by Parliament's Directorate-General for Internal Policies of the Union entitled 'Discrimination Generated by the Intersection of Gender and Disability',
  - having regard to the study by Parliament's Directorate-General for Internal Policies of the Union, of March 2016, entitled 'Differences in Men's and Women's Work, Care and Leisure Time',
  - having regard to the 2014 Eurocarers Carers' Strategy, 'Enabling Carers to Care',
  - having regard to the European Pact for mental health and well-being of 2008 and its priority 'Mental health in workplace settings',
  - having regard to ILO Convention 156 Concerning Family Responsibilities (1981) and ILO Recommendation 165 Concerning Workers with Family Responsibilities (1981),
  - having regard to ILO Part-Time Work Convention 1994, ILO Home Work Convention 1996, ILO Maternity Protection Convention 2000 and ILO Domestic Workers Convention 2011,
  - having regard to the ILO report 'Maternity and paternity at work: law and practice across the world' (2014),
  - having regard to the Agreed Conclusions of 24 March 2016 of the United Nations Commission on the Status of Women, 60th session, in particular points (e) to (g),
  - having regard to the Joint ILO/UNICEF Working Paper of 8 July 2013 'Supporting workers with family responsibilities: connecting child development and the decent work agenda',
  - having regard to the OECD Better Life Index 2015,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality under Rule 55 of the Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A8-0253/2016),
- A. whereas according to the latest Eurostat data, the birth rate in the EU has fallen in recent decades and the EU faces unprecedented demographic challenges<sup>(1)</sup> to which the Member States should respond; whereas family-friendly policies are important in order to trigger positive demographic trends, because job insecurity and difficult working conditions may have a negative impact on family planning;

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<sup>(1)</sup> Eurostat 2015 Demography Report.

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- B. whereas in 2014, 5,1 million children were born in the EU-28, corresponding to a crude birth rate of 10,1; whereas, in comparison, this rate was 10,6 in 2000, 12,8 in 1985 and 16,4 in 1970; whereas the EU faces a serious demographic challenge owing to the ever decreasing birth rates in most Member States, which are gradually transforming the Union into a gerontocratic society and posing a direct threat to social and economic growth and development;
- C. whereas the traditional concept of women's and men's roles and of the nuclear family is further challenged, as the number of single-parent families, families based on same-sex unions, adolescent mothers, etc. are on the rise in the EU; whereas a failure to acknowledge this diversity amounts to further discrimination and negatively affects people living in the EU and their families;
- D. whereas equality between men and women is a fundamental principle of the European Union, and Articles 21 and 23 of the Charter of Fundamental Rights of the European Union prohibit any discrimination on grounds of sex and require equality between men and women to be ensured in all areas, including in the achievement of a work-life balance;
- E. whereas the roadmap presented by the Commission is a starting point; whereas this opportunity must open a process of reorganisation of the work-life balance situation of women and men in Europe and must contribute significantly to achieving higher levels of gender equality;
- F. whereas well designed and implemented reconciliation policies are to be considered as an essential improvement of the working environment, enabling good working conditions and social and professional well-being; whereas at the same time a good work-life balance promotes economic growth, competitiveness, overall labour market participation, gender equality, reduction of the risk of poverty, and intergenerational solidarity, addresses the challenges of an aging society and positively influences birth rates in the EU; whereas the policies to be implemented to attain these objectives must be modern, concentrate on improving women's access to the labour market and equal sharing of domestic and care tasks between women and men, and be based on the establishment of a coherent policy framework supported by collective bargaining and collective agreements to allow for a better balancing of caring, professional and private life;
- G. whereas reconciling work and private life largely depends on the working time arrangements at the workplace; whereas doubts have been raised as to whether more and longer working hours are beneficial to the economy in terms of increased productivity; whereas a significant proportion of workers in the EU has atypical working hours, including working at weekends and on public holidays and doing shift and night work, and almost half of workers worked in their free time in 2015; whereas current findings indicate that working time arrangements change regularly for 31 % of employees, often at short notice<sup>(1)</sup>; whereas this might raise health and safety concerns, with an increased risk of accidents at work and poorer health in the long term, and make it difficult for workers to reconcile work with duties towards children and other dependants; whereas some sectors are more severely affected, such as the retail services sector where most of those employed are women;
- H. whereas the Commission and the Member States should launch specific measures to foster adaptable and effective job performance models, in both the public and private sectors, which would enable workers to achieve a work-life balance;

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<sup>(1)</sup> Eurofound (2015): First findings: Sixth European Working Conditions Survey.

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- I. whereas in 2015, the employment rate for men stood at 75,9 % in the EU-28, as compared with 64,3 % for women <sup>(1)</sup>, despite the fact that women are better educated; whereas the number of women in the workforce is even lower when considering employment rates in full-time equivalents, since the share of part-time employment among women is very high in some Member States; whereas in 2013 men spent 47 hours per week on paid work, compared to 34 hours for women; whereas when combining the working hours of paid work and unpaid work at home, young women on average worked 64 hours, compared to 53 hours worked by young men <sup>(2)</sup>; whereas GDP per capita losses attributable to gender gaps in the labour market have been estimated at up to 10 % in Europe;
- J. whereas in the current context of EU employment, socio-economic and equality policies, the Europe 2020 strategy and the goals previously set are far from being reached; whereas without proactive policies designed and implemented to help women enter the job market, especially policies that promote a better work-life balance, any target set at EU level cannot actually be reached;
- K. whereas European labour markets are gender segregated <sup>(3)</sup>; whereas the Commission also acknowledged this in its communication of 8 March 2016 on the European Pillar of Social Rights (COM(2016)0127, Annex I), stating that 'women continue to be underrepresented in employment, overrepresented in part-time work and low-paid sectors, and receive lower hourly wages also when performing equivalent work and even though they have surpassed men in educational attainment';
- L. whereas poverty and widening inequalities have worsened with the macroeconomic policies implemented by the EU and the austerity measures imposed in response to the economic crisis;
- M. whereas the struggle to reconcile family and working life is particularly difficult for single parents, the majority of whom are women; whereas in the 28 EU Member States no less than 34 % of single mothers are at risk of poverty, and children from those families are at a disproportionately greater risk of intergenerational transmission of poverty;
- N. whereas the harmful repercussions of the feminisation of poverty have the greatest impact on children raised by single mothers who are experiencing serious difficulties in reconciling the role of sole provider with their parenting responsibilities;
- O. whereas gender equality in the labour market benefits not only women but the economy and society as a whole, being a key economic asset to promote sustainable and inclusive economic growth and the reduction of occupational inequality, as well as labour market efficiency and fluidity; whereas women entering and re-entering working life leads to an increase in family income, consumption, social security contributions and the volume of taxes collected; whereas women still face discrimination in accessing and staying in employment, as well as a denial of labour rights owing, in particular, to pregnancy and maternity;
- P. whereas the gender pay gap stands at 16,3 % and whereas the atypical and uncertain forms of working contracts also affect women more than men;
- Q. whereas inequality in the labour market has lifelong consequences and impacts on women's rights, such as pensions, as the 39 % EU gender pension gap testifies, representing more than double the gender pay gap of 16 %;

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<sup>(1)</sup> <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

<sup>(2)</sup> Eurofound (2013): Caring for children and dependants: Effect on careers of young workers.

<sup>(3)</sup> Eurofound (2015): First findings: Sixth European Working Conditions Survey.

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- R. whereas among the various occupational categories, the self-employed and businesswomen in particular are having great difficulty in achieving a work-life balance; whereas, very often, women who wish to set up a business have difficulty in gaining access to credit, because financial intermediaries are reluctant to grant loans as they consider women entrepreneurs to be more exposed to risk and less likely to make their businesses grow;
- S. whereas stereotypes widely conveyed by society leave women in a subordinate role; whereas these stereotypes start to develop during childhood and are reflected in educational and training choices and continue into the labour market; whereas women are still too often confined to 'women-friendly' jobs and are often poorly paid; whereas these labour market divisions reproduce stereotypes that impose an overwhelming amount of care to be provided mainly by women, leading to women spending two to ten times longer on unpaid care than men <sup>(1)</sup>; whereas gender stereotypes and gender-based discrimination have negative implications for women's personal, social and economic independence and prospects, and lead to a higher concentration of women in part-time work, career interruptions and a higher risk of poverty and social exclusion, in particular for single mothers, therefore affecting women's autonomy;
- T. whereas family-related types of leave still happen to be grounds for discrimination and stigmatisation for both women and men, despite the existing policy framework and legislation at EU and national level, and this particularly affects women as main carers using family-related leave;
- U. whereas the differences in men's and women's uptake of parental leave shows gender-based discrimination; whereas fathers' participation rate in parental leave in the Member States remains low, with only 10 % of fathers taking at least one day of leave, and 97 % of women use the parental leave that is available for both parents; whereas available data confirms that unpaid or poorly paid family-related types of leave result in low participation rates; whereas entirely or partially non-transferable, properly paid parental leave supports a more balanced take-up by both parents and helps to reduce discrimination against women in the labour market; whereas only a few Member States encourage fathers to make the most of paternity or parental leave, leading to men being deprived of the opportunity to participate equally in taking care of and spending time with their children;
- V. whereas it is vital to introduce measures to promote fathers' access to leave, particularly as fathers who take family leave build a better relationship with their children and are more likely to take an active role in future childcare tasks;
- W. whereas Eurofound studies have illustrated aspects that influence fathers' take-up rates of parental leave, namely: the level of compensation, the flexibility of the leave system, the availability of information, the availability and flexibility of childcare facilities and fear of exclusion from the labour market due to taking leave;
- X. whereas availability of and access to affordable, adequate and quality early childhood education and care (ECEC), care for other dependent persons and high-quality social services is one of the main factors influencing the participation of women in the labour market; whereas there is a lack of sufficient infrastructure offering quality and accessible childcare for all income levels; whereas for 27 % of Europeans the poor quality of childcare makes it

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<sup>(1)</sup> Eurostat data for 2010, Commission's 2015 report on equality between women and men in the European Union (SWD(2016) 0054).



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difficult to access these services<sup>(1)</sup>; whereas achieving quality services means investing in childcare workforce training<sup>(2)</sup>; whereas only 11 Member States have met the first Barcelona target (childcare available for at least 90 % of children between the ages of 3 and the mandatory school age) and only 10 Member States have achieved the second target (at least 33 % of children under three years)<sup>(3)</sup>;

- Y. whereas early childhood education and care and children's experiences from the ages of 0-3 have a decisive impact on their cognitive development, given that they develop essential capacities in the first five years;
- Z. whereas work-life balance policies should also enable parents to fulfil their responsibilities towards their children, ensuring the financial means, time and support necessary for both mothers and fathers;
- AA. whereas Europe is the continent with the highest number of older citizens and an ageing process that will continue in the coming decades; whereas many Member States lack sufficient long-term care facilities to address the increase in care needs and the stagnation or reduction of the healthy life years indicator; whereas most of the jobs created in formal home care for older relatives are poorly paid and require a low level of qualifications<sup>(4)</sup>;
- AB. whereas 80 % of care needs are provided by informal carers in the EU; whereas about 3,3 million Europeans aged between 15 and 34 have had to give up full-time work because they lack care facilities for dependent children or older relatives;
- AC. whereas ICT and emerging technologies have changed work and employment environments, organisational cultures and structures across sectors; whereas policy-making must stay up to date with technological developments, in order to ensure that social standards and gender equality advance rather than regress in these new circumstances;
- AD. whereas the combination of care and paid work has an important impact on the sustainability of work and employment rates, in particular for women, who might face at some stage in their life care responsibilities for grandchildren and/or elderly parents<sup>(5)</sup>;
- AE. whereas some legal systems in the EU maintain non-individualisation of tax and social security systems, with women granted only derived rights through their relationship to men, including for access to health and pension services; whereas Member States that impose dependency of the wife/mother are imposing direct discrimination against women and denying full citizenship rights to women through the selective way state services are delivered;
- AF. whereas targeted labour market and work-life balance policies are required in order to take into account intersectional obstacles faced by vulnerable women in terms of work-life balance and job security, such as women with disabilities, young women, migrant and refugee women, women from ethnic minority backgrounds and LGBTI women;

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<sup>(1)</sup> Eurofound European Quality of Life Survey 2012.

<sup>(2)</sup> Eurofound (2015), Early childhood care: working conditions, training and quality of services — A systematic review.

<sup>(3)</sup> Progress report on the Barcelona objectives of 29 May 2013 entitled 'The development of childcare facilities for young children in Europe with a view to sustainable and inclusive growth' (COM(2013)0322).

<sup>(4)</sup> Eurofound (2013), Caring for children and dependants: Effect on careers of young workers.

<sup>(5)</sup> Eurofound report, Sustainable work over the life course: Concept paper (2015).

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AG. whereas allowing workers time off for personal and training development in the context of life-long learning without being discriminated against benefits their well-being as well as their contribution to the economy with more skills and higher productivity <sup>(1)</sup>;

AH. whereas the implementation of work-life balance policies will not in itself produce benefits for workers unless it is accompanied by policies to improve living conditions, alongside policies to foster and promote cultural, recreational and sporting activities, among others;

### ***General principles***

1. Points out that reconciliation of professional, private and family life is a wide-ranging concept that embraces all overarching policies of a legislative and non-legislative nature aimed at promoting appropriate and proportionate balance between the various aspects of people's lives; considers that achieving a genuine work-life balance requires robust, cross-cutting, structural, coherent and comprehensive policies, including incentives and efficient measures for reconciling work, caring for and spending time with family and friends and time for leisure and personal development; points out that above all a cultural shift in society is needed, tackling gender stereotypes so that work and care are more evenly shared between men and women;

2. Stresses that reconciliation of professional, private and family life needs to be guaranteed as a fundamental right for all people, in the spirit of the Charter of Fundamental Rights of the European Union, with measures being available for everyone, going beyond young mothers, fathers or carers; calls for the introduction of a framework to ensure this right as a basic aim of social systems and calls on the EU and the Member States to promote, in both the public and private sectors, business welfare models respecting the right to a work-life balance; considers that this right should be mainstreamed throughout EU activities that might have a direct or indirect impact on this issue;

3. Points out that the EU is facing unprecedented demographic changes — rising life expectancy, lower birth rates, changing family structures with new forms of relation-building and (co)habitation, late parenthood and migration, which pose new challenges for the EU; is concerned that the economic and financial crisis has had a negative impact on public finances needed for work-life balance policies and for guaranteeing the availability of and access to quality and affordable services of general interest; calls, therefore, on the Commission and the Member States to put in place positive policies and incentives to support demographic renewal, preserve social security systems and promote the well-being and development of people and of society as a whole;

4. Stresses that the falling birth rate in the EU has been exacerbated by the crisis, given that unemployment, precarious job opportunities, uncertainty about the future and discrimination in the labour market are making young people, in particular young professional women, put off having children for the purpose of remaining active in an increasingly competitive labour market; in this context, calls on the Member States and social partners to promote family-friendly working environments, reconciliation plans, return-to-work programmes, communication channels between employees and employers, and incentives for businesses and self-employed workers, in particular to ensure that people are not economically penalised for having children and that legitimate career aspirations are not opposed to family plans; highlights further that maternity, paternity and parental leave can only be effectively applied with benefits for society and the economy if other policy instruments are applied alongside, including the provision of quality and affordable childcare;

5. Welcomes the Commission's approach to work-life balance policies as key in addressing socio-economic challenges; calls on the European Social Partners to come forward with an agreement on a comprehensive package of legislative and non-legislative measures regarding the reconciliation of professional, private and family life; calls on the Commission, while respecting the principle of subsidiarity, to put forward a proposal for such a package as part of the Commission Work Programme 2017 in the context of the announced European pillar of social rights, should it not be possible for an agreement between the social partners to be reached; stresses that legislative proposals should include equality between men and women as a legal basis; calls on the Commission to work in cooperation with social stakeholders towards a pillar of social rights, leading to true social investment that primarily emphasises investment in people;

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<sup>(1)</sup> CEDEFOP Research Paper: Training leave. Policies and practices in Europe, 2010.

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6. Welcomes the Commission's launch of a public consultation on the European Pillar of Social Rights to gather views and feedback on a number of essential principles to support well-functioning and fair labour markets and welfare systems within the euro area;

7. Calls on the Commission and the Member States to ensure relevant policies and measures take account of the increasing diversity of family relationships, including civil partnerships and parenting and grandparenting arrangements, as well as the diversity of society as a whole, in particular to guarantee that a child is not discriminated against because of its parents' marital status or family constitution; calls on the Member States to mutually recognise legal documents with a view to guaranteeing free movement without discrimination;

8. Calls on the Commission and the Member States to develop and implement policies and provide measures that support those who are most disadvantaged or currently excluded from existing legislation and policies, such as single parents, unmarried couples, same-sex couples, migrants, self-employed people or so-called 'assisting spouses', and families in which one or more members have a disability;

9. Calls on the Commission and the Member States to ensure that legislation and policies on work-life balance take into account the UN Convention on the Rights of Persons with Disabilities and the Concluding Observations of the 2015 UN CRPD Committee to the EU;

10. Calls on the Commission and the Member States to ensure that the well-being and best interests of children are one of the primary considerations in the development, monitoring and implementation of work-life balance policies; calls on the Commission and the Member States to fully implement the Recommendation on Investing in Children <sup>(1)</sup> and closely monitor its progress; calls on the Commission and the Member States to develop and introduce initiatives, such as a Child Guarantee, which would place children at the centre of existing poverty alleviation policies so that every child could have access to free healthcare, free education, childcare, decent housing and adequate nutrition, as part of a European integrated plan to combat child poverty;

11. Considers that child poverty is linked to parents' poverty, and therefore calls on the Member States to implement the Recommendation on Child Poverty and Well-being and to use the indicator-based monitoring framework therein;

12. Stresses the importance of incorporating a lifecycle approach in work-life balance policies and corporate strategies in order to ensure that everyone is supported at different times throughout their life and can actively participate in the labour market with labour rights and in society as a whole;

13. Emphasises that a better work-life balance and strengthened gender equality is essential for supporting the participation of women in the labour market, in particular women carers and single mothers, and for achieving the goal of women's empowerment; underlines that the key to women's economic empowerment is the transformation and adaptation of the labour market and welfare systems in order to take into account women's life cycles;

14. Calls on the Commission and the Member States to develop transformative policies and to invest in awareness-raising campaigns to overcome gender stereotypes and to promote a more equal sharing of care and domestic work, focusing also on the right and need for men to take up care responsibilities without being stigmatised or penalised; considers that businesses should be targeted and supported in their efforts to foster work-life balance and to combat discrimination;

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<sup>(1)</sup> Commission Recommendation 2013/112/EU.

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15. Calls on the Member States to step up protection against discrimination and unlawful dismissal related to work-life balance, which particularly affect female workers, and to ensure access to justice and legal action, including by increasing the amount of information on offer about workers' rights and legal assistance, if required; calls in this context on the Commission and the Member States to propose policies to improve enforcement of anti-discrimination measures in the workplace, including increasing the awareness of legal rights regarding equal treatment by conducting information campaigns, reversal of the burden of proof <sup>(1)</sup> and empowering national equality bodies to conduct formal investigations on their own initiative of equality issues and help potential victims of discrimination;

16. Highlights that the lack of comparable, comprehensive, reliable and regularly updated equality data makes it more difficult to prove the existence of discrimination, particularly indirect discrimination; calls on the Member States to collect equality data in a systematic way and to make them available, with the involvement of national equality bodies and courts, including with a view to analysing and monitoring these data for the Country-Specific Recommendations; calls on the Commission to take initiatives to further promote such data collection by means of a Recommendation to Member States, and by tasking Eurostat with the development of consultations aiming at mainstreaming data disaggregation on all discrimination grounds in European Social Survey indicators; calls on the Commission to continue to cooperate with the European Institute for Gender Equality (EIGE) to improve the quantity and quality of sex-disaggregated data in a systematic way;

17. Calls on the Commission to regularly review the progress achieved in critical areas of concern as identified in the Beijing Platform for Action, for which indicators have already been developed by the EIGE, and to take the outcomes of these reviews into account in its assessment of gender equality in the EU;

18. Notes the important role of the national equality bodies in the implementation of the Employment Equality Directive 2000/78/EC, contributing to awareness raising and data collection, staying in touch with social partners and other stakeholders, addressing underreporting and making complaint processes more accessible; calls on the Member States to strengthen the role, capacities and independence of the equality bodies, including Equinet, inter alia through the provision of adequate funding; calls in particular for strengthening of the organisations provided for in the Equal Treatment Directive 2006/54/EC, guaranteeing access to justice and legal action;

19. Considers it necessary that adequate training on non-discrimination legislation in employment and case law be provided for employees of national, regional and local authorities and law enforcement bodies, and for labour inspectors; believes that such training is also of critical importance for judges, prosecutors, lawyers and the police force;

20. Calls on the Member States, together with the Commission, to guarantee that rights to social entitlements assigned by public policies are equally accessible for women and men, in order to ensure that everyone can enjoy their rights and to enable them to achieve a better work-life balance;

### ***Women and men as equal earners and equal carers***

21. Stresses the need to eliminate gender inequalities in paid and unpaid work and to promote equal sharing of responsibilities, costs and care for children and for dependants between women and men, but also within society as a whole, including by ensuring universal access to services of general interest; points in this respect to the need for specific proposals making for better work-life balance;

22. Deplores the persistence of the gender pay gap, which constitutes an infringement of the fundamental principle of equal pay for equal work for female and male workers enshrined in Article 157 TFEU and in particular affects women having and raising children; calls on the EU and the Member States, in cooperation with the social partners and gender equality organisations, to set out and implement policies to close the gender pay gap; calls on the Member States to carry out wage-mapping on a regular basis as a complement to these efforts;

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<sup>(1)</sup> European Parliament resolution of 8 October 2015 on the application of Directive 2006/54/EC (P8\_TA(2015)0351).

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23. Calls on the Commission, in line with the Council conclusions of 16 June 2016 on gender equality, to enhance the status of its strategic engagement on gender equality and to integrate a gender perspective into the Europe 2020 strategy in order to ensure that work on gender equality is not made less of a priority; urges the Commission, therefore, to adopt a post-2015 Gender Equality Strategy in line with the recommendations of the European Pact for gender equality for the period 2011-2020;

24. Calls on the Member States to put in place proactive policies and appropriate investment aimed and designed to support women and men entering, returning to, staying and advancing in the labour market, after periods of family and care-related types of leave, with sustainable and quality employment, in line with Article 27 of the European Social Charter; stresses in particular the need to guarantee reinstatement to the same post or to an equivalent or similar post, protection against dismissal and less favourable treatment as a result of pregnancy, applying for or taking family leave, and a protection period after their return so that they can readjust to their job;

25. Calls on the Commission and the Member States to involve the social partners and civil society in gender equality policies; stresses the importance of adequate funding for such policies, of collective agreements and collective bargaining in combating discrimination and promoting gender equality at work, and of research and exchanges of good practices;

26. Considers that promoting women's participation in the labour market and their economic independence is crucial for meeting the Europe 2020 target of a 75 % overall employment rate and would boost GDP; calls, therefore, on the Commission and the Member States to strengthen policies and increase investment supporting female employment in quality jobs, particularly in sectors and positions where women are under-represented, such as the science, technology, engineering and mathematics (STEM) and green economy sectors, or senior management positions across all sectors;

#### ***Family- and care-related types of leave***

27. Notes that the Commission has withdrawn the revision of the Maternity Leave Directive and calls for it to put forward an ambitious proposal with high-level standards, in close cooperation with the social partners and consultation with civil society, in order to ensure a better work-life balance; calls on the Commission and the Member States to ensure that women are paid and covered by social protection for the duration of maternity leave in order to support families and combat inequalities, strengthen women's social and economic independence and avoid them being financially penalised for having children; stresses that maternity leave must be accompanied by effective measures protecting the rights of pregnant women and new, breastfeeding and single mothers, reflecting the recommendations of the International Labour Organisation and the World Health Organisation;

28. Calls for improved coordination of different types of leave at EU and Member State level in cooperation with the social partners; points out that better access to different types of leave provides people with life-cycle leave perspectives and increases employment participation, overall efficiency and job satisfaction; notes that where there are no provisions for leave, or where the existing ones are considered to be insufficient, the social partners could have a role to play in establishing new provisions or updating current ones for maternity, paternity and parental leave;

29. Calls on the Member States to provide adequate income replacement and social protection during any type of family- or care-related leave, in particular to ensure that low-income workers can benefit from leave measures on an equal footing with others;

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30. Calls on the Commission to publish an implementation report on the Parental Leave Directive and calls on the Commission and the social partners to consider offering an appropriate extension of the minimum duration of parental leave with adequate income replacement and social protection from four to at least six months and to increase the age of the child for which parental leave can be taken; stresses that parents should be given flexibility to use the leave in fractions or all together; calls on the Member States and the social partners to reconsider their systems of financial compensation for parental leave with a view to reaching an adequate level of income replacement that acts as an incentive and also encourages men to take parental leave beyond the minimum time period guaranteed by the directive; reiterates that parental leave should be equally shared between parents and that a significant part of the leave should remain non-transferable<sup>(1)</sup>; underlines that both parents must be treated in the same way in terms of rights to income and the duration of leave;

31. Notes the increased vulnerability of working parents of children with disabilities; calls, therefore, on the Commission to improve and strengthen the provisions of Directive 2010/18/EU regarding the conditions of eligibility and detailed rules for granting parental leave to those who have children with a disability or serious or long-term incapacitating illness; calls on the Member States in this respect to extend the possibility of parental leave for these parents beyond the statutory age of the child provided for in the directive and to grant them additional maternity, paternity (where it exists) and parental leave;

32. Believes that promoting the individualisation of the right to leave arrangements, as well as the role of fathers in bringing up their children by taking up leave, is essential to achieving a gender-balanced reconciliation of work and private life and the Europe 2020 employment target for women and men;

33. Calls on the Commission, in order to allow parents with children or people with dependants to achieve a better work-life balance, to bring forward well-grounded and coherent initiatives on:

- (1) a paternity leave directive with a minimum of a compulsory two-week fully paid leave,
- (2) a carers' leave directive which supplements the provision of professional care, enables workers to care for dependants and offers the carer adequate remuneration and social protection; calls for employee-driven flexibility and sufficient incentives for men to take up carers' leave,
- (3) minimum standards applicable in all Member States to address the specific needs of adoptive parents and children and to establish the same rights as for natural parents,

while acknowledging that some Member States have already taken proactive measures on paternity leave and carers' leave;

34. Calls on the Member States to introduce 'care credits' through labour and social security legislation for both women and men as equivalent periods for building up pension rights in order to protect those taking a break from employment to provide informal, unpaid care to a dependant or a family member and to recognise the value of the work of these carers for society as a whole; encourages the Member States to exchange best practices in this area;

### ***Care for dependants***

35. Calls on the Member States to effectively implement the Barcelona targets by 2020 and to endorse the 2014 quality framework on early childhood education and care;

36. Recalls that investing in social services, including infrastructure, generates considerable employment effects, also leading to significant additional income for the public sector in employment taxes and social security contributions; asks the Member States to invest in high-quality early childhood education and care and elderly and dependant care services;

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<sup>(1)</sup> European Parliament resolution of 12 May 2016 on the application of Council Directive 2010/18/EU (P8\_TA(2016)0226).



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calls on them to ensure the availability, affordability and universal access to such services by considering, for example, increasing public expenditure on care services, including independent living schemes, and by making better use of the EU funds; calls for the MFF revision to be used also to step up investment in social services and infrastructure, in particular with the help of the ESF, the ERDF and the EFSI; calls on the Member States to consider granting free access to care services for families living in poverty and social exclusion; also notes the disproportionate impact that insufficient investment in public care structures and services has on single parents, the vast majority of whom are women;

37. Stresses the need to recognise the work done by people who devote their time and skills to caring for elderly and dependent persons;

38. Highlights that the care of children with disabilities presents a particular challenge for working parents, which should be recognised by society and supported by public policies and collective bargaining; calls on the Member States, in providing pre-school childcare, to place emphasis not only on accessibility, but also on the quality of that care, in particular for children from disadvantaged backgrounds and children with disabilities;

39. Calls on the Member States to support fiscal policies as a powerful lever enhancing work-life balance and to foster employment of women;

40. Calls on the Commission and the Member States to introduce targets on care for elderly persons, persons with disabilities and other dependants, similar to the Barcelona targets, with monitoring tools which should measure quality, accessibility and affordability; calls on Eurostat, Eurofound and the EIGE (for its Gender Index), to collect relevant data and to carry out studies to support this work;

41. Calls on the Member States to strengthen the network of specialised services providing care to elderly persons and specifically to build up home service networks; in this sense, also stresses the need for policies on care for elderly persons to be tailored to individual needs and, if possible, for emphasis to be placed on their preferred place of care;

42. Calls on the Commission to work towards European qualitative standards for all care services, including on their availability, accessibility and affordability, which would support Member States in raising care standards; recalls the existing frameworks such as the European Quality Framework for Long-term Care Services, from which inspiration should be drawn; calls on the Commission and the Member States to develop policies to enable and accommodate deinstitutionalisation of long-term care, where possible and with the support of community-based care;

43. Points out that an important element in achieving quality services is investing in the workforce<sup>(1)</sup>; calls, therefore, on the Member States and the social partners to promote decent working conditions and quality employment for care workers, including through decent pay, recognition of care workers' status and the development of high-quality vocational training pathways for care workers;

### ***Quality employment***

44. Points out the high levels of working poor throughout Europe, with some people having to work more and longer, even combining several jobs, in order to earn a living wage; calls on the Member States and the social partners to develop a wage policy framework with effective measures combating wage discrimination and ensuring adequate wages for all workers, for example through the introduction of minimum wages at national level that guarantee a life in dignity, in line with national practices; calls on the Member States to support collective bargaining as an important factor in developing wage policies;

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<sup>(1)</sup> Eurofound (2015), Early childhood care: working conditions, training and quality of services — A systematic review.



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45. Points out that work-life balance must be based on workers' rights and security on the labour market, and on the right to take time off without it being curtailed by increased mobility and flexibility requirements; stresses the fact that increased flexibility can result in an intensification of the labour market discrimination currently experienced by women — in the shape of lower wages, non-standard forms of employment and disproportionate responsibility for unpaid household tasks — if a clear gender mainstreaming approach is not taken beforehand;

46. Calls on Eurofound to further develop its activities in monitoring employment quality through its European Working Conditions Survey, based on its concept of job quality as comprising: earning, prospects, working time quality, skill use and discretion, social environment, physical risk and work intensity; calls on Eurofound, furthermore, to develop its research on policies, social partner agreements and companies' practices which are supportive of job quality <sup>(1)</sup>; calls on Eurofound to keep monitoring the incidence of working time arrangements and to provide analyses of public policies and social partner agreements in this field, including an assessment of how these are negotiated and support work-life balance; calls on Eurofound to develop research on how dual worker households manage their working time arrangements together and how best to support them;

47. Stresses that, on the one hand, work-life balance must be based on workers' rights and security on the labour market, and on the right to take time off without it being curtailed by increased mobility and flexibility requirements; points out, on the other hand, the differences in the personal and family situation of every worker and therefore considers that employees should be given the possibility to make use of flexible working arrangements in order to adapt these to their specific circumstances along the life cycle; considers that such employee-oriented flexibility can promote higher employment rates among women; stresses that employees and employers have a shared responsibility to design and agree on the most appropriate arrangements; calls on the Commission to map the situation in the Member States of a 'Right to request flexible working arrangements';

48. Supports 'smart working' as an approach to organising work through a combination of flexibility, autonomy and collaboration, which does not necessarily require the worker to be present in the workplace or in any pre-defined place and enables them to manage their own working hours, while nevertheless ensuring consistency with the maximum daily and weekly working hours laid down by law and collective agreements; underlines, therefore, the potential of smart working for a better work-life balance, in particular for parents returning to or entering the labour market after maternity or parental leave; rejects, however, a shift from a culture of presence to a culture of permanent availability; calls on the Commission, the Member States and the social partners, when developing smart working policies, to ensure that these do not impose an additional burden on the worker, but rather reinforce a healthy work-life balance and increase workers' well-being; stresses the need to focus on achieving job outcomes to prevent abuse of these new forms of work; calls on the Member States to promote the potential of technology such as digital data, high-speed internet, audio and video technology for smart (tele) working arrangements;

49. Highlights that alternative business models such as cooperatives and mutuals have enormous potential to advance gender equality and a healthy work-life balance, particularly in the emerging 'smart working' digital environment, given the higher levels of employee participation in decision-making; calls on the Commission and the Member States to research the impact of cooperatives and alternative business models on gender equality and work-life balance, especially in technology sectors, and set out policies to promote and share best practice models;

50. Is concerned about the increased amount of involuntary part-time work, particularly among women with caring responsibilities, which increases their risk of in-work poverty; stresses that when a worker chooses part-time work, the quality of their employment and non-discrimination against them as compared to full-time workers must be guaranteed in line with the Part-time Workers Directive <sup>(2)</sup>, and calls on the Commission to follow up on the application of this directive;

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<sup>(1)</sup> Eurofound report on 'Trends in job quality in Europe' (2012) and Eurofound report on 'Convergence and divergence of job quality in Europe 1995-2010' (2015).

<sup>(2)</sup> Council Directive 97/81/EC.

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asks the Member States to ensure that part-time workers, workers facing job discontinuity and workers with career gaps or with periods where fewer hours were worked have the right to access a decent pension scheme without any form of discrimination;

51. Is concerned about the abuse of zero hour contracts in some Member States and use of exploitative contracts, involuntary temporary contracts, irregular, unpredictable and excessive working hours and low-quality internships, which make a healthy work-life balance impossible in the long run; calls, therefore, on the Member States and social partners to urgently tackle the situation of precarious employment, faced in particular by young people and women;

52. Points out that excessive and irregular working hours and insufficient rest periods, job insecurity and the disproportionate output required, are major factors in increased levels of stress, poor physical and mental health and occupational accidents and diseases; points out that flexitime and predictable working hours positively influence the work-life balance<sup>(1)</sup>; calls on the Member States and the social partners to secure working hours and to ensure a weekly rest period through the implementation of all relevant legislation; recalls the Commission's obligation to follow up on the implementation of the Working Time Directive and to consider initiating infringement proceedings against Member States who are failing to comply with it;

53. Calls further on the Commission and the Member States, the social partners and stakeholders to focus on innovative organisation in the workplace and to balance both the work-life needs of women and men and business productivity/profitability; notes that the positive link between increasing women's employment, work-life balance and business competitiveness, in terms of reducing absenteeism, output gap, turnover, talent attractiveness, loyalty, resources reallocation for developing welfare plans, increasing living standards and time freeing, has been widely proven by the best practices in Europe in a number of large enterprises and SME networks;

54. Highlights that women and LGBTI persons face specific gender-based obstacles and sources of stress at work, including harassment, exclusion, discrimination or gender stereotypes, which negatively impact their well-being at work and threaten their mental health and their ability to progress in their career; calls on the Commission and the Member States to take further steps to tackle these adverse conditions by ensuring proper implementation of relevant anti-discrimination legislation, as well as gender-sensitive life-long learning programmes, and work with trade unions and civil society organisations;

55. Calls on the Member States to build up and strengthen national labour inspection bodies by providing them with the financial conditions and financial and human resources to give them an effective presence on the ground and thereby enable them to combat job insecurity, unregulated work, and labour and wage discrimination, particularly from the point of view of equality between men and women;

56. Calls on the Member States to fully implement the Equal Treatment Directive 2006/54/EC and on the Commission to revise the directive, and to promote among companies the implementation of plans on gender equality, including actions on desegregation, the development of pay systems and measures to support women's careers; stresses the importance of the role of equality bodies in assisting victims of discrimination and addressing gender stereotypes; calls on the Member States to put in place legislative measures ensuring the principle of equal opportunities and equal treatment of women and men at work;

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<sup>(1)</sup> Eurofound European Working Conditions Survey.

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57. Reiterates its call to the Council to swiftly 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;

58. Calls on the Commission and the Member States to guarantee social security, social protection and remuneration in the case of sick leave in order to enable a genuine work-life balance;

### **Quality of life**

59. Points out that 'quality of life' is a broader concept than 'living conditions' and refers to the overall well-being of individuals in a society, identifying a number of dimensions of human existence as essential for a rounded human life <sup>(1)</sup>;

60. Underlines that leisure inequality and unequal sharing of responsibilities between women and men can have an impact on women's personal development, learning of new skills and languages and participation in social, political, cultural and community life, and especially on women's economic situation;

61. Stresses that any form of discrimination against women, including gender segregation, pay and pension gaps, gender stereotypes and high levels of stress in managing professional and private life are reflected in women's high physical inactivity rate and have a huge impact on their physical and mental health <sup>(2)</sup>; reiterates the importance of combating stereotypes by promoting and defending gender equality during all stages of education, from primary school onwards; calls on the Member States and social partners to conduct and support awareness-raising and information campaigns as well as programmes that promote gender equality and combat stereotypes;

62. Underlines the importance of lifelong learning for the self-development of workers, including staying up to date with ever-changing working conditions; encourages the Commission and the Member States to promote lifelong learning; calls on the Commission, the Member States and the social partners to develop and put in place policies that provide for educational and training leave, as well as in-work vocational training and life-long learning, including in Member States other than their own; calls on them to make learning inside and outside work, including paid study opportunities, accessible to all workers and in particular to those in disadvantaged situations, and with an emphasis on women employees in sectors where women are structurally underrepresented;

63. Calls on the Commission and the Member States to combat social and economic inequalities; calls on the Member States to promote measures aiming to put in place adequate minimum income schemes, in line with national practices and traditions, to enable all people to live a life in dignity, to support their full participation in society and to ensure independence throughout the life cycle;

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

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<sup>(1)</sup> Eurofound 3rd European Quality of Life Survey.

<sup>(2)</sup> Study by Parliament's Directorate-General for Internal Policies of the Union, of March 2016, entitled 'Differences in Men's and Women's Work, Care and Leisure Time'.

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**Agreement on the implementation of the Work in Fishing Convention**

**European Parliament resolution of 14 September 2016 on the proposal for a Council directive implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007, of the International Labour Organisation (2016/2794(RSP))**

(2018/C 204/10)

*The European Parliament,*

- having regard to the Commission proposal for a Council directive implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007, of the International Labour Organisation (COM(2016)0235),
  - having regard to the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007, of the International Labour Organisation,
  - having regard to Article 155 of the Treaty on the Functioning of the European Union,
  - having regard to Rule 101(3) of its Rules of Procedure,
- A. whereas, under Article 155(1) of the Treaty on the Functioning of the European Union, social partners have the possibility, should they so desire, to enter into a dialogue that may lead to contractual relations, including agreements;
- B. whereas Article 155(2) stipulates that agreements concluded at Union level may be implemented at the joint request of the signatory parties, by a Council decision on a proposal from the Commission;
- C. whereas workers in the fisheries sector require special protection, considering, among other things, the special characteristics of work on board fishing vessels; the high rate of fatal and non-fatal accidents, as well as the risk and incidence of occupational diseases, in comparison with other sectors, in a hazardous working environment; the unclear distinction between work hours, rest and leisure, and the impact on health and safety of fatigue resulting, in part, from insufficient rest; the prevalence of informal and non-standard working relationships and wage arrangements, including crew share systems;
- D. whereas the ILO Work in Fishing Convention (No 188), along with Recommendation (No 199), covers essential matters to ensure decent working and living conditions on board, including responsibilities of fishing vessel owners and skippers with regard to workers' health and safety (Article 8); the definition of a minimum working age and protection of young workers (Article 9); mandatory medical examinations and certificates (Articles 10-12); rest periods (Articles 13 and 14); crew lists (Article 15); work agreements stating duties and labour conditions (Articles 16-20); entitlement to repatriation (Article 21); recruitment and placement (Article 22); regular payment of fishers and family transfers (Articles 23 and 24); accommodation and food standards (Articles 25-28); the definition of safety and health standards at work and the provision of medical care on board (Articles 29-33); social security protection (Articles 34-37); protection in the event of work-related sickness, injuries or death (Articles 38-39); compliance and enforcement (Articles 40-44);

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- E. whereas, to date, only eight countries have ratified the ILO Work in Fishing Convention (No 188); whereas despite the Council decision to authorise the EU Member States to ratify the ILO Work in Fishing Convention (No 188), only two, France and Estonia, have done so; whereas the EU and the Member States should play a leading role in promoting decent remuneration and working conditions in the fisheries sector;
  - F. whereas this Agreement applies to all fishers employed on board a fishing vessel which is registered in, or flying the flag of, an EU Member State and which is engaged in commercial fishing operations; whereas by incorporating the Agreement of the social partners on the ILO Work in Fishing Convention into EU legislation, the EU will be in a stronger position to promote its implementation in partner countries worldwide, thereby contributing to a fair and level playing field for the global fishing sector, including the fight against the worst forms of exploitation of fishers, such as forced labour, trafficking and child labour;
  - 1. Takes note of the Commission proposal for a Council directive implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007, of the International Labour Organisation; regrets, however, the delay in presenting the social partners' agreement, finalised in 2013, to the Council; underlines the importance of social dialogue, including at the European level;
  - 2. Welcomes the fact that the Agreement as concluded by the social partners and the Commission proposal provide only for minimum requirements, allowing Member States and/or social partners to adopt measures which are more favourable to workers in the area concerned; notes that this agreement also applies to self-employed fishers working alongside workers on the same vessel; underlines the need to develop those provisions related to wages, social protection and social security in order to ensure an adequate and decent income for workers and their families, including in the case of injury, accident or death; highlights the importance of establishing the mechanisms for implementation of the agreement, including the development of appropriate inspection and enforcement measures;
  - 3. Recommends the immediate adoption of the Council directive, as requested by the social partners;
  - 4. Instructs its President to forward this resolution to the Council, the Commission and the social partners.
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P8\_TA(2016)0344

**Recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union****European Parliament resolution of 14 September 2016 on the recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union (2016/2774(RSP))**

(2018/C 204/11)

*The European Parliament,*

- having regard to the Treaties, and in particular to Articles 2, 3, 4 and 6 of the Treaty on European Union (TEU),
  - having regard to the Charter of Fundamental Rights of the European Union,
  - having regard to the Constitution of the Republic of Poland,
  - having regard to the European Convention on Human Rights (ECHR) and the related case law of the European Court of Human Rights,
  - having regard to the Commission communication of 11 March 2014 entitled ‘A new EU Framework to strengthen the Rule of Law’ (COM(2014)0158),
  - having regard to its debate of 19 January 2016 on the situation in Poland,
  - having regard to its resolution of 13 April 2016 on the situation in Poland <sup>(1)</sup>,
  - having regard to the adoption by the Commission on 1 June 2016 of an opinion on the rule of law in Poland,
  - having regard to the Commission recommendation of 27 July 2016 regarding the rule of law in Poland,
  - having regard to the opinion of Council of Europe experts of 6 June 2016 on the three draft Acts regarding Polish public service media,
  - having regard to the Venice Commission opinion of 11 March 2016 on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland,
  - having regard to the Venice Commission opinion of 13 June 2016 on the Act of 15 January 2016 amending the Police Act and certain other acts,
  - having regard to the report of the Commissioner for Human Rights of the Council of Europe of 15 June 2016 following his visit to Poland from 9 to 12 February 2016,
  - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas the EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, whereas these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail and whereas these were approved by the Polish people on the occasion of the referendum held in 2003;
- B. whereas Article 6(3) of the TEU confirms that fundamental rights, as guaranteed by the ECHR and as arising from the constitutional traditions common to the Member States, constitute general principles of EU law;

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<sup>(1)</sup> Texts adopted, P8\_TA(2016)0123.

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- C. whereas the EU operates on the basis of the presumption of mutual trust that Member States conform with democracy, the rule of law and fundamental rights, as enshrined in the ECHR and in the Charter of Fundamental Rights;
- D. whereas Article 9 of the Polish Constitution states that the Republic of Poland shall respect international law binding upon it;
- E. whereas the rule of law is one of the common values on which the EU is founded, and whereas the Commission, together with Parliament and the Council, is responsible under the Treaties for guaranteeing respect for the rule of law as a fundamental value of our Union and making sure that EU law, values and principles are respected;
- F. whereas the independence of the judiciary is enshrined in Article 47 of the Charter of Fundamental Rights and Article 6 of the ECHR, and is an essential requirement of the democratic principle of separation of powers, which is also reflected in Article 10 of the Polish Constitution;
- G. whereas the separation of powers and the independence of the judiciary are core to the democratic system and must not be undermined;
- H. whereas recent events in Poland, in particular the dispute concerning the composition and functioning of the Constitutional Tribunal, and the non-publication of judgments handed down by the Constitutional Tribunal, have given rise to concerns regarding guarantees of respect for the rule of law;
- I. whereas, in its opinion on amendments to the Act on the Constitutional Tribunal, the Venice Commission called on Polish state organs to publish, fully respect and implement the judgments of the Tribunal, while at the same time stressing that the aforementioned amendments would seriously undermine the Tribunal's work and make it ineffective as a guardian of the Constitution;
- J. whereas the paralysis of the Constitutional Tribunal has led the Commission to open a dialogue with the Polish Government under the Rule of Law Framework with a view to ensuring full respect for the rule of law; whereas, following an intensive dialogue with the Polish authorities and in the light of the Polish Government's lack of progress in solving the constitutional crisis, the Commission has deemed it necessary to formalise its assessment of the current situation in an opinion;
- K. whereas, despite the further discussions held with the Polish authorities, the issues that threaten the rule of law in Poland have not been satisfactorily resolved and the Commission believes that there is a systemic threat to the rule of law in Poland; whereas it has therefore made concrete recommendations to the Polish authorities on how to address its concerns as a matter of urgency;
- L. whereas the Rule of Law Framework is intended to address systemic threats to the rule of law in any of the EU's Member States, particularly in situations which cannot be addressed effectively by infringement procedures and where the 'rule of law safeguards' which exist at national level no longer seem capable of addressing these threats effectively;
- M. whereas the EU is committed to respecting media freedom and pluralism as well as the right to information and freedom of expression enshrined in Article 11 of the Charter of Fundamental Rights and Article 10 of the ECHR, as is also reflected in Article 14 of the Polish Constitution;
- N. whereas the already adopted and newly suggested changes to Polish media law, especially regarding the governance, editorial independence and institutional autonomy of public service media, have given rise to concerns as to whether freedom of expression and media freedom and pluralism are respected;
- O. whereas Council of Europe experts, after holding an expert dialogue with the Polish authorities on the package of three draft bills concerning public service media, concluded that improvements are required, especially in the area of governance, content and the public mission and protection of journalists;



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- P. whereas the rights to liberty and security and to respect for private life and protection of personal data are enshrined in Articles 6, 7 and 8 of the Charter of Fundamental Rights and Articles 5 and 8 of the ECHR, and also in Articles 31 and 47 of the Polish Constitution;
- Q. whereas the Venice Commission, in its opinion on amendments to the Police Act and certain other acts, concluded that the procedural safeguards and material conditions set out in the Police Act for the implementation of secret surveillance are not sufficient to prevent its excessive use or unjustified interference with the privacy and data protection of individuals; recalls, in this connection, that both the Court of Justice and the European Court of Human Rights have stressed the need to introduce effective oversight mechanisms, and preferably judicial control, in order to guarantee supervision of such activities;
- R. whereas the new anti-terrorism law raises similar concerns as regards compliance with, in particular, Articles 5, 8, 10 and 11 of the ECHR and with the Polish Constitution;
- S. whereas the European Commission considers that, as long as the Constitutional Tribunal is prevented from fully ensuring an effective constitutional review, there will be no effective scrutiny of compliance with the Constitution, including its provisions on fundamental rights, of legislative acts such as the particularly sensitive new legislative acts recently adopted by the Sejm;
- T. whereas the Venice Commission is composed of independent experts in constitutional law appointed by all members of the Council of Europe, including Poland, and whereas its opinion is the most authoritative interpretation of the obligations of Council of Europe member states concerning the rule of law and democracy; whereas the current Polish Government has directly sought the opinion of the Venice Commission;
- U. whereas the right to a fair trial, the presumption of innocence and the right to defence are rights embedded in Articles 47 and 48 of the Charter of Fundamental Rights and Article 6 of the ECHR, and in Articles 41, 42 and 45 of the Polish Constitution;
- V. whereas the Commissioner for Human Rights of the Council of Europe, in his report following his visit to Poland, concluded that the recently adopted changes to the Code of Criminal Procedure and the Prosecution Act may jeopardise the protection of the right to a fair trial in criminal proceedings, the presumption of innocence and the right to a defence, especially in cases where insufficient safeguards to avoid abuses of power have been established, and the principle of separation of powers;
- W. whereas, according to the Charter of Fundamental Rights, the ECHR and the case law of the European Court of Human Rights, women's sexual and reproductive health is related to multiple human rights, including the right to life and dignity, freedom from inhuman and degrading treatment, the right of access to health care, the right to privacy, the right to education and the prohibition of discrimination, as is also reflected in the Polish Constitution;
- X. whereas an efficient, impartial, professional and politically neutral civil service system constitutes a fundamental element of democratic governance, but whereas the new civil service law appears to undermine this principle as well as Article 153 of the Polish Constitution;
- Y. whereas Poland's Constitutional Tribunal declared a number of provisions of the law adopted on 22 July 2016 still to be unconstitutional;
- Z. whereas the Polish Environment Minister has approved a plan to increase wood extraction in the Białowieża Forest; whereas, when the National Council for Nature Conservation objected to the plan, the government replaced 32 of its 39 members; whereas the Commission initiated an infringement procedure on 16 June 2016 in respect of the Białowieża Forest;

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1. Stresses that it is of fundamental importance to guarantee that common European values listed in Article 2 of the TEU and in the Polish Constitution are upheld in full and that fundamental rights as laid down in the Charter of Fundamental Rights are guaranteed;
2. Reiterates its position as expressed in its resolution of 13 April 2016 on the situation in Poland, in particular concerning the paralysis of the Constitutional Tribunal, which is endangering democracy, fundamental rights and the rule of law in Poland;
3. Expresses its regret and concern that so far no compromise solution has been found and that the Venice Commission's recommendations of 11 March 2016 have not been implemented; regrets also the Polish Government's refusal to publish all the judgments of the Constitutional Tribunal, including those of 9 March 2016 and 11 August 2016;
4. Welcomes the Commission's determination to pursue a constructive and productive dialogue with the Polish Government with a view to finding swift and concrete solutions to the systemic threats to the rule of law set out above; stresses that such a dialogue needs to be conducted in an impartial, evidence-based and cooperative manner while also respecting the competences of the EU and its Member States as enshrined in the Treaties, and the principle of subsidiarity;
5. Takes note of the adoption of the Commission opinion and subsequent recommendation under the Rule of Law Framework, following an assessment of the situation in Poland; expects the Commission to afford Parliament access to this opinion, in line with Annex II to the Framework Agreement on relations between the European Parliament and the European Commission;
6. Calls on the Polish Government to cooperate with the Commission pursuant to the principle of sincere cooperation as set out in the Treaty, and urges it to use the three months afforded by the Commission to engage all parties represented in the Polish Sejm to find a compromise which would solve the ongoing constitutional crisis, fully respecting the Venice Commission opinion and the European Commission recommendation;
7. Calls on the Commission as guardian of the Treaties to monitor — as a next step — the follow-up given by the Polish authorities to the recommendations, while continuing to offer full support to Poland in finding adequate solutions to strengthen the rule of law;
8. Is concerned, in the absence of a fully functional Constitutional Tribunal, about the recent and rapid legislative developments taking place in other areas without proper consultations, and urges the Commission to carry out an assessment of the legislation adopted as regards its compatibility with primary and secondary EU law and with the values on which the Union is founded, taking into account the recommendations issued by the Venice Commission on 11 June 2016 and by the Commissioner for Human Rights of the Council of Europe on 15 June 2016 and the Commission's Rule of Law Recommendation of 27 July 2016, in particular:
  - the Act on Public Media, bearing in mind the need for a framework governing public service media which would ensure that they provide independent, impartial and accurate content that reflects the diversity of Polish society, as well as the relevant case law of the European Court of Human Rights and the EU *acquis* in the audiovisual media field;
  - the Act amending the Police Act and certain other acts, bearing in mind its disproportionate interference with the right to privacy and the incompatibility of blanket mass surveillance activities and bulk processing of citizens' personal data with the case law of the EU and of the European Court of Human Rights;

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- the Act amending the Code of Criminal Procedure and the Prosecution Act, bearing in mind the need to comply with the EU *acquis* in the field of procedural rights as well as the fundamental right to a fair trial;
  - the Act amending the Civil Service Act, bearing in mind the serious risk of politicisation of the Polish administration, which would undermine the impartiality of the civil service;
  - the Act on Counter-terrorism, bearing in mind the serious threat to the right to privacy and the right to freedom of expression represented by the expansion of the powers of the Internal Security Agency without any appropriate judicial safeguards;
  - other issues that are of concern because they may constitute breaches of EU law, of ECtHR case law and of fundamental human rights, including women's rights;
9. Calls on the Commission to keep Parliament regularly and closely informed in a transparent manner of the progress made and the action taken;
10. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe and the President of the Republic of Poland.
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P8\_TA(2016)0345

## **EU relations with Tunisia in the current regional context**

**European Parliament resolution of 14 September 2016 on the EU relations with Tunisia in the current regional context (2015/2273(INI))**

(2018/C 204/12)

*The European Parliament,*

- having regard to Article 8 of the Treaty on European Union,
- having regard to the final report of the EU Election Observation Mission for the legislative and presidential elections in Tunisia in 2014,
- having regard to the report of the UN High Commissioner for Human Rights entitled 'Prisons in Tunisia: International Standards versus Reality' of March 2014 and to the declarations of officials of the Tunisian Justice Ministry,
- having regard to the Single Support Framework for European Union support to Tunisia for the period 2014-2015, extended by modification of Commission Decision C(2014)5160 until the end of 2016,
- having regard to its resolution of 9 July 2015 on the review of the European Neighbourhood Policy <sup>(1)</sup>,
- having regard to the Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 18 November 2015 on the Review of the European Neighbourhood Policy (JOIN(2015)0050),
- having regard to the signature by Tunisia on 1 December 2015 of an Association Agreement for research and innovation under the Horizon 2020 programme,
- having regard to its resolution of 25 February 2016 on the opening of negotiations for an EU-Tunisia Free Trade Agreement <sup>(2)</sup>,
- having regard to its position of 10 March 2016, on the proposal for a regulation of the European Parliament and of the Council on the introduction of emergency autonomous trade measures for the Republic of Tunisia <sup>(3)</sup>,
- having regard to the entry into force on 19 April 2016 of Regulation (EU) 2016/580 of the European Parliament and of the Council of 13 April 2016 on the introduction of emergency autonomous trade measures for the Republic of Tunisia <sup>(4)</sup>,
- having regard to the recommendations of the EU-Tunisia Association Council of 17 March 2015 for the implementation of the EU-Tunisia Action Plan (2013-2017), and to the joint statement of the EU-Tunisia Association Council of 18 April 2016,
- having regard to Tunisia's 'Strategic Development Plan, 2016-2020',
- having regard to Rule 52 of its Rules of Procedure,
- having regard to the report of the Committee on Foreign Affairs (A8-0249/2016),

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<sup>(1)</sup> Texts adopted, P8\_TA(2015)0272.

<sup>(2)</sup> Texts adopted, P8\_TA(2016)0061.

<sup>(3)</sup> Texts adopted, P8\_TA(2016)0086.

<sup>(4)</sup> OJ L 102, 18.4.2016, p. 1.

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- A. whereas Tunisia is one of the EU's European Neighbourhood Policy priority countries;
  - B. whereas the peaceful democratic transition process in Tunisia represents a successful example in the Arab world and its consolidation is paramount for the stability of the entire region and, as a direct consequence, for the security of Europe;
  - C. whereas the Nobel Peace Prize was awarded to the Tunisian National Dialogue Quartet in 2015 for 'its decisive contribution to the building of a pluralistic democracy in Tunisia';
  - D. whereas Tunisia currently faces a difficult socio-economic situation but also security challenges mostly deriving from the situation in Libya; whereas tourism, which represents a key element of the Tunisian economy, is severely affected by these circumstances and by the terrorist attacks which have targeted the country;
  - E. whereas the Tunisian economy is highly dependent on foreign investment, tourism and exporting products to the EU and whereas the economy can only flourish if democracy can develop further;
  - F. whereas the lack of jobs and opportunities was one of the main reasons for the massive popular demonstrations in 2011, and whereas many of the problems are still felt by people every day, given the high rate of youth unemployment;
  - G. whereas there is a need to develop a genuine partnership through which the interests of communities on both sides of the Mediterranean are taken into account and which is designed to work on Tunisia's social and regional inequalities in particular;
  - H. whereas, with the end of Ben Ali regime and the consolidation of the democratic process, the EU could improve its political dialogue with Tunisia by taking greater account of the interests and priorities of this important partner as a way to achieve the objective of stability;
  - I. whereas the EU and its Member States must remain committed to working with the people of Tunisia and their government to promote common interests, including in trade, investment, tourism, culture and security;
  - J. whereas a tripartite dialogue has been set up, in the context of the organisation of the sub-committees, between the authorities, civil society actors and EU representatives in Tunisia;
  - K. whereas the freedom of the press and the freedom of publication are essential elements of an open, free and democratic society;
  - L. whereas Tunisia played an important role in facilitating the conclusion of an agreement between the conflicting sides in Libya;
  - M. whereas instability in Libya and its spillovers represent a serious threat to the stability of Tunisia and of the whole region; whereas Tunisia currently hosts a significant number of displaced Libyans, who have fled instability and violence in Libya, and whereas this is putting a strain on the internal situation and infrastructures;
  - N. whereas Tunisia has suffered several terrorist attacks in the last few years; whereas Tunisia is an essential partner of the EU in the fight against terrorism;
  - O. whereas an alarmingly high number of Tunisian youths are recruited by IS/Daesh and whereas hopelessness and economic stagnation contribute to young people becoming increasingly vulnerable to the lure of extremist organisations;
1. Renews its commitment to the Tunisian people and the political transition process that began in 2011; emphasises the challenges and threats facing the country while it consolidates its democratic process, implements the reforms needed to achieve social and economic prosperity and guarantees its security; urges the EU and the Member States to mobilise and better coordinate substantial technical and financial resources in order to provide concrete support for Tunisia; underlines that, without measures to strengthen Tunisia's absorption capacity and stability, democracy, good governance, the fight against corruption, economic development and employment in the region, any prospect of reform will be put at risk; calls, therefore, for a genuine deep and comprehensive partnership between the EU and Tunisia;

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2. Calls on participants in the Deauville Partnership to fulfil pledge commitments; considers that the situation in Tunisia justifies the launch of a real 'Marshall Plan' with appropriate funding to support the consolidation of the democratic transition and foster investment and development in all sectors of the economy and society in the country, in particular employment creation and maintaining quality public services that are accessible to everyone; calls also for the consolidation of efforts to support civil society; expresses its concerns about the current socio-economic and budgetary difficulties inherent to the instability of the transition period and the imperative for Tunisia to implement adequate reforms aimed at boosting employment and developing sustainable and inclusive growth; deems it essential, as a result, that the budget authorities agree to a decisive strengthening of the resources of the European Neighbourhood Instrument (ENI) earmarked for Tunisia;
3. Affirms that, despite the dire social and economic situation, Tunisia's historical democratic transition calls for a much more ambitious EU-Tunisia partnership, going beyond conventional measures;
4. Commends the good cooperation between Tunisia and its neighbours, as illustrated by the signing of a preferential trade agreement and the establishment of local transborder committees with Algeria aimed at fostering local development, by the intertwining of Tunisia's economy with Libya's and by the solidarity of the Tunisian people with displaced Libyans; welcomes, in this context, the progress made on the reconciliation process in Libya;
5. Stresses the importance of respect for human rights in the implementation of the reviewed European Neighbourhood Policy; calls for the development of monitoring mechanisms on respect for fundamental freedoms, gender equality and other human rights issues, with the full involvement of civil society;
6. Underlines that the relaunch of the political process of integration in the framework of the Arab Maghreb Union could be a particularly appropriate opportunity to ensure security and strengthen cooperation in the whole region;

### ***I – Political reforms and Institutions***

7. Expresses its support for the process of democratisation and points to the need for social and economic reforms in Tunisia; emphasises the need to support the People's Representative Assembly (PRA) given the challenge of enhancing stability in a volatile regional context while deepening democracy; expresses concerns at the lack of means of the PRA, which is hampering its legislative role and slowing down the drafting of the urgently needed new legislation and the reform process; supports the PRA in its efforts to enhance its capacity, including by recruiting staff; supports a review of the needs of the PRA; requests that Parliament's services enhance the capacity-building support activities provided to the PRA; recommends that Parliament organise a political meeting at the highest political level, such as a 'Tunisian Week', on its premises, in order to foster parliamentary cooperation;
8. Welcomes the establishment of an EU-Tunisia Joint Parliamentary Committee which will play a key role, enabling Members of the European Parliament and Tunisians to meet regularly and develop a structured political dialogue on democracy, human rights, the rule of law and any topic of mutual interest; stresses that, as part of the opening of trade agreements, the EU-Tunisia Joint Parliamentary Committee has an important role to play in effectively monitoring ongoing negotiations; calls for the launching of specific initiatives of support to the PRA with other European Parliament committees, such as the Committee on Civil Liberties, Justice and Home Affairs (for support regarding justice and home affairs matters, migration law and measures relating to police and judicial cooperation in criminal matters, including terrorism);
9. Welcomes the tripartite dialogue in Tunisia; calls for its continuation and extension to all aspects of EU-Tunisia bilateral relations and, in particular, to ensure the involvement of civil society in the implementation of the review of the European Neighbourhood Policy and the process for negotiating EU-Tunisia priorities;

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10. Notes that the reform of public administration is one of the main challenging reforms that Tunisia has to implement; welcomes the Tunisian Government's consideration of new methods to fast-track key priority policies; believes that the twinning between European and Tunisian administrations is a positive contribution to the reform of public administration; supports using IT-based solutions for establishing and developing an e-state and an e-administration;

11. Welcomes Tunisia's compliance with international standards relating to freedom of association, which has given the country a leading role in strengthening an independent civil society in the Arab world; calls for the strengthening of technical and capacity-building support for civil society organisations, political parties and trade unions, which have a crucial role to play in Tunisia and have proven to be of fundamental importance to the democratic transition and overall development, government accountability and the monitoring of respect for human rights, including the protection of women and children, gender equality and the protection of all victims of persecution and discrimination; welcomes specific EU-financed programmes in this domain such as the project supporting civil society (PASC) and the agreement signed between the European Social and Economic Committee and the Tunisian quartet to strengthen ties between Tunisian and European civil societies; encourages dialogue and cooperation between civil society and public authorities in the identification of local development priorities, including local investment; calls for the promotion of civic education and democratic engagement;

12. Underlines the importance of developing a culture of citizenship and calls for the creation of an enabling environment with the necessary structures for civil-society organisations to be included in the decision-making process;

13. Deems it necessary that the Commission and the EEAS provide the necessary support for local elections (scheduled in October 2016) and an EU and EP monitoring mission and election assistance, should these be requested by the Tunisian Government as was already the case for the legislative and presidential elections in 2014; calls, in this context, for strengthened support for municipalities in the framework of the Euro-Mediterranean Regional and Local Assembly (ARLEM), and by fostering the development of twinning projects in coordination with the Member States;

14. Calls for support for gender-balanced policies, including by reforming the personal status code in order to abolish discriminatory laws against women such as those related to inheritance and marriage rights, and for an increased participation of women in public life and the private sector, as provided for in Article 46 of the Tunisian Constitution; encourages, furthermore, the development of mentoring programmes for emerging female leaders, with the potential to support their access to decision-making positions; recommends the lifting of Tunisia's general declaration on the Convention for the Elimination of Discrimination Against Women;

15. Calls for the inclusion of young people in political life, especially regarding the promotion of youth participation in local elections; welcomes in this regard EU-funded projects in the field of youth awareness/civic education; welcomes the legislative provisions regarding youth representation in local and regional elections; considers the municipal elections in 2016 as an opportunity to encourage young people to reengage actively in the political transformation process;

16. Welcomes the transitional justice law; recalls the high hopes of the Tunisian people for the transitional process; regrets the intense polarisation within the Truth and Dignity Commission; notes that national reconciliation and growth should not be contradictory priorities;

17. Calls for the Commission and the EEAS to continue to support Tunisia in the reform of the judicial sector and the rule of law in respect of the values of the Tunisian Constitution, including through technical and financial support for the ongoing establishment of the Supreme Judicial Council and the Constitutional Court; welcomes the EU programme on Justice Reform (PARJI) adopted in 2011 and the PARJ2 programme, adopted in 2014 and funded with only EUR 15 million;



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18. Calls on the government to take swift measures to prevent the use of torture; encourages Tunisia to abolish the death penalty; raises concerns regarding repeated cases of torture inflicted by Tunisian authorities on minors suspected of wanting to join terrorist organisations;

19. Calls on Tunisia, as a matter of urgency, to reform its 1978 state of emergency law, currently enforced outside the Constitution's basic provisions;

20. Expresses concern at the overcrowding, lack of food and sanitary conditions in Tunisian prisons and their effects on inmates' basic rights; welcomes the Tunisian-European project for the reform of Tunisian penal institutions, which aims to reinforce the system of alternative penalties instead of imprisonment for less serious offenses;

21. Calls for a reform of the penal code, and in particular for the repeal of Article 230, which penalises homosexuality with imprisonment for three years, and is contrary to the constitutional principles of non-discrimination and the protection of privacy; welcomes the new law replacing and modifying Law 1992-52 on narcotics, which gives priority to prevention instead of dissuasion and establishes alternative penalties that promote the rehabilitation and reintegration of drug users as an appropriate step towards aligning Tunisian legislation with international standards;

22. Calls for a stronger process of decentralisation and the empowerment of the regions by means of further local autonomies; supports partnerships with EU Member States encouraging decentralised approaches (e.g. training and capacity building in that field), together with decentralised cooperation projects led by Member State authorities which contribute to the development of regional and local governance in Tunisia, as well as partnerships and exchanges of best practice with EU cities and local communities; calls for increased EU support for civil society in the regions, building on successful existing initiatives;

23. Is worried that little progress has been made to overhaul the code of criminal procedures and the penal code with a view to upholding freedom of expression; is worried that several citizens have been prosecuted and imprisoned for alleged defamation, insulting state officials in rap songs or harming public morals, including journalists and bloggers, for expressing their opinions; welcomes the fact that Tunisia has joined the Freedom Online Coalition and calls for it to participate more actively;

24. Reaffirms that freedom of the press and media, freedom of expression online, including for bloggers, and offline and freedom of assembly are vital elements and indispensable pillars for democracy and an open and pluralistic society; encourages best practice standards in the media sector to truly reflect investigative and differentiated journalism; recognises the enabling effects of uncensored access to the internet and of digital and social media; welcomes Tunisia's vibrant and open online media landscape but calls on the Tunisian authorities to further invest in basic technological infrastructures and to promote digital connectivity and literacy, especially in the poorest areas of the country; welcomes the adoption of the new information law in March 2016 to effectively protect the right to freedom of information in Tunisia, including the rights of whistle blowers; welcomes the fact that the High Authority for Audiovisual Communication (HAICA) and its successor, the Audio-Visual Communication Authority (ACA), will benefit from EU support in the context of the ongoing EUR 10 million programme supporting media reform;

25. Calls on the Parliamentary Assembly of the Council of Europe to grant Tunisia the status of partner for democracy as a significant step towards consolidating parliamentary democracy and the rule of law in Tunisia;

**II – Economic and social development**

26. Welcomes the Commission's proposal for macro-financial assistance of EUR 500 million and its adoption by the Council and Parliament;

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27. Notes the launch of negotiations on an ambitious free trade agreement (DCFTA) between the EU and Tunisia; recalls the need for the EU to conduct these negotiations along with technical and financial tailored assistance; emphasises that this agreement, while seeking to improve market access and the investment climate, has more than simply a trade dimension and must contribute to extending European standards in the fields of environment, consumer protection and workers' rights to Tunisia, fostering its stability, consolidating its democratic system and reinvigorating its economy; calls on the Commission to take a progressive approach during the negotiations and ensure that this agreement will be mutually beneficial while taking proper account of the significant economic disparities between the two parties; recalls its recommendations to the Commission and the Tunisian Government to implement a clear and detailed process for involving Tunisian and European civil society throughout the DCFTA negotiations; calls for the consultation process to be open and transparent and to take greater account of the diversity of Tunisian civil society, drawing on the best practices employed in similar negotiations;

28. Notes the adoption of the emergency autonomous trade measures for Tunisia as a concrete step to support the Tunisian economy and as an incentive for reforms; calls for an increase in EU aid to Tunisia through the ENI and for the coordination of international aid to Tunisia in order to allow the country to benefit fully from the EU support and enable job creation, particularly for young graduates; encourages partnerships with other interested global and regional donor countries and organisations and, in particular, measures reducing regional disparities and promoting training and investment in agriculture, taking into account the specificities of local agriculture, IT, the social economy, the manufacturing sector and SMEs which would boost employment; notes that the tourism sector has been dramatically impacted by the terrorist attacks and, in view of the measures implemented since then by the Tunisian authorities, calls on the Member States which have not yet done so to reassess the security situation as quickly as possible so that the Tunisian tourist sector may recover;

29. Calls for the EU to include civil society, local authorities and other important actors in the process of identification of priorities for funding in the mid-term review of the ENI;

30. Underlines the need to address unemployment, especially for young university graduates, to launch deep reforms with a view to promoting growth, quality education and employment (e.g. by easing currency restrictions, facilitating access to microcredit, reforming labour laws, developing training schemes suited to the needs of the labour market and simplifying administrative processes) and to diversify the Tunisian economy; calls on all parties to maintain a spirit of good cooperation in order to focus on reforms with a view to inclusive economic development for all territories of the country, including the less advanced and impoverished inland regions, which need a long-term development plan; calls on the Tunisian authorities to welcome initiatives in which citizens show commitment to improving political dialogue or technological innovations; emphasises that international support for these civic initiatives is needed;

31. Welcomes the Tunisian Strategic Plan for Development 2016-2020 initiative and calls for its swift implementation with the adoption of regulatory frameworks aimed at facilitating the absorption of European support and of all international financial institutions; welcomes the adoption of the new investment code, which should create regulatory stability and facilitate investments, and the tax reforms; calls for the modernisation of the public administration, which should operate in an efficient and transparent way, thus greatly facilitating the implementation of projects and the better use of funds;

32. Supports the efforts of the Tunisian Government to modernise and liberalise the economy in order to meet new domestic, regional and global demands and believes that a strong and diverse Tunisian economy will create jobs, opportunities and prosperity, and allow the country to achieve its wider political and social ambitions;

33. Recalls the strategic importance of the agricultural sector in Tunisia and welcomes in this regard the measures foreseen in the 2016 Tunisian budget, including the cancellation of debts for farmers, and the launch of a national consultation on the agricultural sector; considers it essential for this national consultation to involve civil society and the broadest possible number of actors, including small farmers from the south of the country as well as young farmers;

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believes that the agricultural sector requires a deep reform and a series of urgent practical measures, such as developing the capacities of desalination plants to tackle the water deficit issue and other emerging problems owing to climate change; calls on the Tunisian authorities to ban the use of any pesticide that is already banned in the EU;

34. Calls on the EU to step up its efforts against desertification in Tunisia; notes that Tunisians are experiencing a serious shortage of water; calls on Tunisia to foster sustainable agriculture and eating habits; recommends a land reform to incite farmers to preserve forests and rivers; recalls that sustainable development of Tunisia's coastal tourism requires a strong reduction in hotel density in order to rationalise investments and manage the water front;

35. Welcomes the launch of the project entitled 'Youth mobility, food security and rural poverty reduction' by the APIA (Agence de promotion des investissements agricoles), in order to combat youth unemployment by offering alternatives in rural areas; calls on the Member States to support the EU actions by engaging, in partnership with Tunisian authorities, civil society organisations and the private sector, in sectoral or thematic projects that could have a direct and beneficial impact on Tunisian society;

36. Welcomes programmes developed by the Secretariat of the Union for the Mediterranean, such as Med4jobs, to address the employability of young people in the Mediterranean; calls on the member states of the Union for the Mediterranean to task its Secretariat to focus on the economic and social development of Tunisia in support of the consolidation of its transition process;

37. Calls for a stronger fight against corruption, particularly in the context of the growing underground economy, with a view to achieving a more efficient and transparent decision-making process and to establishing a better environment for investment and business; welcomes the creation of the Tunisian Anti-Corruption Agency but regrets its limited budget; urges the Tunisian authorities to strengthen its capacity and effectivity and to provide it with all the necessary financial and logistical support to ensure the proper functioning of public administration and the regularity of public procurement; calls on the Tunisian authorities to ensure that the steps they take against corruption are highly visible;

38. Calls for the acceleration of the establishment of the National Social Dialogue Council decided on in 2013;

39. Expresses concern at Tunisia's lack of asset recovery, owing notably to the lengthy and cumbersome processes involved in confiscating and repatriating assets; calls for specific technical capacity support to be provided to Tunisia in order to undertake investigations and collect the intelligence and evidence needed to build cases of asset recovery;

40. Calls on the Member States to demonstrate support and political will in order to speed up the recovery of frozen Tunisian assets; welcomes the Council decision of 28 January 2016 to extend the freeze on the assets of 48 people by one year;

41. Calls for the promotion of faster and safer transfers of remittances and of the investment potential, especially with regard to local and regional development, of Tunisians and North Africans already residing in the EU;

42. Express concerns regarding the sustainability of the Tunisian debt, and calls for an assessment of possible ways to make it more sustainable, especially in light of the country's economic situation; calls for the conversion of Tunisian debt into investment projects, especially for building strategic infrastructures and reducing regional disparities, and welcomes the initiatives in this regard; encourages the Commission and the Member States to increase the number of these types of projects; calls on the Member States to explore ways of securing a preferential rescheduling of Tunisia's debt and a diversification of debt components;

43. Welcomes EU projects in the area of job creation and vocational training, such as IRADA; recommends the use of European Neighbourhood Policy (ENP) funds to further assist SMEs; points out that SMEs are crucial to Tunisian growth and should therefore benefit from EU support; encourages the development of business start-up programmes targeting women and young people specifically, with a view to developing business management training and access to financial support in

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order to enhance the SME sector; recommends that Tunisia take the appropriate measures to be able to benefit fully from the EU's COSME (Competitiveness of Enterprises and Small and Medium-Sized Enterprises) programme as soon as possible; encourages private lending to SMEs, including by enhancing the capability of the credit guarantee sector and by reforming the undercapitalised banking sector; welcomes the recent twinning programme for the Tunisian Central Bank aimed at supporting the modernisation of the banking sector;

44. Recommends that EU expertise in the field of regional funds and the reduction of regional disparities be used to address regional development in Tunisia and reduce disparities; calls for the support of international partners and funding institutions to improve and expand national infrastructure (e.g. motorways, railways, ports, airports, and telecommunication networks) to better integrate rural and inland centres;

45. Encourages the integration of the European Neighbourhood Instrument (ENI) with pan-EU initiatives such as the Energy Union; encourages, at the same time, more North African regional cooperation on specific issues such as afforestation and water management, as well as greater socioeconomic integration, with increased trade, across North Africa; points out that the Union for the Mediterranean supports the development of specific projects in the region and should, in that regard, be involved in projects led by the EU in Tunisia;

46. Calls for EU cooperation to focus more on the green economy and sustainable development and to increase the use of renewable energies, as well as better water and waste treatment, especially considering Tunisia's high potential in the renewable energy sector; welcomes projects such as the depollution of the Lake of Bizerte endorsed by the Union for the Mediterranean, the plant roofs of Ghar el Melh and organic waste used for consumption in Beja;

47. Welcomes the integration of the Euro-Mediterranean electricity markets as an important element of energy cooperation with the southern neighbours; considers that the Elmed project would enable two-way electricity trade between the North and South of the Mediterranean, generating benefits for all partners in terms of security, stability and affordability of electricity supply;

### **III – Security and defence**

48. Is deeply concerned about the immediate security spillover in Tunisia originating, among other reasons, from instability in Libya; notes the building of a wall at a part of the border with Libya; expresses concerns at the high number of Tunisian foreign fighters joining Daesh and other terrorist groups; underlines that the fight against weapon smuggling is an important part of counter-terrorism; underlines the need to reform the country's intelligence services while respecting the rule of law and human rights conventions;

49. Is worried about the terrorist attack in the border city of Ben Guerdane immediately after the bombing in Sabratha, which shows that the Tunisian-Libyan border remains highly permeable; expresses concerns about the situation in Libya and calls on all parties in Libya to engage constructively with the Government of National Accord (GNA); underlines that the EU stands ready to offer security support at the GNA's request and that security coordination between Tunisia and Libya needs to be re-established; suggests that an assessment should be made, in partnership with Tunisian authorities, of the possibility of establishing an EU Border Assistance Mission in Tunisia;

50. Recognises that poverty and social exclusion are among the major causes of radicalisation; calls for more effective social inclusion of young people to enable them to find stable employment and prevent them from becoming targets for recruitment as fighters for terrorist organisations; recommends using the expertise gathered through the initiative of international organisations such as Hedayah to develop local and regional strategies for countering violent extremism; calls for awareness raising about these existing networks or similar initiatives in Tunisia;

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51. Calls on the Tunisian Government to set up a strategy to deal with returning foreign fighters, for example by coupling punitive and precautionary measures with de-radicalisation and rehabilitation programmes in order to give them the possibility to reintegrate into society, thereby reducing future risks; calls for a more comprehensive strategy to prevent radicalisation in prisons and detention centres; calls for a focus on improved education and on countering the radicalisation of young people;

52. Recognises that terrorism is a shared challenge which requires a joint response and that cooperation between the EU and Tunisia in the field of security and the fight against terrorism has been stepped up recently, in particular with the launch of an ambitious programme to support security sector reform;

53. Supports the UN-led process of peace and political reconciliation in Libya as an essential vehicle towards stabilising the wider region and strengthening Tunisia's security and reform process;

54. Welcomes the security assistance coordination process launched by Tunisia, in which the EU plays an active role; stresses that the EU should support Tunisia in building state structures to deal with security issues; welcomes the results achieved by the G7+3 on security cooperation; calls for the swift implementation of the programmes currently in place and for the reinforcement of security assistance to Tunisia, with a focus on border security, protecting tourism infrastructures and combating the shared terrorist threat; encourages the Tunisian authorities, however, to respond proportionately to such threats in order to safeguard democratic freedoms and fundamental rights; calls for the full backing of the Tunisian competent authorities, the establishment of a national security adviser and for the Member States to share best practices in the security field with Tunisia, focusing on the training of security personnel and respect for human rights; calls for systematic human rights assessment of EU support to Tunisia in the security field;

55. Expresses its deepest concern about Law 22/2015 on counter-terrorism, adopted in July 2015 by Tunisia's Assembly of Representatives, which imposes the death penalty as a possible sentence for a range of 'terror' offences; expresses concerns regarding several provisions of the counterterrorism law; stresses that this bill could seriously infringe civil liberties and undermine respect for human rights in Tunisia; calls on the Tunisian authorities to continue to observe the moratorium on the death penalty; recalls that the death penalty already exists under Tunisian law for crimes such as murder and rape, even though no executions have occurred since 1991; underlines that, although Tunisia is one of the countries that are most vulnerable to the terrorism threat, states are obliged to fully respect human rights when fighting terrorism; emphasises that the ENP is strongly linked with respect for human rights and international law and recalls the strong EU position against the death penalty;

56. Welcomes the fact that provision is now made, under Law 22/2015 on counter-terrorism, for the legal protection of journalists' sources and for the criminalisation of unauthorised government surveillance;

57. Welcomes the launch, in November 2015, of the EU programme of support for security sector reform in Tunisia — with particular focus on restructuring security services, border controls and intelligence services — and the commitment made by both parties at the EU-Tunisia Association Council of 18 April 2016 to implement the programme efficiently and swiftly;

58. Calls for the promotion of a logic of objectives, rather than mere support by policy instruments, within a clear strategic vision focusing on prevention, support for the PRA's drafting of legislation, and the establishment of a counter-terrorism prosecutor's office;

59. Welcomes the enhanced political dialogue between the EU and Tunisia in the fight against terrorism; emphasises the importance of protecting human rights in the context of counter-terrorism measures;

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60. Calls for increased cooperation with EU agencies such as EUROPOL, while observing that Tunisia was not among the list of third states with which Europol will conclude agreements; calls on the Council to consider the inclusion of Tunisia on this list of third states; requests that an impact study on this cooperation be conducted and presented at a joint meeting of the Committee on Foreign Affairs (AFET) and the Committee on Civil Liberties, Justice and Home Affairs (LIBE) before the agreement is approved; welcomes the fact that EUROJUST has established a contact point with Tunisia and EUROJUST's invitation to the authorities to step up their cooperation and appoint a second contact point specifically in charge of terrorism; invites the Tunisian Government to provide the appropriate follow-up to these proposals as soon as possible;

#### ***IV – Mobility, research, education and culture***

61. Welcomes the EU and the Tunisia Mobility Partnership signed in March 2014 and calls for its rapid implementation; calls for a new visa policy towards Tunisia and for the conclusion of a readmission agreement; notes that, although mobility partnerships rely on national competences, they are included in the EU proposal within the ENP; recommends that Member States show their solidarity with Tunisia by facilitating the issuing of visas for entrepreneurs, teachers, students, researchers, artists, etc.;

62. Encourages the EU to sign mobility partnerships with the partner countries in its southern neighbourhood in order to relax visa procedures in conjunction with readmission agreements; calls on the Commission, in cooperation with the Member States, to develop possibilities for circular migration schemes which would open up safe and legal routes for migrants; condemns trafficking in human beings, most of the victims of which are women, and stresses the importance of reinforcing cooperation with partner countries in order to combat it; notes that the issuing of long-term visas with several entries, instead of short-term visas, is the best way to decrease irregular migration, including through smuggling and human trafficking; recommends that Tunisia amend the 2004 law on the criminalisation of individuals who have left its territory without authorisation, in accordance with international law;

63. Calls on the Tunisian authorities to cooperate closely with Member States in order to tackle organised forms of illegal immigration;

64. Stresses that missions such as EUNAVFOR MED are a positive and effective way to tackle human trafficking; calls on the EU to continue to intensify operations of this type and to involve partner countries such as Tunisia;

65. Welcomes EU-Tunisian partnership in the field of research and innovation, and Tunisia's participation in the Horizon 2020 framework programme; emphasises that a consistent scientific research and technological development policy would be an incentive to R&D investments, the transfer of research and innovation to the private sector and the creation of new businesses; underlines that Tunisia should become a full participant in the Erasmus + programme in order to develop further the exchange of university students; is concerned about the growing difficulties faced by Tunisian students wanting to study in Europe; calls for a 'positive discrimination policy' to be implemented, particularly for young students coming from less developed regions, with incentives for them to be allowed to participate in such programmes; calls on Tunisia to readjust and prioritise partnerships for developing skills in foreign languages, engineering, renewable energies, sciences and computer science, which have the highest employment rates;

66. Calls on the Commission to encourage the development of partnerships among schools, universities and research centres and to strengthen shared lifelong learning projects, especially in the fields of language learning, new technologies, promotion of women's education promotion and entrepreneurship;

67. Calls for a strengthened partnership in the creative, cultural, sports, popular education, community life and audiovisual sectors through the strengthening of networks and of initiatives for increased intercultural dialogue, the highlighting of the common historical and archaeological heritage from the Roman era, player mobility, and the promotion and circulation of cultural and audiovisual content, including through festivals and exhibitions; encourages Tunisia to participate in the Creative Europe Programme;



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68. Recommends the use of Arabic by the EU institutions, and especially the EU Delegation in Tunis, when publishing calls for tenders and for expressions of interest and when communicating with the public; underlines the importance of the Tunisian Government informing its citizens about its actions;

69. Considers that the use of Arabic is necessary to ensure the involvement of civil society in EU-Tunisia relations, in particular in the context of the free trade agreement negotiations;

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70. 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 Government of the Republic of Tunisia and the President of the Tunisian People's Representative Assembly.

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P8\_TA(2016)0346

**Social dumping in the EU****European Parliament resolution of 14 September 2016 on social dumping in the European Union (2015/2255(INI))**

(2018/C 204/13)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 5 of the Treaty on European Union and to Articles 56, 153(5) and 154 TFEU,
- having regard to the fundamental freedom of movement of workers (Article 45 TFEU) and to the free movement of services (Article 56 TFEU),
- having regard to Articles 151 and 153 TFEU and to Article 9 TFEU, which guarantees adequate social protection,
- having regard to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services <sup>(1)</sup>,
- having regard to Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’) <sup>(2)</sup>,
- having regard to the ongoing implementation of Directive 2014/67/EU,
- 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 <sup>(3)</sup>,
- having regard to Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems <sup>(4)</sup>,
- having regard to Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) <sup>(5)</sup>,
- having regard to Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market <sup>(6)</sup>,
- having regard to Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC <sup>(7)</sup>,

<sup>(1)</sup> OJ L 18, 21.1.1997, p. 1.<sup>(2)</sup> OJ L 159, 28.5.2014, p. 11.<sup>(3)</sup> OJ L 166, 30.4.2004, p. 1.<sup>(4)</sup> OJ L 284, 30.10.2009, p. 1.<sup>(5)</sup> OJ L 177, 4.7.2008, p. 6.<sup>(6)</sup> OJ L 300, 14.11.2009, p. 72.<sup>(7)</sup> OJ L 300, 14.11.2009, p. 51.

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- having regard to Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 <sup>(1)</sup>, and to Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities <sup>(2)</sup>,
- having regard to Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community <sup>(3)</sup>,
- having regard to Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) <sup>(4)</sup>,
- having regard to the proposal for a Council directive on manning conditions for regular passenger and ferry services operating between Member States (COM(1998)0251),
- having regard to Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) <sup>(5)</sup>, as amended by Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006 <sup>(6)</sup>,
- having regard to its resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe <sup>(7)</sup>,
- having regard to Decision (EU) 2016/344 of the European Parliament and of the Council of 9 March 2016 on establishing a European Platform to enhance cooperation in tackling undeclared work <sup>(8)</sup>,
- having regard to the fundamental labour standards established by the International Labour Organisation (ILO) and to its conventions and recommendations on labour administration and labour inspections, which are an international benchmark for ensuring that legal provisions concerning working conditions and worker protection are applied,
- having regard to the Eurofound report entitled 'Posted workers in the European Union (2010)' <sup>(9)</sup> and to the national reports,
- having regard to Eurofound's European Industrial Relations Dictionary <sup>(10)</sup>,
- having regard to the Commission communication of 19 May 2015 entitled 'Better regulation for better results — an EU agenda' (COM(2015)0215),
- having regard to Parliament's 2015 study entitled 'EU Social and Labour Rights and EU Internal Market Law',
- having regard to the Commission's 2015 'Study on wage setting systems and minimum rates of pay applicable to posted workers in accordance with Directive 96/71/EC in a selected number of Member States and sectors',

<sup>(1)</sup> OJ L 102, 11.4.2006, p. 1.

<sup>(2)</sup> OJ L 80, 23.3.2002, p. 35.

<sup>(3)</sup> OJ L 293, 31.10.2008, p. 3.

<sup>(4)</sup> OJ L 364, 12.12.1992, p. 7.

<sup>(5)</sup> OJ L 167, 2.7.1999, p. 33.

<sup>(6)</sup> OJ L 124, 20.5.2009, p. 30.

<sup>(7)</sup> Texts adopted, P7\_TA(2014)0012.

<sup>(8)</sup> OJ L 65, 11.3.2016, p. 12.

<sup>(9)</sup> <http://www.eurofound.europa.eu/publications/report/2010/working-conditions-industrial-relations/posted-workers-in-the-european-union>

<sup>(10)</sup> <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary>

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- having regard to the 2015 study, carried out by the University of Ghent and financed by the Commission, entitled ‘Atypical Employment in the Aviation Sector’,
  - having regard to the Commission President’s State of the Union address to Parliament of 9 September 2015,
  - having regard to Rule 52 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 Transport and Tourism and the Committee on Women’s Rights and Gender Equality (A8-0255/2016),
- A. whereas undeclared work and bogus self-employment can lead to distortions of competition which result in long-term damage to social insurance systems, an increasing number of precarious jobs and deteriorating levels of worker protection and job quality in general, and should therefore be combated; whereas the increasing trend towards outsourcing and subcontracting may create possibilities for the abuse or circumvention of existing labour and social law; whereas it is essential to tackle such abuses in order to maintain freedom of movement in the internal market and solidarity within the Union;
- B. whereas the free movement of workers, as laid down in Article 45 of the Treaty on the Functioning of the European Union, freedom of establishment and freedom to provide services are fundamental principles of the internal market;
- C. whereas the Charter of Fundamental Rights of the European Union, to which all the Member States are signatories, stipulates that equality between men and women must be ensured in all areas; whereas, with regard to social dumping, a key challenge for the EU is to increase the level of employment among women, improve the situation of women on the labour market and eliminate gender gaps;
- D. whereas one of the main principles of EU policies is social cohesion, which means the constant and ongoing approximation of wages and guaranteed social security protection for all workers, be they local or mobile; whereas substantial differences in labour conditions and wages persist in the Union, and whereas upward social convergence is key to prosperity and enhanced internal demand throughout the Union; whereas wage differentials are among the main reasons for workers’ departure from their home countries;
- E. whereas Article 9 TFEU enshrines the promotion of a high employment rate, the guaranteeing of adequate social protection, the combating of social exclusion, and a high level of education, training and human health protection as fundamental principles of the Union; whereas, as a consequence of the crisis and the high unemployment rates in the majority of the Member States, inequality is deepening;
- F. whereas the gender pay gap still exists and, despite existing EU legislation and soft-law recommendations, progress in this area is extremely limited; whereas the situation is exacerbated by social dumping, together with the gender pay gap, which leads to a gender pension gap that puts elderly women at greater risk of poverty than elderly men;
- G. whereas human trafficking — in particular the trafficking of women, not only from third countries to the EU but also between EU countries — is often associated with false employment contracts;
- H. having regard to the growing scope for ‘social dumping’ as a result of employment relations presenting extraterritorial features;

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- I. whereas in the transport sector, security, passenger safety and appropriate working conditions are to a great extent interlinked;
- J. whereas the creation of a Single European Transport Area was confirmed to be the ultimate objective of the 2011 White Paper on Transport;
- K. whereas the Commission has announced that during 2016 it intends to propose new initiatives concerning road transport, including the social aspects;
- L. whereas the road transport sector is essential to the society and economy of the European Union and accounts for almost three quarters (72 %) of total domestic freight transport; whereas it transports more passengers than over- and underground railways and trams combined, and employs more than 2,2 % of the EU's total working population (5 million people);
- M. whereas good working conditions, which protect physical and mental health, are a fundamental workers' right <sup>(1)</sup> and have positive value in themselves;
- N. whereas on 15 July 2014 and in his 2015 State of the Union address, Commission President Jean-Claude Juncker highlighted the need for a fairer and more truly pan-European labour market, which can be achieved by promoting and safeguarding the 'free movement of citizens as a fundamental right of our Union, while avoiding cases of abuses and risks of social dumping';
- O. whereas the Court of Justice, in its judgment in case C-341/05 *Laval* of 18 December 2007 <sup>(2)</sup>, highlighted the right to undertake collective action against possible social dumping and emphasised that such action must be proportionate in order not to restrict the fundamental freedoms of the EU, such as the freedom to provide services;
- P. whereas the European Social Charter should be acknowledged as the expression of the consensus among the Member States in the area of fundamental social rights;
- Q. whereas the growth in abusive practices and the increasing exercise of social dumping weaken support for the principle of the internal market and the competitiveness of businesses, in particular SMEs, undermine the rights of European workers and confidence in European integration and make genuine social convergence essential; whereas agriculture, building, construction, catering and food, transport, health, care and domestic services are the main sectors concerned;
- R. whereas the principle of equal treatment of workers within the European Union and essential social convergence in the single market are important; whereas Article 45 TFEU stipulates that freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment;
- S. whereas dumping, whether social, fiscal or environmental, is contrary to European values, as it endangers the protection of EU citizens' rights <sup>(3)</sup>;
- T. whereas most Member States have not yet transposed Directive 2014/67/EU, even though the deadline for doing so was 18 June 2016; whereas it is important to assess the impact of the implementation of that directive, once it has been transposed in all the Member States, in order to determine its real impact in the fight against the various types of fraud identified in the context of the posting of workers and the protection of posted workers;

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<sup>(1)</sup> Article 31(1) of the Charter of Fundamental Rights of the European Union: 'Every worker has the right to working conditions which respect his or her health, safety and dignity.'

<sup>(2)</sup> EU:C:2007:809.

<sup>(3)</sup> See texts adopted, P8\_TA(2015)0252.

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- U. whereas posted workers make up about 0,7 % of the entire EU labour force <sup>(1)</sup>;
- V. whereas the number of posted workers in the Union stands at 1,92 million, mainly in the sectors of construction (43,7 % of all posted workers), services, transport, communication and agriculture;
- W. whereas the free movement of persons is essential to the European project, and is also a prerequisite for achieving economic, social and territorial cohesion goals in order to bring about a solid and sustainable level of competitiveness in all Member States;
- X. whereas the Court of Justice has highlighted, in its judgment in Case C-396/13, that Directive 96/71/EC is intended, on the one hand, to ensure fair competition between domestic businesses and businesses which provide transnational services, and, on the other, to ensure that a nucleus of mandatory rules laying down minimum protection in the host Member State apply to posted workers;
- Y. whereas the posting of workers should facilitate the sharing of skills and professional experience, and not be a cause of social dumping;
- Z. whereas European employers' federations and trade unions can play an important role in the fight against social dumping;
- AA. whereas a commitment has been made not to increase the financial burden for business, in particular SMEs;
- AB. whereas the setting of wages is a Member State competence;
- AC. whereas the Court of Justice has highlighted, in its judgment in Case C-396/13, that the host Member State is competent to determine the level of the minimum wage and the method of calculation and to assess the criteria applied;
- AD. whereas the President of the Commission has stated that 'the same work at the same place should be remunerated in the same manner' <sup>(2)</sup>; whereas legal clarification of this statement and of its application is required;

#### ***1. Reinforcing controls and coordination between and by Member States***

1. Considers that, while there is no legally recognised and universally shared definition of social dumping, the concept covers a wide range of intentionally abusive practices and the circumvention of existing European and national legislation (including laws and universally applicable collective agreements), which enable the development of unfair competition by unlawfully minimising labour and operation costs and lead to violations of workers' rights and exploitation of workers; considers that the consequences of these practices and situations can have an impact as regards three main dimensions:

- the economic aspect: the use by certain economic actors of illegal practices such as undeclared work or of abusive practices such as bogus self-employment can lead to major market distortions which are detrimental to bona fide companies, in particular SMEs;
- the social aspect: social dumping could lead to a situation of discrimination and unfair treatment between workers in the EU and deprive them of the effective exercise of their social and labour rights, including in respect of pay and social protection;
- the financial and budgetary aspect: the non-payment of due social security contributions and taxes as a result of social dumping represents a threat to the financial sustainability of social security systems and the public finances of the Member States;

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<sup>(1)</sup> See Pacolet, Jozef, and De Wispelaere, Frederic, 'Posting of workers: Report on A1 portable documents issued in 2012 and 2013', p. 15. According to Eurostat data, the entire EU labour force in 2013 amounted to 243 million people (Labour Force Survey Overview 2013, Eurostat ([http://ec.europa.eu/eurostat/statistics-explained/index.php/Archive:Labour\\_force\\_survey\\_overview\\_2013](http://ec.europa.eu/eurostat/statistics-explained/index.php/Archive:Labour_force_survey_overview_2013))).

<sup>(2)</sup> [https://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines\\_en.pdf](https://ec.europa.eu/priorities/sites/beta-political/files/juncker-political-guidelines_en.pdf)

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2. Believes that it is crucial to ensure a level playing field and fair competition across the EU and to eliminate social dumping; stresses that labour inspectorates and/or the social partners play a key role in enforcing workers' rights, in defining decent pay in accordance with Member States' law and practice, and in providing consultation and guidance to employers; points out that 28 Member States have ratified ILO Convention No 81 on labour inspection, and calls on the Member States to ensure that all its provisions are implemented; calls on the Commission to support the Member States in establishing effective and efficient labour inspectorates and to draft a recommendation based on ILO Convention No 81 on labour inspection in order to ensure compliance with labour standards and the protection of workers, including provisions relating to working time, safety, and health; recalls the important role played by the social partners in ensuring compliance with existing legislation;

3. Calls on the Member States to increase efficiency and to secure appropriate staffing levels and resources for their control bodies (including social and/or labour inspectorates, agencies and liaison offices), including for interpretation and translation, inter alia through the exchange of best practices; urges the Member States to meet the benchmark of one labour inspector for every 10 000 workers, as recommended by the ILO, and to make sure that they are adequately equipped to enforce European legislation in the area of free movement of workers and services;

4. Calls on the Member States to improve cross-border cooperation between inspection services and the electronic exchange of information and data, in order to improve the efficiency of controls intended to combat and prevent social fraud, bogus self-employment and undeclared work, while recognising the importance of data protection, and with a view to mandatory cooperation and mutual assistance between Member States; encourages the Member States to draw up Union-wide in-service training programmes for inspectors, to identify new techniques used to circumvent the rules, and to organise cross-border cooperation; acknowledges the Commission's work in financing mutual learning programmes for labour inspectors in the Member States; stresses the importance of ensuring access for national labour inspectorates and/or the social partners to all effective working places and associated living places provided by the employer, where this is allowed by national law and with due respect for privacy, given that this is a prerequisite to enable them to do their job and check for cases of social dumping; recommends that the Commission consider turning the Eurodetachment projects into a permanent platform for exchange, joint training and collaboration for labour inspectors (and public officials in liaison offices for posted workers) involved in control and monitoring — a platform which could be included in, or work in coordination with, the European Platform Tackling Undeclared Work;

5. Encourages the Member States to create, where applicable, ad hoc bilateral task forces and, where needed, a multilateral task force including national competent authorities and labour inspectors, to carry out, subject to the approval of all the Member States concerned, on-the-spot cross-border checks, in accordance with the national law of the Member States in which the controls take place, in suspected cases of social dumping, work under illegal conditions or fraud, and to identify 'letterbox companies', fraudulent recruitment agencies and abuses of the rules that result in exploitation of workers; points out that these task forces could work in coordination with the European Platform Tackling Undeclared Work and with the Senior Labour Inspectors Committee in order to limit the financial burden involved, and that they could create a network of national social inspection services to promote information exchange; regards effective cooperation between national authorities and the social partners as a vital part of the effort to end social dumping and ensure that competition in the single market is fair;

6. Calls on the Commission and the Member States to ensure more effective implementation of existing legislation and to enhance the cooperation between Member State entities responsible for labour inspections, especially as regards cross-border labour inspections; welcomes the launch of the European Platform Tackling Undeclared Work and the goals it has laid down with a view to enhancing cooperation in the prevention and deterrence of undeclared work; hopes that this platform will help to detect and address cases of infringement of national and EU labour law and of EU provisions on free movement of workers, freedom of establishment and freedom to provide services;



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7. Stresses the need to complement action against breaches of social rights by combating tax fraud and tax evasion, in order to guarantee fair competition and a level playing field for enterprises;
8. Notes that non-declaration or irregular declarations are among the most common forms of circumvention of the rules on posting; recommends that, in the case of posting, it should be made mandatory in all Member States to submit a declaration when the provision of services commences, at the latest, and that such declarations should be entered in a European register which would make it easier to consult them, to facilitate coordination between Member States and to limit the current legal uncertainties arising from the differences between procedures and documents from one country to another;
9. Stresses that the competent authorities of the host Member State, in cooperation with those of the sending state, should be able to check the reliability of the A1 form in the event of serious doubts as to whether a posting is genuine; calls on the ad hoc administrative working group on the A1 form to step up its efforts by improving the reliability of A1 forms, and to explore the possibility of facilitating oversight by collecting the A1 forms in a single digital system; calls on the Commission and the Member States to take all the requisite measures to ensure that the Electronic Exchange of Social Security Information (EESSI) is fully operational, used by all Member States and tailored to the needs of SMEs; stresses that improved access to information for workers, employers and labour inspectors, for instance through a single national website, is one of the key tools in the fight against breaches of the rules;
10. Calls on the Member States to ratify and implement ILO Convention No 189 on domestic workers; calls on the Member States to establish legal frameworks allowing the lawful employment of domestic workers and carers, in order to provide legal certainty for employers and fair terms of employment as well as decent working conditions for workers; calls on the Commission and the Member States to assess the terms and conditions of employment of domestic workers and, if necessary, to submit recommendations for improvement in accordance with the current Treaties (in particular Article 153 (1) TFEU), including appropriate training and the provision of information on the rights and obligations of this category of workers;
11. Notes that women are those most affected by social dumping in certain sectors, in particular housekeeping and care (especially home care); calls on the Commission, in cooperation with the Member States, to evaluate all situations in which women experience social and wage dumping or are engaged in undeclared work, as well as existing related EU legislation;
12. Calls on the Member States to improve transnational and local cooperation between public institutions, trade unions and NGOs with a view to addressing the often very complex problems facing migrant workers, and to take into account labour conditions as well as all other elements related to quality of life, including general health, social inclusion and accommodation;
13. Highlights the importance of the provisions of Directive 2014/67/EU on the cross-border enforcement of financial administrative penalties and/or fines, which will help to eliminate breaches of the legislation; takes the view that the competent authorities should be able to impose effective, proportionate and dissuasive sanctions, including the possibility of suspending the provision of services in the event of serious breaches of the legislation on postings or of applicable collective agreements; considers that the amount of such fines should serve as a deterrent, and that the provision of information for SMEs on the applicable legislation on posting should be improved;
14. Calls on the Member States to improve considerably information exchange concerning social security for posted workers, with a view to improving the enforcement of existing legislation; recalls its appeal to the Commission to look into the benefits of introducing, and if appropriate to provide, a forgery-proof European social security card or other EU-wide electronic document, on which could be stored all the data needed to verify the bearer's social security status on the basis of his or her employment relationship <sup>(1)</sup>, as well as the necessary information associated with the worker's postings, in strict

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<sup>(1)</sup> European Parliament resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe (Texts adopted, P7\_TA(2014)0012).



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compliance with data protection rules, in particular where sensitive personal data are processed; emphasises, however, that this must not restrict or undermine in any way the right of the host countries' authorities and social partners, in accordance with national law and practice, to review, and to carry out controls and verifications of, the data content of such a card;

15. Calls for an EU-wide list of enterprises, including letterbox companies, responsible for serious breaches of European labour and social legislation to be drawn up — after they have received prior warning — which can be consulted only by the relevant inspection authorities; calls for these enterprises to be denied access to public contracts, public subsidies and EU funds for a statutory period;

16. Calls for the EU and its Member States to cooperate across borders in relation to enforcement information, to give monitoring authorities better access to data recorded in the Member States' national electronic registers and in the European Register of Road Transport Undertakings (ERRU) and to consolidate the list of infringements leading to the loss of good repute of road transport operators, by including non-compliance with any relevant EU legislation; stresses that responsibility for breaching rules should lie with those giving orders to employees;

## ***II. Addressing regulatory gaps in order to enforce national and European labour and social law, and addressing the principle of equal treatment and non-discrimination***

17. Calls on the Commission to take action to eliminate shortcomings which have been identified in the current rules, in order to combat social dumping and social and fiscal fraud effectively;

18. Calls on the Commission to monitor carefully the implementation of Directive 2014/67/EU and the effectiveness of the Platform Tackling Undeclared Work in combating the phenomenon of letterbox companies by applying more generally the principle that each company should have one main corporate headquarters and ensuring that in cases of free provision of services using posted workers, each service provider involved should perform a 'genuine activity' in the Member State of establishment, and therefore be a genuine undertaking; recalls the importance of enterprises having a 'genuine activity' in their Member State of origin as a justification for the posting of workers; recalls the rejection by its Committee on Employment and Social Affairs of the proposal for a directive on single-person limited liability companies, as some of the proposed provisions could facilitate the creation of the kind of entities whose social and economic activities are bogus, constitute a breach of their obligations under agreements and the law, and result in the loss of billions of euros in tax revenue; calls for the Commission to consider the possibility of proposing a transparent and accessible business register of all EU companies and the mandatory use of the EESSI;

19. Calls on the Commission to launch a new report on the Member States' progress in making the necessary improvements to their national tax administrations and systems for the purpose of tackling tax fraud, as proposed in the Commission communication entitled 'An Action Plan to strengthen the fight against tax fraud and tax evasion' (COM(2012)0722);

20. Notes that Directive 96/71/EC refers only to Articles 64 and 74 TFEU relating to freedom to provide services and freedom of establishment whilst one of the main aims of the directive is to protect workers; draws attention, further, to the importance of Articles 151 and 153 TFEU, which set goals for the EU and its Member States concerning the promotion of employment, the improvement of living and working conditions, adequate social protection, the promotion of social dialogue and the fight against exclusion;

21. Recognises the risks associated with long subcontracting chains; recalls that Member States can set up, in consultation with the relevant social partners, 'joint and several liability' mechanisms at national level which are applicable to local and foreign companies, in order to enable local and foreign workers to exercise their rights; recalls that this possibility was confirmed by Directive 2014/67/EU; asks the Commission to monitor carefully the application of the obligation placed on Member States by that directive to provide for measures ensuring that, in the construction sector, posted workers in subcontracting chains can hold the contractor of which their employer is a direct subcontractor liable as regards respect for their rights as workers;

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22. Notes the problems related to Directive 96/71/EC and its implementation; highlights the importance of addressing these problems in order to ensure fair working conditions, respect for workers' rights and a level playing field for posting and local companies in the host country, which is particularly important for SMEs; calls for timely implementation of Directive 2014/67/EU; notes the Commission proposal to revise Directive 96/71/EC by including a limitation on posting periods, introducing provisions on remuneration and defining terms and conditions of employment so as to ensure respect for the principle of equal treatment and the prohibition of any discrimination based on nationality, as enshrined in EU law since the founding Treaties; insists that the rules on posting should be clear, proportional and justified; stresses the need to comply with the collective agreements and industrial relations systems of the host country;

*Mobile workers: combating social dumping in the transport industry*

23. Calls for increased monitoring of the implementation of working time and rest time rules in the road transport industry; calls for the improvement of monitoring devices and the timely introduction of smart tachographs for professional use with a view to ensuring proper, efficient and non-discriminatory implementation of existing legislation by Member States without creating any undue administrative burden; calls on the Commission to assess the creation of an 'electronic and integrated operator file' for all operators operating under the Community licence, with the aim of gathering all relevant carrier, vehicle and driver data collected during roadside checks;

24. Calls for the stepping-up of checks in relation to compliance with work, standby, driving and rest times in all relevant sectors, such as construction, catering, health and transport, and for the imposition of penalties for serious non-compliance;

25. Invites the Commission to consider creating a European Road Transport Agency to ensure proper implementation of EU legislation and promote standardisation and cooperation among all Member States as regards road transport;

26. Calls on the Commission to coordinate and reinforce cooperation on road transport legislation among national authorities, including through information exchange, and on other efforts aimed at supporting the implementation of legislation and ensuring a level playing field for operators; notes that the enforcement of legislation in this area is primarily the responsibility of the Member States; urges the Member States to cooperate more closely with Euro Contrôle Route and the European Traffic Police Network (TISPOL) in order to improve the execution of EU road transport legislation by ensuring its equal and appropriate implementation;

27. Calls on the Commission to apply in a collective manner, to mobile personnel in the road transport industry, Article 8(2) of Regulation (EC) No 593/2008 (Rome I) as interpreted by the Court of Justice ruling in the *Koelzsch* case (C-29/10, judgment of the Court (Grand Chamber) of 15 March 2011);

28. Asks the Commission and the Member States to exchange views in order to clarify the relevant provisions so that a distinction can be drawn between employees and self-employed workers with a view to combating 'bogus self-employment', and asks Commission to propose specific recommendations based on indicators of the existence of an employment relationship according to ILO Recommendation No 198 concerning the employment relationship, while not discriminating against genuinely self-employed workers with a small number of clients; emphasises the need to monitor the employment status of workers such as airline pilots and train drivers and their employment relationship with the companies for which they work; stresses that the problem of bogus self-employment has significant consequences with regard to the social protection of workers and safety, and could have an effect on fair competition;

29. Rejects any further liberalisation of cabotage until the implementation of the current legal framework has been strengthened; encourages the Commission to propose improved rules with a view to ensuring better implementation and facilitating monitoring; calls on the Commission to revise the Combined Transport Directive (92/106/EEC) <sup>(1)</sup> in order to eliminate unfair practices, and calls for further measures to ensure compliance with the social legislation relating to combined transport;

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<sup>(1)</sup> Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38).

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30. Calls on those Member States which have a toll system in place to make the toll data gathered available to the monitoring authorities for evaluation so that cabotage operations can be scrutinised more effectively;

31. Recommends that, in the event of acquisitions or the transfer of company property, it be clearly stated which requirements are not disregarded but carried over into the new contracts, within the meaning of Directive 2001/23/EC <sup>(1)</sup> as regards safeguarding employees' rights in the event of transfers of undertakings;

32. Calls for Regulation (EC) No 1008/2008 to be improved in order to ensure the binding application of national labour legislation for airlines which have operational bases in the EU and to enhance the definition and concept of the term 'principal place of business', and also, in the context of the coordination of social security systems and labour law, for alignment of the definition of 'home base' for crew members as per Regulation (EU) No 83/2014 <sup>(2)</sup> and Regulation (EU) No 465/2012 <sup>(3)</sup>;

33. Strongly urges the Commission and the Member States, with regard to the European Aviation Safety Agency (EASA) Regulation and other relevant legislation, to support direct employment contracts as the standard model and to restrict the use of atypical employment contracts;

34. Calls for the social rights of flight and cabin crew to be protected;

35. Calls on Member States to review their laws to make sure that all contracts in the aviation sector provide quality employment and good working conditions; believes that precarious working conditions are an additional safety risk; stresses that competitiveness should not come at the price of 'selling off' social safeguards for workers and the quality of services;

36. Stresses that the social dimension of the Aviation Strategy for Europe published by the Commission on 7 December 2015 should be strengthened, as quality employment and good working conditions are directly linked to maintenance of the safety and security of both passengers and staff; stresses, furthermore, the need for the Commission and the Member States to monitor and ensure proper enforcement of national social legislation and collective agreements for airlines having operational bases on EU territory; recalls, in this connection, the link between social and environmental standards and quality of service, as well as safety; recognises the importance of establishing minimum training for maintenance personnel in civil aviation sectors; asks the Commission to propose a review of Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community <sup>(4)</sup>, and to analyse the causes of its non-implementation; calls on the Commission and the Member States to review rules on initial training and on the licensing of aircrew with a view to eliminating shortcomings leading to the exploitation of pilots, such as pay-to-fly contracts;

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<sup>(1)</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).

<sup>(2)</sup> Commission Regulation (EU) No 83/2014 of 29 January 2014 amending Regulation (EU) No 965/2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 28, 31.1.2014, p. 17).

<sup>(3)</sup> Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (OJ L 149, 8.6.2012, p. 4).

<sup>(4)</sup> OJ L 162, 30.4.2004, p. 1.

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37. Calls on the Commission to examine the possibility of an additional proposal on applicable working conditions in the shipping industry, including with regard to the crews of vessels;

38. Considers that, in the maritime sector, the Commission should ensure the full implementation of social legislation, including the 2006 Maritime Labour Convention; calls on the Commission and the Member States to look into measures encouraging the recruitment and retention of skilled European-based seafarers;

*Anticipating challenges linked to the digitisation of the economy*

39. Recalls the importance of tying the development of the digital and sharing economy to the protection of workers in this new sector, where more flexible working practices may result in forms of employment with lower standards as regards social security, working time, working location, training, worker participation and employment protection; stresses that freedom of association and the right to collective bargaining must be applicable in the context of these new forms of employment, in accordance with the EU Charter of Fundamental Rights and national practice; emphasises that the Member States must adapt their legislation to the digital and sharing economy, and calls on the Commission, the Member States and the social partners to evaluate rapidly the provisions of European legislation applying to this sector and, if necessary, to draw up proposals to regulate the digital, sharing and collaborative economy in order to ensure fair competition and protection of workers' rights;

40. Notes that digitisation has a crucial impact on European labour markets; emphasises that, on the one hand, digitisation can generate new business models and new jobs (especially for high-skilled workers, but also for low-skilled workers), but that, on the other hand, it can also lead to insecure forms of employment; stresses the need for the social dimension to be taken on board in the Digital Single Market Strategy so as to take full advantage of the associated employment and growth potential while ensuring a high level of employment protection; calls on the Commission to shape the digital single market in a socially just and sustainable way; takes the view that existing social protection schemes should be adapted to the needs of workers in the digital and sharing economy in order to ensure adequate social protection for those workers;

41. Recalls that in some economic sectors, such as agriculture, working hours vary according to seasonal constraints;

**III. Towards upward social convergence**

42. Stresses the primacy of fundamental rights; calls on the Commission and the Member States to support and enhance social dialogue, which plays a critical role in achieving high-level working conditions; emphasises that labour law and high social standards have a crucial role to play in rebalancing economies, supporting incomes and encouraging investment in capacity; stresses that, in this context, EU law and policy documents must respect trade union rights and freedoms, comply with collective agreements and uphold equal treatment of workers;

43. Calls on the Commission to take specific measures to help women affected by social dumping, by focusing all general policies and measures on the achievement of equality, taking into account ongoing labour market segregation and inequality in employment contracts, as reflected in the ongoing significant pay differentials between women and men;

44. Emphasises that inequality is deepening in Europe, thus undermining the achievement of the Europe 2020 targets on poverty and employment;

45. Underlines the importance of establishing economic, fiscal and social mechanisms in the territory of the Union and/or the euro area, which will improve the living standards of EU citizens by reducing economic and social imbalances; urges, in addition, the Commission to take into account opinions on social issues with a view to enhancing worker protection through convergence;

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46. Recalls the Commission's commitment to establishing a pillar of social rights and stresses the need for upward social convergence in order to achieve the objectives set out in Article 151 TFEU; emphasises that the establishment of criteria for comparing the various national social systems cannot provide such a pillar, but can only serve as a preliminary analytical framework; stresses that the adoption of a pillar of social rights should not lead to the lowering of existing labour and social standards;
47. Notes the differing levels of employee and employer social security contributions in the Member States; asks the Commission to evaluate the economic and social impact of those differences in the context of the single market;
48. Considers that wages which enable workers to lead a decent life are important for social cohesion and for maintaining a productive economy; calls for respect for, and the promotion of, collective bargaining; also recommends the establishment of wage floors in the form of a national minimum wage, where applicable, with due respect for the practices of each Member State and after consulting the social partners, with the objective of gradually attaining at least 60 % of the respective national average wage, if possible, so as to avoid excessive wage disparities, to support aggregate demand and economic recovery and to underpin upward social convergence;
49. Notes the potential value of automatic stabilisers; stresses the need to accompany these stabilisers with effective employment policies whose main aim is to create quality jobs;
50. Calls on the Commission, together with the Member States, to consider the need to take action at EU level to address various aspects of outsourcing, including the extension of joint and several liability in the subcontracting chain;
51. Stresses that all subcontractors, including temporary agencies that mostly send women to other Member States to perform domestic work and provide home care, must be made liable for unpaid wages, social security contributions, accident insurance and illness and injury provisions; stresses that subcontractors must also be able to assist employees in the event of mistreatment and abuse by clients, and with repatriation;
52. Calls on the Commission to examine the possibility of establishing an instrument whereby companies can be subject to a greater duty of care for which they may be held liable, in respect of both their subsidiaries and their subcontractors operating in third countries, in order to prevent human rights violations, corruption, severe physical injury or environmental damage and the violation of ILO conventions;
53. Considers that Directive 96/71/EC and the rules coordinating social security systems must be applicable to the employment of posted workers from a third country, on the basis of WTO Mode 4 regulation and within the framework of trade agreements, in order to guard against more favourable treatment of enterprises and workers from third countries than of those from Member States;
54. Asks the Commission to take the recommendations in this resolution into account as far as possible;
55. Stresses the need for better coordination of the various European policies;
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56. Instructs its President to forward this resolution to the Council and the Commission.
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P8\_TA(2016)0349

**Philippines****European Parliament resolution of 15 September 2016 on the Philippines (2016/2880(RSP))**

(2018/C 204/14)

*The European Parliament,*

- having regard to its previous resolutions on the situation in the Philippines, in particular those of 8 June 2016 <sup>(1)</sup> on the Framework Agreement on Partnership and Cooperation between the European Union and the Republic of the Philippines, of 14 June 2012 <sup>(2)</sup> and of 21 January 2010 <sup>(3)</sup>,
  - having regard to the statement of 3 September 2016 by the European External Action Service (EEAS) Spokesperson on the attack in Davao,
  - having regard to the diplomatic relations between the Philippines and the EU (at the time the European Economic Community (EEC)) established on 12 May 1964 with the appointment of the Philippines Ambassador to the EEC,
  - having regard to the status of the Philippines as a founding member of the Association of Southeast Asian Nations (ASEAN) following the signing of the Bangkok Declaration on 8 August 1967,
  - having regard to the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and the Republic of the Philippines, of the other part,
  - having regard to the statement of 8 June 2016 by UN Secretary-General Ban Ki-moon on the apparent endorsement of extrajudicial killings,
  - having regard to the statement of 3 August 2016 by the Executive Director of the UN Office on Drugs and Crime (UNODC) on the situation in the Philippines,
  - having regard to the statement of 4 September 2016 attributable to the Spokesman for the UN Secretary-General on the Philippines,
  - having regard to the UN Security Council press statement of 4 September 2016 on the Terrorist Attack in the Philippines,
  - having regard to the EU guidelines on human rights,
  - having regard to the Universal Declaration of Human Rights of 1948,
  - having regard to the International Covenant on Civil and Political Rights (ICCPR) of 1966,
  - having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas the Philippines and the EU have longstanding diplomatic, economic, cultural and political relations;
- B. whereas democracy, rule of law, human rights and dialogue with civil society organisations have always been an important part of the bilateral talks between the EU and the Philippines;
- C. whereas immense challenges await the recently elected Government of the Philippines in terms of combating inequalities and corruption and leading the peace process in the country;

<sup>(1)</sup> Texts adopted, P8\_TA(2016)0263.

<sup>(2)</sup> OJ C 332 E, 15.11.2013, p. 99.

<sup>(3)</sup> OJ C 305 E, 11.11.2010, p. 11.



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- D. whereas the illegal drug trade in the Philippines remains a serious national and international concern; whereas in 2015, according to the annual report by the US Department of State to Congress, the Philippine Drug Enforcement Agency (PDEA), the lead counter-narcotics enforcement agency in the country, reported that 8 629 villages or barangays (approximately 20 % of the country's villages) had reported drug-related crimes, and whereas the Philippines is considered to have the highest usage rate of methamphetamines in East Asia;
- E. whereas one of the central features of Rodrigo Duterte's presidential campaign was a commitment to ending all levels of drug crime across the country; whereas, during his election campaign and first days in office, President Duterte repeatedly urged law enforcement agencies and the public to kill suspected drug traffickers who did not surrender, as well as drug users;
- F. whereas President Duterte publicly stated that he would not pursue law enforcement officers and citizens who killed drug dealers who resisted arrest;
- G. whereas figures released by the Philippine National Police show that from 1 July to 4 September 2016 police killed over a thousand suspected drug pushers and users, and whereas further police statistics attribute the killing of over a thousand alleged drug dealers and users in the past two months to unknown gunmen; whereas, as reported by Al Jazeera, more than 15 000 drug suspects have been arrested, mostly on the basis of hearsay and allegations put forward by fellow citizens, and whereas almost 700 000 have surrendered 'voluntarily' to police and registered for treatment under the Tokhang programme in order to avoid being targeted by police or vigilantes;
- H. whereas on 8 June 2016 the UN Secretary-General, Ban Ki-moon, denounced the series of extrajudicial killings as illegal and a breach of fundamental rights and freedoms;
- I. whereas on 18 August 2016 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard, and the UN Special Rapporteur on the right to health, Dainius Pūras, urged the Government of the Philippines to put an end to the current wave of extrajudicial executions and killings in the context of an intensified anti-crime and anti-drug campaign targeting drug dealers and users;
- J. whereas the Philippine Senate and Commission on Human Rights have undertaken their own independent inquiries into the deaths;
- K. whereas the Philippines was one of the first countries in Asia to abolish the death penalty, in 1987; whereas, after being reinstated, the death penalty was abolished for a second time under President Arroyo in 2006; whereas during his election campaign President Duterte called for it to be reinstated once more, in particular for illegal drug trading, and whereas a draft bill is now under consideration in Congress;
- L. whereas another draft bill in Congress is aimed at reducing the age of criminal responsibility from 15 years to nine;
- M. whereas on 2 September 2016 a bomb attack, responsibility for which was claimed by Abu Sayyaf and affiliates, on a market in the city of Davao left at least 14 people dead and 70 wounded; whereas the Philippine armed forces are continuing a military offensive against IS-affiliated Abu Sayyaf militants in the southern province of Sulu;
- N. whereas, following the attack, the Philippine Government declared a 'state of national emergency on account of lawless violence in Mindanao';



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- O. whereas on 26 August 2016, under the auspices of the Norwegian Government, an indefinite ceasefire was signed between the Philippine Government and the NDFP (National Democratic Front of the Philippines), which represents a major breakthrough in the 47-year guerrilla war that has cost the lives of an estimated 40 000 people;
- P. whereas the Philippines will hold the chairmanship of ASEAN in 2017, and whereas President Duterte has announced that 'during the Philippines' chairmanship, we will highlight ASEAN as a model of regionalism and a global player, with the interest of the people at its core';
1. Strongly condemns the attack on a night market in the city of Davao on 2 September 2016, and expresses its condolences to the relatives of the victims; stresses that those responsible for these killings should be held accountable, but calls on the EU Delegation to monitor carefully the use of the 'rule of lawlessness'; urges all states, in accordance with their obligations under international law and relevant UN Security Council resolutions, to cooperate actively with the Government of the Philippines and all other relevant authorities in this regard;
  2. Strongly condemns drug trafficking and drug abuse in the Philippines; stresses that illegal drugs are a threat to young people in the Philippines and one of the most serious problems in society;
  3. Understands that in the Philippines millions of people are negatively affected by the high level of drug addiction and its consequences; expresses its strongest concerns, however, at the extraordinarily high numbers killed during police operations and by vigilante groups in the context of an intensified anti-crime and anti-drug campaign targeting drug dealers and users, and urges the Government of the Philippines to put an end to the current wave of extrajudicial executions and killings;
  4. Welcomes the government's intention to reduce the high levels of crime and corruption in the country, but invites the government to adopt specific, comprehensive policies and programmes that should also include measures aimed at prevention and rehabilitation, without an exclusive focus on violent repression;
  5. Strongly welcomes President Duterte's initiative to invigorate the peace process with the NDFP (National Democratic Front of the Philippines) and is looking forward to seeing an end to this conflict in the very near future, given that, according to the negotiation plan, a final agreement to end the armed conflict could be achieved within one year;
  6. Stresses that responses to the illicit drug trade must be carried out in full compliance with national and international obligations;
  7. Urges the authorities to ensure respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the Philippines;
  8. Encourages the authorities to launch an immediate investigation into the extraordinarily high numbers killed during police operations;
  9. Notes that UNODC stands ready to engage further with the Philippines to bring drug traffickers to justice with the appropriate legal safeguards in line with international standards and norms;
  10. Recommends that a national mechanism for the prevention of torture be put in place without delay, as provided for by the Convention against Torture and its Optional Protocol;
  11. Urges the Philippine Government to condemn the actions of vigilante groups and to investigate their responsibility for the killings; urges the Philippine authorities to conduct an immediate, thorough, effective and impartial investigation in order to identify all those responsible, to bring them before a competent and impartial civil tribunal and to apply the penal sanctions provided for by the law;
  12. Calls on the Government of the Philippines to guarantee appropriate protection for human rights defenders, trade unionists and journalists;

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13. Welcomes President Duterte's commitment to drug rehabilitation programmes, and calls for the EU to support the government in its efforts to provide drug users with adequate help to rid themselves of their dependence, and to continue its support for reforms of the criminal justice system in the Philippines;
  14. Recommends that the Philippines ratify without delay the Convention for the Protection of All Persons from Enforced Disappearance and that it criminalise enforced disappearances and extrajudicial executions in its national legislation;
  15. Urges the Philippine Congress to abstain from reintroducing the death penalty and from lowering the minimum age of criminal liability;
  16. Notes that, according to all empirical evidence, the death penalty does not reduce drug delinquency and would destroy a great achievement of the Philippine justice system;
  17. Urges the EU to use all available instruments to assist the Government of the Philippines in respecting its international human rights obligations, notably through the Framework Agreement;
  18. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the governments of the Member States, the Government and Parliament of the Philippines, the governments of the member states of the Association of Southeast Asian Nations (ASEAN), the United Nations High Commissioner for Human Rights and the Secretary-General of the United Nations.
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P8\_TA(2016)0350

**Somalia****European Parliament resolution of 15 September 2016 on Somalia (2016/2881(RSP))**

(2018/C 204/15)

*The European Parliament,*

- having regard to its previous resolutions on Somalia,
- having regard to the statements by the Spokesperson of the European External Action Service on the attacks in Somalia of 27 February 2016, 2 June 2016, 26 June 2016, 26 July 2016 and 21 August 2016,
- having regard to the Council conclusions on Somalia of 18 July 2016 and 15 February 2016,
- having regard to the statement by Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy Federica Mogherini on the decision on an electoral model for Somalia in 2016,
- having regard to the New Deal Compact adopted on 16 September 2013 in Brussels,
- having regard to the EU strategy for security and development of the Sahel of September 2011,
- having regard to the UN report on freedom of expression in Somalia released on 4 September 2016,
- having regard to UN Security Council resolution 2297 (2016) adopted on 7 July 2016,
- having regard to the UN Secretary-General's reports on Somalia to the UN Security Council of 8 January 2016 and 9 May 2016,
- having regard to the UN Human Rights Council Report of the Working Group on the Universal Periodic Review of 13 April 2016,
- having regard to the condemnation by the UN Secretary-General's Special Representative in Somalia, Michael Keating, of the bombing of a hotel in Mogadishu on 30 August 2016,
- having regard to the latest Universal Periodic Review on Somalia before the UN Human Rights Council in January 2016,
- having regard to the African Union Mission in Somalia's (AMISOM) call of 2 September 2016 for aid to counter the use of improvised explosive devices (IEDs) in Somalia,
- having regard to the AMISOM statement of 26 July 2016 condemning terror attacks in Mogadishu,
- having regard to the statement of the Special Representative of the African Union Commission Chairperson (SRCC) for Somalia, Ambassador Francisco Caetano Madeira, of 30 August 2016, commending the Somali security forces in relation to the attack on a hotel in Mogadishu,
- having regard to the Cotonou Partnership Agreement between the ACP and the EU,

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- having regard to the communication of the Peace and Security Council of the African Union at its 455th meeting of 2 September 2014 on the prevention and combating of terrorism and violent extremism in Africa,
  - having regard to the mandate of the African Commission on Human and Peoples' Rights to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights,
  - having regard to the Organisation of African Unity Convention on the Prevention and Combating of Terrorism, adopted in 1999,
  - having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas Somalia, after two decades of civil war, absence of state control and terrorism, is in a crucial transition period; whereas since 2012, when a new internationally backed government was installed, Somalia has been inching towards stability, but the new authorities still face a challenge from Al-Qaeda-aligned Al-Shabab insurgents;
- B. whereas although positive commitments and policy developments from the Somali Government have been observed, such as the creation of an independent National Human Rights Commission, insecurity and political infighting continue to detract from concrete progress on justice and security sector reform;
- C. whereas, in the absence of a functioning civilian judiciary, the Somali Government relies on military courts to try and convict civilians, which does not guarantee the rights of civilian defendants; whereas broad powers of investigation are granted to the National Intelligence and Security Agency (NISA), which currently does not have a law enforcement mandate, resulting in significant violations of the due process rights of detainees held by NISA;
- D. whereas the people of Somalia are struggling and suffering the consequences of continuous barbaric attacks by warlords and terrorists; whereas on 30 August 2016 at least 10 people, including soldiers and civilians, were killed in Mogadishu outside the Presidential Palace; whereas on 26 July 2016 Al-Shabab targeted the African Union base in Mogadishu, killing at least 13 people, including UN personnel, and other mortar attacks were reported in the previous months, during which more than 100 people were killed; whereas Al-Shabab also remains active in neighbouring Kenya, where it commits regular terrorist attacks;
- E. whereas AMISOM, the 22 000-strong African Union peacekeeping mission, is mandated, *inter alia*, to reduce the threat posed by Al-Shabab and other armed opposition groups, to provide security in order to enable the political process at all levels, as well as stabilisation efforts, reconciliation and peacebuilding in Somalia, and to enable the gradual handing over of security responsibilities from AMISOM to the Somali security forces, which is contingent on the capabilities of the latter; whereas AMISOM's mandate has been extended until 31 May 2017, a move which is welcomed by Parliament;
- F. whereas Uganda, the largest contributor of troops, announced that it would withdraw more than 6 000 of its troops from Somalia by the end of 2017; whereas the African Union has announced its plans to withdraw the force completely by the end of 2020, saying that security responsibilities will be transferred to Somalia's military gradually, starting in 2018;
- G. whereas AMISOM forces have been accused on several occasions of severe human rights abuses, including indiscriminate killings and some cases of sexual exploitation and abuse;
- H. whereas the forthcoming electoral process in Somalia is a milestone for the Somali people and will have long-lasting implications for the security, stability and development of Somalia and the wider region;

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- I. whereas voting for the members of the Upper House of the Federal Parliament of Somalia should take place on 25 September 2016 and voting for the members of the House of the People of the Federal Parliament of Somalia between 24 September and 10 October 2016; whereas the President should be elected by both houses on 30 October 2016;
  - J. whereas the electoral process will be key to a democratic universal suffrage in 2020 to be organised by the National Independent Electoral Commission;
  - K. whereas Omar Mohamed Abdulle, the chairperson of the Federal Indirect Electoral Implementation Team (FIEIT), reconfirmed that the 2016 electoral process would be held on time and that it would be transparent and credible;
  - L. whereas freedom of expression, which plays a central role in the building of democratic states, continues to be significantly limited; whereas a recent UN report on freedom of expression in Somalia shows the difficult environment that continues to confront journalists, human rights defenders and political leaders, including killings, mostly by Al-Shabab, arrests, intimidation and closure of critical media outlets; whereas the authorities rarely investigate these cases or prosecute perpetrators;
  - M. whereas broad powers of investigation are granted to the National Intelligence and Security Agency (NISA), which currently does not have a law enforcement mandate, thereby resulting in significant violations of the due process rights of detainees held by NISA;
  - N. whereas, according to the UN report, 120 cases of arbitrary arrest and detention of media workers between January 2014 and July 2016 can be identified; whereas, since January 2015, only ten of the 48 journalists and media workers who have been arrested have been brought before a court;
  - O. whereas Somalia remains one of the countries with the largest and most protracted displaced communities worldwide, with 1,1 million people internally displaced, including an estimated 400 000 living in Mogadishu alone, and almost 1 million refugees in the Horn of Africa region; whereas in July 2016 alone, the United Nations High Commissioner for Refugees (UNHCR) reported that forced evictions and insecurity due to the ongoing military offensive resulted in almost 28 000 new displacements;
  - P. whereas there are 420 000 Somali refugees in camps in Kenya, with 350 000 in the Dadaab camp, and the governments of Somalia and Kenya and the UNHCR have agreed to facilitate the voluntary return of 10 000 refugees to Somalia, to areas that are free from Al-Shabab control; whereas the Kenyan Government declared in May 2016 that the Dadaab refugee camp in north-eastern Kenya will close by the year's end;
  - Q. whereas children continue to be killed, arbitrarily detained, and recruited into the armed forces, despite Somalia ratifying the UN Convention on the Rights of the Child in January 2015 and endorsing the Safe Schools Declaration in November 2015, committing itself to taking concrete steps to protect students and educational institutions;
  - R. whereas the EU has provided EUR 286 million through the European Development Fund (2014-2020), focusing on the implementation of the 'Compact' and namely on state- and peacebuilding, food security, resilience and education; whereas the EU is also committed to supporting AMISOM through the African Peace Facility;
- 1. Expresses its deepest sympathy with the victims of recent terrorist attacks in Somalia and with their families, and deeply regrets the loss of lives; at the same time, strongly condemns the perpetrators of these attacks, attributed to the Al-Shabab insurgent group;
  - 2. Calls for strengthening of the national security architecture and protection of the population, as well as for additional support from the international community to AMISOM and the Government of Somalia in their work to build peace and stability;

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3. Recalls that lasting stability and peace can only be achieved through social inclusion, sustainable development and good governance based on the democratic principles and rule of law in which peoples' dignity and rights are fully respected;
4. Expresses the need for an all-inclusive dialogue between the country's social sectors, including the clans and tribes that compose the Somali nation, to allow for mutual understanding and to establish a consensus for a long-lasting and stable peace;
5. Welcomes the government and regional leaders' endorsement of a new National Security Policy, calling on the government to accelerate its implementation in view of the remaining threat posed by Al-Shabab;
6. Calls on the EU and its international partners to remain strongly committed to cooperating with Somalia in building legitimate institutions and a Somali-owned security sector to combat terrorism and provide protection for all people; stresses that this is key for Somalia's constructive development and the security of the region;
7. Calls on the African Union (AU) to ensure that all troop-contributing countries share information with the CCTARC (AMISOM Civilian Casualty Tracking, Analysis and Response Cell) regarding reports of or investigations into civilian casualties by troop-contributing countries, and that this information is also shared with the UN, as per UN Security Council resolution 2297 (2016), and fed into AMISOM operational plans;
8. Calls on the government and the EU, as part of its rule of law activities in Somalia, to ensure that NISA is regulated with effective oversight mechanisms and to build the technical expertise of Somalia's Criminal Investigation Department (CID) to carry out thorough, effective and rights-respecting investigations;
9. Welcomes the AU's investigation into allegations of sexual violence by AMISOM troops, calls for full implementation of the recommendations of the report, and, in line with UN Security Council resolution 2272 (2016), urges the AU and troop-contributing countries to ensure that allegations are properly and thoroughly investigated and that those responsible are brought to justice;
10. Calls for better EU monitoring and capacity building to ensure accountability for abuses by AMISOM, especially given the fact that the EU is responsible for the bulk of its funding;
11. Highlights the encouraging progress made towards more inclusive elections and accountable government since 2012; welcomes the decision of the National Leadership Forum to promote the establishment and registration of political parties in the next two years, in anticipation of the 2020 elections, based on the 'one-person, one-vote' principle, as well as the attempt to rebuild the State institutions and the adoption of important new laws on political parties and on the creation of an independent National Human Rights Commission; welcomes the decisions taken to increase women's representation; stresses the utmost importance of a credible, inclusive, transparent and accountable electoral process ensuring the necessary legitimacy for the elected leadership;
12. Recognises the positive contributions that the UN Support Office in Somalia (UNSOS) has made in supporting the gains made by AMISOM and the UN Assistance Mission in Somalia (UNSOM) by contributing troops, financial and material resources in order to guarantee the protection of the civilian population in Somalia;
13. Urges the Somali National Army and AMISOM to take all action necessary to stop any attempts by the militant insurgent group Al-Shabab to disrupt the upcoming electoral process; underlines that securing the electoral process should be the key priority;
14. Condemns the recruitment and use of children by security forces as soldiers and as informants, including the use of captured or deserting child soldiers; calls on the Somali Government to end this practice;

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15. Calls for stronger measures to protect children affected by armed conflict and from recruitment and use by armed forces and groups; urges the authorities to treat children suspected of association with Al-Shabab primarily as victims and to consider the best interests of the child and international protection standards as guiding principles;

16. Recalls that there cannot be security without development, or development without security; calls for more coherence between security and development actions, for the strengthening of programmes both to promote economic and social development and to fight underdevelopment and the causes and basis of terrorism; recalls the need to provide basic services and support to released people, in particular to ensure the sustainable reintegration of returning refugees into the country; stresses the need to accelerate the consolidation of the administrative structure of the Somali state and of the institutions providing such services;

17. Urges host countries to refugees from Somalia to remain realistic about the security situation in large parts of Somalia when sending refugees back to Somalia;

18. Is deeply concerned about the attacks against humanitarian actors in Somalia; reiterates the essential importance of humanitarian assistance to deliver, under the principles of independence and neutrality, to people in need;

19. Recalls that freedom of expression plays a central role in the building of a democratic state, especially in times of political transformation; calls on the Somali Government to review the penal code, the new media law and other legislation in order to bring them into line with Somalia's international obligations regarding the right to freedom of expression and the media;

20. Strongly condemns the numerous killings and arrests and the widespread intimidation, closure of critical media outlets, confiscation of equipment and blocking of websites; calls for urgent action by the Somali authorities to ensure that all violations of the right to freedom of expression are fully investigated and that the perpetrators are brought to justice;

21. Commends the UNSOM and the Office of the UN High Commissioner for Human Rights for publishing the report on 4 September 2016 on the right to freedom of expression in Somalia, this being the first ever public human rights report by the UN on Somalia; calls on the UN to do more public reporting;

22. Urges the authorities to adopt and implement appropriate legal frameworks and to conduct the necessary judicial reforms to respond to people's need for justice and protection, as impunity cannot be tolerated;

23. Expresses its concern about the increasing number of forced evictions of displaced people from public and private infrastructure in the main cities of Somalia; recalls that these expulsions must comply with relevant national and international frameworks; asks the Somali Federal Government and all actors involved to find sustainable concrete solutions to the problems of displaced persons; asks the Government of Somalia to create, with the support of its partners, the conditions for the voluntary return of refugees in dignity, once the security situation in the country so permits;

24. 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 African Union, the President, the Prime Minister and the Parliament of Somalia, the Secretary-General of the United Nations, the United Nations Security Council, the United Nations Human Rights Council, and the ACP-EU Joint Parliamentary Assembly.

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P8\_TA(2016)0351

## Zimbabwe

### European Parliament resolution of 15 September 2016 on Zimbabwe (2016/2882(RSP))

(2018/C 204/16)

*The European Parliament,*

- having regard to its previous resolutions on Zimbabwe,
  - having regard to the local EU statement on violence of 12 July 2016,
  - having regard to the local EU statement on the abduction of Itai Dzamara of 9 March 2016,
  - having regard to Council Decision (CFSP) 2016/220 of 15 February 2016 amending Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe<sup>(1)</sup>,
  - having regard to the Global Political Agreement signed in 2008 by the three main political parties, namely ZANU PF, MDC-T and MDC,
  - having regard to the African Charter on Human and Peoples' Rights of June 1981, which Zimbabwe has ratified,
  - having regard to the Universal Declaration of Human Rights of December 1948,
  - having regard to the Constitution of Zimbabwe,
  - having regard to the Cotonou Agreement,
  - having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas the people of Zimbabwe have suffered for many years under an authoritarian regime led by President Mugabe that maintains its power through corruption, violence, rigged elections and a brutal security apparatus; whereas the people of Zimbabwe have not experienced true freedom in decades and many under the age of thirty have therefore only known lives of poverty and violent repression;
- B. whereas unrest is growing once again in crisis-ridden Zimbabwe against a background of cash shortages, widespread unemployment, state corruption and efforts by the authorities to suppress freedom of expression and political opposition; whereas the various groups are now positioning themselves in expectation of the post-Mugabe era;
- C. whereas, since the fall of the coalition government in 2013, the work of Tendai Biti in stabilising the economy and increasing government revenues has been undone by a return to the system of patronage and kleptocracy and a state of fear; whereas Zimbabwe is now experiencing the worst economic crisis since the hyperinflation of 2008; whereas the government is effectively bankrupt;
- D. whereas since May 2016 thousands of demonstrators — informal traders, unemployed young people and, now, professional people — have taken to the streets in a number of urban centres across Zimbabwe to protest against job losses, mass unemployment and the government's failure to meet people's basic economic expectations, namely a labour market that provides jobs, a public workforce that is paid on time, a trustworthy stable currency and an affordable price regime; whereas only the army are being paid regularly and with a currency of worth;

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<sup>(1)</sup> OJ L 40, 17.2.2016, p. 11.

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- E. whereas the protest movement led by clergyman Evan Mawarire, using the hashtag #ThisFlag, has drawn support from churches and the middle class, which had hitherto tended to steer clear of street politics;
- F. whereas on 6 July 2016 the opposition movement #ThisFlag called for a national 'stay-away' day in protest against the government's inaction against corruption, impunity and poverty; whereas this resulted in a massive shutdown of most shops and businesses in the capital and led to a severe crackdown by the authorities;
- G. whereas Promise Mkwanzani, the leader of #Tajamuka, a social movement linked to the July stay-away, who was arrested and charged for inciting public violence, has been released on bail; whereas another #Tajamuka activist, Linda Masarira, was arrested during the protest in July 2016 and has remained in detention ever since;
- H. whereas many demonstrations are now organised through social media, and whereas the Zimbabwean authorities have blocked internet access and WhatsApp text messaging to obstruct protest;
- I. whereas hundreds of people have been arrested during demonstrations; whereas on 26 August 2016 bloody clashes took place in the capital, Harare, when the police ignored a court order and bludgeoned thousands of protesters who had gathered under the auspices of National Election Reform Agenda (Nera) to express their opposition to outstanding electoral reforms ahead of the country's eagerly anticipated 2018 national elections; whereas many of those who were detained are still in custody, and the precise whereabouts of many is unknown;
- J. whereas President Mugabe has been in power since independence in 1980 and is seeking re-election, and whereas several members of his government have denounced calls for electoral reform ahead of the 2018 elections;
- K. whereas the veterans of the independence struggle, formerly close allies of Mugabe in the ruling party, boycotted his speech on 8 August 2016, denouncing his dictatorial drift and his failure to solve the grave economic crisis plaguing the country since 2000; whereas the President saw this boycott as a betrayal and, in retaliation, arrested three members of the National Association of Independence Veterans;
- L. whereas on 2 September 2016 the police invoked Statutory Instrument 101A to ban all demonstrations in central Harare, a few hours before 18 political parties were due to hold a major demonstration in the capital;
- M. whereas on 7 September 2016 the High Court suspended this ban for seven days and whereas this ruling came only a few days after President Mugabe interfered in the judiciary's independence by blasting Zimbabwe's judges for 'reckless' rulings which allowed demonstrations against his rule;
- N. whereas the Zimbabwe Human Rights Commission has said that food aid, mobilised to assist hungry villagers affected by drought conditions across the country, was being distributed along party lines, with Zanu PF officials denying food aid to opposition party supporters; whereas the Government of Zimbabwe declared a state of disaster in February 2016, estimating that some 4,5 million people would need food aid by January 2017 and that up to half the rural population faced starvation;
- O. whereas 9 March 2016 marked the first anniversary of the abduction of human rights defender Itai Dzamara; whereas the High Court ordered the government to search for Dzamara and report progress to the Court every fortnight until his whereabouts were determined;

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- P. whereas Zimbabwe is a signatory to the Cotonou Agreement, Article 96 of which stipulates that respect for human rights and fundamental freedoms is an essential element of ACP-EU cooperation;
- Q. whereas a small number of EU restrictive measures against the Zimbabwe regime were renewed in February 2016 until 20 February 2017; whereas the asset freeze and travel bans will continue to apply to President Mugabe, Grace Mugabe and Zimbabwe Defence Industries; whereas an arms embargo will remain in place; whereas the EU had previously lifted restrictions on 78 people and 8 entities;
- R. whereas the National Indicative Programme (NIP) for Zimbabwe has been allocated EUR 234 million for the period 2014-2020 under the 11th European Development Fund, to be focused on three main sectors, namely health, agriculture-based economic development, and governance and institution building;
1. Expresses serious concern about the increase in violence against demonstrators in Zimbabwe in recent months; notes with alarm the recently announced one-month ban on demonstrations; calls on the government and all parties in Zimbabwe to respect the right to demonstrate peacefully in order to address genuine concerns, and urges the Zimbabwean authorities to investigate allegations of excessive use of force and other human rights abuses by elements within the Zimbabwe police, and to hold them to account;
  2. Is worried about the rise in the number of arbitrary arrests of human rights defenders and those engaging in peaceful and lawful demonstrations and urges that the rule of law be respected and that the constitution be upheld;
  3. Calls on the Zimbabwean authorities to release all political prisoners immediately and unconditionally;
  4. Condemns the recent statements made by President Mugabe attacking the judiciary of Zimbabwe and urges the authorities of Zimbabwe not to interfere with the independence of the judiciary;
  5. Recalls that, under the Global Political Agreement, Zimbabwe is committed to ensuring that both its legislation and its procedures and practices are in accordance with international human rights principles and laws, including the freedom of assembly, association and expression;
  6. Draws attention to the particular plight of many women in Zimbabwe and the need to respect women's rights;
  7. Believes that the Council and Commission should carefully analyse the appropriateness of reimposing certain restrictive measures, while making clear that these will be removed and that a package of assistance will be made available once Zimbabwe is clearly on the path towards democracy, the rule of law and respect for human rights, and specifying, in particular, that assistance will be provided to support a free and fair electoral process and police reform;
  8. Calls for a peaceful transition of power based on a free and fair electoral process, the rule of law and respect for human rights in order to develop a free, prosperous and pluralist democracy;
  9. Strongly condemns the obstruction of food aid for political gain; stresses its concern about any further measures that would damage agricultural production, and calls for steps to improve food security;
  10. Expresses its continued concern about the abduction of Itai Dzamara; demands that habeas corpus be respected and that those responsible for his abduction be brought to justice;
  11. Insists that the EU must ensure that the funding allocated to Zimbabwe for its National Indicative Programme effectively addresses the sectors concerned and calls on the Government of Zimbabwe to allow the Commission unhindered access to the EU-funded projects and to enhance its openness to technical assistance for jointly agreed projects and programmes;

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12. Stresses that it is important for the EU to start up a political dialogue with the Zimbabwean authorities under Articles 8 and 96 of the Cotonou Agreement, thereby confirming the EU's commitment to supporting the local population;
  13. Urges the Southern African Development Community (SADC) and the Commonwealth to re-engage in helping Zimbabwe back onto the path of democracy;
  14. Instructs its President to forward this resolution to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, the European External Action Service, the Government and Parliament of Zimbabwe, the governments of the Southern African Development Community, the African Union, the Pan-African Parliament, the ACP-EU Joint Parliamentary Assembly and the Secretary-General of the Commonwealth.
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P8\_TA(2016)0356

## Key objectives for the CITES CoP 17 meeting in Johannesburg

**European Parliament resolution of 15 September 2016 on the EU strategic objectives for the 17th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to be held in Johannesburg (South Africa) from 24 September to 5 October 2016 (2016/2664(RSP))**

(2018/C 204/17)

*The European Parliament,*

- having regard to the seriousness of the decline in global biodiversity, which represents the sixth mass extinction of species,
  - having regard to the role of forests and tropical forests, which are the world's largest reservoir of terrestrial biodiversity and an essential habitat for wild fauna and flora and for indigenous populations,
  - having regard to the forthcoming 17th meeting of the Conference of the Parties (CoP 17) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to be held from 24 September to 5 October 2016 in Johannesburg (South Africa),
  - having regard to UN General Assembly (UNGA) Resolution 69/314 on tackling illicit trafficking in wildlife, adopted on 30 July 2015,
  - having regard to the questions to the Council and to the Commission on key objectives for the Conference of the Parties to CITES in Johannesburg (South Africa) from 24 September to 5 October 2016 (O-000088/2016 — B8-0711/2016 and O-000089/2016 — B8-0712/2016),
  - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas CITES is the largest global wildlife conservation agreement in existence, with 181 parties, including the EU and its 28 Member States;
- B. whereas the aim of CITES is to ensure that international trade in wild animals and plants is not a threat to the survival of the species in the wild;
- C. whereas, according to the International Union for Conservation of Nature and Natural Resources (IUCN) Red List of Threatened Species, more than 23 000 species, representing about 30 % of the 79 837 species assessed by IUCN, are threatened with extinction;
- D. whereas tropical rainforests contain 50 to 80 % of terrestrial animal and plant species; whereas today these environments are particularly under threat, including from the commercialisation of species, in particular the exploitation of tropical timber and subsoils; whereas deforestation and the illegal sale of wood are having a disastrous impact on the preservation of forest flora and fauna;
- E. whereas intensive fishing, commercial hunting and the unrestricted exploitation of micro-organisms and sub-seabed resources are harming marine biodiversity;
- F. whereas many species subject to trophy hunting are suffering a serious population decline; whereas over a 10-year period EU Member States declared as hunting trophies imports of almost 117 000 specimens of wildlife species listed in the CITES appendices;

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- G. whereas wildlife trafficking has become an organised transnational crime which has major negative impacts on biodiversity and on the livelihood of local populations, as it denies them a legal income, creating insecurity and instability;
- H. whereas wildlife trafficking has become the fourth largest black market, after the drugs, people and arms markets; whereas the internet has come to play a key role in facilitating wildlife trafficking; whereas terrorist groups also use the above types of trafficking to finance their operations; whereas wildlife trafficking offences are not punished severely enough;
- I. whereas corruption plays a central role in wildlife trafficking;
- J. whereas evidence suggests that wild-caught specimens are being laundered through the fraudulent use of CITES permits and claims of captive breeding;
- K. whereas the EU is a major transit and destination market for illegal wildlife trade, especially for the trade in birds, turtles, reptiles and plant species <sup>(1)</sup> that are listed in CITES appendices;
- L. whereas a growing number of illegally traded exotic species are kept as pets in Europe and internationally; whereas the escape of these animals can lead to an uncontrolled spread affecting the environment and public health and safety;
- M. whereas the EU and its Member States provide substantial financial and logistical support for CITES, and for tackling illegal wildlife trade in many third countries;
- N. whereas the species under CITES are listed in appendices according to their conservation status and levels of international trade, Appendix I containing species threatened with extinction for which commercial trade is prohibited, and Appendix II species in which trade must be controlled in order to avoid utilisation incompatible with their survival;
- O. whereas CITES Appendix I species are strongly protected, whereas any commercial trade in species listed therein is prohibited, and whereas any permit to sell confiscated specimens or products (for example ivory, tiger products or rhino horn) would undermine the aim of the CITES Convention;
- P. whereas efforts to improve transparency in decision-making are essential;
1. Welcomes the EU's accession to CITES; considers the accession to be a fundamental step in ensuring that the EU can further pursue the wider objectives of its environmental policies and the regulation of the international trade in endangered species of wild flora and fauna, and promote the sustainable development policies of the UN Agenda 2030;
2. Welcomes in particular the fact that the EU is participating for the first time as a party, and supports the proposals made by the EU and its Member States, in particular the proposed resolutions on corruption and on hunting trophies, the extension of CITES protection to a number of species imported into the EU, notably as pets, and the proposed amendments to Resolution 13.7 (Rev. CoP 14) on the control of trade in personal and household effects;
3. Highlights the fact that the accession to CITES by the European Union has rendered the legal status of the European Union in CITES more transparent vis-à-vis third parties to the Convention; believes that it is a logical and necessary step to ensure that the European Union is fully able to pursue its objectives under its environmental policy; recalls that accession enables the Commission, on behalf of the European Union, to express a coherent EU position in CITES matters and play a substantial role in negotiations during the Conferences of Parties;

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<sup>(1)</sup> [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/570008/IPOL\\_STU\(2016\)570008\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/570008/IPOL_STU(2016)570008_EN.pdf)

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4. Stresses that the European Union became a party to CITES in 2015 and that it will be voting with 28 votes on issues of EU competence at the CITES CoP; in that regard, supports changes to the CoP's Rules of Procedure which reflect the text of the CITES Convention on voting by regional economic integration organisations and which are consistent with what has been in place in other international agreements for many years, and objects to having the votes by the European Union calculated on the basis of the number of Member States that are properly accredited for the meeting at the time the actual vote occurs;

5. Welcomes the recently adopted EU Action Plan against wildlife trafficking, which aims to prevent such trafficking by addressing its principal causes, improving the implementation and enforcement of existing rules, and combating organised wildlife crime more effectively; welcomes the inclusion in the Action Plan of a specific chapter on strengthening the global partnership of source, consumer, and transit countries against wildlife trafficking; and urges the EU and its Member States to adopt and implement the strengthened Action Plan, which will demonstrate a strong European commitment to tackling wildlife trafficking;

6. Supports the initiative by the Commission and the Member States to agree on global guidelines on trophy hunting within CITES in order to better control internationally the sustainable origin of hunting trophies of the species listed in Appendix I or II;

7. Calls on the EU and its Member States to adhere to the precautionary principle with regard to species protection in all their decisions on working documents and listing proposals (as set out in CITES Resolution Conf. 9.24 (Rev. CoP 16)) — in particular regarding the import of hunting trophies of CITES species — taking account, in particular, of the user-pays principle, the principle of preventive action and the ecosystem approach; calls on the EU and its Member States, furthermore, to promote the removal of exemptions for permits for all hunting trophies from CITES-listed species;

8. Demands that all CITES/CoP 17 decisions be based on science, careful analysis and equitable consultation with the affected range states, and be reached in cooperation with the local communities; underlines that any wildlife regulation should incentivise the rural population's engagement in nature protection by linking their benefit with the state of biodiversity;

9. Encourages CITES Parties to strengthen cooperation, coordination and synergies between biodiversity-related conventions at all relevant levels;

10. Calls on the Member States to provide for cooperation, coordination and a prompt exchange of information among all relevant agencies involved in implementing the CITES Convention, in particular the customs authorities, the police, border veterinary and plant health inspection services, and other bodies;

11. Encourages the EU and its Member States to promote and support initiatives to increase protection against the impact of international trade on species for which the European Union is a significant transit or destination market;

12. Is concerned that the boundary between legal and illegal trade is very thin as regards the commercialisation of species and their derived products, and that with the cumulative effects of human activity and global warming the great majority of wild fauna and flora species are today threatened with extinction;

13. Urges the EU to adopt legislation to reduce illegal trade by making it illegal to import, export, sell, acquire or buy wild animals or plants which are taken, possessed, transported or sold in violation of the law of the country of origin or transit;



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14. Commits particularly to strongly encouraging all the Member States: to ban the export of raw ivory, as already do Germany, Sweden, the United Kingdom and some US States; to increase their vigilance with regard to marketing certificates on their territory; to make the fight against fraud effective, in particular at borders; to launch destruction operations of illegal ivory; and to strengthen the penalties for trafficking in protected species (notably elephants, rhinos, tigers, primates and varieties of tropical wood);

15. Encourages the EU and its Member States, and the wider CITES Parties, further to Articles III, IV and V of the Convention, to promote and support initiatives to improve the welfare of live CITES-listed animals in trade; such initiatives include mechanisms to ensure animals are 'prepared and shipped so as to minimise the risk of injury, damage to health or cruel treatment', that destinations are 'suitably equipped to house and care for them', and that confiscations of live specimens are undertaken with due consideration for their welfare;

16. Is concerned about the impact that 'banking on extinction', or the buying of products in the hope that the species concerned will soon be extinct, might have on the protection of endangered wildlife; invites the CITES Parties and Secretariat to carry out further research on whether emerging financial products and technologies such as bitcoin play an enabling role;

17. Recognises that CITES observers play an important role in providing expertise on species and trade, and in lending their support to capacity-building by the Parties;

### ***Transparency of decision-making***

18. Considers that transparency in decision-making in international environmental institutions is key to their effective functioning; welcomes all voluntary and procedural efforts to increase transparency in CITES governance; strongly opposes the use of secret ballots as a general practice within CITES;

19. Welcomes the decision made at COP 16 to include a requirement for members of the Animals and Plants Committees to provide declarations of any conflicts of interest; acknowledges, however, that the requirement is based only on a self-assessment by members; regrets that there have been no declarations of any potential financial conflicts of interest from members of these committees so far;

20. Urges the CITES Secretariat to investigate the potential for an independent review board, or the expansion of the mandate of the Standing Committee to include an independent review panel, in order to create an oversight safeguard for the conflict of interest provisions;

21. Considers transparency imperative to any funding process and a requisite for good governance, and therefore supports the resolution proposed by the EU on the 'Sponsored Delegates Project'<sup>(1)</sup>;

### ***Reporting***

22. Considers traceability essential for legal and sustainable trade, whether commercial or non-commercial, and also central to the EU's efforts to fight corruption and wildlife trafficking and poaching, which is recognised to be the fourth largest illicit market on the planet; in this regard highlights the need for the implementation by all Parties of the e-permitting system, which should be organised transparently and jointly by all of them; acknowledges, however, the technical challenges faced by some Parties in doing so, and encourages the provision of capacity-building support to enable the implementation of the e-permitting system by all the Parties;

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<sup>(1)</sup> <http://ec.europa.eu/environment/cites/pdf/cop17/Res%20sponsored%20delegate%20project.pdf>

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23. Welcomes the decision made at COP 16 on regular reporting by CITES Parties on illegal trade; regards the new annual illegal trade report format, as included in CITES Notification No 2016/007, as a significant step towards developing a better understanding of wildlife trafficking, and encourages all CITES Parties to accurately and regularly report on illegal trade using the prescribed format;

24. Welcomes private-sector initiatives such as those taken by the International Air Transport Association on e-freight for and by the air cargo supply chain; considers the expansion of such traceability initiatives, especially for the transport sector, to be an important tool in intelligence-gathering;

25. Highlights the importance of the permit-issuing process in effective data-collection, and thus the key role played by the Management Authorities; reiterates that permit-issuing authorities must be independent, in accordance with Article VI of CITES;

### ***Wildlife trafficking and corruption***

26. Draws attention to cases of corruption where deliberate fraudulent issuing of permits by actors in the permit-issuing authority has occurred; calls on the CITES Secretariat and the Standing Committee to address these cases as a matter of priority and urgency;

27. Underlines that corruption can be detected at every stage in the wildlife trade chain, affecting countries of origin, transit and destination, and undermining the effectiveness, proper implementation and ultimate success of the CITES Convention; considers, therefore, that strong and effective anti-corruption measures are essential in the fight against wildlife trafficking;

28. Raises serious concerns over the deliberate misuse of source codes for the illegal trade in wild-caught specimens in the form of fraudulent use of captive-bred codes for CITES species; calls on COP 17 to adopt a robust system for recording, monitoring and certifying trade in ranched or captive-bred species, in both countries of origin and the EU, in order to prevent this abuse;

29. Urges the CITES Parties to develop further guidance and to support the development of additional techniques and methodologies to differentiate between species originating from captive production facilities and species from the wild;

30. Condemns the high degree of illegal activity by organised criminal gangs and networks in violation of the Convention, which frequently use corruption to facilitate wildlife trafficking and frustrate efforts to enforce the law;

31. Urges the Parties that are not yet signatories to, or have not yet ratified, the UN Convention on Transnational Organised Crime and the UN Convention against Corruption to do so without delay;

32. Welcomes the international commitment under UNGA Resolution 69/314 (July 2015), inter alia on counter-corruption (Article 10) <sup>(1)</sup>;

33. Supports EU and Member State initiatives that call for more action in the global fight against corruption under CITES; urges the Parties to CITES to support the EU proposal for a resolution against corruption-facilitating activities conducted in violation of the Convention;

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<sup>(1)</sup> [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/69/314](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/314)

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**Enforcement**

34. Calls for the timely and full use of sanctions by CITES against Parties that do not comply with key aspects of the Convention, and in particular for the EU and its Member States to make use of the mechanisms available to encourage Parties to comply with the CITES Convention and other international agreements aimed at protecting wildlife and biodiversity;

35. Underlines the importance of joint international cooperation between all actors in the enforcement chain, in order to strengthen law enforcement capacities at the local, regional, national and international levels; welcomes their contribution, and calls for even more engagement; points to the importance of setting up special prosecutors' offices and specialised police squads to fight wildlife trafficking more effectively; highlights the importance of joint international enforcement operations under the ICCWC<sup>(1)</sup>, congratulates in this respect the successful COBRA III operation<sup>(2)</sup>; welcomes the EU support for the ICCWC;

36. Acknowledges the increasing illegal trade in wildlife and wildlife products via the internet, and calls on the CITES Parties to liaise with law enforcement and cybercrime units and the International Consortium on Combating Wildlife Crime in order to identify best practices and model domestic measures to tackle illegal online trade;

37. Calls on the Parties to adopt and implement clear and effective policies to discourage the consumption of products derived from vulnerable wildlife species, to raise consumer awareness of the impact of their consumption on wild species and to inform on the dangers of the illegal trafficking networks;

38. Calls on the Parties to support the development of livelihoods for the local communities closest to the wildlife concerned and to involve these communities in the fight against poaching and in the provision of information on the effects of the trade in species of fauna and flora threatened with extinction;

39. Asks for continuing international engagement in order to facilitate long-term capacity building, to improve the exchange of information and intelligence and to coordinate the enforcement efforts of government authorities;

40. Calls on the Parties to ensure effective prosecution of persons who commit offences related to wildlife and to ensure that they are punished in a manner commensurate with the seriousness of their actions;

**Funding**

41. Points to the need to increase the funding being made available for wildlife conservation and capacity-building programmes;

42. Stresses the need to allocate adequate resources to the CITES Secretariat, especially in view of its increased responsibilities and additional workload; also stresses the need for the timely deposit of financial contributions pledged by the Parties to CITES;

43. Encourages the Parties to consider increasing the core budget of CITES to reflect inflation and to ensure the proper functioning of the CITES Convention;

44. Encourages the extension of public-private partnership financing for capacity-building programmes to other areas of the CITES Convention framework, as well as of direct funding, in order to support the implementation of the Convention;

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<sup>(1)</sup> International Consortium for Combating Wildlife Trafficking, comprising INTERPOL, the CITES Secretariat, the World Customs Organisation, the UN Office of Drugs and Organised Crime and the World Bank.

<sup>(2)</sup> Joint International Police and Customs Operation conducted in May 2015.

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45. Welcomes the EU funding provided for the CITES Convention through the European Development Fund, and encourages the EU to continue to provide and ensure targeted financial support and, in the long term too, to continue to support specific and targeted financial aid;

#### ***Amendments to the CITES Appendices***

46. Expresses its strong support for the listing proposals submitted by the EU and its Member States;

47. Urges all Parties to CITES and all participants in COP 17 to respect the criteria laid down in the Convention for the inclusion of species in the appendices, and to adopt a precautionary approach in order to ensure a high and efficient level of protection of endangered species; observes that the credibility of CITES depends on its ability to alter listings in response to negative trends as well as positive ones, and therefore welcomes the possibility of downlisting of species only when it is appropriate, in accordance with established scientific criteria, providing evidence that the CITES listing functions well;

#### ***African elephant and ivory trade***

48. Notes that with the doubling of illegal killing and the tripling of the quantity of ivory seized over the past decade, the crisis faced by the African elephant (*Loxodonta africana*) as a result of poaching for the ivory trade remains devastating and is leading to a decline in populations across Africa, and is a threat to the livelihood of millions of people, given that the illegal ivory trade harms economic development, fosters organised crime, promotes corruption, fuels conflicts and threatens regional and national security by providing militia groups with a source of funding; urges the EU and its Member States, therefore, to support proposals that would strengthen the protection of African elephants and reduce the illegal trade in ivory;

49. Welcomes the proposal submitted by Benin, Burkina Faso, the Central African Republic, Chad, Kenya, Liberia, Niger, Nigeria, Senegal, Sri Lanka and Uganda and endorsed by the African Elephant Coalition that seeks to list all the elephant populations of Africa in Annex I, which would simplify the implementation of the ban on international trade in ivory and would send a clear message to the world regarding the global determination to prevent the extinction of African elephants;

50. Calls on the EU and all Parties to maintain the current moratorium and hence to oppose the proposals made by Namibia and Zimbabwe on the ivory trade, which seek to remove restrictions on trade associated with the annotations to the Appendix II listing of those parties' elephant populations;

51. Observes that attempts by CITES to reduce poaching and illegal trade by permitting legal ivory sales have failed and that ivory trafficking has increased significantly; calls for further efforts by the parties concerned under the National Ivory Action Plan process; supports measures for the management and destruction of ivory stockpiles;

52. Recalls the call made in its resolution of 15 January 2014 on wildlife crime <sup>(1)</sup> on all 28 of its Member States to introduce moratoria on all commercial imports, exports and domestic sales and purchases of tusks and raw and worked ivory products until wild elephant populations are no longer threatened by poaching; notes that Germany, France, the Netherlands, the United Kingdom, Austria, Sweden, the Czech Republic, Slovakia and Denmark have already decided to not grant any export permits for pre-Convention 'raw' ivory; encourages the EU and its Member States, therefore, to ban the export and import of ivory and prohibit all commercial sales and purchases of ivory within the EU;

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<sup>(1)</sup> Texts adopted, P7\_TA(2014)0031.

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**White rhino**

53. Regrets the proposal made by Swaziland to legalise trade in rhino-horn from its white rhino population (*Ceratotherium simum simum*), which would facilitate the laundering of poached rhino-horn into legal trade, undermining existing demand reduction efforts and domestic trade bans in consumer markets, and might fuel poaching of rhino populations in Africa and Asia; urges the EU and all Parties to oppose this proposal, and consequently calls on Swaziland to withdraw its proposal;

**African lion**

54. Notes that while African lion (*Panthera leo*) populations have experienced a dramatic inferred decline of 43 % in 21 years and have recently been extirpated from 12 African States, international trade in lion products has increased significantly; urges the EU and all Parties to support the proposal by Niger, Chad, Côte d'Ivoire, Gabon, Guinea, Mali, Mauritania, Nigeria, Rwanda and Togo to transfer all African lion populations to Appendix I of CITES;

**Pangolins**

55. Observes that pangolins are the most illegally traded mammal in the world, for both their meat and their scales, which are used in traditional medicine, putting all eight species of pangolin (*Manis crassicaudata*, *M. tetradactyla*, *M. tricuspis*, *M. gigantea*, *M. temminckii*, *M. javanica*, *M. pentadactyla*, *M. culionensis*) at risk of extinction; welcomes, therefore, the various proposals for transferring all Asian and African pangolin species to Appendix I of CITES;

**Tigers and other Asian big cats**

56. Urges the EU and all the Parties to support the adoption of decisions proposed by the CITES Standing Committee which lay down strict conditions for tiger farming and trading in captive tiger specimens and products, as well as the proposal made by India encouraging the Parties to share images of seized tiger specimens and products, which would assist law enforcement agencies with the identification of individual tigers by their unique stripe patterns; calls on the EU to consider providing funding for the implementation of these decisions, and calls for the closure of tiger farms and for an end to be put to the trade in captive tiger parts and products at the CITES COP 17;

**Pet traded species**

57. Observes that the market for exotic pets is growing internationally and in the EU and that a large number of proposals have been submitted to list reptiles, amphibians, birds, fish and mammals that are threatened by international trade for the pet market; calls on all the Parties to support these proposals in order to ensure better protection for these endangered species from exploitation for the pet trade;

58. Calls on the EU Member States to establish a positive list of exotic animals that can be kept as pets;

**Agarwood and rosewood**

59. Acknowledges that illegal logging is one of the most destructive wildlife crimes, as it threatens not just single species but entire habitats, and that the demand for rosewood (*Dalbergia* spp.) for Asian markets has continued to increase; urges the EU and all the Parties to support the proposal by Argentina, Brazil, Guatemala and Kenya for the inclusion of the genus *Dalbergia* in CITES Appendix II, with the exception of the species included in Appendix I, as this will be a critical contribution to the efforts to halt unsustainable rosewood trade;

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60. Notes that the current exceptions to CITES requirements could allow resinous powder of agarwood (*Aquilaria* spp. and *Gyrinops* spp.) to be exported as exhausted powder, and other products to be packaged for retail sale before export, thus evading import regulations; calls, therefore, on the EU and all the Parties to support the United States of America's proposal to amend the annotation in order to avoid loopholes for trade in this very valuable aromatic timber;

**Other species**

61. Urges the EU and all the Parties:

- to support the proposal from Peru to amend the annotation to Appendix II for the vicuña (*Vicugna vicugna*), as it will consolidate the marking requirements for the international trade in this species;
- to support the inclusion of the nautilus (*Nautilidae* spp.) in Appendix II, as proposed by Fiji, India, Palau and the United States of America, given that the international trade in chambered nautilus shells as jewellery and decoration is a major threat to these biologically vulnerable species;
- to oppose the proposal by Canada to move the peregrine falcon (*Falco peregrinus*) from Appendix I to Appendix II, as this may exacerbate the significant illegal trade in the species;

62. Recalls that the Banggai cardinalfish (*Pterapogon kauderni*) is on the IUCN list of endangered species and that a huge proportion of the species has been lost, including several entire populations, due to the continuing high demand for the aquarium trade, with main destinations being the European Union and the United States; calls on the European Union and its Member States, therefore, to support the inclusion of the Banggai cardinalfish in Appendix I rather than Appendix II;

63. Notes that the international trade in raw and worked coral has expanded and that market demand for precious corals has increased, threatening the sustainability of precious corals; urges the European Union and all the Parties to support the adoption of the report on precious corals in international trade submitted by the United States;

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64. Instructs its President to forward this resolution to the Council, the Commission, the Parties to CITES and the CITES Secretariat.

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**Application of the Postal Services Directive****European Parliament resolution of 15 September 2016 on the application of the Postal Services Directive (2016/2010(INI))**

(2018/C 204/18)

*The European Parliament,*

- having regard to Articles 49 and 56 of the Treaty on the Functioning of the European Union (TFEU) on the freedom of establishment and the freedom to provide services within the Union,
- having regard to Articles 101 and 102 TFEU on the competition rules applicable to undertakings,
- having regard to Article 14 TFEU,
- having regard to Protocol (No 26) of the TFEU on services of general interest,
- having regard to Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service <sup>(1)</sup>, as amended by Directives 2002/39/EC and 2008/6/EC (hereinafter 'the Postal Services Directive'),
- having regard to the Commission decision of 10 August 2010 establishing the European Regulators Group for Postal Services <sup>(2)</sup>,
- having regard to Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC <sup>(3)</sup>,
- having regard to Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC <sup>(4)</sup>,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council <sup>(5)</sup>,
- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>(6)</sup>,
- having regard to the Commission report of 17 November 2015 on the application of the Postal Services Directive (COM(2015)0568), and to the accompanying staff working document (SWD(2015)0207),

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<sup>(1)</sup> OJ L 15, 21.1.1998, p. 14.

<sup>(2)</sup> OJ C 217, 11.8.2010, p. 7.

<sup>(3)</sup> OJ L 165, 18.6.2013, p. 63.

<sup>(4)</sup> OJ L 165, 18.6.2013, p. 1.

<sup>(5)</sup> OJ L 304, 22.11.2011, p. 64.

<sup>(6)</sup> OJ L 281, 23.11.1995, p. 31.



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- having regard to the Commission communication of 6 May 2015 entitled ‘A Digital Single Market Strategy for Europe’ (COM(2015)0192),
  - having regard to the Commission communication of 16 December 2013 entitled ‘A roadmap for completing the single market for parcel delivery: Build trust in delivery services and encourage online sales’ (COM(2013)0886),
  - having regard to the Commission Green Paper of 29 November 2012 entitled ‘An integrated parcel delivery market for the growth of e-commerce in the EU’ (COM(2012)0698),
  - having regard to the Commission communication of 11 January 2012 entitled ‘A coherent framework for building trust in the Digital Single Market for e-commerce and online services’ (COM(2011)0942),
  - having regard to the Commission White Paper of 28 March 2011 entitled ‘Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’ (COM(2011)0144),
  - having regard to its resolution of 4 February 2014 on an integrated parcel delivery market for the growth of e-commerce in the EU <sup>(1)</sup>,
  - having regard to its resolution of 19 January 2016 on Towards a Digital Single Market Act <sup>(2)</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Employment and Social Affairs and the Committee on the Internal Market and Consumer Protection (A8-0254/2016),
- A. whereas the postal market is still an area of the economy with strong prospects for growth and increasing competition, even though between 2012 and 2013 letter post services shrank by 4,85 % on average in the EU according to the European Commission Postal Statistics Database, which is in line with the decline in letter volume during the last 10 years, in large part owing to the process of electronic substitution;
- B. whereas the implementation of the Postal Services Directive helped to open up domestic markets for competition in letter markets, but development has been slow and did not lead to the accomplishment of the internal market for postal services, the sector in most Member States still being dominated by the universal service providers (USPs);
- C. whereas the use of ICT has been continuously boosting the postal services sector by providing opportunities for innovation and allowing the market to expand;
- D. whereas new competitors have mainly focused on large business customers and highly populated areas;
- E. whereas the parcel delivery market is a highly competitive, innovative and fast-growing sector which attained growth of 33 % between 2008 and 2011 in terms of volume, and whereas e-commerce is a driving factor for market growth;
- F. whereas the widespread use of remotely piloted aircraft systems (drones) provides for new, rapid, environmentally friendly and efficient modes of parcel delivery, especially in low population density, isolated and distant areas;

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<sup>(1)</sup> Texts adopted, P7\_TA(2014)0067.

<sup>(2)</sup> Texts adopted, P8\_TA(2016)0009.

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- G. whereas consumers and small businesses report that problems with parcel delivery, in particular high prices, prevent them from selling more to, or buying more from, other Member States;

**I. *Universal service: enhancing the independence of national regulatory authorities***

1. Notes that while the minimum standards associated with the universal service obligation (postal items up to 2 kg, postal packages up to 10-20 kg, registered and insured items, and other services of general economic interest such as newspapers and periodicals), regulated in the EU in particular by guaranteeing an essential minimum range of services in every part of the EU, without preventing Member States from applying higher standards, generally meet customers' demands, certain detailed requirements, which are not subject to regulation at EU level, are rightly set by the national regulatory authorities (NRAs) entrusted with this task;

2. Notes that the primary task of NRAs is to meet the overall objective of the Postal Services Directive to ensure the sustainable provision of the universal service; calls on the Member States to support the role and independence of NRAs through high professional qualification criteria for staff, with fair and non-discriminatory access to in-service training guaranteed, fixed terms of office and legal protection against dismissal without cause, and, in case of dismissal, with an exhaustive list of reasons justifying such dismissal (e.g. a serious violation of the law), so that NRAs can fulfil their obligations arising from the Postal Services Directive in a neutral, transparent and timely manner;

3. Considers that any expansion of the role of NRAs under new regulation in the parcels market should tackle 'cherry picking' in the deliveries sector and establish minimum standards for all operators to ensure fair and equal competition;

4. Believes that obligations of independence can only be fulfilled if NRAs' regulatory functions are structurally and functionally separated from activities associated with ownership or control of a postal operator; considers that senior NRA officials should not be permitted to work for the public postal operator or other interested parties for at least six months after leaving the NRA, with a view to preventing conflicts of interest; considers that, for this purpose, Member States should introduce legislative provisions allowing the imposition of sanctions for violating the aforementioned obligation;

5. Asks the Commission to facilitate and reinforce cooperation and coordination between NRAs with a view to greater efficiency and interoperability in cross-border delivery and to monitor the regulatory activities of NRAs — including the provision of universal services — in order to ensure a uniform approach to the application of European law and the harmonisation of the postal market within the EU;

6. Recalls that the Postal Services Directive provides Member States with the flexibility necessary to address local specificities and to ensure the long-term sustainability of universal service provision while meeting the needs of users and adapting to the changes in the technical, economic and social environment;

7. Notes the Commission's confirmation that the Postal Services Directive does not require any particular ownership structure for USPs; believes that USPs should not be prevented from investing and innovating in the provision of efficient and quality postal services;

**II. *Maintaining universal service and enabling fair competition: access, quality of service and user needs***

8. Considers that the trend is moving towards a narrower scope for the universal service obligation (USO); encourages the promotion of consumer choice in order to define the delivery of letters within the range of the USO; stresses, therefore, the importance of providing a high-quality universal service under affordable conditions, comprising at least five delivery and five collection days a week for every citizen; notes that with a view to ensuring the long-term sustainability of the

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universal service, and given their specific national characteristics and geographical situations, some Member States allow a degree of flexibility; recalls that whereas some flexibility is allowed by the Directive, this should not be exceeded by national regulations;

9. Recalls that the universal service must evolve in response to the technical, economic and social environment and to the needs of users, and that the Postal Services Directive provides Member States with the flexibility necessary to address local specificities and to ensure the long-term sustainability of universal service provision;

10. Considers that geographical coverage and accessibility to universal services for parcel deliveries can and must be improved, especially for citizens with disabilities and reduced mobility and those in remote areas; stresses the importance of ensuring barrier-free accessibility to postal services and the consistency of the Postal Services Directive with the Accessibility Act;

11. Notes that in many Member States the decline in letter volumes is making the provision of universal postal services more and more difficult; recognises that many designated USPs use revenues from non-USO commercial activities, such as financial services or parcel delivery, to finance the USO;

12. Notes that there are a number of instances of unfair competition in the postal sector and calls on the responsible authority to sanction any misconduct;

13. Calls on the Member States and the Commission to monitor the provision of postal services as a public service in order to ensure that public service compensation is implemented in a manner that is proportionate, transparent and fair;

14. Stresses how important it is that prices within the scope of the USO must be affordable and provide access to all users to the services provided; recalls that NRAs must clearly define affordability for an item of correspondence and that Member States may maintain or introduce free postal services for blind and partially sighted persons;

15. Calls on the Member States to maintain territorial and social cohesion and the associated quality requirements and notes that Member States may already adapt some specific features to accommodate local demand by applying the flexibility provided for in Directive 97/67/EC; recognises that postal networks and services are of great importance to EU citizens; calls on the Member States to use State aid tools only in exceptional cases, in accordance with EU competition policy, and in a transparent, non-discriminatory and appropriate manner, and to ensure that customers continue to have access to postal services, by guaranteeing, where appropriate, a minimum number of services at the same access point; calls on the Commission to ensure that compensation funds are proportionate and that public procurement procedures are transparent and fair;

16. Asks the Member States to ensure that market opening continues to benefit all users, in particular consumers and small and medium-sized enterprises, by closely monitoring the market developments; encourages further improvements in the speed, choice and reliability of services;

17. Calls on the Commission to improve the present definition of universal service in order to stipulate a minimum guaranteed level of service for consumers, to make the USO fit for evolving markets, to take into account market changes in different Member States and to foster economic growth and social cohesion; maintains, however, given that each market has its own specific constraints, that operators should be allowed a measure of flexibility in organising the universal service; calls on the Member States to implement licensing procedures according to the current Directive and further harmonise licensing and/or notification procedures in order to reduce unjustified barriers to entry into the internal market, without creating any unnecessary administrative burdens;

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18. Emphasises that the introduction of conciliation procedures that are easily accessible and affordable has interesting potential with regard to achieving an easy and short-term solution for both operators and consumers in cases of dispute; encourages the Commission to introduce legislation on postal consumer rights;

19. Urges the Commission, in drafting legislative proposals, to take account of digitalisation and the opportunities it brings, the specific characteristics of the Member States and overall trends in the postal and parcel markets;

20. Recalls that VAT exemption for postal services has to be applied in a way that minimises distortions of competition between former monopolies and market entrants, whilst guaranteeing long-term sustainability of the USO, so that all operators can continue to provide postal services across Europe; notes that guaranteeing VAT exemption only for the incumbent service provider for services other than universal service, when other service providers are subject to VAT, is a significant obstacle to the development of competition in the market;

21. Calls on the Commission to ensure a common level playing field among providers, both for traditional mail and the fast-expanding field of parcel delivery and between postal incumbents and new entrants; suggests that the Commission should be entitled to assess whether tender procedures impose an unfair burden;

22. Calls on the Member States to consider that former incumbents must be neither advantaged by state support nor disadvantaged by their public service obligation or legacy costs vis-à-vis new entrants;

23. Considers competition and the market to be drivers for innovation and the development of value-added services and asks the Commission to support, by taking into account the principle of proportionality and economic justification, innovation in the sector in order to promote value-added services such as track-and-trace, pick-up/drop-off locations, flexible delivery time, suitable return procedures and access to easy recourse procedures; recognises the work already undertaken and the investments already made by postal operators in this area;

24. Calls on the Commission to monitor closely Member States' support of USOs and other legacy costs of postal services providers according to the main set of rules for State aid control of services of general economic interest (2012 Framework on Services of General Economic Interest);

25. Considers that service quality should be judged in the light of the standards set out in the Directive and reflect consumers' needs in order to increase interoperability and improve service quality;

26. Notes that the European postal operators have invested in upgrading their network interconnectivity and introduced innovative, user-friendly services to consumers and SME e-retailers who use cross border e-commerce; considers that these investments should be protected with fair access conditions;

27. Reiterates its support for the Postal Users Forum, which was established in 2011 by the Commission and aims to facilitate discussion between users, operators, trade unions and other stakeholders on issues including end-user satisfaction, business-user requirements and how to improve e-commerce delivery; is of the opinion that the Forum is very useful and should meet regularly in order to identify potential solutions to improve postal and parcel delivery services;

### III. *The cross-border dimension and e-commerce*

28. Asks the Member States to ensure the interoperability and upgrading of postal networks and, where several USPs exist, to prevent impediments to the transport of postal items and to allow small and medium-sized enterprises access to the financially attractive services in cross-border deliveries by increasing the transparency of the tariffs applied by the postal operators;

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29. Considers that parcel delivery is a highly competitive, innovative and fast-growing sector; notes the importance of affordable and reliable parcel delivery services in realising the Digital Single Market; recalls that opening this sector up to competition has boosted the development of value-added services such as track-and-trace, pick-up/drop-off locations, flexible delivery time and return procedures; consequently believes that any new regulation in this market must be proportionate and supported by sound economic evidence;

30. Notes in this respect that all advantages offered by new technologies, including drones, should be considered, since they could ease delivery services, especially in low-populated, isolated or remote areas, while also taking into account safety aspects and environmental sustainability;

31. Considers that the dynamics of the highly competitive, innovative and fast-growing parcel market should not be hampered by unjustified regulation and unnecessary bureaucracy;

32. Calls on the Commission to develop market oversight of parcel delivery where necessary, in a performance-based direction, and to encourage, without undermining the competence of the NRAs, affordability of cross-border tariffs and identify unfair anti-competitive and monopolistic practices; encourages an increase in the transparency of the tariffs and service availability, in particular for retail customers and small and medium-sized enterprises;

33. Welcomes the Commission's proposal on transparent and non-discriminatory cross-border access to all network elements, associated facilities, relevant services and information systems of postal networks for third parties; believes that efficient use of infrastructure could bring economic gains for USPs and increase competition in cross-border delivery;

34. Calls on the Commission and the Member States to collect more data on the parcel delivery market in order to better assess the development of this economic sector and its structural development;

35. Stresses the importance of improving the quality of the service and the protection of consumers' rights in order to restore an adequate level of consumer confidence; considers that greater transparency as regards prices, delivery options, modalities and quality/performance (speed, geographical coverage, delays and the handling of damaged or lost items), as well as trust labels, could address the lack of confidence;

36. Asks the Member States and the Commission to improve transparency as regards public pricing conditions and service performance (delivery options, final delivery, reliability), especially when it comes to e-commerce; asks for transparency checks where prices are not controlled by competition or are unreasonably high; stresses the importance of reducing the gap between domestic and cross-border prices and supports measures that increase consumer awareness and capacity to compare domestic and cross-border price structures; calls on the NRAs to assess the affordability of prices on some cross-border routes, paying particular attention to inordinate disparities;

37. Calls on the Commission to promote the strategy on e-commerce and cross-border parcel delivery; suggests facilitating interoperability along the delivery chain and developing publicly available best practices for e-retailers;

38. Maintains that complaint procedures and dispute settlement arrangements need to be simple and effective and apply on a cross-border basis; highlights that the Alternative Dispute Resolution (ADR) Directive and the online platform established by Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes may benefit consumers and businesses in cross-border transactions; is concerned that, despite the July 2015 transposition deadline, only 24 Member States have so far transposed the ADR Directive and consequently millions of European citizens are being deprived

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of this important redress mechanism; believes that the European Small Claims Procedure (ESCP) could be a useful recourse for consumers and businesses in cross-border transactions; calls for further mechanisms for adequate consumer redress in postal services to be considered, if necessary;

39. Encourages the Member States to support cost reductions by improving the interoperability of parcel dispatch and collection processes, and to develop European standards for integrated tracking systems; appreciates the progress made by the industry in serving consumers and SMEs across the borders by enhancing interoperability and track-and-trace systems; encourages the establishment of open tools and service quality indicators so that consumers can compare offers from different service providers; welcomes the progress which confirms the market approach supported and requested by Parliament; encourages the creation of platforms for cooperation and information exchange between delivery operators in order to create a wider choice of delivery options and return solutions for consumers;

40. Calls on the Commission and the Member States to investigate the functioning of cross-border parcel delivery in accordance with the various rules resulting from either international trade agreements (e.g. the rules of the Universal Postal Union (UPU) and the International Civil Aviation Organisation (ICAO)) or EU law (e.g. the Union Customs Code), especially the USO, which can be misused and create market distortion; encourages the European Union to apply for membership of the Universal Postal Union in order to achieve a fully integrated European postal sector;

41. Supports the principle of compiling statistics on the parcel delivery market in order to gain a clearer picture of the leading market players, the competition pattern and market trends;

#### **IV. *Social dimension: improving employment***

42. Calls on the Member States to guarantee all workers in the postal services sector decent working conditions, including the required level of health and safety protection at work, regardless of the size and type of the company which employs them, the place of employment or the underlying contract; stresses the importance of health and safety at work, particularly in the light of demographic changes and the high level of mobility of workers in the postal sector; welcomes the cooperation between the European Agency for Safety and Health at Work (EU-OSHA) and the sectorial social partners on the 'Healthy Workplaces Manage Stress' campaign;

43. Notes that in recent years technological advances and digitalisation have transformed the postal services sector and that the modernisation and diversification of postal services has had a major impact on working conditions and employment in the sector;

44. Takes note that the liberalisation of the postal sector has, in some Member States, led to substantial differences in working conditions and wages between USPs and competing companies providing specific postal services; considers that increased competition should not generate illegal social practices or lead to the degradation of working conditions;

45. Notes that, if postal undertakings have the opportunity to develop and expand their production innovatively, particularly in peripheral areas, this should also have the effect of promoting employment;

46. Notes that the number of part-time workers, agency workers and self-employed people in the sector has increased and that the general trend is towards more flexible employment contracts, which in some circumstances can cause precarious employment without adequate protection for employees; welcomes the development of new working time models that enable workers, for example, to improve the balance between family and working life, to complete in-service training or to have the option of working part-time; notes that new, flexible employment contracts must exclude potential risks such as worker overload or pay levels that are not commensurate with performance; stresses, therefore, the need for



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labour market flexibility, on the one hand, and for economic and social security for workers on the other; stresses that lowering labour costs by reducing working conditions and employment standards should not be regarded as flexibility; calls on the Commission and the Member States to monitor activities to tackle bogus self-employment in the postal sector; urges the Member States, more generally, to prevent the flexibility of employment contracts from having a negative impact on workers;

47. Welcomes the important role of trade unions, which in many Member States work together with USPs in an effort to make the transformation of the postal services sector socially sustainable; highlights the importance of strong and independent social partners in the postal sector, an institutionalised social dialogue and the participation of employees in company matters;

48. Stresses the importance of monitoring compliance with mandatory driving and resting times, as well as working hours, in the postal sector; believes that monitoring should take place by means of digital monitoring devices installed in vehicles; recalls that Regulation (EU) No 165/2014 on tachographs in road transport does not apply to vehicles of less than 3,5 tonnes; calls, therefore, for checks on working and rest times to be stepped up; recalls that all tasks in relation to the activity of an employee are to be considered working time; stresses, likewise, the importance of monitoring compliance with European and national legislation regarding the protection of health and safety at work, including conditions in vehicles, for all people involved in postal deliveries, irrespective of their employment status — self-employed, subcontractor, temporary staff member or contract worker;

49. Believes that a balance should be struck between free competition, consumer requirements, sustainability of the universal service and its financing, and the maintenance of jobs;

50. Is concerned about attempts to circumvent existing minimum wage regulations by increasing the workload to an extent which cannot be managed during paid working hours;

51. Welcomes the essential work of the Social Dialogue Committee for the Postal Sector and highlights the project launched by the European social partners entitled 'Managing demographic challenges and finding sustainable solutions by the social partners in the postal sector';

52. Calls on the Commission and the Member States to compile more data on workforce size and working conditions in the postal service sector in order to better assess the actual situation following the complete opening up of the markets and to respond promptly to developments and tackle potential problems; calls on the Commission and the Member States to closely monitor new means of automated postal deliveries and their impact on working conditions and employment, and to assess the need for the modernisation of social and employment legislation, where appropriate, in order to stay abreast of changes in the postal sector; encourages the social partners likewise to update collective agreements where necessary so that high working and employment standards can be ensured;

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

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P8\_TA(2016)0358

**Access to finance for SMEs and increasing the diversity of SME funding in a Capital Markets Union****European Parliament resolution of 15 September 2016 on access to finance for SMEs and increasing the diversity of SME funding in a Capital Markets Union (2016/2032(INI))**

(2018/C 204/19)

*The European Parliament,*

- having regard to its resolution of 5 February 2013 on improving access to finance for SMEs <sup>(1)</sup>,
- having regard to its resolution of 27 November 2014 on the revision of the Commission's impact assessment guidelines and the role of the SME test <sup>(2)</sup>,
- having regard to its resolution of 28 April 2016 on the European Investment Bank (EIB) — Annual Report 2014 <sup>(3)</sup>,
- having regard to its resolution of 25 February 2016 on the European Central Bank Annual Report for 2014 <sup>(4)</sup>,
- having regard to its resolution of 9 July 2015 on building a Capital Markets Union <sup>(5)</sup>,
- having regard to its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect <sup>(6)</sup>,
- having regard to its resolution of 19 January 2016 on the Annual Report on EU Competition Policy <sup>(7)</sup>,
- having regard to its resolution of 19 January 2016 on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union <sup>(8)</sup>,
- having regard to its resolution of 8 September 2015 on family businesses in Europe <sup>(9)</sup>,
- having regard to the debate of 13 April 2016 on the basis of the oral questions on behalf of the PPE, S&D, ECR, ALDE and GUE/NGL-groups on the review of the SME supporting factor <sup>(10)</sup>,

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<sup>(1)</sup> OJ C 24, 22.1.2016, p. 2.

<sup>(2)</sup> Texts adopted, P8\_TA(2014)0069.

<sup>(3)</sup> Texts adopted, P8\_TA(2016)0200.

<sup>(4)</sup> Texts adopted, P8\_TA(2016)0063.

<sup>(5)</sup> Texts adopted, P8\_TA(2015)0268.

<sup>(6)</sup> Texts adopted, P8\_TA(2015)0408.

<sup>(7)</sup> Texts adopted, P8\_TA(2016)0004.

<sup>(8)</sup> Texts adopted, P8\_TA(2016)0006.

<sup>(9)</sup> Texts adopted, P8\_TA(2015)0290.

<sup>(10)</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20160413&secondRef=ITEM-024&language=EN&ring=O-2016-000060>

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- having regard to the Commission communication of 7 December 2011 entitled ‘An action plan to improve access to finance for SMEs’ (COM(2011)0870),
- having regard to the Commission communication of 30 September 2015 entitled ‘Action plan on building a Capital Markets Union’ (COM(2015)0468),
- having regard to the Commission communication of 28 October 2015 entitled ‘Upgrading the Single Market: more opportunities for people and business’ (COM(2015)0550),
- having regard to the Commission communication entitled ‘Guidelines on state aid to promote risk finance investments’ <sup>(1)</sup>,
- having regard to Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions <sup>(2)</sup>,
- having regard to the December 2015 European Central Bank ‘Survey on the Access to Finance of Enterprises in the euro area — April to September 2015’,
- having regard to the second consultative document of the Basel Committee on Banking Supervision on Revisions to the Standardised Approach for credit risk of December 2015,
- having regard to the Commission report of 18 June 2015 on the evaluation of Regulation (EC) No 1606/2002 of 19 July 2002 on the application of international accounting standards (COM(2015)0301),
- having regard to the Commission staff working document entitled ‘Crowdfunding in the EU Capital Markets Union’ (SWD(2016)0154),
- having regard to Commission recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro-, small and medium-sized enterprises <sup>(3)</sup>,
- having regard to the European Central Bank monthly bulletin of July 2014 <sup>(4)</sup>,
- having regard to the Commission communication of 28 January 2016 entitled ‘Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU’ (COM(2016)0023),
- having regard to the Commission proposal of 30 November 2015 for a regulation on the prospectus to be published when securities are offered to the public or admitted to trading (COM(2015)0583),
- having regard to the European Banking Authority’s report on SMEs and the SME supporting factor <sup>(5)</sup>,
- having regard to the Commission communication of 22 July 2015 entitled ‘Working together for jobs and growth: The role of National Promotional Banks (NPBs) in supporting the Investment Plan for Europe’ (COM(2015)0361),
- having regard to the Commission Alert Mechanism Report 2016 of 26 November 2015 (COM(2015)0691),

<sup>(1)</sup> OJ C 19, 22.1.2014, p. 4.

<sup>(2)</sup> OJ L 48, 23.2.2011, p. 1.

<sup>(3)</sup> OJ L 124, 20.5.2003, p. 36.

<sup>(4)</sup> [https://www.ecb.europa.eu/pub/pdf/other/art2\\_mb201407\\_pp79-97en.pdf](https://www.ecb.europa.eu/pub/pdf/other/art2_mb201407_pp79-97en.pdf)

<sup>(5)</sup> EBA/OP/2016/04, 23.3.2016.

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- having regard to Rule 52 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Budgets, the Committee on Regional Development and the Committee on Culture and Education (A8-0222/2016),
- A. whereas micro-, small and medium-sized enterprises and mid-caps play an important role for the European economy in terms of employment and growth, with SMEs accounting for 67 % of total employment, 71,4 % of the increase in employment and 58 % of the value added in the non-financial business sector in the EU in 2014 <sup>(1)</sup>;
- B. whereas no single express definition of SMEs, other than the categorisations ‘small undertakings’ and ‘medium-sized undertakings’ under the Accounting Directive, is currently stated in the legislation of the Union;
- C. whereas European SMEs are very diverse and include a vast number of micro-enterprises, which often operate in traditional sectors, and a growing number of new start-ups and fast-growing innovative enterprises; whereas these business models face different problems and, therefore, have different financing needs;
- D. whereas most European SMEs operate mainly at national level; whereas relatively few SMEs are involved in cross-border operations within the EU, while those which export outside the Union constitute a tiny minority;
- E. whereas 77 % of outstanding SME funding in Europe is provided by banks <sup>(2)</sup>;
- F. whereas the financing of SMEs should be as broadly based as possible in order to ensure optimal access to finance for SMEs at every stage of the development of an enterprise; whereas this includes an adequate regulatory environment for all funding channels such as bank financing, capital market financing, promissory notes, leasing, crowdfunding, venture capital, peer-to-peer lending, etc.;
- G. whereas institutional investors such as insurance companies make an important contribution to SME financing through the passing and transformation of risks;
- H. whereas in its report on SMEs and the SME supporting factor (SF) of March 2016 the EBA found that there is no evidence that the SME SF has provided additional stimulus for lending to SMEs compared with large corporates; whereas, however, it recognised that it may be too early to draw any strong conclusion, given the limitations of its assessment, in particular limitations as regards the data available, the relatively recent introduction of the SME SF, the fact that overlaying developments might have hampered the identification of the SME SF effects and the use of large corporates as the control group; whereas the EBA found instead that, in general, better capitalised banks lend more to SMEs and that smaller and younger firms have a higher probability of being credit constraint than large and older firms; whereas it also notes that the SME SF was introduced by the legislator as a precautionary measure in order not to jeopardise lending to SMEs;
- I. whereas the financing of micro-, small and medium-sized enterprises, despite having recently registered some improvement, suffered more from the crisis than the financing of large enterprises, and whereas SMEs in the euro area have experienced, and still continue to some extent to face, a tightening in banks’ collateral requirements <sup>(3)</sup>;

<sup>(1)</sup> Commission annual report on European SMEs 2014/2015.

<sup>(2)</sup> ECB survey on the Access to Finance of Enterprises in the euro area — April to September 2015.

<sup>(3)</sup> ECB survey on the Access to Finance of Enterprises in the euro area — April to September 2015.

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- J. whereas, since the first round of the surveys on the access to finance of enterprises (SAFE), 'finding customers' has remained the dominant concern for euro area SMEs, while 'access to finance' has ranked lower in terms of concerns; whereas the latest survey, published in December 2015, showed that the availability of external funding for SMEs differs significantly across countries in the euro area; whereas access to finance remained a larger concern for SMEs than for large enterprises;
- K. whereas national/regional promotional banks play an important role in catalysing long-term finance; whereas they have stepped up their activities, with the aim of counterbalancing the necessary deleveraging process in the commercial banking sector; whereas they also play an important role in implementing EU financial instruments beyond the scope of the European Fund for Strategic Investments;
- L. whereas improving access to finance for SMEs should not lead to a lowering of financial standards and regulation;
- M. whereas, in Switzerland, the WIR Bank constitutes a complementary currency system that serves SME businesses mainly in hospitality, construction, manufacturing, retail and professional services; whereas the WIR offers a clearance mechanism in which businesses can buy from one another without using Swiss francs; whereas, however, WIR is often used in combination with the Swiss franc in dual-currency transactions; whereas trade in WIR has a share of 1-2 % of Swiss GDP; whereas the WIR has proved to be counter-cyclical with GDP, and even more so with the number of unemployed;
- N. whereas, as of April 2015, the 2011 Late Payment Directive had reportedly been correctly transposed by only 21 of the 28 Member States, despite the deadline having passed over two years hitherto;
- O. whereas the Commission warns in the Alert Mechanism Report 2016 that, on the one hand, 'growth has become more reliant on domestic demand sources, in particular a more pronounced recovery in investment' and, on the other hand, 'although consumption has recently strengthened, domestic demand remains subdued partly in light of significant deleveraging pressures in several Member States';
- P. whereas Council Directive 2004/113/EC prohibits gender discrimination in access to goods and services, including financial services; whereas access to funding has been found to be one of the main barriers experienced by female entrepreneurs; whereas women entrepreneurs tend to start off with less capital, borrow less and use family rather than debt or equity finance;

#### ***Diverse funding needs of a diverse SME sector***

1. Acknowledges the diversity of SMEs, including micro-enterprises, and mid-caps in the Member States, which is reflected in their business models, size, geographical position, socioeconomic environment, stages of development, financial structure, legal form and different level of entrepreneurial training;
2. Recognises the challenges that SMEs are facing, owing to differences in financing conditions and needs for SMEs between Member States and regions, notably as regards the quantity and cost of available funding, which are influenced by factors specific to SMEs and to the country and regions in which they are established, including economic volatility, slow growth and higher financial fragility; notes also other challenges for SMEs such as access to customers; highlights that capital markets are fragmented and regulated differently across the EU and that some of the integration achieved has been lost due to the crisis;
3. Underlines that the need for diverse and improved public and private funding options for SMEs does not end after the start-up phase, but that it continues throughout their lifecycle, and points out that a long-term strategic approach is required in order to safeguard business funding; stresses that access to finance is also of importance for the transfer of businesses; calls on the Commission and the Member States to support SMEs in this process, including in the first years of operation; notes the need for a diversified, tailor-made approach in terms of regulation and in terms of initiatives to be

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supported; points out that there is no one-size-fits-all model of finance, and calls on the Commission to support the development of a broad range of tailored programmes, instruments and initiatives, in order to support businesses in their start-up, growth and transfer phases, taking into account their size, turnover and financing needs; notes that women's enterprises are more often than men's enterprises in services and otherwise based on immaterial resources; notes that the low proportion of women running SMEs is partly due to more difficult access to finance; regrets that the European Progress Microfinance Facility, whose objective is to promote equal opportunities for women and men, had a 60:40 male-to-female ratio for microloans in 2013; calls on the Commission therefore to make sure that its programmes aimed at facilitating access to finance for SMEs do not disfavour women entrepreneurs;

4. Calls on the Commission to assess discrimination faced by SMEs run by other vulnerable groups of society;

5. Believes that a diversified, well-regulated and stable financial services sector offering a wide range of cost-efficient tailor-made funding options best serves the actual funding needs of SMEs and the real economy, enabling long-term sustainable development; underlines the importance of traditional models of banking, including small regional banks, savings cooperatives and public institutions in this regard; notes in this respect the need to ensure equal focus on improving access to finance for micro-enterprises and sole traders;

6. Encourages SMEs to consider the whole EU as their home market and to use the potential of the single market for their financing needs; welcomes the Commission's initiatives supporting SMEs and start-ups in an upgraded single market, and urges the Commission to continue drafting proposals tailored to the needs of SMEs; believes that the Startup Europe initiative should assist small innovative companies by supporting them until they become operational; underlines, in this context, the importance of convergence of rules and procedures across the Union and the implementation of the Small Business Act; calls on the Commission for a follow-up to the Small Business Act which would further assist businesses in overcoming both physical and regulatory barriers; recognises, in this context, that innovation is a key driver of sustainable growth and employment in the EU and that specific attention should be given to innovative SMEs; emphasises the potential role of EU cohesion policy and the EU regional fund as a source of SME funding; calls on the Commission and the Member States to ensure coordination, consistency and synergies between European instruments and programmes for SMEs such as the European Structural and Investment Funds; calls on the Commission and the Member States to promote a holistic approach to the dissemination of information on all EU funding opportunities; urges the Member States and the Commission to make significant progress towards further simplification so as to make funding more attractive for SMEs;

7. Recalls that a more harmonised legal and business environment supportive of timely payments in commercial transactions is key for access to finance; underlines, in this context, the financial problems suffered by SMEs and the situation of uncertainty experienced by suppliers generated by late payments of larger companies, public institutions and authorities; calls on the Commission to assess during the review of the Late Payment Directive the introduction of specific measures aimed at easing payments for SMEs; calls on the Commission to make public its report on the implementation of the Late Payment Directive, expected for 16 March 2016 and, if appropriate, to formulate new proposals to minimise risk to cross-border payments and of disruption to cash flow, in general;

8. Welcomes the Commission's initiative to restart work on the establishment of a genuine European market in retail financial services with the publication of the Green Paper on Retail Financial Services (2015); asks the Commission to pay particular attention to the specificities of SMEs and ensure that cross-border activities in the field of retail financial services lead to better access to finance for SMEs;

9. Notes that start-ups and micro-enterprises in particular find it difficult to obtain appropriate funding and to identify and meet regulatory financial requirements especially at the development stage; notes the lack of harmonisation in national SME-creation legislation; encourages the Member States to continue their efforts to reduce administrative hurdles and to

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create one-stop shops as hubs for all regulatory requirements for entrepreneurs; encourages the Member States, the EIB and national promotional banks, in this context, to provide information on financing options and loan guarantee schemes;

10. Welcomes the Commission's initiative to identify undue barriers and obstacles to the financial sector in order to provide funding to the real economy, in particular SMEs, including micro-enterprises; stresses the fact that achieving a well-functioning European capital market is one of the most important initiatives for the financial sector; underlines the importance of simplifying or modifying rules which gave rise to unintended consequences for SMEs or inhibited their development; stresses that this should not lead to an unnecessary lowering of financial regulatory standards, while allowing simplification of legislation; underlines further that new proposals from the Commission must not lead to more complex regulation that can affect investments negatively; believes that a European approach to financial regulation and the Capital Markets Union should duly take into account international developments in order to avoid unnecessary divergences and duplications in legislation and keep Europe as an attractive place for international investors; stresses that the European economy must be attractive for a high level of foreign direct investment (FDI), including greenfield FDI, stimulating not only capital markets but also private equity industry as well as venture capital and investments in European industry; believes further that the Commission and the Member States should adopt a strategic plan to support SME financing with a view to their internationalisation;

11. Reiterates that revised public procurement and concession contract rules should not hamper SMEs' and micro-enterprises' access to the procurement market;

12. Calls on the Commission and the Council to pay more attention to the demand-side concern of SMEs, to reflect it in a more appropriate manner in the recommendation on the economic policy of the euro area, in the country-specific recommendations and in the ex-post assessment of the Member States' compliance with the recommendations;

### ***Bank lending to SMEs***

13. Acknowledges that bank lending is traditionally the most important external financing source for SMEs in the Union, as bank funding accounts for over three quarters of SME financing, compared with under a half in the US, making SMEs particularly vulnerable to a tightening of bank lending; notes that the financial crisis contributed to a fragmentation in bank funding and bank lending conditions; deplores the existing, albeit gradually decreasing, gaps between credit conditions for SMEs located in different euro-area countries, which also reflect differences in risk perception and economic conditions; notes the contributions of the Banking Union in addressing this fragmentation; invites the Member States to fully implement Directive 2004/113/EC and to collaborate with the financial sector regarding their obligation to ensure full and equal access to bank lending for SMEs; underlines the important and well-developed role of banks with specific regional and local knowledge in providing funding to SMEs owing to their long-term relationship with these companies; stresses that, where there are well-developed local banks, they have proven effective in lending to SMEs and avoiding losses; underlines therefore the importance of developing local banks;

14. Underlines that while digitalisation is advancing and therefore new sources of financing are emerging, the local presence of traditional credit institutions especially in islands and archipelagos, as well as in rural, remote and peripheral areas, remains essential for SMEs' access to finance;

15. Encourages banks to consider the whole EU as their home market and to use the potential of the single market to provide financing to SMEs, including SMEs that are not based in the same Member State as the bank in question;

16. Encourages the Commission to study the possibility of introducing 'funding for lending' programmes that would make ECB money available to banks with the sole purpose of lending to SMEs; calls on the Commission to assess the possibilities of developing new initiatives for attracting investments;



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17. Highlights the important role of national and regional promotional banks and institutions in financing the SME sector; recalls their central part in the EFSI SME window and the role they play in the involvement of Member States in EFSI projects; considers the EFSI to be an important source of funding for SMEs; believes that the EIB/EIF should step up their efforts to provide SMEs with expertise to access funding and tools to facilitate contacts with investors such as, inter alia, the European Angels Fund; calls on the Commission to assess the role of the national/regional promotional banks as a catalyst for long-term finance for SMEs, and in particular to identify and disseminate best practices and to encourage Member States where no such entities currently exist to set up national/regional promotional banks on this basis; calls on the Commission and the Member States to promote inclusive growth and to ensure enhanced coordination and consistency among all EU investment policies targeted at SMEs including the EFSI, EU regional funds and the European Investment Fund (EIB);

18. Reiterates that it is also important to enhance the SME lending capacity of banks and to increase their ability to lend to SMEs; points out that financing by capital markets alone will not succeed in providing sufficient funding and appropriate financing solutions including access to capital for SMEs; notes that a diversification of credit sources would lead to greater stability of the financial sector;

19. Highlights that a healthy, stable and resilient banking sector and Capital Markets Union is a prerequisite for strengthening SMEs' access to finance; notes that the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD IV), and in particular the higher level and quality of capital, are a direct response to the crisis and form the core of the renewed stability of the financial sector; welcomes the fact that the Commission considers lending to SMEs to be one of its priority areas in the CRR Review; notes that the Commission explores possibilities for all Member States to benefit from local credit unions to operate outside the scope of the EU's capital requirements rules for banks; highlights the need for prudent legislation for credit unions that ensures both financial stability and opportunities for credit unions to provide credit at competitive rates;

20. Notes multiple regulatory requirements for banks and its possible negative effects on lending to SMEs, while recalling that the requirements were put in place as a response to the financial crisis; emphasises the need to avoid double reporting requirements and multiple reporting channels, and more generally an unnecessary administrative burden on credit institutions, in particular smaller banks; calls on the Commission to assess the effects of regulatory requirements for banks as regards SME lending, with the support of the EBA and the Single Supervisory Mechanism (SSM);

21. Notes that lending to SMEs was not the cause of the financial crisis; recalls the decision of the co-legislators to introduce the SME supporting factor into the CRR/CRD IV framework and that it was designed to leave the capital requirements for SME lending consistent with Basel II rather than Basel III levels; emphasises the importance of the SME supporting factor for maintaining and increasing bank lending to SMEs; notes the EBA report of March 2016 on the SME supporting factor; is concerned about the possible negative impact of its removal; welcomes the Commission's intention to keep the supporting factor, to further assess it and to examine whether the threshold should be raised in order to further increase SMEs access to bank lending; calls on the Commission to examine the possibility of recalibrating the supporting factor, including size and threshold, and to examine possible interactions with other regulatory requirements, as well as external elements such as geographical position and socioeconomic environment, with a view to raising its effect; calls on the Commission to explore the possibility of making the factor permanent; calls on the Basel Committee for Banking Supervision (BCBS) to back the SME supporting factor and to consider lowering the capital charges for exposures on SMEs;

22. Stresses that prudent risk assessment and the evaluation of qualitative information is one of the banks' major strengths, in particular for complex SME lending; takes the view that knowledge and awareness of SMEs' particularities within the banking community should be further enhanced; underlines the confidential nature of credit information that banks receive when assessing the creditworthiness of SMEs;



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23. Welcomes the various ongoing initiatives to improve the availability of standardised and transparent SME credit information, which have the potential to enhance investors' confidence; stresses nevertheless the need to apply the principle of proportionality when requesting such credit information;

24. Underlines that proportionality is a guiding principle by which the European institutions, the European supervisory authorities and the SSM are bound when developing and implementing regulations, standards, guidelines and supervisory practices; calls on the Commission to provide, in agreement with the co-legislators, further guidance to the European supervisory authorities and the ECB/SSM on how the proportionality principle should be applied, and to urge that it be maintained, without lowering current regulatory standards, while allowing legislation to be simplified;

25. Highlights the benefits of third-party guarantees in loan agreements for entrepreneurs; demands that greater account be taken of these third-party guarantees when it comes to the evaluation of credit ratings as well as prudential rules and supervisory practices;

26. Recalls that credit institutions must, upon request, provide SMEs with an explanation of their rating decisions; calls on the Commission to assess the implementation of this provision and to strengthen the provisions outlined in Article 431 (4) of the CRR, and to encourage giving feedback to SMEs; notes the Commission's ongoing discussions with relevant stakeholders with a view to improving the quality and consistency of such feedback; notes that this feedback might be the starting point to find sources of information and advice on non-bank finance;

27. Notes that credit ratings are an important and sometimes determining element of investment decisions; draws attention to the existence in some Member States of in-house credit assessment systems (ICAS) managed by the national central banks in order to assess the eligibility of collateral and which enable SMEs to obtain an assessment of their creditworthiness; calls on the Commission, the ECB and national central banks to further investigate whether and how these systems can be used in order to help SMEs access capital markets;

28. Calls on the Commission and the EBA to provide more guidance on the implementation of the current forbearance regulation; asks the Commission to conduct an impact assessment on the current forbearance regime for non-performing loans, recalls that non-performing loans on banks' balance sheets are hampering the delivery of new loans, especially for SMEs; stresses that the introduction of a de minimis limit for minor violations would help to prevent an unnecessary and unjustified drop in the creditworthiness of the SME; notes the ongoing consultation of the Basel Committee on Banking Supervision (BCBS) on definitions of non-performing exposures and forbearance;

29. Notes that limits to the purchase of government bonds by banks or an increase in the weighting of these bonds could increase credit costs and increase the competitive gap in the EU unless it is done under certain conditions;

30. Takes note of the measures adopted by the ECB on 10 March 2016 and, in particular, the new series of four targeted longer-term refinancing operations (TLTRO II), which will incentivise bank lending to the real economy; underlines that monetary policies alone would not be sufficient to boost growth and investments and that they have to be accompanied by appropriate fiscal policies and structural reforms;

31. Stresses the importance of public institutions as an alternative to private banking as a source of funding for SMEs;

32. Calls on the Commission to consider proportionality as regards the early repayment of loans across the EU, such as a cap to limit costs for SMEs and more transparency in contracts for SMEs;

### ***Non-bank sources for SME funding***

33. Calls on the Member States to foster a risk-taking and capital market culture; reiterates that financial education for SMEs is not only key to increasing bank lending but also to expanding the use and acceptance of capital market solutions as well as to encouraging women and young people to start and expand their businesses, allowing for a better assessment of costs, benefits and the associated risks; stresses the importance of clear financial information requirements; encourages the Member States to include the basic principles of financial education and business ethics in the pre-university and university

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curricula, fostering young people's involvement in SMEs' activities; calls on the Member States and the Commission to enhance the financial literacy and access to financial skills and knowledge of SMEs and to ensure that best practices are shared; points out, however, that SMEs themselves also bear a responsibility in this regard;

34. Highlights the benefits of leasing for SMEs by releasing a company's capital for additional investment in sustainable growth;

35. Notes that the Capital Markets Union represents an opportunity for filling both the regulatory gaps in the current framework and for harmonising cross-border regulation; points out that where bank lending does not fulfil the financial and business needs for SMEs, a vacuum in capital is created; points out that the ongoing development of the CMU and Banking Union must be accompanied by recurring efforts to converge EU processes and procedures and to evaluate the existing financial regulatory framework, in particular with regard to its effects on SMEs and overall macro-financial and macroeconomic stability; stresses that such an evaluation should be done taking into account recommendations as to the practicality of introduced measures; calls on the Commission to provide an appropriate, tailored regulatory framework for issuers of funding to SMEs that does not prove burdensome for them and also wins investors' confidence; believes that in a comprehensive and well-designed Capital Markets Union all market participants with the same relevant characteristics should face a single set of rules, have equal access to a set of financial instruments or services and be treated equally when they are active in the market; welcomes the Commission's CMU Action Plan, which aims to ensure easier access for SMEs to more diverse funding options; highlights that bank-based and capital-based financing models should be complementary;

36. Recalls the sizeable cost for SMEs to access capital markets such as debt and equity markets; stresses the need for a proportionate regulation, with less complex and burdensome disclosure and listing requirements for SMEs to avoid duplication, and to reduce the cost of their access to capital markets, but without putting investor protection or systemic financial stability at risk; notes the introduction of a minimum disclosure regime for SMEs in the Commission proposal for a new Prospectus Regulation currently under discussion; notes that the regulation should not create too high hurdles when moving from a one-size category to another, for example, or between listed and non-listed companies; is therefore of the opinion that a staged approach with gradually increasing regulatory requirements should be preferred; refers in this context to the SME growth markets provided for through MiFID II, and urges the rapid implementation of this instrument;

37. Emphasises the importance of the transparency, standardisation and public availability of SME financing information for banks, investors, supervisors and other stakeholders in order to understand the risk profile and take informed decisions and to reduce financing costs; believes that the creation of a European database collecting information on business strategies and financing needs of SMEs, where they could voluntarily insert their data and keep them up to date, could serve this purpose; calls on the Commission to consider a single SME identification number; draws further attention to the potential offered by structures associating banks and non-bank actors in order to provide support to SMEs; welcomes the Commission's SME information strategy, especially the identification of the most relevant support and advisory capacities for SMEs seeking alternative funding in each Member State and promoting best practice examples at EU level and the investigation of possibilities to support pan-European information systems matching SMEs and alternative funding providers;

38. Recalls that accounting standards are crucial inasmuch as they frame the way information is provided to supervisors and investors and insofar as the administrative burden imposed on companies differs depending on the accounting standards applying; takes note of the ongoing discussions on the expediency of designing specific common accounting standards for SMEs and looks forward to further reflections being conducted on this issue;

39. Underlines the potential of new innovative financial technology (FinTech) for better matching SMEs with potential investors; calls on the Commission and the Member States to encourage the development of FinTech initiatives and to explore potential risks and the need for an appropriate harmonised EU regulatory framework without stifling innovation;

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40. Highlights the need to foster innovation through lending platforms; encourages banks to regard the use of such innovative technologies as an opportunity; stresses that alternative funding sources offer solutions for start-ups, female entrepreneurs and innovative SMEs in particular; calls on the Commission to explore the need for, and potential of, a harmonised EU framework for alternative funding sources with a view to increasing the availability of this type of funding across the EU for SMEs; recalls that for the system to be efficient both the SME and the lender must be fully aware of the potential risks/opportunities linked to the funding mechanism; notes that the existing laws and rules on crowdfunding differ significantly across Member States and do not appear to have promoted cross-border activities; welcomes the Commission's assessment of the existing framework for crowdfunding; supports the approach taken of continued market monitoring and monitoring of regulatory developments and encouraging a closer alignment of regulatory approaches, sharing of best practice and facilitating cross-border investment; recalls, at the same time, that crowdfunding and peer-to-peer lending should not be overregulated, as this would impede their development; calls on the Commission to encourage new platforms for private equity financing such as mezzanine finance and business angels; calls on the Commission to encourage safe lending to companies by private individuals through peer-to-peer lending or retail bonds; stresses the need to ensure that these new forms of financing are fully compliant with relevant tax and financial legislation, so that they do not become a tool for tax avoidance or financial opacity; stresses the need to review current legislation in this regard;

41. Notes the Commission's proposals for a framework for simple, transparent and standardised (STS) securitisation and the calibration of the prudential requirements for banks; notes that there may be both risks and benefits associated with SME securitisation; notes the possible impact of these proposals on bank lending to and investment in SMEs; stresses the need for transparency as regards the underlying risks and the need to contribute to the stability of the financial system;

42. Notes that the heterogeneity of national insolvency legislation and the related legal uncertainty constitute one of the barriers to cross-border investment in SMEs and start-ups; believes that simplified and harmonised rules in the area would support start-ups, micro-, small and medium-sized enterprises and improve the EU's business environment; welcomes therefore the Commission's decision to address this issue through a legislative proposal, as stated in its CMU Action Plan, and looks forward to this future proposal; believes that the Commission should consider various options for implementing an EU insolvency framework and deliver recommendations for Member States so that they can adopt or implement legislation for effective and transparent insolvency regimes and a timely restructuring process and for removing the administrative and regulatory burdens imposed on SMEs as stated in the country-specific recommendations;

43. Underlines the potential of venture capital and risk capital finance, especially for non-listed start-ups and innovative SMEs; notes that these markets are underdeveloped in the EU; welcomes the Commission's initiative to revise the EuVECA and EuSEF legislation; underlines furthermore the urgent need for the Commission to tackle the fragmentation along national borders in the whole European investment funds sector;

44. Underlines the influence of the design of corporate and income tax structures and possible tax reliefs on the internal financing capacity of SMEs; draws attention to the fact that in many Member States taxation of SMEs and of some multinational undertakings varies widely, which adversely affects the competitiveness of SMEs and significantly reduces the effectiveness of financing of SMEs from various sources; points out that, owing to unfair tax practices by some multinational companies, SMEs experience up to 30 % more taxation than they would do in the event of fair tax practices, which consequently affects their internal financing capacity; welcomes, in that context, the Commission's Anti-Tax Avoidance Package with a view to achieving simpler, more effective and fairer taxation in the EU; points out that Member

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States should strive for a fair, effective and transparent taxation system that attracts finance and investments in order to create better possibilities for SMEs to start up and grow; highlights the need to introduce financial exemptions for SMEs, primarily in their initial phase, to enable them to have enough funds for the subsequent periods of their lifecycle; underlines the need for a taxation policy that reduces the overall tax burden and lowers taxes for work and enterprises; stresses the importance of addressing the debt equity tax bias;

45. Points out that direct state aid, which does not distort the benefits of competition, is sometimes necessary in order to provide the funds needed for start-ups, micro-, small and medium-sized enterprises, especially where the socioeconomic conditions do not allow for another source of access to finance; underlines the importance of transparency regarding public schemes and state aid supporting investment in SMEs, as well as the emergence of new institutions for financing and investment;

46. Urges the Member States to examine and build on the experience of the Swiss WIR founded in 1934 and which rests on a credit clearing association between SMEs, given that the WIR acts successfully as a macroeconomic stabiliser in times of tightening of credit or liquidity crises;

47. Calls for the Commission to deliver an annual report to the European Parliament, outlining the status of implementation initiatives and its impact on the improvement of access to financing for SMEs in Europe; calls on the Commission to include its own assessment of the strategic direction and recommended changes where applicable;

48. Calls on the Commission to audit the existing instruments such as the structural funds and other relevant programmes as to the adequacy of their financial support to SMEs with respect to the pursued objectives and, where appropriate, as to their cushioning impact of the crisis on SMEs;

49. Recognises the increasing importance of micro-enterprises and SMEs in the cultural and creative sectors for investment, growth, innovation and employment, but also in their key role in preserving and promoting cultural and linguistic diversity;

50. Emphasises that, with the publication of the results of the Commission's 'Survey on access to finance for cultural and creative sectors' in October 2013, it has emerged that cultural and creative enterprises have huge difficulties in obtaining access to credit and an estimated financial shortfall of between EUR 8 billion and EUR 13,3 billion;

51. Underlines that Eurostat figures show that 2,9 % of the EU's workforce, i.e. 6,3 million people, were employed in the cultural and creative sectors in 2014, which is comparable to the proportion of the workforce employed in the banking and insurance sector; stresses furthermore that the cultural and creative sectors make up nearly 4,5 % of the European economy, with nearly 1,4 million small and medium-sized businesses generating and distributing cultural and creative content all over Europe, and that employment in the cultural and creative sectors has continuously increased since 2008, while being among the fastest growing sectors of the European economy, generating about 4,2 % of total EU GDP;

52. Recognises that culture and innovation are crucial factors in helping regions attract investment; highlights the fact that employment in the cultural and creative sectors is unlikely to be offshored, as it is connected to specific cultural and historical competences which also contribute to safeguarding a wide range of traditional arts and crafts; highlights the importance of supporting SMEs that operate in minority or lesser-used languages, which protect and promote the cultural and linguistic diversity of Europe, and the importance of support for start-up projects by young people concerned with cultural protection and heritage;

53. Stresses that further promoting and investing in cultural and creative industries will be beneficial in creating new jobs and combating the youth unemployment rate, given the large number of young people pursuing studies in this area; notes that, according to a recent study, the cultural and creative sectors employed more 15-29-year-olds than any other

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economic sector (19,1 % of total employment in these sectors versus 18,6 % in the rest of the economy) <sup>(1)</sup>; encourages the Member States to enhance the development of cultural and creative competences and to set up business skills development networks between educational and training systems, creative companies and cultural and arts institutions in order to foster an interdisciplinary approach; encourages the EU and the Member States to expand solutions to encourage talent and skill development within the cultural and creative sectors by, for instance, providing innovative and flexible grants for supporting creativity and innovation and talent development;

54. Points out that, according to the survey conducted in 2013 by the Commission, barriers to access to finance in the cultural and creative sectors have very specific characteristics, in that they have greater difficulty in attracting capital and investment owing to a limited database, a lack of readily available information on sources of funding, a lack of business skills, dependence on public investment schemes, and a lack of sufficient information resulting from problems in assessing risks and valuing intangible property such as intellectual property rights;

55. Stresses therefore that, in order to improve access to finance in the cultural and creative sectors, sector-specific solutions to accessing finance are needed, namely the development of expertise in assessing the specific risks posed by a lack of tangible collateral, a dependence on intangible assets and the uncertainty of market demand in times of digital change; notes that this expertise is needed in both micro-enterprises and SMEs and in financial institutions; stresses that intellectual property rights can be accepted as collateral; underlines the importance of a harmonised legislative framework with provisions on tax and intellectual property in the EU, which could help to attract investment and funding for cultural and creative SMEs;

56. Welcomes the launch of the Guarantee Facility of the Creative Europe programme, despite the fact that it has been extensively delayed, as this is one of the key means of addressing the pressing need for accessing loan financing for innovative and sustainable projects in the cultural and creative sectors, encompassing micro-enterprises, SMEs, smaller non-profit associations and NGOs, and one of the key means for guaranteeing the necessary fair remuneration of the creators; welcomes the initiative of the integrated training scheme of the Guarantee Facility offered to bankers and financial intermediaries; strongly recommends that the necessary measures be put in place over the course of 2016, as in the original Commission proposal; recalls that the financing gap is expected to exceed EUR 1 billion per year according to the Commission's ex-ante assessment, and that this gap is the amount in investments lost as companies with sound business strategies and good risk profiles are either refused a loan or decide not to apply for one altogether because they lack sufficient collateral assets;

57. Welcomes the new report published by the Member States expert group on access to finance for the cultural and creative sectors, a report drafted through the open method of coordination, and emphasises that the recommendations made therein are to be implemented by the Commission so as to create more efficient and innovative instruments and also to facilitate access to finance;

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

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<sup>(1)</sup> Cultural Times — The first global map of cultural and creative industries, December 2015.

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**How best to harness the job creation potential of SMEs?****European Parliament resolution of 15 September 2016 on how best to harness the job creation potential of small and medium-sized enterprises (SMEs) (2015/2320(INI))**

(2018/C 204/20)

*The European Parliament,*

- having regard to the Treaty on the Functioning of the European Union, and in particular Articles 173 and 49 thereof,
- having regard to the Commission communication of 3 March 2010 entitled 'Europe 2020: a strategy for smart, sustainable and inclusive growth' (COM(2010)2020),
- having regard to the Small Business Act (COM(2008)0394),
- having regard to the Commission communication on EU regulatory fitness (COM(2013)0685),
- having regard to the Commission's Entrepreneurship 2020 action plan,
- having regard to the Commission communication 'An action plan to improve access to finance for SMEs' (COM(2011)0870),
- having regard to the Commission communication 'Towards a job-rich recovery' (COM(2012)0173),
- having regard to the European Investment Plan,
- having regard to its resolution of 14 June 2012 on 'Towards a job-rich recovery' <sup>(1)</sup>,
- having regard to its resolution of 5 February 2013 on 'Improving access to finance for SMEs' <sup>(2)</sup>,
- having regard to its resolution of 15 April 2014 entitled 'How can the European Union contribute to creating a hospitable environment for enterprises, businesses and start-ups to create jobs?' <sup>(3)</sup>,
- having regard to the Late Payments Directive (Directive 2011/7/EU),
- having regard to the EU programme for Employment and Social Innovation (EaSI),
- having regard to the EU Research and Innovation Programme Horizon 2020,
- having regard to the EU programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME),
- having regard to its resolution of 17 April 2014 on the 'top ten' consultation process and lightening the burden of EU regulation on SMEs <sup>(4)</sup>,

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<sup>(1)</sup> OJ C 332 E, 15.11.2013, p. 81.

<sup>(2)</sup> OJ C 24, 22.1.2016, p. 2.

<sup>(3)</sup> Texts adopted, P7\_TA(2014)0394.

<sup>(4)</sup> Texts adopted, P7\_TA(2014)0459.



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- having regard to the Commission report 'Minimising regulatory burden for SMEs — Adapting EU regulation to the needs of micro-enterprises' (COM(2011)0803),
- having regard to the Commission's 'Annual Report on European SMEs 2013/2014 — A Partial and Fragile Recovery',
- having regard to the Eurofound report of January 2013 entitled 'Born global: The potential of job creation in new international businesses',
- having regard to the Eurofound report of 2013 entitled 'Public policy and support for restructuring in SMEs',
- having regard to the Eurofound report of 2016 entitled 'ERM annual report 2015: Job creation in SMEs',
- having regard to the Eurofound report of 2012 entitled 'Public measures to support self-employment and job creation in one-person and micro enterprises',
- having regard to the Eurofound report of 2011 entitled 'SMEs in the crisis: Employment, industrial relations and local partnership',
- having regard to the Eurofound report of 2011 entitled 'Employee representation at establishment level in Europe',
- having regard to the Eurofound report of 2014 entitled 'Social dialogue in micro and small companies',
- having regard to the 2015 European Commission survey on the access to finance of enterprises (SAFE),
- having regard to the Commission's 'Annual Report on European SMEs 2014/2015 — SMEs start hiring again',
- having regard to its resolution of 10 September 2015 on creating a competitive EU labour market for the 21st century: matching skills and qualifications with demand and job opportunities, as a way to recover from the crisis <sup>(1)</sup>,
- having regard to its resolution of 8 July 2015 on the Green Employment Initiative: Tapping into the job creation potential of the green economy <sup>(2)</sup>,
- having regard to its resolution of 23 October 2012 on Small and Medium Size Enterprises (SMEs): competitiveness and business opportunities <sup>(3)</sup>,
- having regard to Commission recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises,
- having regard to the Eurobarometer Survey of 2015 on 'Internationalisation of Small and Medium-Sized Enterprises',
- having regard to the OECD study of 2015 entitled 'Financing SMEs and Entrepreneurs 2015 — An OECD Scoreboard',

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<sup>(1)</sup> Texts adopted, P8\_TA(2015)0321.

<sup>(2)</sup> Texts adopted, P8\_TA(2015)0264.

<sup>(3)</sup> OJ C 68 E, 7.3.2014, p. 40.



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- having regard to Rule 52 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 Budgets and the Committee on Regional Development (A8-0248/2016),
- A. whereas SMEs (22,3 million <sup>(1)</sup>) were active in the EU-28 in 2014) create more jobs than other private sector companies, providing about two thirds of all private-sector employment in the EU and whereas entrepreneurs and SMEs make an important contribution to the socio-economic growth and development of the EU; points out that supporting SMEs helps to combat European unemployment and youth unemployment rates, which are at 8,9 % and 19,4 % respectively <sup>(2)</sup>; whereas the number of unemployed — about 23 million people in 2015 — remains historically high;
- B. whereas in 2014 SMEs contributed greatly to employment growth, up to 71 % in the non-financial business economy;
- C. whereas job creation in SMEs is influenced by a number of internal and external factors — among the latter, the essential conditions are manageable competition (including from multinational corporations (MNCs) and the shadow economy), manageable administrative burdens and overall production costs, as well as access to finance and skilled workers;
- D. whereas recent Eurofound research shows that SMEs which tend to create jobs are often young, innovative, internationally active, located in urban areas and run by skilled managers, and have comprehensive growth and investment strategies;
- E. whereas SMEs play an important role in strengthening economic, social and territorial cohesion, while also contributing to smarter, sustainable and inclusive growth; whereas the SME sector is important at regional level and particularly in rural regions;
- F. whereas, despite the fact that 90 % of world growth occurs outside the EU, only 13 % of SMEs have conducted international business outside the EU;
- G. whereas there are differences in SME characteristics across the EU, i.e. on scale and impact on national economies; whereas there are historical reasons for these differences;
- H. whereas there are skills scarcity and disparities across the EU, as well as the flow of skilled labour mostly from the post-2004 enlargement Member States and euro zone crisis countries to other Member States, creating peripheral regions with shortages of skilled workers because of the brain drain phenomenon;
- I. whereas, despite the internal market rules, significant differences persist across the EU in terms of regulatory frameworks for SMEs, in particular regarding the certainty of future regulatory developments and the legal quality of regulation in general;
- J. whereas SMEs' representatives point to high labour costs as one of the major restrictions to job creation and expect the reduction of said costs, the highest labour costs having been identified in over-regulated and bureaucratised systems;
- K. whereas, owing to their smaller scale, SMEs find it more difficult than large companies to comply with regulatory standards;

<sup>(1)</sup> Annual Report on European SMEs 2014/2015 ([http://ec.europa.eu/growth/smes/business-friendly-environment/performance-review/index\\_en.htm](http://ec.europa.eu/growth/smes/business-friendly-environment/performance-review/index_en.htm)).

<sup>(2)</sup> Data from February 2016 (<http://ec.europa.eu/eurostat/documents/2995521/7225076/3-04042016-BP-EN.pdf/e04dadf1-8c8b-4d9b-af51-bfc2d5ab8c4a>).

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- L. whereas employee representation and social dialogue are not as widespread in SMEs as they are in larger companies and trade unions in some countries are making it a priority to try to increase employee representation in SMEs, for example by trying to encourage the establishment of works councils in SMEs <sup>(1)</sup>;
- M. whereas the social and solidarity-based economy provides employment for more than 14 million people, representing around 6,5 % of workers in the EU; whereas there are 2 million social and solidarity-based economy enterprises in the EU, representing 10 % of undertakings in the Union; whereas social enterprises have proven resilient during the economic crisis;
- N. whereas SMEs better resist economic crisis in terms of job losses, in particular cooperatives in industry and services have shown better resilience since the 2008 crisis than other enterprises in the same sectors;
- O. whereas business transfers to employees under the form of a cooperative are successful types of business transfers, as is proven by their high survival rates <sup>(2)</sup>;
- P. whereas too many posts remain vacant because of low labour mobility and the inadequacy of some education and training systems for today's labour market;
- Q. whereas the green sector was one of the main net creators of jobs in Europe during the recession and SMEs with a long-term plan for operating in the green economy create jobs that are more resilient to the current externalities of the globalised economy <sup>(3)</sup>;
- R. whereas data on contractual arrangements and work organisation in SMEs is difficult to find in general;
- S. whereas according to Eurofound, working conditions in many countries, including working hours, are often more flexible and informally arranged in SMEs than in larger companies; whereas the initial impact of the crisis appears to have had the effect of increasing existing 'internal' flexibilities, as organisations try to cope with shifting external circumstances and demands;
- T. whereas the ECB argues that the sovereign debt crisis increased banks' financing costs in the euro zone crisis countries, which were then passed on to SMEs in the form of higher lending rates or smaller loans;
- U. whereas the EU budget should be used to boost the creation of long-term quality and qualified employment and the potential of SMEs to create decent and sustainable jobs;
- V. whereas access to finance is still one of the main barriers to the creation and growth of SMEs, particularly in the case of social economy enterprises, given, inter alia, the lack of a sufficiently diversified range of equity instruments and risk capital across the Union, which is needed along the growth path of a company;
- W. whereas owing to historical reasons some societies perceive entrepreneurs rather negatively, which in some cases is also reflected in governments' discriminatory treatment of the SME sector, in comparison, for example, with the advantageous environment created in these countries for foreign investment, especially for MNCs;
- X. whereas the unlevel playing field between MNCs and SMEs also results from the practice of profits shifting to countries considered as tax havens;

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<sup>(1)</sup> Eurofound report of 2011 entitled 'Employee representation at establishment level in Europe'.

<sup>(2)</sup> CECOP publication of 2013 entitled 'Business Transfers to Employees under the Form of a Cooperative in Europe'.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0264.

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- Y. whereas the Commission's studies do not provide a detailed assessment of the potential impact of the future Transatlantic Trade and Investment Partnership (TTIP) on SMEs in different Member States;

***Job creation potential and skilled labour force***

1. Recalls that almost 99 % of European companies are SMEs, and are therefore the backbone of the EU economy;
2. Believes that in order to ensure better conditions for quality job creation for the SME sector, Member States and the Commission must address the following problems, which are present in unequal proportions in different Member States and regions: skills shortages, insufficient estimation of future skills needs, skills mismatches, brain drain, unnecessary regulatory burdens and regulatory uncertainty in all fields, insufficient dialogue between labour market stakeholders, limited access to finance and public procurement, poor innovation capacity and access to new technologies, insufficient support for SMEs within public investment policies, the shadow economy and fraud, as well as the advantaged position of MNCs;
3. Takes the view that tackling the above-mentioned structural problems would result, inter alia, in fairer competition and the extension of the social contribution and tax base to a higher number of economic operators, giving Member States the opportunity to finance employment-friendly policies, particularly for SMEs and ensuring fair competition between Member States and fairer market conditions;
4. Stresses the need for a regulatory environment that encourages investment that concurrently fosters sustainable growth and quality jobs;
5. Acknowledges that, among other matters, labour costs, as a part of doing business, have an impact on SMEs' job creation potential and can influence competitiveness; to this end, stresses that the tax burden should be shifted away from labour to other sources of taxation that are less detrimental to employment and growth, while ensuring adequate social protection;
6. Stresses that high standard for workers' protection has to be achieved and that lowering labour costs by reducing workers' protection should not be a means of reducing unemployment; warns in addition that reducing workers' pay and rights could induce higher skills outflows and jeopardises job security, exposing SMEs to shortages of skilled workers, while at the same time generating precariousness in Europe; takes the view that an increase in labour market flexibility should not lead to a reduction of workers' protection, as it does not increase SMEs job creation potential;
7. Takes the view that the unnecessary academisation of some professions does not help to tackle the problem of skills scarcities in SMEs; believes that vocational education and training, and especially dual systems operated in cooperation with SMEs, should be given more public support; stresses that dual vocational education and training is an important tool in reducing youth unemployment and calls for support for SMEs which train young people to become qualified skilled workers and thus make an important contribution to including young people in the labour market and in society; points out that a dual education system used in one Member State cannot be simply copied by another Member State;
8. Asks Member States to foster the development of a strong entrepreneurial culture by embedding related skills in education and training;
9. Considers that apprenticeship schemes within SMEs should be promoted by Member States, including through tax and financial incentives as well as through quality frameworks including appropriate health and safety protection; recalls that SMEs have very specific skills needs; stresses that, in this regard, dual education programmes and the combination of education and traineeship opportunities must also be encouraged, as they play a vital economic and social role as instruments to promote equal opportunities for all citizens;

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10. Urges Member States to develop forms of cooperation that involve all governance levels, businesses (including businesses linked to the social economy), trade unions, educational institutions and other stakeholders with a view to adapting their education and training systems to address the disparity between skills/qualifications and the needs of the job market, particularly those of SMEs; calls for encouraging more informal training including on-the-job training and knowledge sharing among staff;

11. Stresses the key role of enterprises, including SMEs and micro-enterprises, in collaborating with policy makers and social partners in transforming the educational systems and vocational training programmes in Europe, both with regard to teaching methods and curricula design, so as to put a stronger focus on the development of 21st century working skills, in particular digital skills, critical thinking, problem solving and teamwork; highlights in this context the importance of hands-on and real-life experiences;

12. Highlights the importance of closing the skills gap that innovative SMEs are facing; believes the Commission needs to put emphasis on facilitating relevant training and education which can contribute to closing the skills gap with regard to ICT skills that are essential for innovative SMEs;

13. Considers that, with a view to balancing supply and demand in employment, Member States should reform their education systems to take account of the changed social context with regard to the importance of teaching and learning one or more languages and technological innovations;

14. Calls on Member States to provide appropriate training and ensure an ongoing professional development of teachers to promote up-to-date teaching methods and the development of 21st century skills and competencies;

15. Calls for extra measures also to be taken for the integration of the Generation 50+ into the labour market, business, education or training with the aim of preventing long-term unemployment and the risk of social exclusion for this category of workers and their families;

16. Considers that SMEs have an important role to play in creating green jobs; encourages further investment in the potential of SMEs to turn ecological challenges into business opportunities;

17. Recognises the growing significance of self-employment and micro enterprises, which are of vital importance for boosting innovation and entrepreneurship; is concerned, however, at the growing phenomenon of bogus self-employment across the EU, which should not be considered in positive terms as contributing to the 'growing number of micro-enterprises', but, instead, causes precariousness of employment, leads to unfavourable working conditions and a reduced or absent social protection, and undermines the image of entrepreneurship, putting many people in vulnerable situations, thereby generating new social problems that need to be tackled;

18. Highlights that the administrative burden of regulation is disproportionately higher for the self-employed and micro enterprises than for larger companies; considers in this regard that any measures concerning 'bogus self-employed workers' must be clearly targeted and must not place any unnecessary administrative burdens on the individual;

19. Is concerned about the precarious working conditions of a high number of self-employed workers and their increasing levels of poverty; calls on the Commission and Member States to promote micro and small enterprise collaborative networks under the cooperative form (such as cooperatives of individual producers, cooperatives of freelancers, cooperatives of SMEs, activity and employment cooperatives) as those networks considerably reinforce the sustainability and the employment potential of the constituent units;

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20. Takes note of the Investment Plan for Europe, which is designed to create new jobs and boost innovation and competitiveness, and hopes that the European Investment Project Portal, as a transparent pipeline for investable projects in the EU, will help orientate investors towards existing opportunities, in favour of financing SMEs and start-up development as an important and sustainable way to reduce unemployment and promote long-term quality employment; calls therefore for different categories with proper thresholds to be included in the European Investment Project Portal in order to allow SMEs and start-ups to fully benefit from its functioning;

21. Recalls that the EU committed itself to strengthening its industrial base by setting the target that industrial production will account for at least 20 % of GDP by 2020, which should be increased to 30 % by 2030; considers that this is an essential prerequisite for improving the employment situation in Europe effectively;

22. Emphasises the role of forward-looking legislation and process facilitation in the context of rapid developments in the knowledge-intensive and highly innovative SME sector, including social economy enterprises and cooperative entrepreneurship, underlining its role in smart specialisation and bearing in mind the EU Urban Agenda, as well as looking ahead to the Pact of Amsterdam and the role of networking and umbrella structures such as the European Innovation Partnership;

23. Notes that SMEs in Member States that do not have public investment banks may be at a disadvantage compared with those in countries with functioning publicly owned investment banks, as an assessment of public interest is not a priority for private banking institutions;

24. Calls on the Member States to enforce the legislation on the equal access of SMEs to public procurement;

25. Calls on the Member States to promote the creation and development of cooperative enterprises as there is a proven experience that they are more resilient during the crisis and less subject to job losses than the average enterprise and to create quality jobs that do not delocalise; calls on the EIB and the Commission to keep Parliament informed of the concrete measures taken so far to enhance the access to funding for cooperatives and social enterprises;

26. Considers that EU and national policies should not only focus on SME start-ups and the creation of new jobs in SMEs and calls on the Commission and Member States to continue to support business transfers as an tool for maintaining existing jobs in SMEs that risk closing down; calls for the promotion of business transfers to employees under the cooperative form as a successful types of business transfers;

27. Calls on the Commission to better engage Member States and local as well as regional authorities, third level education and training facilities, civil society associations, businesses, trade unions and financial institutions with a view to promoting and making full use of EU funding sources (e.g. the EFSI, the ESF, the ERDF, COSME, Horizon 2020 and Erasmus +) so as to help overcome the difficulties in accessing information, counselling and finance which are some of the main barriers to the growth of SMEs and their job creation potential; also emphasises the importance of cross-border SME promotion programmes under the framework of the European research initiative EUREKA as a means to further cooperation between SMEs and research institutes; calls on the Commission and on Member States to better coordinate the different funding instruments for SMEs;

28. Stresses, in this regard, that so far, training and information on such opportunities is almost non-existent, in comparison with actual needs and the many opportunities that these funds could create;

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29. Urges the Commission to work with national contact points to develop assertive and effective marketing campaigns, designed solely for SMEs, on the 'Fast Track to Innovation' instrument which is part of the Horizon 2020 programme;

30. Calls on SMEs (including micro-enterprises) as well as on local and regional authorities to take full advantage of the opportunities existing to combine the European Structural and Investment Funds (ESI Funds) and EFSI, bearing in mind that these are two complementary instruments; recommends the combination of ESI Funds and EFSI in thematic and multi-country investment platforms, and invites the Commission and the EIB Group to intensify their efforts in setting up these platforms in order to promote EIB Group products and improve SMEs' access to finance;

31. Underlines the need to increase investment in research, innovation, qualified training and development in order to spur the qualitative growth and job creation potential of European SMEs; stresses the fact that EUR 75 billion has been earmarked to support SMEs under the SME Window of the EFSI; welcomes the successful implementation of SME financing under the EFSI among the approved projects so far;

32. Calls on the Commission, when it revises the multiannual financial framework 2014-2020, to find a way to fully compensate for the reductions to the EFSI budget in the allocations to the Horizon 2020 programme, given its importance to economic development and job creation, particularly for SMEs;

33. Welcomes the move towards using financial instruments for SME support, but believes that grant funding should be maintained where it plays a critical and necessary role in the promotion of innovation, development and research, which are critical for job creation and the future economic success of Europe;

34. Urges both the Member States and the Commission, in the framework of a holistic approach to SME support, to make significant progress in the further simplification of EU funding by 2017 with regard to the application, management and monitoring/control of projects, in particular by introducing a uniform EU-wide electronic public procurement procedure, complete e-cohesion, a single audit based on the risk principle, the reduction of data and information requirements, and the elimination of gold-plating through extensive regulatory optimisation; stresses, however, the need to ensure a proper balance between simplification on the one hand, and the detection and prevention of irregularities, including fraud, on the other; asks the Commission to come forward with proposals for legislative changes to the regulations on cohesion policy during the mid-term review/revision, with the aim of facilitating access to finance for SMEs and in particular for start-ups wanting to scale up; recalls that, on the basis of the Commission's calculations, European e-procurement, transparency and reductions in administrative expenditure could make it possible to save as much as EUR 50 billion per annum;

35. Invites the Commission, before it initiates a full-fledged debate with Parliament on the future financial framework and on cohesion policy in the post-2020 period, to carry out the quantitative studies necessary to gauge the impact of SME support policies and instruments, which would make it possible to carry out preparatory work by monitoring results and assessing their effectiveness compared with that of other forms of assistance not geared towards businesses below a given size;

36. Underlines the importance of accessibility to supportive EU funding measures and to electronic public services for SMEs located in smaller urban zones and rural areas, enhancing their employment potential and contributing to the economic development in areas at risk of depopulation;

37. Calls on SMEs to overcome the gender gap in the labour market with regard to employment and pay, amongst other issues, by providing or supporting childcare facilities, carers' leave, flexible working hours for carers, and to ensure equal pay for equal work between male and female workers;



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38. Calls on the Member States to ensure that local childcare infrastructure is provided in order to facilitate parents' access to the workforce;
39. Calls on the Commission and the Member States to boost ICT and STEM training and education in order to equip both the current and the future workforce with the relevant e-skills; encourages the Commission and Member States to support programmes, such as open online courses, that provide unemployed young people with e-skills, and encourages the same for the 50+ generation/active seniors;
40. Underlines the need for targeted incentives for start-ups, SMEs, micro-enterprises in order to facilitate their establishment and operation, as well as the need to facilitate the hiring of a qualified labour force and the training of employees;
41. Takes the view that mobility in European apprenticeships and professional training must be further strengthened;
42. Encourages the Member States, regional governments, educational institutions and social partners to create opportunities for young people to acquire entrepreneurial skills as well as to better recognise and validate non formal education and skills; also stresses the importance of business mentorship for young entrepreneurs and early-phase SMEs in order to improve success rates and sustainability of companies and jobs;
43. Firmly believes that the Master Craftsman Certificate must be maintained;
44. Welcomes the 'Erasmus for Young Entrepreneurs' programme, which helps provide young entrepreneurs with the knowledge and useful skills to start and/or successfully run a business; believes that such programmes should be further promoted by Member States and the Commission in order to make the programme better known among the target groups and to help more young people to develop their businesses and succeed;
45. Calls on the Member States to adopt favourable legislative frameworks to promote and support the employment of young people in SMEs or incentivise them to start their own businesses, including by better access to information and tailor-made counselling, by facilitating access to credit and funding arrangements as well as by the creation of one-stop shops; believes that such frameworks should also include promotion of work placement programmes for students so they could get their first practical experience in an SME, while ensuring adequate social protection;
46. Notes that measures should be taken to better enable the recognition of qualifications and diplomas across Europe, including diplomas and online certificates such as those provided by Massive Open Online Courses (MOOCs), and the validation of non-formal learning in order to enable professionals to contribute with their knowledge and skills throughout Europe;
47. Welcomes the Commission legislative proposal on business insolvency, including early restructuring and second chances, to address fear of failure and make sure that entrepreneurs have a second chance;
48. Emphasises that corporate social responsibility has a long European tradition and that socially responsible businesses continue to set an example today; stresses that SMEs can play an important role in ensuring environmentally, socially and economically sustainable growth;

***Favourable and stable regulatory environment***

49. Calls on the Member States to avoid overregulation which stifles business' competitiveness and their potential to create jobs; takes the view that removing unnecessary regulatory and administrative burden, together with developing sound and sustainable regulation, including through systematic use of the 'SME test' and efficient implementation in the Member States, constitute the right way to lower SMEs' costs and to increase their job creation potential; stresses that this should not undermine the protection of workers;



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50. Takes the view that a favourable and stable regulatory environment, including intrinsic clarity of rules are essential prerequisites for sustainable quality job creation in SMEs; considers that this regulatory certainty must encompass, among other elements, contract law and fiscal and social regulation, protection of workers, as well as tax regulations and also legal certainty and procedural effectiveness; believes that the stability of the regulatory environment is best achieved by an ongoing involvement of social partners in the decision making process;

51. Calls on the Commission and the Member States to consider that if the impact of administrative requirements is felt disproportionately by SMEs, measures to minimise the burden and obstacles should be systematically considered while ensuring that employees receive adequate health and safety protection; stresses in this regard that specific obstacles need tailor-made solutions, taking into account the wide variety of SMEs;

52. Stresses the importance of SME-friendly, effective, flexible and responsive public administration in the Member States in order to promote entrepreneurship values, facilitate the growth of SMEs and enable them to achieve their full potential in generating high-quality jobs;

53. Calls on the Commission to facilitate efficient exchanges of best practices among the Member States regarding their different regulatory environments for SMEs; welcomes in this regard the Network of SME Envoys, whose role is to improve the consultation process with national SMEs and cooperation between EU countries; also encourages cooperation between SMEs and local authorities and the education sector, which can be beneficial for the creation of business clusters and incubators and hence increase their job creation potential; encourages SMEs to become members of representative organisations in order to make their voice heard at national and European levels, as it is mostly the case for multinational corporations; encourages also SMEs' associations to better support SMEs and to play a stronger role as a reliable social partner;

54. Calls on the Member States to review the rules affecting SMEs and fully apply the 'Think Small First' principle in order to remove unjustified burdens confronting SMEs and achieve regulatory and fiscal certainty as a precondition for job stability and quality;

55. Underlines the importance of fulfilling the ex ante conditionality relating to the Small Business Act, with a view to improving the environment and administrative procedures for business development and entrepreneurship, as well as the uptake of funding opportunities for SMEs;

56. Considers that the inherent inequalities between SMEs and multinationals must be remedied in order to enable SMEs to use additional resources and, together with public investment, to create quality jobs;

57. Calls on the Member States to incentivise through taxation the growth and emergence of business angels, seed funds and early stage market player sectors;

58. Draws attention to regional disparities and imbalances in SMEs' access to funding from national promotional banks, EU-funded programmes and other private and public funding institutions; calls for a level playing field for all SMEs — with special focus on less developed, poorer and more remote or isolated regions facing serious problems of depopulation and/or dispersion, and on countries that have been under financial and economic constraints — in accessing funding from EU-supported financial instruments while using intermediaries;

59. Takes the view that only with improved access to financing through the SME correcting factor is a stable financial situation created which fosters growth and thereby sustains employment;

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60. Stresses that microcredit, which is mostly targeted at micro-entrepreneurs and people in a disadvantaged position who wish to be self-employed, is a way in overcoming obstacles to accessing traditional bank services; would welcome smart simplification initiatives aimed at improving the efficacy of the assessment of projects needing microcredits; would further welcome accountability measures targeted at financial intermediaries which do not overburden or unreasonably increase costs;

61. Draws attention to the insolvency and bankruptcy risks for SMEs facing delays in payments; calls on the Commission and the Member States to improve the enforcement of the Late Payments Directive; calls, furthermore, on the Member States to consider adequate financial mechanisms, such as bank guarantees;

62. Calls on the Commission to create the European framework regulation to facilitate the creation of pan-European crowd-funding and crowd investing markets;

63. Calls on the Commission to facilitate the securitisation of loans to micro-companies and SMEs to increase their available credit;

64. Calls on the Commission and the Member States to improve the regulatory framework for social businesses;

65. Acknowledges the importance of taking into account the situation, specific needs and difficulties with compliance by micro and small enterprises in the context of the implementation of OSH measures at company level; stresses that awareness raising, exchange of good practices, consultation, user-friendly guides and online platforms are of utmost importance to help SMEs and micro-enterprises comply more effectively with OSH regulatory requirements; calls on the Commission, EU-OSHA and the Member States to continue developing practical tools and guidelines, which support, facilitate and improve the compliance of SMEs and micro-enterprises with OSH requirements;

66. Welcomes the introduction of the EU-OSHA's online interactive risk assessment (OiRA) as well as other e-tools in the Member States that facilitate risk assessment and aim to promote compliance and a culture of prevention, in particular in micro and small enterprises; urges the Member States to use European funding for OSH actions in general and the development of e-tools in particular with the aim of supporting SMEs;

67. Calls on the Commission to continue taking into account the specific nature and situation of SMEs and micro-enterprises when revising the strategic framework in order to help these companies meet the objectives set out as regards health and safety in the workplace;

68. Calls on the Commission to adopt, when appropriate and in the framework of the European Semester's country-specific recommendations, a differentiated approach to improving the environment for SMEs, taking into account the country-specific circumstances and the EU regions' specific structural differences, in order to enhance greater economic, social and territorial cohesion; calls furthermore on the Commission to focus on SMEs, in particular on micro-enterprises;

69. Notes that Thematic Objective 3 — 'Enhancing the competitiveness of SMEs' — has led to Member States including a focus on enhancing growth and job creation potential for SMEs in the operational programmes; stresses that neither future unexpected EU-wide crises nor major initiatives should result in a decrease in commitments or payments relating to Thematic Objective 3 and relevant instruments under Heading 1b of the EU's general budget; acknowledges that SMEs have a weak equity position, and therefore stresses that delays in payments for invoices under cohesion policy should be minimised in order to reduce insolvency risks; urges the Commission and the Member States, accordingly, to further improve the pace of payments for SMEs;

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70. Points out that both the Annual Report on European SMEs 2014/2015 and the Annual Growth Survey 2016 reveal regional divergences in the SME environment and other disparities which should be effectively addressed by Member States before the end of the programming period, together with efforts to advance the internationalisation of SMEs by removing non-tariff barriers;

71. Calls on Member States with limited decentralisation of EU funding management to tip the balance of administrative capacity for technical assistance and local and regional support systems, including enhanced access to funding and information solutions, for SMEs (including micro-enterprises) towards local authorities, since this will enable more regionally balanced outcomes and absorption rates, in particular in less developed regions;

72. Emphasises the need to bring together business developers and business incubators, with a view to making start-ups an important tool for creating lasting jobs and to keeping potential within companies, discouraging 'the sale of an important idea' for pure profit;

73. Highlights the need to facilitate access to the single market by removing the remaining unjustified administrative barriers and by combating unfair competition, market distortions, bogus self-employment and 'letter box companies'; calls on the Member States to ensure equitable access conditions to their national market for SMEs, particularly in providing cross-border services; welcomes, in this regard, the strong focus on SMEs in the 2015 Single Market Strategy and urges the Commission and Member States to follow up on the positive initiatives with specific measures that are tangible to SMEs;

74. Calls on the Member States to adopt favourable legislative frameworks for setting up businesses as one of the ways to tackle the shadow economy, which disadvantages SMEs in particular and to make full use of the newly established platform to tackle undeclared work; recognises that economic recession and measures implemented in many Member States contributed to the growth of the shadow economy;

75. Is firmly convinced that integrating refugees into the labour market will be impossible without active, solid support from micro-enterprises and small and medium-sized enterprises in the EU;

76. Stresses that comprehensive language training for refugees is of the utmost importance; stresses that such training should begin as soon as possible and that job-related language knowledge is essential for refugees to integrate in companies;

77. Highlights that further efforts and incentives are necessary in order to encourage and facilitate the creation of SMEs, including social enterprises and micro-enterprises, by people from vulnerable groups and to fight discrimination in this regard; stresses that lifelong skills development and counselling are important tools to ensure equal opportunities; takes the view that the appropriate Member State authorities must provide SMEs with support and advice on integrating vulnerable groups in the labour market;

78. Calls for micro-enterprises and SMEs not to be required in any way to disclose non-financial information about their voluntary social engagement; emphasises that such disclosure can generate disproportionately high bureaucratic costs and would jeopardise, rather than foster, social engagement from firms;

79. Emphasises the fact that it made it absolutely clear in its resolution of 6 February 2013<sup>(1)</sup> on corporate social responsibility (CSR), that in a free society, CSR can never make charitable action compulsory; is firmly convinced that if CSR were made compulsory, people would be less willing to support charitable causes;

80. Stresses that the temporary employment industry is particularly important to SMEs and a nuanced view should be taken of it;

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<sup>(1)</sup> OJ C 24, 22.1.2016, p. 33.

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***A level playing field***

81. Notes that in some cases EU competition policy could result in an advantage that mostly benefits big market operators that are characterised by greater economies of scale than SMEs; stresses in this regard that EU competition rules must guarantee a level playing field for small, medium-sized and large enterprises to overcome the lack of economies of scales of SMEs thus enabling their internationalisation and boosting their job creation potential, in particular in the context of new international trade agreements;

82. Appeals to Member State public bodies to officially restrict themselves to their statutory sector when providing services so that their special tax position does not give rise to SMEs suffering because competition has been distorted;

83. Points out that SMEs across Europe are characterised by a diversity of business models and legal forms and that a level playing field should be guaranteed for all of them, including social economy actors;

84. Takes the view that SMEs' unequal access to markets, information, counselling, public services, skills and finance across the EU is detrimental to their employment creation prospects and is the result of a number of structural differences in terms of enterprises' scale and performance; considers, therefore, that these differences should be taken into account when evaluating the EU's competition policy and the functioning of the internal market;

85. Considers that an image of a SME as an attractive employer, based on good working and employment conditions, is an important competitive advantage with regard to the recruitment of skilled staff;

86. Takes the view that regulations serve the general interest and are intended, among other objectives, to establish a competitive and fair marketplace, protect employees, protect health and safety, promote innovation and preserve the natural environment; stresses the urgent need for a clear and effective regulatory framework which does not cause SMEs unnecessary bureaucratic burdens when they come to apply it;

87. Notes that in regions where economic development is focused on attracting foreign direct investment (FDI), MNCs could be in some cases treated preferentially in legislative matters; believes that a preferential treatment of MNCs should be examined with a view to diminishing their potential negative impact on the SMEs, ensuring a level playing field for them and enhancing their employment creation capacity; also acknowledges the fact that many SMEs are created to support MNCs and their employees through the provision of supply chain products and services; stresses the need to closely monitor respect for workers' rights in these cases and welcomes also the move by the OECD to boost transparency in the international tax system and calls for swift implementation of the BEPS measures;

88. Calls on the Member States to adopt the principle of income taxation in the place where it is generated and other measures against profits shifting practices of MNCs in order to ensure a level playing field for the SMEs and thus improve their job creation potential;

89. Notes that an improved regulatory framework and efficient law enforcement can contribute to tackling the shadow economy and tax avoidance;

90. Takes the view that trade agreements with third countries should take into account the EU regions' specific structural differences in the SME sector across the Union, and assess their impact on future employment perspectives and on workers' rights and wages of SMEs employees;

91. Calls on the Commission to conduct an impact assessment regarding the implications of the proposed TTIP agreement, and of granting China market economy status on the number and quality of jobs in the SME sector in all Member States; stresses that such an impact assessment should include a detailed analysis of the types of SMEs and sectors that might be affected;

92. Notes the opportunities of the Digital Single Market; stresses, however, the need for an evaluation of the potential, benefits and challenges for SMEs with regard to their growth and job creation potential in the different Member States, as well as for the impact on workers and social security systems; recommends that the Commission create the requisite conditions for SMEs to adapt and move gradually into the Digital Single Market;

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93. Believes that promoting digitalisation in the public sector (e-government) and increasing broadband availability in remote areas would reduce establishing and operating costs for SMEs, thereby enabling them to further increase job creation potential;

94. Encourages SMEs to promote teleworking and smartworking, which are effective tools for reducing companies' material costs and enabling workers to balance their professional and personal lives better;

95. Welcomes the presence of information portals aimed specifically at SMEs, such as the 'Access to Finance Portal' on Your Europe, and calls on the Commission to further improve their functionality, accessibility and to transform them into more interactive instruments; highlights in particular the importance of delivering effectively the new Single Digital Gateway announced in the Single Market Strategy as an online access point to all single-market related information and services;

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

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P8\_TA(2016)0360

**Application of the ‘Employment Equality Directive’**

**European Parliament resolution of 15 September 2016 on application of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (‘Employment Equality Directive’) (2015/2116(INI))**

(2018/C 204/21)

*The European Parliament,*

- having regard to the Treaty on European Union (TEU), in particular Articles 2 and 5 thereof, and the Treaty on the Functioning of the European Union (TFEU), in particular Articles 6, 8, 10, 19 and 153 thereof,
- having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 20, 21, 23 and 26 thereof,
- having regard to the European Social Charter adopted in the Council of Europe and to the social and employment rights enshrined in it,
- having regard to the UN Convention on the Rights of Persons with Disabilities,
- having regard to the UN Committee on the Rights of Persons with Disabilities’ Concluding Observations on the initial report of the European Union (October 2015),
- having regard to the interim report of the UN’s Special Rapporteur on freedom of religion and belief, Hans Bielefeldt, submitted in accordance with General Assembly resolution 68/170 on freedom of religion and belief,
- having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 <sup>(1)</sup>,
- having regard to the Gender Equality Directive (Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation <sup>(2)</sup>),
- having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (‘the Directive’) <sup>(3)</sup>,
- having regard to the Council EU Guidelines of 24 June 2013 on the promotion and protection of freedom of religion or belief,
- having regard to the Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (COM(2015)0615),
- having regard to the Commission Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (‘Racial Equality Directive’) and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (‘Employment Equality Directive’) (COM(2014)0002),

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> OJ L 204, 26.7.2006, p. 23.

<sup>(3)</sup> OJ L 303, 2.12.2000, p. 16.

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- having regard to the Commission communication entitled ‘European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe’ (COM(2010)0636),
- having regard to the 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),
- having regard to the Commission communication entitled ‘Non-discrimination and equal opportunities for all — A framework strategy’ (COM(2005)0224),
- having regard to the Inter-institutional Agreement on Better Law-Making 2016 between the European Parliament, the Council of the European Union and the European Commission,
- having regard to its resolution of 10 September 2015 on creating a competitive EU labour market for the 21st century: matching skills and qualifications with demand and job opportunities, as a way to recover from the crisis <sup>(1)</sup>,
- having regard to its resolution of 10 September 2015 on social entrepreneurship and social innovation in combating unemployment <sup>(2)</sup>,
- having regard to its resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) <sup>(3)</sup>,
- having regard to its resolution of 8 September 2015 towards an integrated approach to cultural heritage for Europe <sup>(4)</sup>,
- having regard to its position of 8 July 2015 on the proposal for a Council decision on guidelines for the employment policies of the Member States <sup>(5)</sup>,
- having regard to its resolution of 11 March 2015 on European Semester for economic policy coordination: Employment and Social Aspects in the Annual Growth Survey 2015 <sup>(6)</sup>,
- having regard to its resolution of 4 July 2013 on impact of the crisis on access to care for vulnerable groups <sup>(7)</sup>,
- having regard to its resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 <sup>(8)</sup>,
- having regard to its resolution of 11 November 2010 on the demographic challenge and solidarity between generations <sup>(9)</sup>,
- having regard to its resolution of 6 July 2010 on promoting youth access to the labour market, strengthening trainee, internship and apprenticeship status <sup>(10)</sup>,
- having regard to its resolution of 6 May 2009 on the active inclusion of people excluded from the labour market <sup>(11)</sup>,
- having regard to its resolution of 20 May 2008 on progress made in equal opportunities and non-discrimination in the EU (the transposition of Directives 2000/43/EC and 2000/78/EC) <sup>(12)</sup>,

<sup>(1)</sup> Texts adopted, P8\_TA(2015)0321.

<sup>(2)</sup> Texts adopted, P8\_TA(2015)0320.

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0286.

<sup>(4)</sup> Texts adopted, P8\_TA(2015)0293.

<sup>(5)</sup> Texts adopted, P8\_TA(2015)0261.

<sup>(6)</sup> OJ C 316, 30.8.2016, p. 83.

<sup>(7)</sup> OJ C 75, 26.2.2016, p. 130.

<sup>(8)</sup> OJ C 131 E, 8.5.2013, p. 9.

<sup>(9)</sup> OJ C 74 E, 13.3.2012, p. 19.

<sup>(10)</sup> OJ C 351 E, 2.12.2011, p. 29.

<sup>(11)</sup> OJ C 212 E, 5.8.2010, p. 23.

<sup>(12)</sup> OJ C 279 E, 19.11.2009, p. 23.



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- having regard to the European Parliamentary Research Service study on the implementation of Directive 2000/78/EC with regard to the principle of non-discrimination on the basis of religion or belief,
  - having regard to the European Parliamentary Research Service in-depth analysis entitled ‘The Employment Equality Directive — Evaluation of its implementation’,
  - having regard to the European Parliament Study entitled ‘Reasonable Accommodation and Sheltered Workshops for People with Disabilities: Costs and Returns of Investments’,
  - having regard to the European Parliament Study entitled ‘Differential Treatment of Workers under 25 with a View to their Access to the Labour Market’,
  - having regard to the European Court of Auditors Special Report entitled ‘EU Youth Guarantee: first steps taken but implementation risks ahead’,
  - having regard to the European Union Agency for Fundamental Rights opinion on the situation of equality in the European Union 10 years on from initial implementation of the equality directives,
  - having regard to the European Union Agency for Fundamental Rights comparative legal analysis on protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and to the opinions of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Women’s Rights and Gender Equality (A8-0225/2016),
- A. whereas, according to the TEU, the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, and shall combat social exclusion and discrimination;
- B. whereas the TFEU stipulates that in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
- C. whereas all 28 Member States have transposed the Employment Equality Directive and, despite differences on its transposition and implementation, have gained valuable experience;
- D. whereas the equal treatment directives prohibit both direct and indirect discrimination, as well as harassment and instructions to discriminate;
- E. whereas the Commission mentioned in its second implementation report (COM(2014)0002) that legislation is not enough to achieve full equality, and that awareness of existing protection needs to be increased, along with the use of EU funds and the strengthening of national equality bodies;
- F. whereas non-discrimination in the field of occupation and employment is only effective if discrimination is comprehensively combated in all areas of life along with other obstacles which, by limiting freedom and equality, impede the full development of a person and prevent workers from genuinely participating in the political, social and economic life of their Member States;
- G. whereas the Court of Justice of the European Union (CJEU) stressed, in *Römer*<sup>(1)</sup>, that the Employment Equality Directive does not itself lay down the principle of equal treatment in the field of employment and occupation, but provides a general framework for combating discrimination on various grounds;

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<sup>(1)</sup> Judgment of 10 May 2011, *Römer*, C-147/08, ECR, EU:C:2011:286.

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- H. whereas, although the perception of discrimination has increased, numerous victims of discrimination are still not aware of their rights or do not dare to take legal action against discriminatory practices, because of various factors such as a lack of trust in Member State authorities or complex and lengthy legal procedures;
- I. whereas evidence collected by the European Union Agency for Fundamental Rights (FRA) shows that racism, xenophobia, homophobia and transphobia and related forms of intolerance are widespread, despite measures taken by governments and civil society across the EU; whereas the social and political climate is growing ever more tolerant of extremist, racist and xenophobic agendas that exploit fears about unemployment, the refugee crisis, alienation partly as a result of migration flows, and security in the face of terrorism and other geopolitical challenges, which undermines core EU values;
- J. whereas the FRA LGBT survey <sup>(1)</sup> and the FRA 'Being Trans in Europe' report <sup>(2)</sup> highlight the persisting discrimination of LGBT people in gaining access to, and within, the labour market;
- K. whereas the Employment Equality Directive only sets out minimum requirements, but Member States may provide for a higher level of protection and adopt positive measures in this area in their national legislation; whereas legislation alone is not enough to ensure full equality and must be combined with appropriate policy action;
- L. whereas women are most affected by unemployment and suffer negative discrimination in terms of employment, particularly pregnant women and mothers, including mothers who are breastfeeding;
- M. whereas the Employment Equality Directive covers only freedom of religion and belief, disability, age and sexual orientation, but Member States are also obliged under the Racial Equality Directive to combat discrimination based on race and ethnicity in employment; whereas religion is sometimes used as a substitute for race when it comes to discrimination in employment, based on a person's real or perceived belonging to a certain religion;
- N. whereas the rate of employment of people with disabilities in the Member States is far below 50 %, as compared to over 70 % for the general population, and the rate of unemployment of people with disabilities (18,3 %) is almost twice that of the general population (9,9 %); whereas the EU averages conceal strong differences at country level;
- O. whereas women are mostly the ones with the primary responsibility for taking care of the children, the elderly, other dependents, family and the household, and this responsibility is greater if they have children with disabilities; whereas this has a direct effect on women's access to jobs and their professional development and may negatively affect their conditions of employment, for example in many instances where women are involuntary part-time workers or are pushed into precarious forms of employment, and all these factors produce pay and pension gaps;
- P. whereas single-parent families, primarily single mothers, can be found much more frequently among the working poor, and all measures adopted should focus on single parents;
- Q. whereas a broad range of skills and competences gained by women when fulfilling family responsibilities enrich their personal and professional development; whereas these competences should therefore be recognised by society and employers;
- R. whereas the European Union is facing a major economic, financial and social crisis that particularly affects women in the labour market and in their personal lives, since they are more likely to be in insecure jobs and more liable to become unemployed and to have no social security cover;

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<sup>(1)</sup> <http://fra.europa.eu/en/publication/2014/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-main>

<sup>(2)</sup> <http://fra.europa.eu/en/publication/2014/being-trans-eu-comparative-analysis-eu-lgbt-survey-data>

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- S. whereas the lack of genuinely effective work-life balance laws is resulting in discrimination against working parents;
- T. whereas policy measures such as the Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures have already been adopted by Parliament, and whereas such measures have the potential to help bring about greater equality for women within the field of employment and improve women's access to management positions; whereas legislation must be considered to be a crucial tool in reaching gender equality, but must be combined with normative procedures and campaigns in order to implement gender equality, not only in legislation but also in public opinion;
- U. whereas women are still victims of multiple, direct and indirect discrimination in the labour market, despite the theoretical implementation of equal treatment in Member States; whereas there are many different types of indirect discrimination, all of which must be covered by the standard definition whereby discrimination occurs where different rules are applied in comparable situations or the same rule is applied in different situations; whereas women are not always made aware of their rights under existing European and national legislation on equality and discrimination, or doubt the effectiveness of reporting cases of discrimination; stressing, therefore, the importance of information and guidance documents, awareness campaigns and information portals;
- V. whereas social inequalities, in particular as regards employment equality, can be combated only through policies guaranteeing a better distribution of wealth, based on an increase in real wages, action to promote labour and working time regulation and labour protection, in particular through collective bargaining and guaranteed universal free access to high-quality public healthcare and education services;
- W. whereas nearly one in five young people in the EU are looking for a job, and whereas the total financial cost of youth unemployment has been estimated at EUR 153 billion a year <sup>(1)</sup>, and additional social costs are very alarming;
- X. whereas data from the Eurofound 6th European Working Conditions Survey (EWCS) <sup>(2)</sup> confirm that little progress has been made in the last 10 years in reducing self-reported discrimination against workers;
- Y. whereas data from the Eurofound 6th EWCS indicate that 7 % of workers report being discriminated against on at least one ground and confirm workers reporting evidence of discrimination on multiple grounds;
- Z. whereas the employment rate of women with disabilities in the EU (44 %) is significantly lower than the employment rate of men with disabilities (52 %), and whereas the female employment rate in the 55-65 age group in some Member States is around or below 30 %, and the gender employment gap is the highest (14,5 percentage points (pps)) in comparison to the gap for the middle (30-54 years old — 12,4 pps) and younger (20-29 years old — 8,3 pps) age groups; taking the view that long-term unemployment is particularly prevalent among younger and older employees, especially women, and whereas the application and transposition of Directive 2006/54/EC have been assessed and Parliament, in its resolution of 8 October 2015 <sup>(3)</sup>, set out its serious misgivings concerning the implementation of the Directive's provisions on putting into practice the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation;

<sup>(1)</sup> [http://www.eca.europa.eu/Lists/ECADocuments/SR15\\_03/SR15\\_03\\_EN.pdf](http://www.eca.europa.eu/Lists/ECADocuments/SR15_03/SR15_03_EN.pdf)

<sup>(2)</sup> [http://www.eurofound.europa.eu/sites/default/files/ef\\_publication/field\\_ef\\_document/ef1568en.pdf](http://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1568en.pdf)

<sup>(3)</sup> Texts adopted, P8\_TA(2015)0351.

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AA. whereas older workers are still often exposed to age discrimination, stereotypes and barriers; whereas age discrimination affects all age groups and, given its consequences, whereas a humane society which aims at achieving its social and economic purposes needs the experience, input and wealth of ideas of all generations, while being based on the principle of solidarity between generations;

1. Welcomes the fact that almost all Member States have included the general principle of equal treatment on specific grounds of discrimination in their constitutions; regrets, however, that only a few Member States have systematically ensured that all existing legal texts are in line with the principle of equal treatment, and even fewer implement them systematically <sup>(1)</sup>, and that discrimination still remains part of the daily lives of many Europeans;

2. Hopes that all Member States will remove the natural, social, and economic obstacles which are preventing the principle of equality from finding substantive expression and are restricting the freedom of European citizens;

3. Regrets the fact that the notion of human rights as being universal, indivisible and interrelated remains, as a principle of law, a matter more of theory than of practice, given that different aspects of the human being are treated separately in existing EU legal instruments;

4. Regrets the increase in experiences of discrimination and harassment, including at the workplace and especially with regard to gender, nationality, social background, disability, discrimination on the grounds of sexual orientation and gender identity, ethnic origin, and religion, particularly with regard to Muslim women and LGBTI people; regrets, at the same time, the general under-reporting of all forms of discrimination, especially disability-based discrimination and discrimination against LGBTI people; calls therefore on the Commission to include a specific focus on all types of discrimination when monitoring the implementation of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, and highlights the need to raise awareness among LGBTI people about their rights, e.g. through equality bodies, trade unions and employer organisations;

5. Stresses how important it is to reach an agreement as soon as possible, and calls on the Council to break the deadlock, in order to move towards a pragmatic solution and speed up without further delay the adoption of the EU horizontal anti-discrimination directive proposed by the Commission in 2008 and voted for by Parliament; considers it a pre-condition to secure a consolidated and coherent EU legal framework, protecting against discrimination on the grounds of religion and belief, disability, age and sexual orientation outside of employment; notes that no undue restriction of the Directive's scope should be accepted; considers that the consolidation of the EU legislative framework on tackling hate crime is also a crucial element, taking into consideration that similar crimes are also prevalent in the work environment;

6. Points out that, according to the EU Agency for Fundamental Rights, all forms of discrimination, including multiple and intersectional discrimination, to a great extent hinder the deployment of human capital and constitute a barrier to career development; underlines the fact that people with disabilities are often victims of those types of discrimination;

7. Notes with concern the absence of case-law providing an interpretation of 'indirect discrimination' in certain Member States, as well as the difficulty that its definition posed for the transposition of the Directive in certain Member States; suggests that the Commission should provide advice for Member States on such interpretation difficulties;

8. Notes that non-discrimination in the field of occupation and employment is only effective if discrimination is comprehensively combated in all areas of life through, for example, community support, legislation and coordination tools such as strategies and frameworks at both Member State and EU levels, including the possibility of introducing positive action measures;

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<sup>(1)</sup> EPRS, 'The Employment Equality Directive — Evaluation of its implementation'.

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**Religion and belief**

9. Notes that the prohibition of discrimination on grounds of religion or belief has been transposed in all Member States even though the Directive does not define the actual terms <sup>(1)</sup>;
10. Notes the intersectionality between discrimination on grounds of religion and belief and race and ethnicity, and considers that some groups with a religious minority background are particularly affected by discrimination on the basis of religion in employment, as documented by national and European research, in particular research conducted by the Fundamental Rights Agency;
11. Takes the view that protection against discrimination on the grounds of religion and belief in the European Union is currently provided in both human rights law and anti-discrimination law, and that these two mutually influence each other;
12. Highlights that studies show that the most discriminated religious groups in the area of employment include Jews, Sikhs and Muslims (and especially women); recommends the adoption of European frameworks for national strategies to combat anti-Semitism and Islamophobia;
13. Acknowledges the European Court of Human Rights' (ECtHR) considerable jurisprudence in the field of non-discrimination on the grounds of religion or belief, welcomes the role it has played through its decisions in the interpretation of the Directive in its entirety, and awaits with interest the first future decisions on this matter taken by the Court of Justice of the European Union; expresses regret regarding the low number of cases referred to courts, which contrasts with the high number of discrimination occurrences that emerge from victimisation surveys but are not pursued in justice;
14. Considers that the consistent application of anti-discrimination legislation should be viewed as an important element in radicalisation prevention strategies, taking into account the fact that in an increasingly xenophobic and Islamophobic context, discrimination against religious communities, including refugees and migrants, could contribute to the religious radicalisation of people, affect the successful inclusion of the latter in the labour market and have an impact on their access to justice in connection with their residence status;
15. Believes that courts of justice should focus more on making sure that an assertion of religious belief is made in good faith, instead of on assessing the validity or correctness of a religion or belief;
16. Considers that further harmonisation is needed following decisions by both national courts and the ECtHR when assessing the principle of the secularity of the state against the provisions of Article 4(2) of the Employment Equality Directive regarding the ethos;
17. Believes, on the basis of case law available at EU and national level, that a duty of reasonable accommodation for all grounds of discrimination — including, therefore, religion and belief — should be laid down in EU and national law, provided that this does not impose a disproportionate burden on employers or service providers;
18. Calls upon Member States to recognise the fundamental right to freedom of conscience;
19. Is of the opinion that it should be considered that, in accordance with the case law of the ECtHR, the Directive provides protection against discrimination on the ground of an employer's religion or belief;
20. Believes that the general exception in Article 2(5) is broadly drafted and there is a need for progress with regard to its application, which is of particular importance in the context of the refugee and migration crisis, and hopes that the courts of justice will assess its boundaries very carefully in line with the principle of proportionality;

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<sup>(1)</sup> *Ibid.*

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21. Insists that religious freedom is an important principle which should be respected by employers; underlines, however, that the implementation of this principle is a question of subsidiarity;

### **Disability**

22. Emphasises that 'discrimination on the basis of disability' means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field; notes that it includes all forms of discrimination, including denial of reasonable accommodation <sup>(1)</sup>;

23. Encourages the Member States to interpret EU law in such a way as to provide a basis for a concept of disability in line with the Convention on the Rights of Persons with Disabilities (CRPD), combining those elements that provide equality for persons with disabilities and referring to the denial of reasonable accommodation as a form of discrimination as prescribed by the CRPD; regrets that some Member States still have legislation in place that requires a 50 % incapacity threshold and accept only official medical certification;

24. Notes that Directive 2000/78/EC in itself does not contain any definition of the concept of disability; highlights that the European Court of Justice was called upon to define the concept of disability independently for the purposes of *Chacón Navas*; recalls that further cases have called for clarification of the concept of disability, as well as the meaning to be ascribed to the reasonable accommodation for disabled persons which employers must provide under Article 5 of the Directive (*HK Danmark* C-335/11 and C-337/11);

25. Deplores the fact that the employment rate among women with disabilities is less than 50 %, a figure which highlights the twofold discrimination that they face, making it difficult for them to play a full part in society;

26. Considers that a terminal illness, i.e. an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification by a medical practitioner, can be deemed as a disability should it hinder the participation of the person concerned in their professional life;

27. Stresses the obligation for employers to provide reasonable accommodation for all workers with a disability, which can include workers with a terminal illness;

28. Highlights that the nature of some terminal illnesses may result in fluctuations of physical, mental and psychological impairments and that employers are therefore obliged to review reasonable accommodations on a regular basis to ensure that they fully support employees in their role;

29. Stresses the importance of protecting disabled workers, including those with a terminal illness, from any form of discrimination in the workplace; highlights particularly the need to protect these workers from unfair dismissal;

30. Notes that evidence shows that investment in appropriate reasonable accommodation for people with disabilities is cost-beneficial and provides a return in terms not only of social inclusion, but also of increased productivity and reduced absenteeism <sup>(2)</sup>; regrets that many Member States have failed to provide appropriate reasonable accommodation;

31. Emphasises the importance of work for people with disabilities and for people suffering from serious, chronic or incurable diseases, and advocates inclusive approaches to the labour market that guarantee security and rights for both groups;

32. Calls on the Member States and the Commission to ensure that employment-related rights and services, including reasonable accommodation in the context of the Employment Equality Directive, are portable and in line with the freedom of movement for persons with disabilities;

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<sup>(1)</sup> United Nations Convention on the Rights of Persons with Disabilities, 13 December 2006, Article 2.

<sup>(2)</sup> European Parliament, Policy Department A: Economic and Scientific Policy, 'Reasonable Accommodation and Sheltered Workshops for People with Disabilities: Costs and Returns of Investments'.



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33. Welcomes the fact that all Member States offer grants, subsidies or tax concessions, for example, to employers providing reasonable accommodation, thereby incentivising employers to adjust the workplace in order to adapt and open the labour market to people with disabilities and to ensure that all persons enjoy and exercise all human rights and fundamental freedoms on an equal footing with others; recommends that Member States provide, and the Commission supports, training for national, regional and local authorities on reasonable accommodation so as to enable them to propose guidance on reasonable accommodation and on the prevention of exclusion of specific vulnerable groups; calls for dialogue with relevant stakeholders, such as trade unions and employers, with the aim of defining guidance for reasonable accommodation practices to be put in place;

34. Highlights the need to recognise social clauses in public procurement procedures as the potential tool for achieving social policy objectives; takes the view that socially responsible public procurement could be used as an instrument to integrate people with disabilities and other vulnerable groups into the labour market;

35. Urges the Commission and the Member States to adopt quality frameworks for traineeships with a view to ensuring reasonable accommodation and accessibility for persons with disabilities;

36. Emphasises the importance of a universal design standard for public spaces and working environments that takes into consideration the needs of persons with disabilities, in line with the General Comment on accessibility<sup>(1)</sup> adopted by the UN committee on 11 April 2014, and draws attention to the EU's commitments on accessibility in order to reach permanent improvements in working conditions for all European workers;

37. Calls on the Commission and the Member States to encourage smart working models enabling people with a disability to work at home, with all of the resulting advantages in terms of quality of life and productivity;

38. Notes that persons with disabilities make a valuable contribution to society as a whole, and calls on the Member States to use structural funds, in particular the European Social Fund, to adapt workplaces and to provide necessary assistance for persons with disabilities at work, and to improve education and training with a view to increasing their employment rate in the open labour market and combating unemployment, poverty and the social exclusion of disabled persons; points to Article 7 and Article 96(7) of the Common Provisions Regulation (CPR)<sup>(2)</sup> which promote equal opportunities, non-discrimination and inclusion of persons with disabilities in the implementation of the European Structural and Investment Funds (ESI funds) in general, and in the Operational Programmes in particular, and stresses that ex ante evaluation should appraise the adequacy of planned measures to promote equal opportunities and prevent any discrimination; considers that European and national funding could also be channelled, for example, towards SMEs which encourage workers to follow courses in order to enable them to stay in employment;

39. Calls on the Member States to revisit the employment insurance schemes with a view to preventing discrimination of disabled people;

40. Encourages the Member States to consider the benefits of introducing positive action measures, for example by combining passive labour market policies, such as tax breaks and cash incentives, with active labour market policies — i.e. guidance and counselling, training and education, and job placements — to support the employment of people with disabilities;

41. Encourages the Member States to develop and implement an all-encompassing framework for measures enabling access to quality employment for persons with disabilities, including the possibility of using, for example, fines imposed for failure to comply with anti-discrimination legislation to finance inclusion in the open labour market and other actions in the field;

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<sup>(1)</sup> General comment No 2 (2014) on Article 9: Accessibility <https://documentsddsny.un.org/doc/UNDOC/GEN/G14/033/13/PDF/G1403313.pdf?OpenElement>

<sup>(2)</sup> Regulation (EU) No 1303/2013.



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42. Encourages Member States to provide ongoing support to employers that hire persons with disabilities so as to create favourable conditions and ensure adequate support throughout all phases of employment: recruitment, retention and career progression;

43. Calls on all actors involved to pay particular attention to the integration of persons with intellectual and psychosocial disabilities and to develop a comprehensive campaign to raise awareness about the CRPD and combat prejudice against persons with disabilities — especially persons with psychosocial disabilities, intellectual disabilities, persons with autism spectrum disorders and older persons with disabilities in the workplace; requests that all materials related to capacity-building, training, awareness-raising and public statements, among others, be made available in accessible formats;

44. Is concerned about the delay in the mid-term assessment of the European Disability Strategy 2010-2020; urges the Commission to revise the strategy on the basis of the concluding observations on the initial report of the European Union adopted by the UN Committee on the Rights of Persons with Disabilities on 7 September 2015, and to include representative organisations of persons with disabilities in this process;

45. Regrets that the Commission has not yet addressed age inequalities in the implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and the Disability Strategy; calls, therefore, on the Commission to raise awareness of, and address, the rights of persons with disabilities and the discrimination they suffer;

### **Age**

46. Underlines the important contributions that older workers make to society and the competitiveness of companies; stresses the importance of involving older workers so that they can pass on their knowledge and experience to younger workers in the context of active ageing, and regrets the fact that age is an important ground for employment discrimination; considers it regrettable that older people are still often exposed to stereotypes and barriers on the job market and calls for intergenerational justice based on solidarity, mutual respect, responsibility and the willingness to care for each other;

47. Calls on the Member States to promote access to employment and integration into the labour market of all workers regardless of their age, and to apply measures in order to protect all workers in the workplace in terms of remuneration, training, career development, health and safety, etc.;

48. Notes that a one-sided rejuvenation of workforces does not lead to more innovation, but represents a waste of experience, knowledge and skills;

49. Calls on the Member States to encourage employers to recruit young people, but at the same time to ensure and respect equal treatment in terms of remuneration and social protection, including necessary work-related training;

50. Notes with concern that the CJEU identifies solidarity between generations as the single most important legitimate aim justifying differences of treatment based on age<sup>(1)</sup>; as those Member States that show higher employment rates for older workers are also those that perform far better in introducing younger people into the labour market;

51. Recalls that EU legislation concerning ageing policies must be implemented effectively in order to combat and prevent age discrimination;

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<sup>(1)</sup> Commission staff working document 'Annexes to the Joint Report on the application of the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC)' (SWD(2014)0005).

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52. Notes that, thanks to policies implemented, people aged 55-64 make up an increased share of workers throughout EU Member States; regrets, however, that the employment rate for this group has increased too slowly and remains below 50 % in the EU 28; underlines therefore that digitalisation has a substantial impact on the labour market by creating new job opportunities and more flexible working conditions such as telecommuting or teleworking, which could serve as an effective tool against the exclusion of people over 50 and unskilled middle-aged persons; emphasises in this context that the continual improvement of digital skills by offering employees opportunities for training, further training and retraining throughout their professional careers is a prerequisite for benefiting from digitalisation; believes also that the opportunities for future job creation in the digital market will require further efforts by Member States to address skill mismatches, in particular for people over 50;

53. Stresses that measures to combat discrimination on grounds of age must as a matter of principle avoid differentiating between children or the elderly, and that any form of unjustified age discrimination must be tackled in an appropriate manner;

54. Notes that elderly workers in particular have more precarious conditions and calls on the Commission, in cooperation with the Member States, to study the increasing problem of unemployment among people over the age of 50 and to develop effective tools, such as vocational training and incentives or subsidies for employers, in order to reintegrate older workers into the labour market and protect them against unfair dismissal;

55. Stresses the need to upscale digital skills among the working population, and stresses that digitalisation will contribute to social inclusion and help older people and workers with disabilities remain longer in the labour market, by enabling them to benefit from the opportunities of artificial intelligence; considers it important to shape the influence of the digital market on employment in a socially just and sustainable way; highlights the fact that many employers do not hire older workers because of stereotypes about lacking or outdated skills; calls therefore for the inclusion of life-long learning and adult education for workers of all age groups in the reflections on the upcoming European Skills Strategy announced by the Commission;

56. Recalls that human resources constitute the most important resource in the EU and the Member States; takes the view that e-skills are essential for older workers over 55 in order to safeguard them from exclusion from the labour market and to help them find new employment; calls on the Commission and the Member States, in collaboration with social partners, to develop skills strategies linking education and work, and therefore to invest and promote life-long learning and to provide accessible, affordable and comprehensive training schemes, as well as retraining for the development of digital and soft skills, including adaptation to the virtual environment (augmented reality), which enable the ageing population to adapt better to growing demands for e-skills in many different sectors; stresses therefore that older workers over 55, especially women, should have continuous access to ICT training; encourages, also, the Member States and the Commission to put in place strategies to reduce the digital divide and promote equal access to new information and communication technologies;

57. Welcomes the European social partners work programme for the period 2015-2017 which focusses on active ageing; calls upon social partners to tackle thoroughly issues linked to age discrimination, adult learning, occupational health and safety and reconciliation between work and family life in order to build a European framework that supports the employability and health of all workers;

58. Stresses that reliable statistics on the situation of older people and demographic changes are needed to develop better targeted and effective active ageing strategies; calls on the Commission to ensure comprehensive high-quality data collection on the societal status of older people, their health, rights and standard of living;

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59. Points out that promoting age-friendly environments is an essential tool for supporting older workers and jobseekers and promoting inclusive societies that offer equal opportunities to all; welcomes, in this connection, the Commission's joint management project with the WHO aimed at adapting the WHO Global Age-friendly Cities guide to the European context;

60. Welcomes the 'Healthy workplaces for all ages' campaign conducted by EU-OSHA; underlines the importance of effective occupational health and safety legislation and incentives for companies to adopt preventive methods; calls for the campaign to pursue strong outreach to companies of all sizes;

61. Calls on the Member States to reinforce public pension schemes in order to guarantee decent income after retirement;

62. Welcomes the Commission's initiative on work-life balance; underlines the fact that work-life balance is a challenge also for older workers, as 18 % of men and 22 % of women aged between 55 and 64 look after family members in need of care, while more than half of grandparents provide regular care to their grandchildren; recommends that the upcoming initiative on work-life balance fully includes measures to support informal carers and grandparents of working age, as well as young parents;

63. Calls on the Member States to promote free high-quality public services that provide proper and necessary care and assistance for children, the sick and the elderly;

### **Sexual orientation**

64. Notes that national courts and the CJEU have only heard a limited number of cases on discrimination on the grounds of sexual orientation;

65. Recalls that, notwithstanding the fact that the number of Member States that have extended the prohibition of discrimination based on sexual orientation to all areas covered by the Racial Equality Directive grew from 10 in 2010 to 13 in 2014, protection from sexual orientation and gender identity discrimination is still limited <sup>(1)</sup>;

66. Recalls that the scope of protection from discrimination available to trans people, especially in the areas of employment, education and healthcare, remains uncertain in many Member States; calls for measures to implement effectively national legislation transposing the Gender Equality Directive; points out that such measures could improve legal definitions to ensure that protection includes all transgender people and not only trans people who are undergoing or have undergone gender reassignment <sup>(2)</sup>;

67. Is concerned that rights awareness in the area of discrimination, and awareness of the existence of bodies and organisations offering support to victims of discrimination, are low, with higher rates of awareness among LGBTI people; takes the view that national, regional and local authorities, along with all relevant stakeholders' organisations, should substantially intensify awareness-raising activities for both victims and employers and for other groups as well; points out that national LGBTI organisations are key partners in these efforts;

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<sup>(1)</sup> EU Fundamental Rights Agency (2015), 'Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the European Union: Comparative legal analysis'.

<sup>(2)</sup> *Ibid.*

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68. Calls on the Commission and Member States to ensure the mutual recognition of partnership status, matrimonial regimes and parenting rights; calls on the Commission and Member States to take account of the specific discrimination faced by intersex people in employment and to review laws and practices with a view to preventing discrimination of intersex people;

#### ***Horizontal aspects and recommendations***

69. Expresses its concern over the lack of legal clarity and certainty regarding multiple discrimination, often as a consequence of the existence of differing and fragmented rules and standards across Member States; notes the important work done by Equinet in helping to develop common standards and believes this should be given adequate support;

70. Deplores the fact that Directive 2000/78/EC contains no specific provisions on multiple discrimination, although it does at least state that women are often victims of it and notes, furthermore, that the combination of two or more forms of discrimination may pose problems arising from divergences in the guaranteed level of protection for different forms; calls on the Member States and the Commission to combat all forms of multiple discrimination and to ensure application of the principle of non-discrimination and equal treatment in the labour market and in access to employment; recommends that national, regional and local authorities, law enforcement bodies, including labour inspectors, national equality bodies and civil society organisations, increase their monitoring of the intersectionality between gender and other grounds in cases of discrimination and in practices;

71. Highlights that a lack of objective, comparable and disaggregated equality data on instances of discrimination and inequality makes it more difficult to prove the existence of discrimination, particularly indirect discrimination; points out that Article 10 of Directive 2000/78/EC provides for a shift in the burden of proof and a reversal of it where there are facts from which it may be presumed that there has been direct or indirect discrimination; calls on the Commission and the Member States to collect equality data within the scope of the Directive in an accurate, systematic way and with the involvement of social partners, national equality bodies and national courts;

72. Urges the Commission and the Member States to develop — including as part of the national reporting process and in the annual Joint Report on Social Protection and Social Inclusion — harmonised and homogeneous statistics designed to fill in all gaps in the collection of gender equality data; calls on the Commission to take initiatives to promote such data collection by means of a Recommendation to Member States and by tasking Eurostat with the development of consultations aiming at mainstreaming data disaggregation on all grounds of discrimination in European Social Survey indicators, in order to take action and practical measures against all forms of discrimination relating to recruitment and the job market;

73. Recommends that, while collecting statistical data on employment matters, Member States include optional questions in a labour survey to discover possible discrimination based on grounds of sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation;

74. Emphasises that the legislative process at all levels should take account of the bureaucratic burden on microenterprises and small and medium-sized enterprises and that proposed measures should undergo a proportionality assessment;

75. Notes the important role of the national equality bodies in the implementation of the Employment Equality Directive, contributing to awareness-raising and data collection, cooperating with the social partners and other stakeholders, addressing underreporting and taking on a leading role in simplifying and facilitating the lodging of complaints by victims of discrimination; calls for the role of the national equality bodies to be strengthened, their impartiality insured, their activities developed and their capacities enhanced, including through the provision of adequate funding;

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76. Calls on the Member States to display greater commitment in implementing the principle of equality between women and men in employment policies; calls for the active use of gender budgeting, including through the promotion of exchanges of best practices by the Commission, and for measures that would encourage the employment of women on fair grounds without insecure forms of employment, with a healthy work-life balance and life-long learning, as well as measures that reduce pay and pension gaps, and, in general, improve the position of women on the labour market;

77. Asks the Member States to develop gender-neutral job classifications and evaluation systems as indispensable measures to foster equal treatment;

78. Highlights the fact that policies on equal treatment should aim at addressing the issue of stereotypes in both male and female occupations and roles;

79. Stresses that the social partners have a key role to play in informing both workers and employers and in raising their awareness about tackling discrimination;

80. Considers that further focus is needed on balancing competing rights such as freedom of religion and belief and freedom of speech in cases of harassment on such grounds;

81. Calls on the Member States to develop and strengthen national labour inspection bodies, providing the conditions and the financial and human resources that will enable them to maintain an effective presence on the ground in order to combat precarious employment, unregulated employment and labour and wage discrimination, in particular from the point of view of equality between men and women;

82. Calls on the Commission and the Member States to enhance the reconciliation of work and private life by concrete measures, such as new proposals on maternity leave so as to guarantee the right for women to return to work after pregnancy and maternity leave and parental leave, to guarantee their right to effective health and safety protection at the workplace, to safeguard their maternity entitlements, and to take measures to prevent the unfair dismissal of employees during pregnancy, etc., as well as the Carers' Leave Directive and reinforcing legislation on paternity leave;

83. Notes that access to justice is limited in many discrimination cases; highlights the importance of access to information for victims of discrimination; considers it necessary that Member States take the appropriate steps to ensure that reasonable, available and accessible legal advice and assistance can be obtained and is provided to the victims at all stages of the legal process, including confidential and in-person counselling, and emotional, personal and moral support, by equality bodies or appropriate intermediaries; calls furthermore on the Member States to combat harassment and violence at workplace which violates a person's dignity and/or creates an offensive environment at work;

84. Believes that complaint mechanisms must be improved at national level by strengthening national equality bodies to increase access to judicial and non-judicial mechanisms and by increasing trust in authorities, providing legal support, offering legal advice and support and simplifying often lengthy and complex legal procedures; encourages the Member States to create platforms that could receive complaints and provide free support on legal pursuit in cases of discrimination and harassment at the workplace;

85. Calls, as regards cases of discrimination and/or mobbing and/or stalking at the workplace, for rules to be adopted to protect whistle-blowers and their privacy;

86. Recalls that pursuing court cases, and ensuring adequate representation, is still problematic in some cases, and urges the Member States to find ways to help victims in this regard, including for example by means of court tax exemptions and reductions, legal aid and assistance from specialised NGOs, and by ensuring legal redress and adequate representation; underlines the importance of the legal standing of NGOs with a legitimate interest in relevant judicial and/or administrative procedures;

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87. Welcomes the fact that sanctions provided for by Member State anti-discrimination laws are generally in line with the Employment Equality Directive; also points to the important role of specialised public anti-discrimination bodies in resolving problems related to penalties and appeals; is concerned, however, that, in terms of the level and amount of compensation awarded, national courts tend to apply the lower scale of sanctions provided for by law <sup>(1)</sup>; emphasises the need for the Commission to pay close attention to the rules applicable to sanctions and redress in the Member States to ensure that domestic law does not, as the European Court of Justice has reported, provide for purely symbolic punishments or only issue warnings in cases of discrimination;

88. Expresses its concern at the fact that so few within the Roma community are active on the labour market; points to the need to strengthen the role of NGOs involved with this ethnic minority with a view to encouraging Roma to participate in the labour market; also points out that NGOs have an important role to play in informing Roma about their rights or helping them to report cases of discrimination, which will ultimately serve to improve data collection;

89. Calls on Member States to make use of the possibility in the Directive to introduce positive action in the case of groups that suffer from severe and structural discrimination, such as the Roma;

90. Welcomes the fact that the overwhelming majority of Member States have considered some form of positive action within the scope of the Directive;

91. Highlights the need for the dissemination of relevant decisions of the CJEU and for an exchange of national court decisions in line with CJEU and European Court of Human Rights case-law pertaining to the provisions of the Employment Equality Directive;

92. Stresses the importance of ensuring support for informal carers combining work and care responsibilities (e.g. flexible working hours, respite care) so that these carers (mostly women) can provide care and can make a huge contribution to their families and society but are not penalised for this contribution now or later in life;

93. Considers it necessary that adequate training is provided for employees of national, regional and local authorities, law enforcement bodies and labour inspectorates; believes that training for all relevant stakeholders, such as judges, prosecutors, judicial staff, lawyers and investigators, police force and prison staff on non-discrimination legislation in employment and case-law is of critical importance, along with training on cultural understanding and unconscious bias;

94. Considers it necessary that the Commission provides private companies, including SMEs and micro companies, with models for equality and diversity frameworks which can later be replicated and adapted according to their needs; calls on business stakeholders to go further than making pledges with regard to respecting equality and diversity by, *inter alia*, reporting annually on their initiatives in this respect with the help of equality bodies if they so choose;

95. Calls on employers to create anti-discriminatory working environments for their employees through respecting and implementing the existing anti-discrimination directives based on the principle of equal treatment regardless of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; calls on the Commission to monitor the implementation of the related measures;

96. Recalls the important role of the social partners, NGOs and civil society in offering assistance to the victims, and stresses that it is often easier for persons suffering discrimination to turn to them than to other actors; calls, therefore, for support to be offered to civil society organisations active in this field;

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<sup>(1)</sup> EPRS, *op. cit.*

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97. Calls for human rights and civic education that fosters awareness and acceptance of diversity and that seeks to create an inclusive environment by encouraging the redefinition of norms and the removal of insulting labels;
98. Calls on the Commission and the Member States to support the study of civic and human rights education in primary and secondary schools;
99. Considers it necessary that the Commission adopts a European framework for national strategies to combat anti-Semitism, Islamophobia and other forms of racism;
100. Urges the Member States to establish appropriate schemes enabling prisoners who have served their sentence to re-enter the labour market;
101. Calls on the Commission and Member States to facilitate access to funding for relevant stakeholders, including civil society organisations and equality bodies, for awareness-raising and education campaigns about discrimination in employment; calls on the private sector to play its part in creating a discrimination-free working environment;
102. Calls on the Member States to seek to bring about an exchange of best practice to help fight discrimination at work;
103. Calls on the social partner organisations to develop internal awareness of inequality in employment and come up with proposals to address issues at organisation/company level, sectoral collective bargaining, training and campaigns targeting members and workers;
104. Calls on the Member States and the Commission to involve social partners (trade unions and employers) and civil society, including equality bodies, in the effective application of equality in employment and occupation, with a view to fostering equal treatment; calls also on the Member States to improve social dialogue and the exchange of experience and best practice;

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105. Instructs its President to forward this resolution to the Council and the Commission.
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**Activities, impact and added value of the European Globalisation Adjustment Fund between 2007 and 2014****European Parliament resolution of 15 September 2016 on the activities, impact and added value of the European Globalisation Adjustment Fund between 2007 and 2014 (2015/2284(INI))**

(2018/C 204/22)

*The European Parliament,*

- having regard to Regulation (EU) No 1309/2013 of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006 <sup>(1)</sup>,
- having regard to Regulation (EC) No 546/2009 of the European Parliament and of the Council of 18 June 2009 amending Regulation (EC) No 1927/2006 on establishing the European Globalisation Adjustment Fund <sup>(2)</sup>,
- having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund <sup>(3)</sup>,
- having regard to the report from the Commission to the European Parliament and the Council on the activities of the European Globalisation Adjustment Fund in 2013 and 2014 (COM(2015)0355),
- having regard to the ex-post evaluation of the European Globalisation Adjustment Fund (EGF) — Final report of August 2015,
- having regard to Special Report No 7/2013 of the Court of Auditors entitled 'Has the European Globalisation Adjustment Fund delivered EU added value in re-integrating redundant workers?',
- having regard to Eurofound ERM 2012 report entitled 'After restructuring: labour markets, working conditions and life satisfaction',
- having regard to Eurofound case study entitled 'Added value of the European Globalisation Adjustment Fund: A comparison of experiences in Germany and Finland (2009)',
- having regard to Eurofound ERM 2009 report entitled 'Restructuring in recession',
- having regard to its resolution of 29 September 2011 on the future of the European Globalisation Adjustment Fund <sup>(4)</sup>,
- having regard to its resolution of 7 September 2010 on the funding and functioning of the European Globalisation Adjustment Fund <sup>(5)</sup>,

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<sup>(1)</sup> OJ L 347, 20.12.2013, p. 855.

<sup>(2)</sup> OJ L 167, 29.6.2009, p. 26.

<sup>(3)</sup> OJ L 406, 30.12.2006, p. 1.

<sup>(4)</sup> OJ C 56 E, 26.2.2013, p. 119.

<sup>(5)</sup> OJ C 308 E, 20.10.2011, p. 30.

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- having regard to the resolutions it has adopted since January 2007 on the mobilisation of the EGF, including the comments of the Committee on Employment and Social Affairs on the respective applications,
  - having regard to the deliberations of the Committee on Employment and Social Affairs special working group on the EGF,
  - having regard to Rule 52 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 Budgets, the Committee on International Trade, the Committee on Budgetary Control, the Committee on Regional Development and the Committee on Women's Rights and Gender Equality (A8-0227/2016),
- A. whereas the European Globalisation Adjustment Fund (EGF) was set up to provide support for, and express its solidarity with, workers made redundant as a result of major structural changes in world trade patterns; whereas the objective of the EGF is to contribute to smart, sustainable and inclusive growth and the promotion of sustainable employment by preparing and supporting redundant workers for a new job; whereas the EGF was set up to address emergencies by providing rapid intervention and short-term assistance in response to acute and unforeseen labour market difficulties involving large scale redundancies, unlike the European Social Fund (ESF) which also provides support for redundant workers but is intended to address long-term structural imbalances mainly through life-long learning; believes the EGF should continue to operate outside the MFF during the next programming period;
- B. whereas restructuring has become more prevalent in recent years, intensifying in some sectors and spreading to others; whereas companies have responsibility for the often unforeseen effects of these decisions on communities and on the economic and social fabric of the Member State; whereas the EGF helps to cushion the negative effects of these restructuring decisions; whereas more and more EGF cases are related to the restructuring strategies of large firms and multinational corporations, which are usually decided without the involvement of workers and their representatives; whereas relocation, delocalisation, closures, mergers, acquisitions, takeovers, reorganisation of production and outsourcing of activities are the most common forms of restructuring;
- C. whereas, adaptability and proactivity when moving jobs or occupations may be hampered however by insecurity because transitions bear a potential hazard of unemployment, lower wages and social insecurity; whereas the reintegration in employment of beneficiaries of EGF cases will be more successful if it leads to quality employment;
- D. whereas cooperatives manage restructuring in a socially responsible manner and their specific cooperative governance model, based on joint ownership, democratic participation and members' control, as well as the ability of cooperatives to rely on their own financial resources and support networks, explains why cooperatives are more flexible and innovative in managing restructuring over time, as well as in creating new business;
- E. whereas Article 19 of Regulation (EU) No 1309/2013 requires the Commission to present to Parliament and to the Council every two years a quantitative and qualitative report on the activities of the EGF in the previous two years;
- F. whereas there is no European legal framework on information and consultation of workers, anticipation and management of restructuring in order to anticipate change and prevent job losses; whereas Parliament requested in its resolution of 15 January 2013 <sup>(1)</sup> that the Commission, pursuant to Article 225 of the Treaty on the Functioning of the European Union, submit as soon as possible and after consulting the social partners, a proposal for a legal act on information and consultation of workers, anticipation and management of restructuring (following the detailed recommendations set out in the annex to its resolution); whereas there are significant differences at national level

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<sup>(1)</sup> OJ C 440, 30.12.2015, p. 23.

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concerning the responsibilities of employers towards their employees in this process; whereas the European social partners have been consulted twice on this matter and the Commission has failed to act; whereas the Commission has delivered disappointing responses to parliamentary resolutions on information, consultation and restructuring, highlighting the need for concrete steps in this area; whereas well developed industrial relations systems which accord workers and their representatives rights in the area of consultation and information are essential; whereas a strengthened Information and Consultation Directive could help ensure that negotiations for a suitable plan can take place in fair conditions and in a timely manner;

- G. whereas the minimal redundancy threshold was reduced from 1 000 redundancies to 500 redundancies, with the possibility that, in exceptional circumstances, or in small labour markets, an EGF application would be considered where the redundancies have a serious impact on employment and on the local, regional or national economy;
- H. whereas, since 1 January 2014, formerly self-employed persons can also be eligible beneficiaries and can receive assistance; whereas the Commission should ensure that the EGF meets the specific needs of self-employed workers as the number of self-employed people is constantly increasing; whereas, until 31 December 2017, young people not in employment, education or training (NEETs) in regions eligible under the Youth Employment Initiative can benefit from EGF support in numbers equal to the number of targeted beneficiaries;
- I. whereas the current EGF aims not only to support redundant workers but also to demonstrate solidarity towards those workers;
- J. whereas the original EGF budget was EUR 500 million per year; whereas the current budget is EUR 150 million per year, with an average annual spend of approximately EUR 70 million since its inception;
- K. whereas, while the initial co-funding rate was 50 %, this was increased to 65 % for 2009-2011, reverting back to 50 % for 2012-2013, and is now 60 %;
- L. whereas between 2007 and 2014 there have been 134 applications from 20 Member States relating to 122 121 targeted workers and whereas a total of EUR 561,1 million has been requested; notes that in the 2007-2013 period the budget implementation rate was only 55 %; whereas between 2007 and 2014 the manufacturing sector accounted for the largest number of applications, in particular the automotive industry, which concerned 29 000 out of 122 121 workers (23 % of the total covered by the submitted applications); whereas to date the economic crisis has hit small businesses with fewer than 500 employees hardest;
- M. whereas the European Court of Auditors recommends that Parliament, the Commission and the Council consider limiting EU funding to measures likely to provide EU added value, rather than funding already existing national workers' income support schemes as provided for in Article 7(1)(b); whereas EGF measures are found to have most value added when used to co-finance services for redundant workers not ordinarily existing under Member State employment benefit systems, where these services are focused on training rather than allowances and in cases where these measures have been personalised and are complementary to mainstream provision, in particular for the most vulnerable groups of workers made redundant; notes in this connection the need to invest in the potential of former employees and the importance of a full assessment of local labour market needs and skills requirements as this should form the basis for training and competence building in order to help facilitate a quick reintegration of workers into the labour market; recalls that Member States have the obligation to implement the EGF budget effectively;

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- N. whereas the EGF does not resolve the problem of unemployment in the EU; whereas resolving the unemployment crisis in the EU requires putting the creation, protection and sustainability of jobs at the heart of EU policy; whereas unemployment rates in the EU, especially among young people and the long-term unemployed, mean that initiatives offering new career prospects are urgently needed;
- O. whereas the reference period for the assessment of the EGF for the purposes of this report is 2007-2014; whereas the Commission's ex-post evaluation covers the period 2007-2013 and the Court of Auditors' report audits the period 2007-2012;
- P. whereas the principles of gender equality and of non-discrimination, which are among the Union's core values and are enshrined in the Europe 2020 strategy, should be ensured and promoted when implementing the EGF;
1. Notes the ex-post evaluation of the EGF and the first biennial report; notes that the Commission complies with its reporting obligation; considers that these and other reports are not sufficient to fully ensure the transparency and efficiency of the EGF; calls on the Member States who have benefited from the EGF to make all data and evaluations of the cases publicly available and to include a gender impact assessment in the reporting of cases; strongly encourages all Member States to make publicly available their applications and final reports under the current regulation in a timely manner; while the Commission complies with its reporting obligations believes that the Commission could make public all relevant documents relating to EGF cases, including their internal mission reports following monitoring visits to ongoing applications in Member States;
2. Welcomes the extension of the funding period from one to two years; recalls that according to Eurofound research, 12 months was not a long enough period to help all redundant workers, especially the most vulnerable groups such as low-skilled workers, older workers, women and particularly single parents;
3. Notes that the evaluations of the EGF show that the results of interventions by this fund are influenced by factors such as the level of education and qualifications of the targeted workers, as well as by the capacity of absorption of the relevant labour markets and the GDP of the recipient countries; emphasises that such factors are mostly influenced by long-term measures which can be effectively supported by the European Structural and Investment Funds (ESI Funds); points to the need to allow for these factors and for the local labour market situation whenever assistance is to be provided under the EGF; notes that increased synergies between EGF and ESI Funds are important in order to achieve faster and more effective results; underlines that the ESI Funds can act as follow-up measures in the EGF areas of support by stimulating investment, overall growth and job creation; underlines that EGF interventions should be directed to investments that contribute to growth, jobs, education, skills and workers' geographical mobility and should be coordinated with existing EU programmes with a view to helping people find employment and promoting entrepreneurship, especially in the regions and sectors already suffering from the adverse effects of globalisation or restructuring of the economy; emphasises that integrated approaches based on multi-fund programming should be preferred in order to tackle redundancies and unemployment in a sustainable manner, through an efficient allocation of resources and closer coordination and synergies, in particular between the ESF and the ERDF; believes strongly that an integrated multi-fund programming strategy would reduce the risk of relocation and create favourable conditions for a return of industrial production to the EU;
4. Considers that the functioning of the EGF has been improved by the reforms to the regulation; notes that the improvements made have simplified procedures for Member State access to the EGF and that this should result in greater use being made of the fund by Member States; calls on the Commission to propose actions to remove any barriers relating to administrative capacity which has obstructed EGF participation; believes the EGF should not acquire a macroeconomic stabilisation function;
5. Notes that the reduced appropriations earmarked for the EGF in the annual budget have been sufficient to provide the necessary assistance and support that is both vital and necessary for people who have lost their jobs; emphasises however that since 2014 the scope of the EGF has been expanded to include NEETs and the crisis criterion and in the event of a significant increase in applications or the addition of new prerogatives the appropriations may not be enough and would have to be increased to ensure the effective functioning of the EGF;

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6. Stresses the relevance of strong social dialogue based on mutual trust and shared responsibility as the best instrument with which to seek consensual solutions and common outlooks when predicting, preventing and managing restructuring processes; highlights that this would help to prevent job losses and therefore EGF cases;

7. Observes the significant increase in the number of applications during the derogative period 2009 to 2011 which allowed for applications on the basis of the crisis-related criteria and that this scope was further expanded to permanently include the crisis criterion and self-employed individuals from 2014 to 2020; welcomes the extension of this derogation after 2013; notes that over half of the total number of projects between 2007-2014 were crisis related; further stresses that the adverse effects of the economic crisis are continuing in some Member States;

8. Notes that, between 2007 and 2014, 131 funding applications for a total amount of EUR 542,4 million were submitted by 20 Member States targeting 121 380 workers;

9. Notes that the Commission made improvements to the EGF database in which quantitative data on EGF cases is recorded for statistical purposes, making it easier for Member States to submit applications and for the Commission to analyse and compare figures on EGF cases; notes, furthermore, that the Commission included the EGF in the Shared Fund Management Common System, which should result in the submission of more correct and complete applications and a further reduction in the time it takes for an application submitted by a Member State; notes that this system allows for the simplification of applications for Member States and urges the Commission to speed up the processing of applications so that funding can be provided swiftly in order to maximise its impact;

10. Calls on the Commission to fully anticipate the effects of trade policy decisions on the EU labour market, also considering the evidence based information of these effects that have been highlighted by the EGF applications; calls on the Commission to conduct thorough ex-ante and ex-post impact assessments, including social impact assessments, involving potential effects on employment, competitiveness and the economy as well as the impact on small and medium sized enterprises while ensuring effective ex-ante coordination between DG Trade and DG Employment; calls on Parliament to organise regular joint hearings of the Committee on International Trade and the Committee on Employment and Social Affairs in order to contribute to improving coordination between trade policy and the EGF and the monitoring thereof; considers it necessary to step-up the use of the EGF in dealing with relocation as well as sectorial crises caused by global demand fluctuations; firmly opposes any initiative to consider the EGF in its current form and with its current budget as an intervention tool for jobs lost in the European Union as a result of trade strategies decided at EU level, including future trade agreements or those already in place; highlights the need for strong coherence between trade and industrial policies and the need to modernise the EU's Trade Defence Instruments;

11. Calls on the Commission to only grant market economy status to trade partners when they meet the five criteria which it has set; calls, in this regard, on the Commission to establish a clear and effective strategy on issues related to the granting of market economy status to third countries in order to preserve the competitiveness of EU businesses and to continue the struggle to combat any form of unfair competition;

12. Highlights that one of the main aims of the EGF is to help workers who lose their jobs as a result of a serious shift in Union trade in goods or services as established in Article 2(a) of the Regulation; is of the opinion that an important task of the EGF is to ensure support for workers made redundant as a result of the negative consequences of trade disputes; consequently calls on the Commission to clarify that the loss of jobs as a consequence of trade disputes which result in a serious shift in Union trade in goods or services is fully within the scope of the EGF;

13. Emphasises that the EGF cannot under any circumstances act a substitute to a serious policy to prevent and pre-empt restructurings; stresses the importance of a true industrial policy at EU level to bring sustainable and inclusive growth;

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14. Calls on the Commission to carry out sector-specific studies on the impact of globalisation and, on the basis of the findings, make proposals to encourage companies to anticipate changes in their industries and to prepare their workers before making them redundant;

15. Underlines that some Member States have preferred to use the ESF rather than the EGF because of higher ESF co-financing rates, swifter implementation of ESF measures, the lack of EGF pre-financing and the lengthy EGF approval procedure; believes however that the increased co-financing rate and the more timely application and approval process contained in the new regulation address some of these concerns; regrets that EGF support still has not reached redundant workers in all Member States and calls on the Member States to make use of this support in the event of mass redundancies;

16. Draws attention to the fact that according to the Court of Auditors' report the average length of an EGF application approval is 41 weeks; calls for no effort to be spared to accelerate procedures; welcomes efforts by the Commission to minimise delays and to streamline the application process; underlines that the strengthening of Member States' capacities is indispensable in this respect and strongly recommends that all Member States start implementing the measures as soon as possible; notes that many Member States already do so;

17. Notes that the EGF suffers from a serious lack of awareness on the part of some Member States, social partners and companies; calls on the Commission to step up its communications to the Member States, to national and local trade union networks and to the general public; calls on the Member States to promote awareness of the EGF to workers and their representatives and to do so in a timely manner in order to ensure that the maximum number of potential beneficiaries can be reached and gain from EGF measures and for more effective promotion of the benefits based on the results achieved by the EGF;

18. Recalls the importance of safeguards that prevent the relocation of enterprises benefiting from EU funding within a defined period of time which might lead to additional support schemes being initiated due to redundancies;

### ***Beneficiaries of the EGF***

19. Welcomes the conclusions in the Court of Auditors' report that nearly all EGF-eligible workers were able to benefit from personalised and well-coordinated measures tailored to their individual needs and that nearly 50 % of workers who received financial assistance are now back in employment; notes that a lack of timely and effective implementation of EGF programmes in some Member States has resulted in underspending; believes that the involvement of targeted beneficiaries or their representatives, the social partners, local employment agencies and other relevant stakeholders in the initial assessment and application is essential in order to ensure positive outcomes for beneficiaries; calls on the Commission to support the Member States in developing innovative measures and programmes and to assess in its reviews to what extent the design of the coordinated package of personalised services anticipated future labour market perspectives and required skills and was compatible with the shift towards a resource-efficient and sustainable economy; calls on the Member States, in line with Article 7 of the current regulation to make further efforts to design the co-ordinated package of personalised services towards a resource-efficient and sustainable economy; notes that innovation, smart specialisation and resource efficiency are key to industrial renewal and economic diversification;

20. Notes that out of the 73 projects analysed in the Commission's ex-post evaluation report, the average share of beneficiaries aged 55 or over was 15 % and of beneficiaries aged 15-24 was 5 %; welcomes therefore the emphasis in the new regulation on older and younger workers and the inclusion of NEETs in certain applications; notes that the average share of female beneficiaries was 33 % and that of males was 67 %; notes that these figures reflect the gender make-up of employees, which can vary depending on the sector involved; calls therefore on the Commission to ensure that in all EGF applications women and men are treated equally and calls on the Member States to collect data from a gender perspective to see how it effects female beneficiaries' re-employment rates; notes furthermore that in some EGF applications the number of targeted beneficiaries is low compared to the total number of eligible beneficiaries which can lead to a suboptimal impact;



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21. Considers that the inclusion of NEETs in EGF applications often requires different types of interventions and believes that all appropriate actors including the social partners, local community groups and youth organisations should be represented at the implementation stage of each programme and they should promote the measures necessary to ensure the maximum participation of NEETs; in this context, encourages Member States to have a strong lead agency to coordinate the implementation of the programme, to ensure dedicated and sustained support to assist NEETs' completion of the programme and also to ensure maximum disbursement of programme funds; believes that an independent review with a specific focus on the issue of NEETs' participation would identify better practices; strongly believes that the derogation for the inclusion of NEETs should be continued to the end of the programming period in December 2020;

22. Calls on the Commission to include in its mid-term evaluation of the EGF a specific qualitative and quantitative assessment of the EGF support to young persons not in employment, education or training (NEETs), especially in view of the implementation of the Youth Guarantee and the necessary synergies between national budgets, the ESF and the Youth Employment Initiative (YEI);

23. Notes that, according to the ex-post evaluation, the average beneficiary reach rate across all 73 cases examined was 78 %. This includes 20 cases with beneficiary reach rates of 100 % or more; insists however that the maximum reach rate for any case is 100 % and therefore the use of figures greater than 100 % skews the data to suggest a significantly higher reach rate than the actual one; notes that this is also the case of the budget implementation rate; calls on the Commission to adjust its figures to provide a more accurate assessment of beneficiary reach rates and budget implementation rates;

24. Welcomes the fact that many beneficiaries were, first and foremost, able to find a new job thanks to the personalised support of the EGF in their job search and saw their skills updated through training programmes and mobility allowances; also welcomes the fact that the EGF enabled some employees to become entrepreneurs via the provision of aid to start up or take over companies; stresses, therefore, the notable positive effects that the EGF is reported to have had on self-esteem, feelings of empowerment and motivation; underlines that EGF assistance has increased social cohesion by enabling people to re-enter employment and avoid negative unemployment traps;

25. Notes that according to the figures from the ex post report, EGF beneficiaries tend to have a relatively lower than average educational attainment, thus less transferrable skills, which, in normal circumstances reduces their employment opportunities and makes them more vulnerable on the labour market; takes the view that the EGF can deliver the best EU added value when supporting training and re-training schemes for workers that support especially lower-skilled vulnerable groups, that prioritise skills needed by the labour market and that enables entrepreneurship;

26. Notes that a survey carried out as part of the ex-post evaluation produced mixed results, with 35 % stating that the quality of new employment are better or far better, 24 % stating it was the same and 41 % stating it was worse or far worse; however, as there is no systematic data on which to base any assessment, recommends to the Commission to gather more detailed information about the impact of EGF interventions and their quality with a view, at a later stage, to taking corrective action as might prove necessary;

#### ***Cost effectiveness and added value of the EGF***

27. Calls on the Commission and the Member States to use the scope for implementing the EGF budget more flexibly and effectively, with the focus on outcomes, impact and value added, and without compromising appropriate and transparent use of funds and compliance with the rules; is of the opinion that the application procedure should be made faster in order to make the fund more effective for workers made redundant; is concerned about the disparity between resources requested from the EGF and amounts reimbursed by Member States, with an average budget implementation rate of only 45 %; calls, therefore, on the Commission to assess thoroughly the reasons for the low implementation rates and to propose measures to address the existing bottlenecks and ensure optimal use of the fund; notes that the re-employment rate at the end of the EGF assistance varies considerably from 4 % to 86 % and underlines therefore the importance of active and



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inclusive labour market measures; notes that EGF expenditure in some Member States consistently performs better than others; suggests that the Commission continues to provide guidance and enables Member States to share best practice in the application of EGF funds and their use in order to ensure the maximum re-employment rate per euro spent;

28. Is of the opinion that the co-funding rate of 60 % should not be increased;

29. Notes the fact that according to the Commission's ex-post evaluation on average just 6 % of EGF funds were spent on administrative and management costs;

30. Notes that the most significant aspect of cost effectiveness as identified in the stakeholder consultations was the number of re-employed workers who are now paying taxes and social security contributions instead of drawing on unemployment or other social benefits;

31. Notes that in a number of EGF cases higher costs for actions under Article 7(4) of the EGF Regulation weaken the overall impact of the EGF investment; calls on the Commission to tackle the issue of such costs by introducing limits;

32. Notes the proposal in the ex-post evaluation that a counterfactual impact evaluation is an important element in understanding the added value of the EGF; regrets that such an evaluation is not yet in place;

33. Welcomes the conclusion from the Court of Auditors that the EGF delivered genuine EU added value when used to co-finance services for redundant workers or allowances not ordinarily existing under Member States' unemployment benefit systems, thus fostering social cohesion in Europe; stresses that certain Member States lack social protection provisions sufficient to meet the needs of workers who have lost their jobs;

34. Regrets the fact that according to the Court of Auditors one third of EGF funding compensates national workers' income support schemes with no EU added value; points out that the new EGF regulation limits the costs of special measures, such as job search allowances and recruitment incentives for employers, to 35 % of the total cost of the coordinated package and that EGF backed initiatives are not a substitute for passive social protection measures by Member States under their national systems; insists that the EGF cannot be used to substitute for the obligations of enterprises to their workers; Furthermore, encourages the Commission to specify at the next revision of the Regulation that the EGF cannot be used to substitute for the obligations of Member States to the redundant workers;

35. Regrets the fact that budget implementation rates range from 3 % to 110 %, with an average implementation rate of 55 %; considers that this situation sometimes reflects deficiencies either at the planning or implementation phase and should be improved through better designed and better implemented projects;

36. Regrets the diminished funding for the EGF; calls on the Commission and Member states to additionally support the EGF to ensure that needs are met; calls on the Commission to ensure that there are sufficient staff in relation to the workload and to avoid unnecessary delays;

37. Is of the opinion that EGF and ESF measures should be used to complement each other in order to deliver both specific short-term and more general longer term solutions; notes the conclusion that generally Member States effectively co-ordinated the EGF with ESF and national labour market measures and that no instances of overlap or double funding of individuals was detected during the Court of Auditors audit;

38. Is satisfied with the finding from the Commission's report on the EGF's activities in 2013 and 2014 that there were no irregularities reported to the Commission under the EGF Regulations in 2013 and 2014, nor were any EGF-related irregularities closed in 2013 and 2014;

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***Impact on SMEs***

39. Notes that SMEs account for 99 % of all EU enterprises and employ the vast majority of EU workers; in this context, expresses concern that the EGF has had a very limited impact on SMEs, despite the fact that it clearly provides scope for SMEs to be targeted subject to certain criteria; acknowledges the Commission's explanation that the affected workers of downstream suppliers have never been intentionally excluded but calls on the Commission to further reorient the EGF towards SMEs which are key players in the European economy by e.g. placing greater emphasis on the provision from article 8, point (d) on the need to identify the suppliers, downstream producers or sub-contractors of dismissing enterprises or by following up previous cases where the EGF has benefitted SMEs, social enterprises and cooperatives to promote best practice; stresses that greater account must be taken of proportionality between workers from SMEs and workers from large companies;

40. Believes that there should be more use of the derogation from the eligibility threshold, particularly to benefit SMEs; Stresses the importance of the arrangements laid down in Article 4(2) of the current regulation for SMEs since they enable sectors of the economy affected by the crisis or globalisation to be restructured at the regional level on a case by case basis; recognises the challenges faced by applications made under these provisions and calls on the Commission to facilitate Member States in addressing these challenges in order to make the EGF a working solution for redundant workers; furthermore calls on the Commission and Member States to take the 'Think Small First' principle into account in the planning and application stages;

41. Notes the concentration of applications in the manufacturing and construction sectors and in particular in the automotive and aviation industries, with aid mainly provided for large enterprises; calls on the Member States, and on regional authorities with exclusive powers, to proactively support redundant workers in SMEs, cooperatives and social enterprises using the flexibility provided for in Article 4(2) of the current regulation, in particular with regard to collective applications involving SMEs and for other facilities which promote more pronounced support and wider access for SMEs; also to inform SMEs of the opportunities available to them under the EGF; stresses that these cases assisting SMEs should be regarded as an added value of the EGF;

42. Is satisfied with the finding in the Commission's ex-post implementation report identifying a positive trend between resources used on promotion of entrepreneurship and the self-employment rate at the end of the measures; notes however that the average rate of self-employment in all EGF cases is low at 5 % and that measures should be utilised to encourage entrepreneurs such as start-up grants and other incentives; highlights the importance of lifelong learning, mentorship and peer to peer networks in this context; believes that there is further scope for improvement for the use of the EGF, alone or in conjunction with other funds such as the ESI, to support entrepreneurship and start-up activity but emphasises that entrepreneurship support should be based on sustainable business plans; calls on Member States to emphasise the inclusion of women and girls in entrepreneurship programmes;

43. Welcomes the efforts of several Member States to increase the use of measures supporting entrepreneurship and the social economy, in the form of start-up grants and measures aimed towards promoting entrepreneurship and social cooperatives and services for new entrepreneurs;

***Data requirements***

44. Believes that, in the context of a number of complicating factors such as potential data omissions, regional and national specificities, different macro- and micro-economic circumstances, small sample sizes and certain necessary assumptions, the Commission's methodological approach should be rigorous and transparent, taking measures to remedy the shortcomings that complicate such an approach;

45. Stresses that the Court of Auditors report concludes that some Member States have not set quantitative reintegration targets and that existing data is not adequate to assess the effectiveness of the measures in re-integrating workers into employment; acknowledges the Commission's statement that the EGF Regulation does not include quantitative reintegration objectives and that the various EGF measures can be assessed by other means; recommends therefore that the Member States set quantitative re-integration objectives and systematically differentiate between EGF, ESF and other

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national measures specifically designed for workers affected by mass redundancies; further calls on the Commission to provide information on the type and quality of jobs found by people who have been re-integrated into the labour market and on the medium term trend as regards the rate of integration achieved through EGF interventions; the Member States should furthermore distinguish between the two main types of EGF measures, i.e. active labour market measures and income support paid to workers, as well as providing more detailed information on the measures accessed by individual participants in order to allow a more accurate cost-benefit analysis of different measures; calls also on the Commission to provide data regarding EGF requests not approved at Commission level and the reasons for this;

46. Reminds the Member States of their obligation to provide data on re-integration rates 12 months after the implementation of the measures to provide the necessary follow-up concerning the EGF's effects and efficiency;

47. Emphasises the need to streamline audit procedures at national level so as to ensure coherence and efficiency and to avoid unnecessary repetition between bodies operating different levels of control;

48. Recommends the strengthening of information flows and support arrangements between the National Contact Person and the regional or local case delivery partners;

49. Recommends that more regular peer reviews, cross-national exchanges or partnering of new EGF cases with previous EGF cases be implemented in order to exchange good practices and implementing experiences; recommends therefore to create a platform of best practices, which is easily accessible and supports better exchange of integrated solutions;

50. Notes the European Parliamentary Research Service's concerns as regards the methodology for calculating the benefits of the EGF; underlines the need for additional requirements on performance indicators;

51. Calls on the Commission and the Member States to maintain the provisions in the current EGF Regulation on allowances for Carers; in this context calls on the Member States to develop flexible working and training measures and where possible to locate these measures in local communities as many female redundant workers may have less geographical flexibility due to family care obligations;

52. Calls on regional and local competent authorities, social partners and civil society organisations to coordinate efforts among labour market actors so as to enable better access to EGF funding support in cases of future redundancies; calls, moreover, for closer participation by the social partners in the monitoring and evaluation activities of the Fund, and particularly for them to encourage representatives of women stakeholders so as to ensure more attention is paid to the gender aspects;

53. Calls on the Commission to consider delegating the evaluation of the EGF as required under Article 20 of the Regulation to Eurofound; believes that within such a proposal the Commission could provide Eurofound with the necessary financial resources, corresponding to current EGF evaluation procurement expenditure and human resource costs; moreover, as the main impediment to better evaluations is the lack of appropriate data, the Commission could require the Member States to provide the relevant data to Eurofound;

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

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## II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN PARLIAMENT

P8\_TA(2016)0323

**Request for the waiver of immunity of István Ujhelyi****European Parliament decision of 13 September 2016 on the request for waiver of the immunity of István Ujhelyi  
(2015/2237(IMM))**

(2018/C 204/23)

*The European Parliament,*

- having regard to the request for waiver of the immunity of István Ujhelyi, by ruling of 26 November 2014 by the Central District Court of Pest (Hungary) in connection with criminal proceedings pending before that court, which was forwarded by the Hungarian Permanent Representative on 15 July 2015, and announced in plenary on 7 September 2015,
- having heard István Ujhelyi on 28 January 2016 in accordance with Rule 9(5) of its Rules of Procedure,
- having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
- having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010, 6 September 2011 and 17 January 2013 <sup>(1)</sup>,
- having regard to Article 4(2) of the Fundamental Law of Hungary,
- having regard to Article 10(2) of the Hungarian Act LVII of 2004 on the Status of the Hungarian Members of the European Parliament,
- having regard to Articles 74(3) and 79(2) of the Hungarian Act XXXVI of 2012 on the National Assembly,

<sup>(1)</sup> Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI: EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

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- having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A8-0229/2016),
  - A. whereas the Central District Court of Pest has requested the waiver of the parliamentary immunity of a Member of the European Parliament, István Ujhelyi, in connection with proceedings before it;
  - B. whereas the request by the court relates to criminal proceedings relating to the crime of defamation in connection with statements made by István Ujhelyi on 25 April 2014 concerning an individual in Hungary;
  - C. whereas pursuant to Article 8 of Protocol No 7, Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties;
  - D. whereas pursuant to Article 9 of Protocol No 7, during the sessions of the European Parliament, its Members shall enjoy, in the territory of their own State, the immunities accorded to members of their parliament;
  - E. whereas pursuant to Article 4(2) of the Fundamental Law of Hungary, Members of Parliament shall be entitled to immunity and remuneration to promote their independence;
  - F. whereas pursuant to Article 10(1) of the Hungarian Act LVII of 2004 on the Status of the Hungarian Members of the European Parliament, such a Member shall be granted the same degree of immunity as is enjoyed by a Member of the Hungarian Parliament;
  - G. whereas pursuant to Article 74(3) of the Hungarian Act XXXVI of 2012 on the National Assembly, a motion to waive immunity shall be submitted to the speaker by the chief prosecutor before the submission of the indictment or by the court after the presentation of the indictment;
  - H. whereas pursuant to Article 79(2) of the Hungarian Act XXXVI of 2012 on the National Assembly, a person registered as a candidate in the election of Members shall enjoy the same immunity, so therefore the statements expressed on 25 April 2014 should be covered by the absolute immunity of the Hungarian Parliament, except that any waiver of immunity shall be determined by the National Electoral Committee and any motion for a waiver of immunity shall be submitted to the Chair of the National Electoral Committee;
  - I. whereas the statements in question were made on 25 April 2014, at a time when István Ujhelyi was not a Member of the European Parliament, but a Member of the National Parliament;
  - J. whereas the charges against István Ujhelyi do not relate to an opinion expressed or vote cast by him in the performance of his duties as a Member of the European Parliament and whereas the absolute immunity in accordance with Article 8 of Protocol No 7 is therefore not applicable;
  - 1. Decides to waive the immunity of István Ujhelyi;
  - 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the appropriate authorities in Hungary.
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P8\_TA(2016)0324

**Request for the defence of the privileges and immunities of Rosario Crocetta****European Parliament decision of 13 September 2016 on the request for defence of the privileges and immunities of Rosario Crocetta (2016/2015(IMM))**

(2018/C 204/24)

*The European Parliament,*

- having regard to the request by Rosario Crocetta of 7 January 2016, announced in plenary on 21 January 2016, for the defence of his privileges and immunities in connection with criminal proceedings pending before the third Criminal Chamber of the Court of Palermo, Italy (RGNR No 20445/2012),
  - having heard Rosario Crocetta in accordance with Rule 9(5) of its Rules of Procedure,
  - having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
  - having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010, 6 September 2011 and 17 January 2013 <sup>(1)</sup>,
  - having regard to Article 595 of the Italian Criminal Code,
  - having regard to Rule 5(2) and Rules 7 and 9 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A8-0230/2016),
- A. whereas a former Member of the European Parliament, Rosario Crocetta, has requested the defence of his parliamentary immunity in connection with criminal proceedings pending before the third Criminal Chamber of the Court of Palermo; whereas, according to the notice served by the Public Prosecutor's Office, Mr Crocetta is alleged to have made defamatory statements, which behaviour is punishable under Article 595 of the Italian Criminal Code;
- B. whereas, according to Article 8 of Protocol No 7, Members of the European Parliament may not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties; whereas such immunity must, to the extent that it seeks to protect the freedom of expression and independence of Members of the European Parliament, be considered as an absolute immunity barring any judicial proceedings in respect of an opinion expressed or a vote cast in the exercise of parliamentary duties <sup>(2)</sup>;
- C. whereas the Court of Justice has held, that, in order to enjoy immunity, an opinion must be expressed by a Member of the European Parliament in the performance of his duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties; whereas such link must be direct and obvious <sup>(3)</sup>;

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<sup>(1)</sup> Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI:EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

<sup>(2)</sup> Joined Cases C-200/07 and C-201/07 *Marra*, cited above, paragraph 27.

<sup>(3)</sup> Case C-163/10 *Patriciello*, cited above, paragraphs 33 and 35.

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- D. whereas Rosario Crocetta was a Member of the European Parliament when he made the statements in question;
  - E. whereas Mr Crocetta's parliamentary record shows that he had always been very active in the fight against organised crime and its impact on the Union and its Member States; whereas he also focused on the influence of systematic corruption on politics and the economy, especially as regards public procurement in the field of environmental policy;
  - F. whereas the facts of the case, as manifested in the documents provided to the Committee on Legal Affairs and in the hearing before the latter, indicate that Mr Crocetta's statements have a direct and obvious connection with his parliamentary duties;
  - G. whereas Rosario Crocetta can therefore be deemed to have been acting in the performance of his duties as a Member of the European Parliament;
- 1. Decides to defend the privileges and immunities of Rosario Crocetta;
  - 2. Instructs its President to forward this decision and the report of its competent committee immediately to the appropriate authorities of the Italian Republic and to Rosario Crocetta.
-



Tuesday 13 September 2016

P8\_TA(2016)0325

**Request for the waiver of immunity of Sotirios Zarianopoulos****European Parliament decision of 13 September 2016 on the request for waiver of the immunity of Sotirios Zarianopoulos (2016/2083(IMM))**

(2018/C 204/25)

*The European Parliament,*

- having regard to the request for waiver of the immunity of Sotirios Zarianopoulos, forwarded on 28 March 2016 by the public prosecutor at the Greek Supreme Court in connection with proceedings proposed by the Thessaloniki public prosecutor for misdemeanours (file ref.: ABM A2015/1606) and announced in plenary on 27 April 2016,
  - having regard to the fact that Sotirios Zarianopoulos waived his right to a hearing, in accordance with Rule 9(5) of its Rules of Procedure,
  - having regard to Articles 8 and 9 of Protocol No 7 on the Privileges and Immunities of the European Union, and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,
  - having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010, 6 September 2011 and 17 January 2013 <sup>(1)</sup>,
  - having regard to Article 62 of the Constitution of Greece,
  - having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A8-0233/2016),
- A. whereas the public prosecutor at the Greek Supreme Court has requested the waiver of the immunity of Sotirios Zarianopoulos MEP in connection with proceedings relating to an alleged offence;
- B. whereas, pursuant to Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union, Members of the European Parliament enjoy, in the territory of their own state, the immunities accorded to members of the parliament of that state;
- C. whereas, pursuant to Article 62 of the Constitution of Greece, during the parliamentary term, no Member of Parliament may be prosecuted, arrested, imprisoned or otherwise confined without prior leave granted by Parliament;
- D. whereas the Greek authorities are proposing to prosecute Sotirios Zarianopoulos for failing to comply with legal obligations jointly with others;
- E. whereas the proposed proceedings concern the issuing in 2011 by Thessaloniki City Council of allegedly illegal permits to use public property for the purpose of setting up outside seating areas on pavements, and whereas Sotirios Zarianopoulos is to be prosecuted in his capacity as a former member of that city council;
- F. whereas the proposed proceedings are clearly unrelated to Sotirios Zarianopoulos's status as a Member of the European Parliament, but are related to his former mandate as a member of Thessaloniki City Council;

<sup>(1)</sup> Judgment of the Court of Justice of 12 May 1964, *Wagner v Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot v Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote v Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra v De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch v Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI: EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch v Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

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- G. whereas the proposed proceedings do not concern opinions expressed or votes cast in the performance of the duties of the Member of the European Parliament in question within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union;
  - H. whereas there is no reason to suspect that the intention underlying the proposed proceedings is to cause political damage to the MEP concerned (*fumus persecutionis*), especially given that the proceedings involve all those who were members of the city council at the time;
  - 1. Decides to waive the immunity of Sotirios Zarianopoulos;
  - 2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Greek authorities.
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P8\_TA(2016)0362

**Adoption of amendments to a Commission proposal (interpretation of Rule 61(2) of the Rules of Procedure)****European Parliament decision of 15 September 2016 concerning the adoption of amendments to a Commission proposal (interpretation of Rule 61(2) of the Rules of Procedure) (2016/2218(REG))**

(2018/C 204/26)

*The European Parliament,*

- having regard to the letter of 13 September 2016 from the Chair of the Committee on Constitutional Affairs,
- having regard to Rule 226 of its Rules of Procedure,

1. Decides to append the following interpretation to Rule 61(2) of the Rules of Procedure:

‘Nothing prevents Parliament from deciding to hold, if appropriate, a concluding debate following the report by the Committee responsible to which the matter has been referred back.’

2. Instructs its President to forward this decision to the Council and the Commission, for information.

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Tuesday 13 September 2016

### III

(Preparatory acts)

## EUROPEAN PARLIAMENT

P8\_TA(2016)0326

### **EU-China Agreement relating to the accession of Croatia \*\*\***

**European Parliament legislative resolution of 13 September 2016 on the draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China pursuant to Article XXIV: 6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the European Union (15561/2015 — C8-0158/2016 — 2015/0298(NLE))**

**(Consent)**

(2018/C 204/27)

*The European Parliament,*

- having regard to the draft Council decision (15561/2015),
  - having regard to Agreement in the form of an Exchange of Letters between the European Union and the People's Republic of China pursuant to Article XXIV: 6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Croatia in the course of their accession to the European Union (15562/2015),
  - having regard to the request for consent submitted by the Council in accordance with Article 207(4), first paragraph, and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C8-0158/2016),
  - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on International Trade (A8-0231/2016),
1. Gives its consent to conclusion of the agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the People's Republic of China

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P8\_TA(2016)0327

**EU-Uruguay Agreement relating to the accession of Croatia \*\*\***

**European Parliament legislative resolution of 13 September 2016 on the draft Council decision on the conclusion of the Agreement in the form of an Exchange of Letters between the European Union and the Eastern Republic of Uruguay pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the European Union (06870/2016 — C8-0235/2016 — 2016/0058(NLE))**

**(Consent)**

(2018/C 204/28)

*The European Parliament,*

- having regard to the draft Council decision (06870/2016),
  - having regard to the draft Agreement in the form of an Exchange of Letters between the European Union and the Eastern Republic of Uruguay pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the European Union (06871/2016),
  - having regard to the request for consent submitted by the Council in accordance with the first subparagraph of Article 207(4) and point (a)(v) of the second subparagraph of Article 218(6) of the Treaty on the Functioning of the European Union (C8-0235/2016),
  - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on International Trade (A8-0241/2016),
1. Gives its consent to conclusion of the agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Eastern Republic of Uruguay.
-

Tuesday 13 September 2016

P8\_TA(2016)0328

## **Nomination of a Member of the Court of Auditors — Lazaros Stavrou Lazarou**

**European Parliament decision of 13 September 2016 on the nomination of Lazaros Stavrou Lazarou as a Member of the Court of Auditors (C8-0190/2016 — 2016/0807(NLE))**

**(Consultation)**

(2018/C 204/29)

*The European Parliament,*

- having regard to Article 286(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0190/2016),
  - having regard to Rule 121 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0258/2016),
- A. whereas Parliament's Committee on Budgetary Control proceeded to evaluate the credentials of the nominee, in particular in view of the requirements laid down in Article 286(1) of the Treaty on the Functioning of the European Union;
- B. whereas at its meeting of 5 September 2016 the Committee on Budgetary Control heard the Council's nominee for membership of the Court of Auditors;
1. Delivers a favourable opinion on the Council's nomination of Lazaros Stavrou Lazarou as a Member of the Court of Auditors;
  2. Instructs its President to forward this decision to the Council and, for information, the Court of Auditors, the other institutions of the European Union and the audit institutions of the Member States.
-

Tuesday 13 September 2016

P8\_TA(2016)0329

**Nomination of a Member of the Court of Auditors — João Alexandre Tavares Gonçalves de Figueiredo****European Parliament decision of 13 September 2016 on the nomination of João Alexandre Tavares Gonçalves de Figueiredo as a Member of the Court of Auditors (C8-0260/2016 — 2016/0809(NLE))****(Consultation)**

(2018/C 204/30)

*The European Parliament,*

- having regard to Article 286(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0260/2016),
  - having regard to Rule 121 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0259/2016),
- A. whereas Parliament's Committee on Budgetary Control proceeded to evaluate the credentials of the nominee, in particular in view of the requirements laid down in Article 286(1) of the Treaty on the Functioning of the European Union;
- B. whereas at its meeting of 5 September 2016 the Committee on Budgetary Control heard the Council's nominee for membership of the Court of Auditors;
1. Delivers a favourable opinion on the Council's nomination of João Alexandre Tavares Gonçalves de Figueiredo as a Member of the Court of Auditors;
  2. Instructs its President to forward this decision to the Council and, for information, the Court of Auditors, the other institutions of the European Union and the audit institutions of the Member States.
-



Tuesday 13 September 2016

P8\_TA(2016)0330

## **Nomination of a Member of the Court of Auditors — Leo Brincat**

**European Parliament decision of 13 September 2016 on the nomination of Leo Brincat as a Member of the Court of Auditors (C8-0185/2016 — 2016/0806(NLE))**

**(Consultation)**

(2018/C 204/31)

*The European Parliament,*

- having regard to Article 286(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0185/2016),
  - having regard to Rule 121 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0257/2016),
  - A. whereas Parliament's Committee on Budgetary Control proceeded to evaluate the credentials of the nominee, in particular in view of the requirements laid down in Article 286(1) of the Treaty on the Functioning of the European Union;
  - B. whereas at its meeting of 5 September 2016 the Committee on Budgetary Control heard the Council's nominee for membership of the Court of Auditors;
  - 1. Delivers a negative opinion on the Council's nomination of Leo Brincat as a Member of the Court of Auditors and calls on the Council to withdraw its nomination and submit a new one to Parliament;
  - 2. Instructs its President to forward this decision to the Council and, for information, the Court of Auditors, the other institutions of the European Union and the audit institutions of the Member States.
-

Tuesday 13 September 2016

P8\_TA(2016)0331

**Statistics relating to external trade with non-member countries (delegated and implementing powers) \*\*\*II**

European Parliament legislative resolution of 13 September 2016 on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulation (EC) No 471/2009 on Community statistics relating to external trade with non-member countries as regards the conferral of delegated and implementing powers on the Commission for the adoption of certain measures (08536/1/2016 — C8-0226/2016 — 2013/0279(COD))

(Ordinary legislative procedure: second reading)

(2018/C 204/32)

*The European Parliament,*

- having regard to the Council position at first reading (08536/1/2016 — C8-0226/2016),
  - having regard to its position at first reading<sup>(1)</sup> on the Commission proposal to Parliament and the Council (COM(2013)0579),
  - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 76 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on International Trade (A8-0240/2016),
1. Approves the Council position at first reading;
  2. Notes that the act is adopted in accordance with the Council position;
  3. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
  4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the *Official Journal of the European Union*;
  5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>(1)</sup> Texts adopted of 12.3.2014, P7\_TA(2014)0226.

Tuesday 13 September 2016

P8\_TA(2016)0332

### **Statistics on natural gas and electricity prices \*\*\*I**

**European Parliament legislative resolution of 13 September 2016 on the proposal for a regulation of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC of the European Parliament and of the Council concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (COM(2015)0496 — C8-0357/2015 — 2015/0239(COD))**

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

(2018/C 204/33)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0496),
  - having regard to Article 294(2) and Article 338(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0357/2015),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the undertaking given by the Council representative by letter of 22 June 2016 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 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A8-0184/2016),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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### **P8\_TC1-COD(2015)0239**

**Position of the European Parliament adopted at first reading on 13 September 2016 with a view to the adoption of Regulation (EU) 2016/... of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2016/1952.)*

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Wednesday 14 September 2016

P8\_TA(2016)0339

**Protocol to the EU-Switzerland Agreement on the free movement of persons (accession of Croatia) \*\*\***

**European Parliament legislative resolution of 14 September 2016 on the draft Council decision on the conclusion of a Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union (14381/2013 — C8-0120/2016 — 2013/0321(NLE))**

**(Consent)**

(2018/C 204/34)

*The European Parliament,*

- having regard to the draft Council decision (14381/2013),
  - having regard to the Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union (14382/2013),
  - having regard to the request for consent submitted by the Council in accordance with Article 217, Article 218(6), point (a), and Article 218(8), second subparagraph, of the Treaty on the Functioning of the European Union (C8-0120/2016),
  - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Employment and Social Affairs (A8-0216/2016),
1. Gives its consent to conclusion of the protocol;
  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 Swiss Confederation.
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Wednesday 14 September 2016

P8\_TA(2016)0340

### **Tripartite Social Summit for Growth and Employment \*\*\***

**European Parliament legislative resolution of 14 September 2016 on the draft Council decision on the Tripartite Social Summit for Growth and Employment and repealing Decision 2003/174/EC (05820/2014 — C8-0164/2016 — 2013/0361(APP))**

**(Special legislative procedure — consent)**

(2018/C 204/35)

*The European Parliament,*

- having regard to the draft Council decision (05820/2014),
  - having regard to the request for consent submitted by the Council in accordance with Article 352(1) of the Treaty on the Functioning of the European Union (C8-0164/2016),
  - having regard to its interim resolution of 15 April 2014 on the proposal for a Council decision on a Tripartite Social Summit for Growth and Employment <sup>(1)</sup>,
  - having regard to Rule 99(1), first and third subparagraphs, of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Employment and Social Affairs (A8-0252/2016),
1. Gives its consent to the draft Council decision;
  2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>(1)</sup> Texts adopted, P7\_TA(2014)0377.

Wednesday 14 September 2016

P8\_TA(2016)0341

**Technical requirements for inland waterway vessels \*\*\*II**

**European Parliament legislative resolution of 14 September 2016 on the Council position at first reading with a view to the adoption of a Directive of the European Parliament and of the Council laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC (07532/2/2016 — C8-0227/2016 — 2013/0302(COD))**

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

(2018/C 204/36)

*The European Parliament,*

- having regard to the Council position at first reading (07532/2/2016 — C8-0227/2016),
  - having regard to the opinion of the European Economic and Social Committee of 21 January 2014 <sup>(1)</sup>,
  - having regard to the opinion of the Committee of the Regions of 31 January 2014 <sup>(2)</sup>,
  - having regard to its position at first reading <sup>(3)</sup> on the Commission proposal to Parliament and the Council (COM(2013)0622),
  - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 76 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A8-0256/2016),
1. Approves the Council position at first reading;
  2. Notes that the act is adopted in accordance with the Council position;
  3. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
  4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the *Official Journal of the European Union*;
  5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>(1)</sup> OJ C 177, 11.6.2014, p. 58.

<sup>(2)</sup> OJ C 126, 26.4.2014, p. 48.

<sup>(3)</sup> Texts adopted of 15.4.2014, P7\_TA(2014)0343.

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P8\_TA(2016)0342

### **Economic Partnership Agreement between the EU and the SADC EPA States \*\*\***

**European Parliament legislative resolution of 14 September 2016 on the draft Council decision on the conclusion, on behalf of the European Union, of the Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (10107/2016 — C8-0243/2016 — 2016/0005(NLE))**

**(Consent)**

(2018/C 204/37)

*The European Parliament,*

- having regard to the draft Council decision (10107/2016),
  - having regard to the draft Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (05730/2016),
  - having regard to the request for consent submitted by the Council in accordance with Article 207(3) and (4), Article 209(2), and Article 218(6), second subparagraph, point (a) of the Treaty on the Functioning of the European Union (C8-0243/2016),
  - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on International Trade and the opinion of the Committee on Development (A8-0242/2016),
1. Gives its consent to conclusion of the agreement;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the SADC EPA States (Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland).



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P8\_TA(2016)0347

**Objection to a delegated act: Key information documents for packaged retail and insurance-based investment products**

**European Parliament resolution of 14 September 2016 on the Commission delegated regulation of 30 June 2016 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (C(2016)03999 — 2016/2816(DEA))**

(2018/C 204/38)

*The European Parliament,*

- having regard to the Commission delegated regulation (C(2016)03999) ('the delegated regulation'),
- having regard to Article 290 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products ('PRIIPs') and in particular Articles 8(5), 10(2) and 13(5) thereof,
- having regard to Article 13 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, and of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC,
- having regard to the draft regulatory technical standard (RTS) submitted on 6 April 2016 by the Joint Committee of the European Supervisory Authorities under Articles 10 and 56 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010,
- having regard to the letter announced to the Commission and sent by the Chair of the Committee on Economic and Monetary Affairs to the Commission on 30 June 2016, and the letter sent by the Chair of the Committee on Economic and Monetary Affairs on 12 July 2016,
- having regard to the motion for a resolution by the Committee on Economic and Monetary Affairs,
- having regard to Rule 105(3) of its Rules of Procedure,
- A. whereas it is essential that consumer information on investment products is comparable in order to promote a level playing field in the market no matter what type of financial intermediary manufactures or markets them;
- B. whereas it would be misleading to investors to remove credit risk from the calculation of risk categorisation of insurance products;

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- C. whereas the treatment of multi-option products still needs to be clarified, in particular in relation to the explicit exemption granted to UCITS funds under Regulation (EU) No 1286/2014;
  - D. whereas the delegated act as adopted by the Commission contains flaws in the methodology for the calculation of future performance scenarios and does not therefore fulfil the requirement under Regulation (EU) No 1286/2014 to provide information which is 'accurate, fair, clear and not misleading' and, in particular, does not show for some PRIIPs, even in the adverse scenario, and even for products which have regularly led to losses over the recommended minimum holding period, that investors could lose money;
  - E. whereas the lack of detailed guidance in the delegated regulation on the 'comprehension alert' creates a serious risk of inconsistent implementation of this element in the key information document across the single market;
  - F. whereas Parliament remains of the view that further standardisation of when the comprehension alert will be used should be introduced as an additional RTS mandate;
  - G. whereas, left unchanged, there is a risk that the rules set out in the delegated regulation go against the spirit and aim of the legislation, which is to provide clear, comparable, understandable and non-misleading information on PRIIPs to retail investors;
  - H. whereas in the letter of 30 June 2016 sent to the Commission by the Chair of the Committee on Economic and Monetary Affairs, Parliament's negotiating team asked the Commission to assess whether the implementation of Regulation (EU) No 1286/2014 should be delayed;
1. Objects to the Commission delegated regulation;
  2. Instructs its President to forward this resolution to the Commission and to notify it that the delegated regulation cannot enter into force;
  3. Calls on the Commission to submit a new delegated act which takes account of the above concerns;
  4. Calls on the Commission to consider a proposal postponing the application date of Regulation (EU) No 1286/2014 without changing any other provision of level 1 in order to ensure a smooth implementation of the requirements set out in the Regulation and the delegated regulation, and avoid the application of level 1 without RTS being in force in advance;
  5. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.
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P8\_TA(2016)0348

**Appointment of a new Commissioner****European Parliament decision of 15 September 2016 approving the appointment of Julian King as a Member of the Commission (C8-0339/2016 — 2016/0812(NLE))**

(2018/C 204/39)

*The European Parliament,*

- having regard to the second paragraph of Article 246 of the Treaty on the Functioning of the European Union,
  - having regard to Article 106a of the Treaty establishing the European Atomic Energy Community,
  - having regard to point 6 of the Framework Agreement on relations between the European Parliament and the European Commission <sup>(1)</sup>,
  - having regard to the resignation of Jonathan Hill as a Member of the Commission, tendered on 25 June 2016,
  - having regard to the Council's letter of 15 July 2016, whereby the Council consulted Parliament on a decision, to be taken by common accord with the President of the Commission, on the appointment of Julian King as a Member of the Commission (C8-0339/2016),
  - having regard to the hearing of Julian King on 12 September 2016, led by the Committee on Civil Liberties, Justice and Home Affairs, and to the statement of evaluation drawn up following that hearing;
  - having regard to Rule 118 of, and Annex XVI to, its Rules of Procedure,
1. Approves the appointment of Julian King as a Member of the Commission;
  2. Instructs its President to forward this decision to the Council, the Commission and the governments of the Member States.

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<sup>(1)</sup> OJ L 304, 20.11.2010, p. 47.

Thursday 15 September 2016

P8\_TA(2016)0352

## **Travel document for the return of illegally staying third-country nationals \*\*\*I**

**European Parliament legislative resolution of 15 September 2016 on the proposal for a regulation of the European Parliament and of the Council on a European travel document for the return of illegally staying third-country nationals (COM(2015)0668 — C8-0405/2015 — 2015/0306(COD))**

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

(2018/C 204/40)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0668),
  - having regard to Article 294(2) and Article 79(2)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0405/2015),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the undertaking given by the Council representative by letter of 30 June 2016 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 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0201/2016),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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## **P8\_TC1-COD(2015)0306**

**Position of the European Parliament adopted at first reading on 15 September 2016 with a view to the adoption of Regulation (EU) 2016/... of the European Parliament and of the Council on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994**

*(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2016/1953.)*

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Thursday 15 September 2016

P8\_TA(2016)0353

# **Prospectus to be published when securities are offered to the public or admitted to trading\*\*\*I**

Amendments adopted by the European Parliament on 15 September 2016 on the proposal for a regulation of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading (COM(2015)0583 — C8-0375/2015 — 2015/0268(COD)) <sup>(1)</sup>

(Ordinary legislative procedure: first reading)

[Amendment 1, unless otherwise indicated]

(2018/C 204/41)

AMENDMENTS BY THE EUROPEAN PARLIAMENT (\*)

to the Commission proposal

Proposal for a

## **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the prospectus to be published when securities are offered to the public or admitted to trading**

(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 <sup>(1)</sup>,

**Having regard to the opinion of the European Central Bank <sup>(2)</sup>,**

**After consulting the** Committee of the Regions,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

<sup>(1)</sup> The matter was referred back to the committee responsible for reconsideration pursuant to Rule 61(2), second subparagraph (A8-0238/2016).

(\*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■.

<sup>(1)</sup> OJ C 177, 18.5.2016, p. 9.

<sup>(2)</sup> OJ C 195, 2.6.2016, p. 1.

<sup>(3)</sup> Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] and decision of the Council of ...

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Whereas:

- (1) This Regulation constitutes an essential step towards the completion of the Capital Markets Union as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, entitled 'Action Plan on Building a Capital Markets Union' of 30 September 2015. The aim of the Capital Markets Union is to help businesses tap into more diverse sources of capital from anywhere within the European Union (hereinafter 'the Union'), make markets work more efficiently and offer investors and savers additional opportunities to put their money to work, in order to enhance growth and create jobs.
- (2) Directive 2003/71/EC of the European Parliament and of the Council <sup>(1)</sup> laid down harmonised principles and rules on the prospectus to be drawn up, approved and published when securities are offered to the public or admitted to trading on a regulated market. Given the legislative and market developments since its entry into force, that Directive should be replaced.
- (3) Disclosure of information in case of offers of securities to the public or admission of securities to trading on a regulated market is vital to protect investors by removing asymmetries of information between them and issuers. Harmonising this disclosure allows for the establishment of a cross-border passport mechanism which facilitates the effective functioning of the internal market in a wide variety of securities.
- (4) Divergent approaches would result in fragmentation of the internal market since issuers, offerors and persons asking for admission would be subject to different rules in different Member States and prospectuses approved in one Member State could be prevented from being used in other Member States. In the absence of a harmonised framework to ensure uniformity of disclosure and the functioning of the passport in the Union it is therefore likely that differences in Member States legislation would create obstacles to the smooth functioning of the internal market for securities. Therefore to ensure the proper functioning of the internal market and improve the conditions of its functioning, in particular with regard to capital markets, and to guarantee a high level of consumer and investor protection, it is therefore appropriate to lay down a regulatory framework for prospectuses at Union level.
- (5) It is appropriate and necessary for the rules on disclosure when securities are offered to the public or admitted to trading on a regulated market to take the legislative form of a Regulation in order to ensure that provisions directly imposing obligations on persons involved in offers of securities to the public and in admissions of securities to trading on a regulated market are applied in a uniform manner throughout the Union. Since a legal framework for the provisions on prospectuses necessarily involves measures specifying precise requirements on all different aspects inherent to prospectuses, even small divergences on the approach taken regarding one of these aspects could lead to significant impediments to cross-border offers of securities, to multiple listings on regulated markets and to EU consumer protection rules. Therefore, the use of a Regulation, which is directly applicable without requiring national legislation, should reduce the possibility of divergent measures being taken at national level, and should ensure a consistent approach, greater legal certainty and prevent the appearance of significant impediments to cross-border offers and multiple listings. The use of a Regulation will also strengthen confidence in the transparency of markets across the Union, and reduce regulatory complexity as well as search and compliance costs for companies.
- (6) The assessment of Directive 2010/73/EU **of the European Parliament and of the Council** <sup>(2)</sup> has revealed that certain changes introduced by that Directive have not met their original objectives and that further amendments to the prospectus regime in the Union are necessary to simplify and improve its application, increase its efficiency and enhance the international competitiveness of the Union, thereby contributing to the reduction of administrative burdens.

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<sup>(1)</sup> Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

<sup>(2)</sup> Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ L 327, 11.12.2010, p. 1).

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- (7) The aim of this Regulation is to ensure investor protection and market efficiency, while enhancing the single market for capital. The provision of information which, according to the nature of the issuer and of the securities, is necessary to enable investors to make an informed investment decision ensures, together with rules on the conduct of business, the protection of investors. Moreover, such information provides an effective means of increasing confidence in securities and thus of contributing to the proper functioning and development of securities markets. The appropriate way to make this information available is to publish a prospectus.
- (8) The disclosure requirements of the present Regulation do not prevent a Member State or a competent authority or an exchange through its rule book to impose other particular requirements in the context of admission to trading of securities on a regulated market (notably regarding corporate governance). Such requirements may not directly or indirectly restrict the drawing up, the content and the dissemination of a prospectus approved by a competent authority.
- (9) Non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, by public international bodies of which one or more Member States are members, by the European Central Bank or by the central banks of the Member States should not be covered by this Regulation and thus should remain unaffected by this Regulation.
- (10) The scope of the prospectus requirement should cover both equity and non-equity securities offered to the public or admitted to trading on regulated markets in order to ensure investor protection. Some of the securities covered by this Regulation entitle the holder to acquire transferable securities or to receive a cash amount through a cash settlement determined by reference to other instruments, notably transferable securities, currencies, interest rates or yields, commodities or other indices or measures. This Regulation covers in particular warrants, covered warrants, certificates, depositary receipts and convertible notes, such as securities convertible at the option of the investor.
- (11) To ensure the approval and passporting of the prospectus as well as the supervision of compliance with this Regulation in particular concerning advertising activity, a competent authority needs to be identified for each prospectus. Thus, this Regulation should clearly determine the home Member State best placed to approve the prospectus.
- (12) For offers of securities to the public **with a total consideration in the Union below EUR 1 000 000**, the cost of producing a prospectus in accordance with this Regulation is likely to be disproportionate to the envisaged proceeds of the offer. It is therefore appropriate that the requirement to draw up a prospectus under this Regulation should not apply to offers of such small scale. Member States should **not extend the requirements to draw up a prospectus in accordance with this Regulation to offers of securities with a total consideration below that threshold. Furthermore, Member States should refrain from imposing** at national level **other** disclosure requirements which **could** constitute a disproportionate or unnecessary burden in relation to such offers and thus increase fragmentation of the internal market. **Where Member States impose such national disclosure requirements, they should notify the Commission and ESMA of the applicable rules.**
- (12a) *The Commission should analyse such national disclosure requirements and should incorporate the results in its work on crowdfunding, taking into account the need to avoid fragmentation of the internal market. It is important that the regulatory environment at Union level ensures that companies have enough options to raise capital. Therefore, in the spirit of the Capital Markets Union and in order to unlock investment, the Commission should propose a regulatory initiative to regulate and harmonise crowdfunding practices across the Union.*
- (13) *Furthermore, in view of the varying sizes of financial markets across the Union, it is appropriate to give Member States the option of exempting offers of securities to the public not exceeding EUR 5 000 000 from the prospectus obligation as provided for in this Regulation. In particular, Member States should be free to set out in their national law a threshold between EUR 1 000 000 and EUR 5 000 000, expressed as the total consideration of the offer in the Union over a period of 12 months, from which the exemption should apply taking into account the*



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level of domestic investor protection they deem to be appropriate. **Member States should notify the Commission and ESMA of the threshold they have chosen. Offers of securities to the public made under such an exemption should not benefit from the passporting regime under this Regulation. Furthermore, such offers should contain a clear indication that the public offer is not of a cross-border nature and should not actively solicit investors outside that Member State.**

- (13a) **Where a Member State chooses to exempt offers of securities to the public with a total consideration not exceeding EUR 5 000 000, nothing in this Regulation should prevent that Member State from introducing rules at national level which allow multilateral trading facilities (MTFs) to determine the content of the admission document which an issuer is required to produce upon initial admission to trading of its securities. In such a case, it could be appropriate for the operator of the MTF to define how the admission document is reviewed, which would not necessarily involve a formal approval by the competent authority or the MTF.**
- (14) Where an offer of securities is addressed exclusively to a restricted circle of investors who are not qualified investors **or other investors that fulfil the conditions set out in points (a) and (b) of Article 6(1) of Regulation (EU) No 345/2013**, drawing up a prospectus represents a disproportionate burden in view of the small number of persons targeted by the offer, thus no prospectus should be required. This should apply for example to an offer addressed to relatives or personal acquaintances of the managers of a company.
- (15) Incentivising directors and employees to hold securities of their own company can have a positive impact on companies' governance and help create long-term value by fostering employees' dedication and sense of ownership, aligning the respective interests of shareholders and employees, and providing the latter with investment opportunities. Participation of employees in the ownership of their company is particularly important for small and medium-sized enterprises (SMEs), in which individual employees are likely to play a significant role in the success of the company. Therefore, there should be no requirement to produce a prospectus for offers made in the context of an employee-share scheme within the Union, provided a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer, to safeguard investor protection. To ensure equal access to employee-share schemes for all directors and employees, independently of whether their employer is established in or outside the Union, no equivalence decision of third country markets should be required any longer, as long as the aforementioned document is made available. Thus, all participants in employee-share schemes will benefit from equal treatment and information.
- (16) Dilutive issuances of shares or securities giving access to shares often indicate transactions with a significant impact of the issuer's capital structure, prospects and financial situation, for which the information contained in a prospectus is needed. By contrast, where an issuer has shares already admitted to trading on a regulated market, a prospectus should not be required for any subsequent admission of the same shares on the same regulated market, including where such shares result from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, providing the newly admitted shares represent a limited proportion in relation to shares of the same class already issued on the same regulated market, unless such admission is combined with an offer to the public falling in the scope of this Regulation. The same principle should apply more generally to securities fungible with securities already admitted to trading on a regulated market.
- (17) When applying the definition of 'offer of securities to the public', the ability of an investor to take an individual decision to purchase or subscribe to securities should be a decisive criterion. Therefore, where securities are offered without an element of individual choice on the part of the recipient, including in allocations of securities where there is no right to repudiate the allocation, such transaction should not fall within the definition of 'offer of securities to the public' prescribed by this Regulation.

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- (18) Issuers, offerors or persons asking for the admission to trading on a regulated market of securities which are not subject to the obligation to publish a prospectus **should be entitled to draw up voluntarily a full prospectus or an EU Growth prospectus, as applicable, in accordance with this Regulation. Therefore, they** should benefit from the single passport where they choose to comply with this Regulation on a voluntary basis.
- (19) Disclosure provided by the prospectus should not be required for offers limited to qualified investors. In contrast, any resale to the public or public trading through admission to trading on a regulated market requires the publication of a prospectus.
- (20) A valid prospectus, drawn up by the issuer or the person responsible for drawing up the prospectus and available to the public at the time of the final placement of securities through financial intermediaries or in any subsequent resale of securities, provides sufficient information for investors to make informed investment decisions. Therefore, financial intermediaries placing or subsequently reselling the securities should be entitled to rely upon the initial prospectus published by the issuer or the person responsible for drawing up the prospectus as long as it is valid and duly supplemented and the issuer or the person responsible for drawing up the prospectus consents to its use. The issuer or the person responsible for drawing up the prospectus should be allowed to attach conditions to his or her consent. The consent to use the prospectus, including any conditions attached thereto, should be given in a written agreement enabling assessment by relevant parties of whether the resale or final placement of securities complies with the agreement. In the event that consent to use the prospectus has been given, the issuer or person responsible for drawing up the initial prospectus should be liable for the information stated therein and in the case of a base prospectus, for providing and filing final terms and no other prospectus should be required. However, in the event that the issuer or the person responsible for drawing up such initial prospectus does not consent to its use, the financial intermediary should be required to publish a new prospectus. In that case, the financial intermediary should be liable for the information in the prospectus, including all information incorporated by reference and, in the case of a base prospectus, final terms.
- (21) Harmonisation of the information contained in the prospectus should provide equivalent investor protection at Union level. In order to enable investors to make an informed investment decision, **a prospectus drawn up under this Regulation should contain the relevant and necessary information in relation to an investment in securities which an investor would reasonably require in order to make an informed assessment of the assets and liabilities, financial position, profits and losses, and prospects of the issuer and of any guarantor**, and the rights attaching to the securities. **Such information** should be **drafted and presented** in an easily analysable, succinct and comprehensible form **and should be adapted to the type of prospectus** drawn up in accordance with this Regulation, including those following the **simplified disclosure regime** for secondary issuances and **the EU Growth prospectus regime**. A prospectus should not contain information which is not material or specific to the issuer and the securities concerned, as this could obscure the information relevant to **investors** and thus undermine investor protection. **Therefore, the information which is included in a prospectus should be adapted to reflect the nature and circumstances of the issuer, the type of securities, the type of investor targeted by the offer or admission to trading on a regulated market and the likely knowledge of such investors, and the information that is available to such investors because it has been made public under other legal or regulatory requirements.**
- (22) The summary of the prospectus should be a useful source of information for investors, in particular retail investors. It should be a self-contained part of the prospectus and should focus on key information that investors need in order to be able to decide which offers and admissions to trading of securities **they want to study further by reviewing the prospectus as a whole with the purpose of making an informed investment decision. The foregoing implies that information produced in the summary is not replicated within the main body of the prospectus unless absolutely necessary.** Such key information should convey the essential characteristics of, and risks associated with, the issuer, any guarantor, and the securities offered or admitted to trading on a regulated market, **including unique identifiers**

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**such as the legal entity identifier (LEI) of the actors involved in the offer and the international securities identification number (ISIN) of the securities.** It should also provide the general terms and conditions of the offer. In particular, the presentation of risk factors in the summary should consist of a limited selection of specific risks which the issuer considers to be **of most relevance to the investor when the investor is making an investment decision. The description of the risk factors in the summary should be of relevance to the specific offering and should be prepared solely for the benefit of investors and not give general statements on investment risk, or limit the liability of the issuer, offeror or any persons acting on their behalf.**

- (22a) **The summary should contain a clear warning highlighting the risks, in particular for retail investors, in the case of securities issued by banks that are subject to bail-in under Directive 2014/59/EU of the European Parliament and of the Council (BRRD) <sup>(1)</sup>.**
- (23) The summary of the prospectus should be short, simple, clear and easy for investors to understand. It should be drafted in plain, non-technical language, presenting the information in an easily accessible way. It should not be a mere compilation of excerpts from the prospectus. It is appropriate to set a maximum length for the summary in order to ensure that investors are not deterred from reading it and to encourage issuers to select the information which is essential for investors. **In exceptional cases, the competent authority should, however, be able to allow the issuer to draw up a longer summary of up to 10 sides of A4-sized paper when printed, where the complexity of the issuer's activities, the nature of the issue, or the nature of the securities issued so requires, and where the investor would be misled without the additional information being set out in the summary as a result.**
- (24) To ensure the uniform structure of the prospectus summary, general sections and sub-headings should be provided, with indicative contents which the issuer should fill in with brief, narrative descriptions including figures where appropriate. As long as they present it in a fair and balanced way, issuers should be given discretion to select the information that they deem to be material and meaningful.
- (25) The prospectus summary should be modelled as much as possible after the key information document required under Regulation (EU) No 1286/2014 of the European Parliament and of the Council <sup>(2)</sup>. Where securities fall under the scope of both this Regulation and Regulation (EU) No 1286/2014, full reuse of the contents of the key information document should be permitted in the summary in order to minimise compliance costs and administrative burden for issuers. The requirement to produce a summary should however not be waived when a key information document is required, as the latter does not contain key information on the issuer and the offer to the public or admission to trading of the securities concerned.
- (26) No civil liability should be attached to any person solely on the basis of the summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent with the relevant parts of the prospectus. The summary should contain a clear warning to this effect.

<sup>(1)</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

<sup>(2)</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

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- (27) Issuers which repeatedly raise financing on capital markets should be offered specific formats of registration documents and prospectuses as well as specific procedures for their filing and approval, in order to provide them with more flexibility and enable them to seize market windows. In any case, those formats and procedures should be optional at the choice of issuers.
- (28) For all non-equity securities, including where these are issued in a continuous or repeated manner or as part of an offering programme, issuers should be allowed to draw up a prospectus in the form of a base prospectus. A base prospectus and its final terms should contain the same information as a prospectus.
- (29) It is appropriate to clarify that final terms to a base prospectus should contain only information relating to the securities note which is specific to the individual issue and which can be determined only at the time of the individual issue. Such information may, for example, include the international securities identification number, the issue price, the date of maturity, any coupon, the exercise date, the exercise price, the redemption price and other terms not known at the time of drawing up the base prospectus. Where the final terms are not included in the base prospectus they should not have to be approved by the competent authority, but should only be filed with it. Other new information which is capable of affecting the assessment of the issuer and the securities should be included in a supplement to the base prospectus. Neither the final terms nor a supplement should be used to include a type of securities not already described in the base prospectus.
- (30) Under a base prospectus, a summary should only be drawn up by the issuer in relation to each individual issue offered, in order to reduce administrative burdens and to enhance the readability for investors. That issue-specific summary should be annexed to the final terms and should only be approved by the competent authority where the final terms are included in the base prospectus or in a supplement thereto.
- (31) In order to enhance the flexibility and cost-effectiveness of the base prospectus, an issuer should be allowed to draw up a base prospectus as separate documents and to use a universal registration document as a constituent part of that base prospectus, where it is a frequent issuer.
- (32) Frequent issuers should be encouraged to draw up their prospectus as separate documents as this can reduce their cost of compliance with this Regulation and enable them to swiftly react to market windows. Thus, issuers whose securities are admitted to trading on regulated markets or multilateral trading facilities should have the option, but not the obligation, to draw up and publish every financial year a universal registration document containing legal, business, financial, accounting and shareholding information and providing a description of the issuer for that financial year. That should enable the issuer to keep the information up-to-date and draw up a prospectus when market conditions become favourable for an offer or an admission by adding a securities note and a summary. The universal registration document should be multi-purpose in so far as its content should be the same irrespective of whether the issuer subsequently uses it for an offer or admission to trading of equity, debt securities or derivatives. It should act as a source of reference on the issuer, supplying investors and analysts with the minimum information needed to make an informed judgement on the company's business, financial position, earnings and prospects, governance and shareholding.
- (33) An issuer which has filed and received approval for a universal registration document for **two** consecutive years can be considered well-known to the competent authority. All subsequent universal registration documents **and any amendments thereto** should therefore be allowed to be filed without prior approval and reviewed on an ex-post basis by the competent authority where that competent authority deems it necessary, **unless those amendments concern an omission, or a material mistake or inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer.** Each competent authority should decide the

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frequency of such review taking into account for example its assessment of the risks of the issuer, the quality of its past disclosures, or the length of time elapsed since a filed universal registration document has been last reviewed.

- (34) It should be possible for the universal registration document, as long as it has not become a constituent part of an approved prospectus, to be amended, either voluntarily by the issuer — for example in case of a material change in its organisation or financial situation — or upon request by the competent authority in the context of a post filing review where the standards of completeness, comprehensibility and consistency are not met. Such amendments should be published according to the same arrangements that apply to the universal registration document. In particular, when the competent authority identifies an omission or a material mistake or inaccuracy, the issuer should amend its universal registration document and make this amendment publicly available without undue delay. As neither an offer to the public, nor an admission to trading of securities is taking place, the procedure for amending a universal registration document should be distinct from the procedure for supplementing a prospectus, which should apply only after the approval of the prospectus.
- (35) Where an issuer draws up a prospectus consisting of separate documents, all constituting parts of the prospectus should be subject to approval, including, where applicable, the universal registration document and amendments thereto, where they have been previously filed with the competent authority but not approved. ***In the case of a frequent issuer, any amendments to the universal registration document should not need to be approved prior to publication, but instead should be able to be reviewed by the competent authority on an ex post basis.***
- (36) To speed up the process of preparing a prospectus and to facilitate access to capital markets in a cost-effective way, frequent issuers who produce a universal registration document should be granted the benefit of a faster approval process, since the main constituent part of the prospectus has either already been approved or is already available for the review by the competent authority. The time needed to obtain approval of the prospectus should therefore be shortened when the registration document takes the form of a universal registration document.
- (37) Provided that the issuer complies with the procedures for the filing, dissemination and storage of regulated information and with the deadlines set out in Articles 4 and 5 of Directive 2004/109/EC of the European Parliament and of the Council<sup>(1)</sup>, it should be allowed to publish the annual and half-yearly financial reports required by Directive 2004/109/EC as parts of the universal registration document, unless the home Member States of the issuer are different for the purposes of this Regulation and Directive 2004/109/EC and unless the language of the universal registration document does not fulfil the conditions of Article 20 of Directive 2004/109/EC. This should alleviate administrative burden linked to multiple filings, without affecting the information available to the public or the supervision of these reports under Directive 2004/109/EC.
- (38) A clear time limit should be set for the validity of a prospectus in order to avoid investment decisions based on outdated information. In order to improve legal certainty, the validity of a prospectus should commence at its approval, a point in time which is easily verified by the competent authority. An offer of securities to the public under a base prospectus should only extend beyond the validity of the base prospectus where a succeeding base prospectus is approved before such validity expires and covers the continuing offer.
- (39) By nature, information on taxes on the income from the securities in a prospectus can only be generic, adding little informational value for the individual investor. Since such information must cover not only the country of registered office of the issuer but also the countries where the offer is being made or admission to trading is being sought, where a prospectus is passported, it is costly to produce and might hamper cross-border offers. Therefore a prospectus should only contain a warning that the tax legislation of the investor's Member State and of the issuer's Member State of incorporation may have an impact on the income received from the securities. However, the

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<sup>(1)</sup> Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).



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prospectus should still contain appropriate information on taxation where the proposed investment entails a specific tax regime, for instance in the case of investments in securities granting investors a favourable tax treatment.

- (40) Once a class of securities is admitted to trading on a regulated market, investors are provided with ongoing disclosures by the issuer under Regulation (EU) No 596/2014 of the European Parliament and of the Council<sup>(1)</sup> and Directive 2004/109/EC. The need for a full prospectus is therefore less acute in case of subsequent offers to the public or admissions to trading by such an issuer. A distinct **simplified** prospectus should therefore be available for use in case of secondary issuances and its content should be alleviated compared to the normal regime, taking into account the information already disclosed. Still, investors need to be provided with consolidated and well-structured information on such elements as the terms of the offer and its context. **Therefore, the simplified prospectus for a secondary issuance should include the relevant reduced information which investors would reasonably require to understand the prospects of the issuer and of any guarantor, the rights attaching to the securities, and the reasons for the issuance and its impact on the issuer, in particular the working capital statement, the disclosure of capitalisation and indebtedness, the impact on the overall capital structure and a concise summary of relevant information disclosed under Regulation (EU) No 596/2014 since the date of the last issue.**
- (41) The **simplified** disclosure regime for secondary issuances should be extended to **securities that are traded on** SME growth markets as their operators are required under Directive 2014/65/EU to establish and apply rules ensuring appropriate **on-going** disclosure by issuers whose securities are traded on such venues. **The regime should also be applicable to MTFs, other than an SME growth market, where those MTFs have disclosure requirements equivalent to the ones required for SME growth markets under Directive 2014/65/EU.**
- (42) The **simplified** disclosure regime for secondary issuances should only be available for use after a minimum period of time has elapsed since the initial admission to trading of a class of securities of an issuer. A delay of 18 months should ensure that the issuer has complied at least once with its obligation to publish an annual financial report under Directive 2004/109/EC or under the rules of the market operator of an SME growth market **or an MTF with equivalent disclosure requirements.**
- (43) One of the core objectives of the Capital Markets Union is to facilitate access to financing on capital markets for SMEs in the Union. As such companies usually need to raise relatively lower amounts than other issuers, the cost of drawing up a **full** prospectus can be disproportionately high and may deter them from offering their securities to the public. At the same time, because of their size and shorter track record, SMEs might carry a **specific** investment risk compared to larger issuers and should disclose sufficient information for investors to take their investment decision. **Furthermore, in order to encourage the use of capital market financing by SMEs, this Regulation should ensure that special consideration is given to SME growth markets. SME growth markets are a promising tool to allow smaller, growing companies to raise capital. The success of such venues depends, however, on their attractiveness to companies of certain size. Similarly, issuers offering securities to the public with a total consideration in the Union not exceeding EUR 20 000 000 would benefit from easier access to capital markets funding in order to be able to grow and reach their full potential and should be able to raise funds at costs that are not disproportionately high. Therefore, it is appropriate that this Regulation establishes a specific proportionate EU**

<sup>(1)</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, (OJ L 173, 12.6.2014, p. 1).

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*Growth prospectus regime which is available to SMEs, to issuers making an offer of securities to the public that are to be admitted to trading on an SME growth market and to issuers offering securities to the public with a total consideration in the Union not exceeding EUR 20 000 000. A proper balance should therefore be struck between the cost-efficient access to financial markets and investor protection when calibrating the content of an EU Growth prospectus applying to SMEs and a specific disclosure regime should therefore be developed for SMEs to achieve that objective. Once approved, EU Growth prospectuses should benefit from the passporting regime under this Regulation and should therefore be valid for any offer of securities to the public across the Union.*

- (44) The **reduced** information required to be disclosed **in the EU Growth prospectuses** should be calibrated in a way that focuses on information that is material and relevant **when making an investment in the securities issued**, and **would need to ensure** proportionality between the size of the company and its fundraising needs, on the one hand, and the cost of producing a prospectus, on the other hand. In order to ensure **that such companies** can draw up prospectuses without incurring costs that are not proportionate to their size, and thus the size of their fundraising, the **EU Growth prospectus** regime **■** should be more flexible than **the regime which applies** to companies on regulated markets to the extent compatible with ensuring that the key information necessary to the investors is disclosed.
- (45) The **proportionate** disclosure regime **for EU Growth prospectuses** should **not** be **■** available **where securities are to be admitted to trading on a regulated market** because investors on regulated markets should feel confident that the issuers whose securities they invest in are subject to one single set of disclosure rules. Therefore there should not be a two-tier disclosure standard **for admission of securities** on regulated markets depending on the size of the issuer.
- (46) **An EU Growth prospectus should be a standardised document, which is easy for issuers to complete and should cover key information on the issuer, on the securities and on the offer. The Commission should develop delegated acts to specify the reduced content and format of the standardised EU Growth prospectus. When setting out the details of the proportionate disclosure regime for EU Growth prospectuses, the Commission should take into account the need to ensure that the EU growth prospectus is significantly and genuinely lighter than the full prospectus, in terms of administrative burden and issue costs, the need to facilitate access to capital markets for SMEs while ensuring investor confidence in investing in such companies, the need to minimise costs and burden for SMEs, the need to elicit specific types of information of special relevance to SMEs, the size of the issuer and how long it has been operating, the various types and characteristics of offers, and the various types of information needed by investors relating to the different types of securities.**
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- (48) The primary purpose of including risk factors in a prospectus is to ensure that investors make an informed assessment of such risks and thus take investment decisions in full knowledge of the facts. Risk factors should therefore be limited to those risks which are material and specific to the issuer and its securities and which are corroborated by the content of the prospectus. A prospectus should not contain risk factors which are generic and only serve as disclaimers, as these could obscure more specific risk factors that investors should be aware of, thereby preventing the prospectus from presenting information in an easily analysable, succinct and comprehensible form. **ESMA should develop guidelines on the assessment of the specificity and significance of risk factors to assist competent authorities in their review of risk factors in a manner which encourages appropriate and focused risk factor disclosure by issuers.**
- (49) Omission of sensitive information in a prospectus should be allowed in certain circumstances by means of a derogation granted by the competent authority in order to avoid detrimental situations for an issuer.




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- (50) Member States publish abundant information on their financial situation which is in general available in the public domain. Thus, where a Member State guarantees an offer of securities, such information should not need to be provided in the prospectus.
- (51) Allowing issuers to incorporate by reference documents containing the information to be disclosed in a prospectus **or a base prospectus** — provided that the documents incorporated by reference have been previously published electronically— should facilitate the procedure of drawing up a prospectus and lower the costs for the issuers without endangering investor protection. However, this aim of simplifying and reducing the costs of drafting a prospectus should not be achieved to the detriment of other interests the prospectus is meant to protect, including the accessibility of the information. The language used for information incorporated by reference should follow the language regime applying to prospectuses. Information incorporated by reference may refer to historical data, however where this information is no longer relevant due to material change, this should be clearly stated in the prospectus and the updated information should also be provided. **Furthermore, frequent issuers should be free to choose to incorporate any changes to the universal registration document by way of a dynamic reference in the prospectus. Such dynamic reference would ensure that the reader is always referred to the latest version of the universal registration document, without the need for a supplement. The use of a dynamic reference in place of a supplement should not affect the investor's right of withdrawal.**
- (52) Any regulated information **■** should be eligible for incorporation by reference in a prospectus. Issuers whose securities are traded on a multilateral trading facility, and issuers which are exempted from publishing annual and half-yearly financial reports pursuant to Article 8(1)(b) of Directive 2004/109/EC, should also be allowed to incorporate by reference in a prospectus all or part of their annual and interim financial information, audit reports, financial statements, management reports or corporate governance statements, subject to their electronic publication.
- (53) Not all issuers have access to adequate information and guidance about the scrutiny and approval process and the necessary steps to follow to get a prospectus approved, as different approaches by competent authorities exist in Member States. This Regulation should eliminate those differences by harmonising the rules applying to the scrutiny and approval process **and streamlining the approval process by the national competent authorities** in order to ensure that all competent authorities take a convergent approach when scrutinising the completeness, consistency and comprehensibility of the information contained in a prospectus. Guidance on how to seek approval of a prospectus should be publicly available on the websites of the competent authorities. ESMA should play a key role in fostering supervisory convergence in this field by using its powers under Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>(1)</sup>. In particular, ESMA should conduct peer reviews covering activities of the competent authorities under this Regulation within an appropriate time-frame before the review of this Regulation and in accordance with Regulation (EU) No 1095/2010. **ESMA should develop a central workflow system, capturing the prospectus approval process from initiation through to approval, allowing competent authorities, ESMA and issuers to manage and monitor approval requests online. That system would provide key information and function as a tool for ESMA and competent authorities to drive convergence of prospectus approval processes and procedures across the Union and to ensure that, in future, prospectuses are approved in the same manner Union-wide.**
- (53a) **ESMA should make an assessment of the design, financing and operation of a central workflow system in the context of the Capital Markets Union together with the national competent authorities.**

<sup>(1)</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, (OJ L 331, 15.12.2010, p. 84)

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- (54) To facilitate the access to the markets of Member States, it is important that fees charged by competent authorities for the approval and filing of prospectuses and their related documents are **reasonable and are disclosed. Fees imposed on issuers established in a third country should reflect the burden that such an issuance represents.**
- (55) Since the internet ensures easy access to information, and in order to ensure better accessibility for investors, the approved prospectus should always be published in an electronic form. The prospectus should be published on a dedicated section of the website of the issuer, the offeror or the person asking for admission, or, where applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents, or on the website of the regulated market where the admission to trading is sought, or of the operator of the multilateral trading facility, and be transmitted by the competent authority to ESMA along with the relevant data enabling its classification. ESMA should provide a centralised storage mechanism of prospectuses allowing access free of charge and appropriate search facilities for the public. **To ensure that investors have access to reliable data that can be used and analysed in a timely and efficient matter, key information contained in the prospectuses, such as the ISIN identifying the securities and the LEI identifying the issuers, offerors and guarantors, should be machine readable including when meta data is used.** Prospectuses should remain publicly available for at least 10 years after their publication, to ensure that their period of public availability is aligned with that of annual and half-yearly financial reports under Directive 2004/109/EC. The prospectus should however always be available to investors **on a durable medium**, free of charge  on request.
- (56) It is also necessary to harmonise advertisements in order to avoid undermining public confidence and prejudicing the proper functioning of financial markets. The fairness and accuracy of advertisements, as well as their consistency with the content of the prospectus are of utmost importance for the protection of investors, including retail investors. **Without prejudice to the passporting regime under this Regulation**, the supervision of such advertisements is an integral part of the role of competent authorities. **The competent authority of the Member State where the advertisements are disseminated should have the power to exercise control over the compliance of advertising activity, relating to an offer to the public of securities or an admission to trading on a regulated market, with the principles referred to in this Regulation. Where necessary, the home Member State should assist the competent authority of the Member State where the advertisements are disseminated with assessing the consistency of the advertisements with the information in the prospectus. Without prejudice to the powers laid down in Article 30(1), scrutiny of the advertisements by a competent authority should not constitute a precondition for the offer to the public or the admission to trading to take place in any host Member State.**
- (57) Any significant new factor, material mistake or inaccuracy which could influence the assessment of the investment, arising after the publication of the prospectus but before the closing of the offer or the start of trading on a regulated market, should be properly evaluated by investors and therefore requires the approval and dissemination of a supplement to the prospectus without undue delay.
- (58) In order to improve legal certainty, the respective time-limits within which an issuer must publish a supplement to the prospectus and within which investors have a right to withdraw their acceptance of the offer following the publication of a supplement should be clarified. On the one hand, the obligation to supplement a prospectus should apply until the final closing of the offer period or the time when trading of such securities on a regulated market begins, whichever occurs later. On the other hand, the right to withdraw an acceptance should apply only where the prospectus relates to an offer of securities to the public and the new factor, mistake or inaccuracy arose before the final closing of the offer and the delivery of the securities. Hence, the right of withdrawal should be linked to the timing of the new factor, mistake or inaccuracy that gives rise to a supplement, and should assume that such triggering event has occurred while the offer is open and before the securities are delivered. To improve legal certainty, the supplement to the prospectus should specify when the right of withdrawal ends. Financial intermediaries should facilitate proceedings when investors exert their right to withdraw acceptances.

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- (59) The obligation for an issuer to translate the full prospectus into all the relevant official languages discourages cross-border offers or multiple trading. To facilitate cross-border offers, where the prospectus is drawn up in a language that is customary in the sphere of international finance, only the summary should be translated in the official language(s) of the host or home Member State(s) **or in one of the official languages used in the part of the Member State where the investment product is distributed.**
- (60) **ESMA and** the competent authority of the host Member State should be entitled to receive a certificate from the competent authority of the home Member State which states that the prospectus, **or the individual universal registration document in cases where only such a document has been approved,** has been drawn up in accordance with this Regulation. The competent authority of the home Member State should also notify the issuer or the person responsible for drawing up the prospectus **or the universal registration document, as applicable,** of the certificate of approval of the prospectus that is addressed to the authority of the host Member State in order to provide the issuer or the person responsible for drawing up the prospectus **or the universal registration document, as applicable,** with certainty as to whether and when a notification has actually been made.
- (61) In order to ensure that the purposes of this Regulation will be fully achieved, it is also necessary to include within its scope securities issued by issuers governed by the laws of third countries. ■ In order to ensure exchanges of information and cooperation with third-country authorities in relation to the effective enforcement of this Regulation, competent authorities should conclude cooperation arrangements with their counterparts in third countries. Any transfer of personal data carried out on the basis of those agreements should comply with Directive 95/46/EC and with Regulation (EC) No 45/2001 of the European Parliament and of the Council.
- (62) A variety of competent authorities in Member States, with different responsibilities, may create unnecessary costs and overlapping of responsibilities without providing any additional benefit. In each Member State, a single competent authority should be designated to approve prospectuses and to assume responsibility for supervising compliance with this Regulation. That competent authority should be established as an administrative authority and in such a form that their independence from economic actors is guaranteed and conflicts of interest are avoided. The designation of a competent authority for prospectus approval should not exclude cooperation between that competent authority and other entities, such as banking and insurance regulators or listing authorities, with a view to guaranteeing efficient scrutiny and approval of prospectuses in the interest of issuers, investors, markets participants and markets alike. Delegation of tasks by a competent authority to another entity should only be permitted where it relates to the publication of approved prospectuses.
- (63) A set of effective tools and powers and resources for the competent authorities of Member States guarantees supervisory effectiveness. This Regulation therefore should in particular provide for a minimum set of supervisory and investigative powers with which competent authorities of Member States should be entrusted in accordance with national law. Those powers should be exercised, where the national law so requires, by application to the competent judicial authorities. When exercising their powers under this Regulation competent authorities and ESMA should act objectively and impartially and remain autonomous in their decision making.
- (64) For the purpose of detecting infringements of this Regulation, it is necessary for competent authorities to be able to access sites other than the private residences of natural persons in order to seize documents. The access to such premises is necessary when there is reasonable suspicion that documents and other data related to the subject matter of an inspection or investigation exist and may be relevant to prove an infringement of this Regulation. Additionally the access to such premises is necessary where: the person to whom a demand for information has already been made fails to comply with it; or where there are reasonable grounds for believing that if a demand were to be made, it would not be complied with, or that the documents or information to which the information requirement relates, would be removed, tampered with or destroyed.

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- (65) In line with the Commission Communication of 8 December 2010 entitled 'Reinforcing sanctioning regimes in the financial services sector' and in order to ensure that the requirements of this Regulation are fulfilled, it is important that Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative penalties and measures. Those penalties and administrative measures should be effective, proportionate and dissuasive and ensure a common approach in Member States and a deterrent effect. This Regulation should not limit Member States in their ability to provide for higher levels of administrative sanctions.
- (66) In order to ensure that decisions made by competent authorities have a deterrent effect on the public at large, they should normally be published unless the competent authority in accordance with this Regulation deems it necessary to opt for a publication on an anonymous basis, to delay the publication or not to publish sanctions.
- (67) Although Member States may lay down rules for administrative and criminal penalties for the same infringements, Member States should not be required to lay down rules for administrative penalties for the infringements of this Regulation which are subject to national criminal law by [date of application of this Regulation]. In accordance with national law, Member States are not obliged to impose both administrative and criminal penalties for the same offence, but they should be able to do so if their national law so permits. However, the maintenance of criminal penalties instead of administrative penalties for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.
- (68) Whistleblowers may bring new information to the attention of competent authorities which assists them in detecting and imposing sanctions in cases of infringements of this Regulation. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation.
- (69) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of **the minimum information content of the documents referred to in points (f) and (g) of Article 1(3) and points (d) and (e) of Article 1(4), the adjustment of the definitions of Article 2, the format of the prospectus, the base prospectus and the final terms, and the specific information which must be included in a prospectus, the minimum information contained in the universal registration document, the reduced information contained in the simplified prospectus in case of secondary issuances and by SMEs, the specific reduced content and format of the EU Growth prospectus provided for in this Regulation, the advertisements for securities falling under the scope of this Regulation, and the general equivalence criteria for prospectuses drawn up by third country issuers. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.**
- (70) In order to ensure uniform conditions for the implementation of this Regulation in respect of equivalence of third country prospectus legislations, implementing powers should be conferred on the Commission to take a decision on such equivalence. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council <sup>(1)</sup>.

<sup>(1)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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- (71) Technical standards in financial services should ensure adequate protection of investors and consumers across the Union. As a body with highly specialised expertise, it would be efficient and appropriate to entrust ESMA, with the elaboration of draft regulatory technical standards which do not involve policy choices, for submission to the Commission.
- (72) The Commission should adopt draft regulatory technical standards developed by ESMA, with regard to the content and format of presentation of the historical key financial information to be included in the summary, the **scrutiny, approval, filing and review of the universal registration document, as well as the conditions for its amendment or updating and the conditions where the status of frequent issuer may be lost**, the information to be incorporated by reference and further types of documents required under Union law, **the procedures for the scrutiny and approval of the prospectus**, the publication of the prospectus, the data necessary for the classification of prospectuses in the storage mechanism operated by ESMA, **the provisions concerning advertisements**, the situations where a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus requires a supplement to the prospectus to be published, the information exchanged between competent authorities and ESMA in the context of the obligation to cooperate, and the **minimum content of the** cooperation arrangements with supervisory authorities in third countries. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.
- (73) The Commission should also be empowered to adopt implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1093/2010. ESMA should be entrusted with drafting implementing technical standards for submission to the Commission with regard to the standard forms, templates and procedures for the notification of the certificate of approval, the prospectus, the supplement of the prospectus and the translation of the prospectus and/or summary, the standard forms, templates and procedures for the cooperation and exchange of information between competent authorities, and the procedures and forms for exchange of information between competent authorities and ESMA.
- (74) In exercising its delegated and implementing powers in accordance with this Regulation, the Commission should respect the following principles:
- the need to ensure confidence in financial markets among retail investors and SMEs by promoting high standards of transparency in financial markets,
  - the need to calibrate the disclosure requirements of a prospectus taking into account the size of the issuer and the information which an issuer is already required to disclose under Directive 2004/109/EC and Regulation (EU) No 596/2014,
  - the need to facilitate access to capital markets for SMEs while ensuring investor confidence in investing in such companies,
  - the need to provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances,
  - the need to ensure that independent regulatory authorities enforce the rules consistently, especially as regards the fight against white-collar crime,
  - the need for a high level of transparency and consultation with all market participants and with the European Parliament and the Council,
  - the need to encourage innovation in financial markets if they are to be dynamic and efficient,
  - the need to ensure systemic stability of the financial system by close and reactive monitoring of financial innovation,
  - the importance of reducing the cost of, and increasing access to, capital,
  - the need to balance, on a long-term basis, the costs and benefits to all market participants of any implementing measure,



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- the need to foster the international competitiveness of the Union's financial markets without prejudice to a much-needed extension of international cooperation,
  - the need to achieve a level playing field for all market participants by establishing Union legislation every time it is appropriate,
  - the need to ensure coherence with other Union legislation in this area, as imbalances in information and a lack of transparency may jeopardise the operation of the markets and above all harm consumers and small investors.
- (75) Any processing of personal data carried out within the framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities, should be undertaken in accordance with Directive 95/46/EC of the European Parliament and of the Council <sup>(1)</sup> and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council <sup>(2)</sup>.
- (76) No later than five years after the entry into force of this Regulation, the Commission should review the application of this Regulation and assess in particular whether the disclosure regimes for secondary issuances and for SMEs, the universal registration document and the prospectus summary remain appropriate to meet the objectives pursued by this Regulation.
- (77) The application of the requirements in this Regulation should be deferred in order to allow for the adoption of delegated and implementing acts and to allow market participants to assimilate and plan for the application of the new measures.
- (78) Since the objectives of this Regulation, namely to enhance investor protection and market efficiency while establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures in accordance with principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (79) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.
- (80) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 ■ .

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### *Purpose and scope*

1. The purpose of this Regulation is to lay down requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market **established in** a Member State.

<sup>(1)</sup> 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 (OJ L 281, 23.11.1995, p. 31).

<sup>(2)</sup> 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 (OJ L 8, 12.1.2001, p. 1).

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2. This Regulation, **with the exception of Article 4**, shall not apply to the following types of securities:
- (a) units issued by collective investment undertakings **■**;
  - (b) non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, by public international bodies of which one or more Member States are members, by the European Central Bank or by the central banks of the Member States;
  - (c) shares in the capital of central banks of the Member States;
  - (d) securities wholly, unconditionally and irrevocably guaranteed by a Member State or by one of a Member State's regional or local authorities;
  - (e) securities issued by associations with legal status or non-profit-making bodies, recognised by a Member State, for the purposes of obtaining the funding necessary to achieve their non-profit-making objectives;
- 
- (g) non-fungible shares of capital whose main purpose is to provide the holder with a right to occupy an apartment, or other form of immovable property or a part thereof and where the shares cannot be sold on without this right being given up;
- 
- (i) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration in the Union for the securities offered is less than EUR 75 000 000 per credit institution over a period of 12 months, provided that those securities:
    - (i) are not subordinated, convertible or exchangeable;
    - (ii) do not give a right to subscribe to or acquire other types of securities and that they are not linked to a derivative instrument.
3. This Regulation, **with the exception of Article 4**, shall not apply to any of the following types of offers of securities to the public:
- (a) **■** addressed solely to qualified investors;
  - (b) **■** addressed to fewer than **350** natural or legal persons per Member State **and in a total of no more than 4 000 natural or legal persons in the Union**, other than qualified investors **or other investors that fulfil the conditions set out in points (a) and (b) of Article 6(1) of Regulation (EU) No 345/2013**;
  - (c) **■** addressed to investors who acquire securities for a total consideration of at least EUR 100 000 per investor, for each separate offer;
  - (d) **■** with a total consideration in the Union of less than EUR **1 000 000**, which shall be calculated over a period of 12 months;
  - (e) shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the issued capital;
  - (f) securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information describing the transaction and its impact on the issuer;
  - (g) securities offered, allotted or to be allotted in connection with a merger or division, provided that a document is available containing information describing the transaction and its impact on the issuer;



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- (h) dividends paid out to existing shareholders in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;
- (i) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or by an affiliated undertaking, whether or not located in the Union, provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer or allotment.

***Member States shall not extend the requirement to draw up a prospectus in accordance with this Regulation to offers of securities referred to in point (d) of the first subparagraph. Furthermore, Member States shall refrain from imposing on such types of offers of securities other disclosure requirements at national level which could constitute a disproportionate or unnecessary burden. Member States shall notify the Commission and ESMA of the disclosure requirements applied at national level, if any, including the text of the relevant provisions.***

4. This Regulation shall not apply to the admission to trading on a regulated market of any of the following:

- (a) securities fungible with securities already admitted to trading on the same regulated market, provided that they represent, over a period of 12 months, less than 20 per cent of the number of securities already admitted to trading on the same regulated market;
- (b) shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, where the resulting shares are of the same class as the shares already admitted to trading on the same regulated market, provided that the resulting shares represent, over a period of 12 months, less than 20 per cent of the number of shares of the same class already admitted to trading on the same regulated market. Where a prospectus was drawn up in accordance with either this Regulation or Directive 2003/71/EC upon the offer to the public or admission to trading of the securities giving access to the shares, or where the securities giving access to the shares were issued before the entry into force of this Regulation, this Regulation shall not apply to the admission to trading on a regulated market of the resulting shares irrespective of their proportion in relation to the number of shares of the same class already admitted to trading on the same regulated market.
- (c) shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, where the issuing of such shares does not involve any increase in the issued capital;
- (d) securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information describing the transaction and its impact on the issuer;
- (e) securities offered, allotted or to be allotted in connection with a merger or a division, provided that a document is available containing information describing the transaction and its impact on the issuer;
- (f) shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer or allotment;
- (g) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, whether or not located in the Union, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the securities and the reasons for and detail of the offer or allotment;

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- (h) securities already admitted to trading on another regulated market, on the following conditions:
- (i) that these securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;
  - (ii) that, for securities first admitted to trading on a regulated market after 1 July 2005, the admission to trading on that other regulated market was subject to a prospectus approved and published in accordance with Directive 2003/71/EC;
  - (iii) that, except where point (ii) applies, for securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with the requirements of Council Directive 80/390/EEC <sup>(1)</sup> or Directive 2001/34/EC of the European Parliament and of the Council <sup>(2)</sup>;
  - (iv) that the ongoing obligations for trading on that other regulated market have been fulfilled; and
  - (v) that the person seeking the admission of a security to trading on a regulated market under this exemption makes available to the public in the Member State of the regulated market where admission to trading is sought, in the manner set out in Article 20(2), a document the content of which complies with Article 7, drawn up in a language accepted by the competent authority of the Member State of the regulated market where admission is sought. The document shall state where the most recent prospectus can be obtained and where the financial information published by the issuer pursuant to his ongoing disclosure obligations is available.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 42 setting out the minimum information content of the documents referred to in points (f) and (g) of paragraph 3 and points (d) and (e) of paragraph 4 of this Article.

## Article 2

### Definitions

1. For the purposes of this Regulation, the following definitions shall apply:
- (a) 'securities' means transferable securities as defined by Article 4(1)(44) of Directive 2014/65/EU with the exception of money market instruments as defined by Article 4(1)(17) of Directive 2014/65/EU, having a maturity of less than 12 months;
  - (b) 'equity securities' means shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of the said issuer;
  - (c) 'non-equity securities' means all securities that are not equity securities;
  - (d) 'offer of securities to the public' means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe *for* these securities. This definition also applies to the placing of securities through financial intermediaries;

<sup>(1)</sup> Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing (OJ L 100, 17.4.1980, p. 1).

<sup>(2)</sup> Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (OJ L 184, 6.7.2001, p. 1).

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- (e) 'qualified investors' means persons or entities that are listed in points (1) to (4) of Section I of Annex II to Directive 2014/65/EU, and persons or entities who are, on request, treated as professional clients in accordance with Section II of Annex II to Directive 2014/65/EU, or recognised as eligible counterparties in accordance with Article 30 of Directive 2014/65/EU unless they have requested that they be treated as non-professional clients. Investment firms and credit institutions shall communicate their classification on request to the issuer without prejudice to the relevant legislation on data protection;
- (f) 'small and medium-sized enterprises' ('SMEs') means either
  - companies, which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding EUR 43 000 000 and an annual net turnover not exceeding EUR 50 000 000; or
  - small and medium-sized enterprises as defined in Article 4(1)(13) of Directive 2014/65/EU.
- (g) 'credit institution' means an undertaking as defined as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(1)</sup>;
- (h) 'issuer' means a legal entity which issues or proposes to issue securities;
- (i) 'offeror' means a legal entity or individual which offers securities to the public;
- (j) 'regulated market' means a **regulated** market as defined by Article 4(1)(21) of Directive 2014/65/EU;
- (k) 'advertisement' means announcements:
  - relating to a specific offer **of securities** to the public **■** or to an admission to trading on a regulated market;
  - **published by or on behalf of the issuer, the offeror, the person asking for admission to trading on a regulated market or the guarantor;** and
  - aiming to specifically promote the potential subscription or acquisition of securities;
- (l) 'regulated information' means all information **which the issuer, or any other person that has applied for admission to trading of securities on a regulated market without the issuer's consent, is required to disclose under Directive 2004/109/EC or under the laws, regulations or administrative provisions of a Member State adopted under Article 2(1)(k) of that Directive and under Articles 17 and 19 of Regulation (EU) No 596/2014;**
- (m) 'home Member State' means:
  - (i) for all issuers of securities established in the Union which are not mentioned in point (ii), the Member State where the issuer has its registered office;
  - (ii) for any issues of non-equity securities whose denomination per unit amounts to at least EUR 1 000, and for any issues of non-equity securities giving the right to acquire any transferable securities or to receive a cash amount, as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or an entity belonging to the group of the latter issuer, the Member State where the issuer has its registered office, or where the securities were or are to be admitted to trading on a regulated market or where the securities are offered to the public, at the choice of the issuer, the offeror or the person asking for admission. The same shall apply to non-equity securities in a currency other than euro, provided that the value of such minimum denomination is nearly equivalent to EUR 1 000;

<sup>(1)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

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- (iii) for all issuers of securities established in a third country which are not mentioned in point (ii), the Member State where the securities are intended to be offered to the public for the first time or where the first application for admission to trading on a regulated market is made, at the choice of the issuer, the offeror or the person asking for admission, subject to a subsequent choice by issuers established in a third country in either of the following circumstances:
- where the home Member State was not determined by the choice of these issuers,
  - in accordance with point (1)(i)(iii) of Article 2 of Directive 2004/109/EC;
- (n) 'host Member State' means the Member State where an offer **of securities** to the public is made or admission to trading **on a regulated market** is sought, when different from the home Member State;
- (na) 'competent authority' means the authority designated by each Member State in accordance with Article 29, unless otherwise specified in this Regulation.**
- (o) 'collective investment undertaking' means **undertakings for collective investment in transferable securities (UCITS) authorised in accordance with Article 5 of Directive 2009/65/EC of the European Parliament and of the Council<sup>(1)</sup> and alternative investment funds (AIFs) within the meaning of Article 4(1)(a) of Directive 2011/61/EU of the European Parliament and of the Council<sup>(2)</sup>**;
- (p) 'units of a collective investment undertaking' means securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets;
- (q) 'approval' means the positive act at the outcome of the scrutiny by the home Member State's competent authority of the completeness, the consistency and the comprehensibility of the information given in the prospectus;
- (r) 'base prospectus' means a prospectus that complies with Article 8 of this Regulation, and, at the choice of the issuer, the final terms of the offer;
- (s) 'working days', for the purposes of this Regulation, mean working days of the **relevant** competent authority excluding Saturdays, Sundays and public holidays, as defined by the national law applicable to **that** national competent authority;
- (t) 'multilateral trading facility' means a multilateral system as defined in Article 4(1)(22) of Directive 2014/65/EU;
- (u) 'SME growth market' means an SME growth market as defined in Article 4(1)(12) of Directive 2014/65/EU;
- (v) 'third country issuer' means an issuer established in a third country
- (va) 'durable medium' means any instrument which:**
- (i) enables a customer to store information addressed personally to that customer in a way accessible for future reference and for a period of time adequate for the purposes of the information; and**

<sup>(1)</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>(2)</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

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*(ii) allows the unchanged reproduction of the information stored.*

2. In order to take account of technical developments on financial markets, the Commission shall be empowered to adopt delegated acts in accordance with Article 42 to specify some technical elements of the definitions laid down in paragraph 1 of this Article, **excluding** the definition of 'small and medium-sized enterprises (SMEs)' in point (f) of paragraph 1, taking into account the situation on different national markets, **Union legislation** as well as economic developments.

### Article 3

#### *Obligation to publish a prospectus and exemption*

1. Securities shall **be** offered to the public in the Union **only after** prior publication of a prospectus **in accordance with this Regulation**.

2. **Without prejudice to Article 15, a** Member State may **decide to** exempt offers of securities to the public from the **obligation to publish a** prospectus **set out in** paragraph 1 provided that **the** total consideration of the offer **in the Union does not exceed EUR 5 000 000** calculated over a period of 12 months.

**Public offers made under the exemption set out pursuant to the first subparagraph:**

*(a) shall not benefit from the passporting regime under this Regulation and therefore Articles 23 and 24 of the Regulation shall not apply;*

*(b) shall contain a clear indication that the public offer is not of a cross-border nature; and*

*(c) shall not actively solicit investors outside the Member State referred to in the first subparagraph.*

Member States shall notify the Commission and ESMA of **any decision taken in accordance with the first subparagraph and the threshold chosen for the total consideration referred to therein**.

3. Securities shall **be** admitted to trading on a regulated market **established in** the Union **only after** prior publication of a prospectus.

**3a. In order to take account of exchange rate movements, including inflation and exchange rates for currencies other than the euro, the Commission may adopt, by means of delegated acts in accordance with Article 42, measures to specify the threshold laid down in paragraph 2 of this Article.**

### Article 4

#### *Voluntary prospectus*

Where an offer of securities to the public or an admission of securities to trading on a regulated market is outside the scope of this Regulation as **specified** in Article 1, an issuer, an offeror or a person asking for admission to trading on a regulated market shall be entitled to voluntarily draw up a prospectus **or an EU Growth prospectus as applicable** in accordance with this Regulation.

**Such voluntarily drawn up** prospectus approved by the competent authority of the home Member State, as determined according to Article 2(1)(m), shall entail all the rights and obligations provided for a prospectus **required** under this Regulation and shall be subject to all provisions of this Regulation, under the supervision of that competent authority.

### Article 5

#### *Subsequent resale of securities*

Any subsequent resale of securities which were previously the subject of one or more of the types of offer of securities **excluded from the scope of this Regulation in accordance with** points (a) to (d) of Article 1(3) shall be considered as a separate offer and the definition set out in Article 2(1)(d) shall apply for the purpose of determining whether that resale is an offer of securities to the public. The placement of securities through financial intermediaries shall be subject to publication of a prospectus where none of the conditions listed in points (a) to (d) of Article 1(3) are met for the final placement.

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No additional prospectus shall be required in any such subsequent resale of securities or final placement of securities through financial intermediaries as long as a valid prospectus is available in accordance with Article 12 and the issuer or the person responsible for drawing up such prospectus consents to its use by means of a written agreement.

## CHAPTER II DRAWING UP OF THE PROSPECTUS

### Article 6 *The prospectus*

1. Without prejudice to Article 14(2) and Article 17(2), the prospectus shall contain the **relevant and necessary** information which ***an investor would reasonably require in relation to an investment in securities in order to be able*** to make an informed assessment of:

- (a) the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor; and
- (b) the rights attaching to such securities.

That information shall be ***drafted and*** presented in an easily analysable, succinct and comprehensible form ***and may vary depending on:***

- (a) ***the nature of the issuer;***
- (b) ***the type of securities;***
- (c) ***the circumstances of the issuer;***
- (d) ***where relevant, the type of investor targeted in the offer to the public or admission to trading, the likely knowledge of such type of investor, and the market on which the securities are to be admitted to trading;***
- (e) ***any information made available to investors further to requirements imposed on the issuer of the securities under Union or national law or the rules of any competent authority or trading venue by or on which the issuer's securities are listed or admitted to trading, which can be accessed through an officially appointed mechanism as referred to in Article 21 of Directive 2004/109/EC;***
- (f) ***the applicability of any simplified or proportionate disclosure regime as set out in Article 14 and Article 15.***

2. The issuer, offeror or person asking for the admission to trading on a regulated market may draw up the prospectus as a single document or as separate documents.

A prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary, without prejudice to Article 8(7) ***and the second subparagraph of Article 7(1)***. The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities offered to the public or to be admitted to trading on a regulated market.

### Article 7 *The prospectus summary*

1. The prospectus shall include a summary ***that provides*** the key information that investors need in order to understand the nature and the risks of the issuer, the guarantor and the securities that are being offered or admitted to trading on a regulated market, and that ***shall be*** read together with the other parts of the prospectus ***to aid*** investors when considering whether to invest in such securities.



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***By way of derogation from the first subparagraph, where the prospectus relates to the admission to trading on a regulated market of non-equity securities offered solely to qualified investors, no summary shall be required.***

2. The content of the summary shall be accurate, fair, clear and not misleading. It shall be ***read as an introduction to the prospectus and it shall be*** consistent with the other parts of the prospectus.

3. The summary shall be drawn up as a short document written in a concise manner and of a maximum of six sides of A4-sized paper when printed.

***Only in exceptional cases, however, the competent authority may allow the issuer to draw up a longer summary of up to a maximum of 10 sides of A4-sized paper when printed where the complexity of the issuer's activities, the nature of the issue, or the nature of the securities issued so requires and where there is a risk that the investor would be misled without the additional information being set out in the summary as a result.***

***The summary shall:***

- (a) be presented and laid out in a way that is easy to read, using characters of readable size;
- (b) be written in a language and a style that facilitate the understanding of the information, in particular, in language that is clear, non-technical, succinct and comprehensible ***for the type of investors concerned.***

4. The summary shall be made up of the following four sections:

- (a) an introduction containing ***general and specific*** warnings, ***including the extent to which investors could lose their investment in a worst case scenario;***
- (b) key information on the issuer, the offeror or the person asking for admission ***to trading on a regulated market;***
- (c) key information on the securities;
- (d) key information on the offer itself and/or the admission to trading.

5. The introduction ***to*** the summary shall contain:

- (a) the name ***and international securities identification numbers (ISIN)*** of the securities;
- (b) the identity and contact details of the issuer, ***including its legal entity identifier (LEI);***
- (c) ***the identity and contact details of*** the offeror, ***including its LEI if the offeror has legal personality,*** or ***of*** the person seeking admission;
- (d) the identity and contact details of the home competent authority and the date of the document.

***For the purposes of point (d) of the first subparagraph, where the prospectus consists of separate documents that have been approved by different competent authorities, the introduction to the summary shall identify, and provide contact details of, all of those competent authorities.***

It shall contain warnings that:

- (a) the summary should be read as an introduction to the prospectus;
- (b) any decision to invest in the securities should be based on consideration of the prospectus as a whole by the investor;
- (c) where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the Member States, have to bear the costs of translating the prospectus before the legal proceedings are initiated;



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- (d) civil liability attaches only to those persons who have tabled the summary including any translation thereof, but only where the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus, or where it does not provide, when read together with the other parts of the prospectus, key information in order to aid investors when considering whether to invest in such securities.

6. The section referred to in point (b) of paragraph 4 shall contain the following information:

- (a) under a sub-section titled 'Who is the issuer of the securities?', a brief description of the issuer of the securities, including at least the following:

- its domicile and legal form, **its LEI**, the legislation under which it operates and its country of incorporation;
- its principal activities;
- its major shareholders, including whether it is directly or indirectly owned or controlled and by whom;
- the identity of its key **executive** directors **and board of directors**;
- the identity of its statutory auditors.

- (b) under a sub-section titled 'What are the key financial information regarding the issuer?' a selection of historical key financial information, including where applicable pro forma information, presented for each financial year of the period covered by the historical financial information, and any subsequent interim financial period accompanied by comparative data from the same period in the prior financial year. The requirement for comparative balance sheet information shall be satisfied by presenting the year-end balance sheet information.

- (c) under a sub-section titled 'What are the key risks that are specific to the issuer?' a brief description of no more than **10** of the most **significant** risk factors specific to the issuer contained in the **prospectus including in particular, operational and investment risks**.

7. The section referred to in point c) of paragraph 4 shall contain the following information:

- (a) under a sub-section titled 'What are the main features of the securities?', a brief description of the securities being offered and/or admitted to trading including at least:

- their type and class, **their ISIN**, their currency, denomination, par value, the number of securities issued, the term of the securities;
- the rights attached to the securities;
- **the relative seniority of the securities in the issuer's capital structure in the event of insolvency, including, where applicable, information on the level of subordination of the securities and their treatment in the event of resolution under the BRRD**;
- any restrictions on the free transferability of the securities;
- where applicable, the dividend or payout policy.

- (b) under a sub-section titled 'Where will the securities be traded?', an indication as to whether the securities offered are or will be the object of an application for admission to trading on a regulated market or **for trading on** a multilateral trading facility and the identity of all the markets where the securities are or are to be traded.

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- (c) under a sub-section titled 'Is there a guarantee attached to the securities?' a brief description of the nature and scope of the guarantee, if any, as well as a brief description of the guarantor, **including its LEI**.
- (d) under a sub-section titled 'What are the key risks that are specific to the securities?' a brief description of no more than **10** of the most **significant** risk factors specific to the securities, contained in the **prospectus**.

Where a key information document is required to be prepared under Regulation (EU) No 1286/2014 of the European Parliament and of the Council<sup>(1)</sup>, the issuer, the offeror or the person asking for admission may substitute the content set out in this paragraph with the information set out in points (b) to (i) of Article 8(3) of Regulation (EU) No 1286/2014. In that case and where a single summary covers several securities which differ only in some very limited details, such as the issue price or maturity date, according to the last subparagraph of Article 8(8), the length limit set out in paragraph 3 shall be extended by 3 additional sides of A4-sized paper for each additional security.

8. The section referred to in point (d) of paragraph 4 shall contain the following information:

- (a) under a sub-section titled 'Under which conditions and timetable can I invest in this security?', where applicable, the general terms, conditions and expected timetable of the offer, the details of the admission to trading, the plan for distribution, the amount and percentage of immediate dilution resulting from the offer and an estimate of the total expenses of the issue and/or offer, including estimated expenses charged to the investor by the issuer or the offeror.
- (b) under a section titled 'Why has the issuer produced this prospectus?' a brief narrative description of the reasons for the offer or for the admission to trading, as well as the use and estimated net amount of the proceeds.

9. Under each of the sections described in paragraphs 6, 7 and 8, the issuer may add sub-headings where deemed necessary.

10. The summary shall not contain cross-references to other parts of the prospectus or incorporate information by reference.

11. ESMA shall develop draft regulatory technical standards to specify the content and format of presentation of the historical key financial information referred to under point (b) of paragraph 6, taking into account the various types of securities and issuers **and ensuring that the information produced is brief, concise and understandable**.

ESMA shall submit those draft regulatory technical standards to the Commission by [**12 months from the date of entry into force of this Regulation**].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

## Article 8

### *The base prospectus*

1. For non-equity securities, the prospectus may, at the choice of the issuer, offeror or person asking for the admission to trading on a regulated market consist of a base prospectus containing **the** relevant information concerning the issuer and the securities offered to the public or to be admitted to trading on a regulated market.

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<sup>(1)</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (OJ L 352, 9.12.2014, p. 1).

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2. A base prospectus shall include the following information:

- (a) a list of the information that will be included in the final terms of the offer;
- (b) a template, titled 'form of the final terms', to be filled out for each individual issue;
- (c) the address of the website where the final terms will be published.

3. The final terms shall be presented in the form of a separate document or shall be included in the base prospectus or a supplement thereto. The final terms shall be prepared in an easily analysable and comprehensible form.

The final terms shall only contain information that relates to the securities note and shall not be used to supplement the base prospectus. Article 17(1)(a) shall apply in such cases.

4. Where the final terms are neither included in the base prospectus, nor in a supplement, the issuer shall make them available to the public in accordance with Article 20 and file them with the competent authority of the home Member State, as soon as practicable before the beginning of the offer to the public or admission to trading.

A clear and prominent statement shall be inserted in the final terms indicating:

- (a) that the final terms have been prepared for the purpose of this Regulation and must be read in conjunction with the base prospectus and its supplement(s) in order to obtain all the relevant information;
- (b) where the base prospectus and its supplement(s) are published in accordance with Article 20;
- (c) that a summary of the individual issue is annexed to the final terms.

5. A base prospectus may be drawn up as a single document or as separate documents.

Where the issuer, the offeror or the person asking for admission to trading on a regulated market has previously filed a registration document for a particular type of non-equity security, or a universal registration document as defined in Article 9, and, at a later stage, chooses to draw up a base prospectus, the base prospectus shall consist of the following:

- (a) the information contained in the registration document, or universal registration document;
- (b) the information which would otherwise be contained in the relevant securities note, with the exception of the final terms where the final terms are not included in the base prospectus.

6. The specific information on each of the different securities included in a base prospectus shall be clearly segregated.

7. A summary shall only be drawn up when the final terms are **included in the base prospectus in accordance with paragraph 3** or filed and such a summary shall be specific to the individual issue.

8. The summary of the individual issue shall be subject to the same requirements as the final terms, as set out in this Article, and shall be annexed to them.

The summary of the individual issue shall comply with Article 7 and shall provide the key information of the base prospectus and of the final terms. It shall contain the following:

- (a) the information of the base prospectus which is only relevant to the individual issue, including the **essential** information on the issuer;
- (b) the options contained in the base prospectus which are only relevant to the individual issue as determined in the final terms;

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(c) the relevant information given in the final terms which has been previously left in blank in the base prospectus.

Where the final terms relate to several securities which differ only in some very limited details, such as the issue price or maturity date, a single summary of the individual issue may be attached for all those securities, provided the information referring to the different securities is clearly segregated.

9. The information contained in the base prospectus shall be supplemented, where necessary, in accordance with Article 22, with updated information on the issuer, and on the securities to be offered to the public or to be admitted to trading on a regulated market.

10. An offer to the public may continue after the expiration of the base prospectus under which it was commenced provided that a succeeding base prospectus is approved no later than the last day of validity of the previous base prospectus. The final terms of such an offer shall contain a prominent warning on their first page indicating the last day of validity of the previous base prospectus and where the succeeding base prospectus will be published. The succeeding base prospectus shall include or incorporate by reference the form of the final terms from the initial base prospectus and refer to the final terms which are relevant for the continuing offer.

The withdrawal right granted under Article 22(2) shall also apply to investors who have agreed to purchase or subscribe the securities during the validity period of the previous base prospectus, unless the securities have already been delivered to them.

## Article 9

### *The universal registration document*

1. Any issuer having its registered office in a Member State and whose securities are admitted to trading on a regulated market or a multilateral trading facility may draw up every financial year a registration document in the form of a universal registration document describing the company's organisation, business, financial position, earnings and prospects, governance and shareholding structure.

2. **Any issuer *that*** chooses to draw up a universal registration document every financial year shall submit it for approval to the competent authority of its home Member State according to the procedure set out in paragraphs 2, 4 **and 5** of Article 19.

After the issuer has had a universal registration document approved by the competent authority every financial year for **two** consecutive years, subsequent universal registration documents **or amendments to such universal registration documents** may be filed with the competent authority without prior approval, **unless those amendments concern an omission, or a material mistake or inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer.**

Where the issuer thereafter fails to file a universal registration document for one financial year, the benefit of filing without approval shall be lost and all subsequent universal registration documents shall be submitted to the competent authority for approval until the condition of the second subparagraph is met again.

3. Issuers which, prior to the date of application of this Regulation, have had a registration document, drawn up in accordance with Annex I or XI of Regulation (EC) No 809/2004<sup>(1)</sup>, approved by a competent authority for at least **two** consecutive years and have thereafter filed, according to Article 12(3) of Directive 2003/71/EC, or got approved such a registration document every year, shall be allowed to file a universal registration document without prior approval in accordance with the second subparagraph of paragraph 2 from the date of application of this Regulation.

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<sup>(1)</sup> Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (OJ L 149, 30.4.2004, p. 1).

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4. Once approved or filed without approval, the universal registration document, as well as the amendments thereto referred to in paragraphs 7 and 9, shall be made available to the public without undue delay and in accordance with the arrangements set out in Article 20.

5. The universal registration document shall comply with the language requirements laid down in Article 25.

6. Information may be incorporated by reference into a universal registration document under the conditions set out in Article 18.

7. Following the filing or approval of a universal registration document, the issuer may at any time update the information it contains by filing an amendment to its universal registration document with the competent authority.

8. The competent authority may at any time review the content of any universal registration document which has been filed without prior approval, as well as the content of amendments thereto.

The review by the competent authority shall consist in scrutinising the completeness, the consistency and the comprehensibility of the information given in the universal registration document and amendments thereto.

9. Where the competent authority, in the course of the review, finds that the universal registration document does not meet the standards of completeness, comprehensibility and consistency, and/or that amendments or supplementary information are needed, it shall notify it to the issuer.

A request for amendment or supplementary information addressed by the competent authority to the issuer needs only be taken into account by the issuer in the next universal registration document filed for the following financial year, except where the issuer wishes to use the universal registration document as a constituent part of a prospectus submitted for approval. In that case, the issuer shall file an amendment to the universal registration document at the latest upon submission of the application referred to in Article 19(5).

By derogation to the second subparagraph, where the competent authority notifies the issuer that its amendment request concerns an omission or a material mistake or inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, the issuer shall file an amendment to the universal registration document without undue delay.

10. The provisions of paragraphs 7 and 9 shall only apply where the universal registration document is not used as a constituent part of a prospectus. Whenever a universal registration document is used as a constituent part of a prospectus, only the rules of Article 22 for supplementing the prospectus shall apply between the time when the prospectus is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later.

11. An issuer fulfilling the conditions described in the first **and** second subparagraph of paragraph 2 or in paragraph 3 shall have the status of frequent issuer and shall benefit from the faster approval process described in Article 19(5), provided that:

- (a) upon the filing or submission for approval of each universal registration document, the issuer provides written confirmation to the competent authority that all regulated information which it is required to disclose under Directive 2004/109/EC, if applicable, and Regulation (EU) No 596/2014 has been filed and published in accordance with the requirements set out in those acts; and
- (b) where the competent authority undertakes the review referred to under paragraph 8, the issuer amends its universal registration document according to the arrangements set out in paragraph 9.

Where any of the above conditions is not fulfilled by the issuer, the status of frequent issuer shall be lost.

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12. Where the universal registration document filed with or approved by the competent authority is made public at the latest four months after the end of the financial year, and contains the information required to be disclosed in the annual financial report referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council <sup>(1)</sup>, the issuer shall be deemed to have fulfilled its obligation to publish the annual financial report required under that Article.

Where the universal registration document, or an amendment thereto, is filed or approved by the competent authority and made public at the latest three months after the end of the first six months of the financial year, and contains the information required to be disclosed in the half-yearly financial report referred to in Article 5 of Directive 2004/109/EC, the issuer shall be deemed to have fulfilled its obligation to publish the half-yearly financial report required under that Article.

In the cases described under the first or second subparagraph, the issuer:

- (a) shall include in the universal registration document a cross reference list identifying where each item required in the annual and half-yearly financial reports can be found in the universal registration document;
- (b) shall file the universal registration document according to Article 19(1) of Directive 2004/109/EC and make it available to the officially appointed mechanism referred to in Article 21(2) of Directive 2004/109/EC;
- (c) shall include in the universal registration document a responsibility statement in the terms required under Article 4(2)(c) and 5(2)(c) of Directive 2004/109/EC.

13. Paragraph 12 shall only apply where the home Member State of the issuer for the purposes of this Regulation is also the home Member State for the purposes of Directive 2004/109/EC, and where the language of the universal registration document fulfils the conditions of Article 20 of Directive 2004/109/EC.

14. **ESMA shall develop draft regulatory technical standards** to specify the procedure for the scrutiny, approval, filing and review of the universal registration document, as well as the conditions for its amendment and the conditions where the status of frequent issuer may be lost.

**ESMA shall submit those draft regulatory technical standards to the Commission by [12 months from the date of entry into force of this Regulation].**

**Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.**

## Article 10

### **Prospectuses consisting of separate documents**

1. An issuer **that** already has a registration document approved by the competent authority shall be required to draw up only the securities note and the summary when securities are offered to the public or admitted to trading on a regulated market. In that case, the securities note and the summary shall be subject to a separate approval.

Where, since the approval of the registration document, there has been a significant new factor, material mistake or inaccuracy relating to the information included in the registration document which is capable of affecting the assessment of the securities, a supplement to the registration document shall be submitted for approval at the same time as the securities note and the summary. The right to withdraw acceptances according to Article 22(2) shall not apply in that case.

The registration document and its supplement, where applicable, accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

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<sup>(1)</sup> Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).



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2. An issuer ***that*** already has a universal registration document approved by the competent authority ***or that has filed a universal registration document without approval pursuant to the second subparagraph of Article 9(2)***, shall be required to draw up only the securities note and the summary when securities are offered to the public or admitted to trading on a regulated market. In that case, the securities note, the summary and all amendments to the universal registration document filed since the approval ***or the filing*** of the universal registration document, ***except for amendments to the universal registration document of a frequent issuer in accordance with Article 19(5)***, shall be subject to a separate approval.

Where an issuer has filed a universal registration document without approval, the entire documentation, including amendments to the universal registration document, shall be subject to approval, notwithstanding the fact that these documents remain separate.

The universal registration document, amended in accordance with paragraphs 7 or 9 of Article 9, accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

## Article 11

### *Responsibility attaching to the prospectus*

1. Member States shall ensure that responsibility for the information given in a prospectus attaches to the issuer or its administrative, management or supervisory bodies, the offeror, the person asking for the admission to trading on a regulated market or the guarantor. The persons responsible shall be clearly identified in the prospectus by their names and functions or, in the case of legal persons, their names and registered offices, as well as declarations by them that, to the best of their knowledge, the information contained in the prospectus is in accordance with the facts and that the prospectus makes no omission likely to affect its import.

2. Member States shall ensure that their laws, regulation and administrative provisions on civil liability apply to those persons responsible for the information given in a prospectus.

However, Member States shall ensure that no civil liability shall attach to any person solely on the basis of the summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent, when read together with the other parts of the prospectus, or it does not provide, when read together with the other parts of the prospectus, key information in order to aid investors when considering whether to invest in such securities. The summary shall contain a clear warning to that effect.

3. The responsibility for the information given in a universal registration document shall attach to the persons referred to under paragraph 1 only in cases where the universal registration document is used as a constituent part of an approved prospectus. This shall apply without prejudice to Articles 4 and 5 of Directive 2004/109/EC where the information under these Articles is included in a universal registration document.

## Article 12

### *Validity of a prospectus, base prospectus and registration document*

1. A prospectus or a base prospectus, whether a single document or consisting of separate documents, shall be valid for 12 months after its approval for offers to the public or admissions to trading on a regulated market, provided that it is completed by any supplement required pursuant to Article 22.

Where a prospectus or a base prospectus consists of separate documents, the validity shall begin upon approval of the securities note.

2. A registration document, including a universal registration document as referred to in Article 9, which has been previously filed or approved, shall be valid for use as a constituent part of a prospectus for 12 months after its filing or approval.

The end of validity of such a registration document shall not affect the validity of a prospectus of which it is a constituent part.



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### CHAPTER III

#### THE CONTENT AND FORMAT OF THE PROSPECTUS

##### Article 13

##### *Minimum information and format*

1. The Commission shall adopt, in accordance with Article 42, delegated acts regarding the format of the prospectus, the base prospectus and the final terms, and the schedules defining the specific information which must be included in a prospectus, avoiding duplication of information when a prospectus is composed of separate documents.

In particular, when **drawing up** the various prospectus schedules, account shall be taken of the following:

- (a) the various types of information needed by investors relating to equity securities as compared with non-equity securities; a consistent approach shall be taken with regard to information required in a prospectus for securities which have a similar economic rationale, notably derivative securities;
- (b) the various types and characteristics of offers and admissions to trading on a regulated market of non-equity securities;
- (c) the format used and the information required in base prospectuses relating to non-equity securities, including warrants in any form;
- (d) where applicable, the public nature of the issuer;
- (e) where applicable, the specific nature of the activities of the issuer.

***In particular, the Commission shall draw up two sets of separate and materially different prospectus schedules setting out the information requirements applicable to non-equity securities adapted to the different investor classes — qualified or non-qualified — to whom the offer is addressed, taking into account the different information needs of those investors.***

2. The Commission shall adopt, in accordance with Article 42, delegated acts setting out the schedule defining the minimum information contained in the universal registration document, as well as a dedicated schedule for the universal registration document of credit institutions.

Such a schedule shall ensure that the universal registration document contains all the necessary information on the issuer so that the same universal registration document can be used equally for the subsequent offer to the public or admission to trading of equity, debt securities or derivatives. With regard to the financial information, the operating and financial review and prospects and the corporate governance, such information shall be aligned as much as possible with the information required to be disclosed in the annual and half-yearly financial reports referred to under Articles 4 and 5 of Directive 2004/109/EC, including the management report and the corporate governance statement.

3. The delegated acts referred to in paragraph 1 and 2 shall be based on the standards in the field of financial and non-financial information set out by international securities commission organisations, in particular by IOSCO and on the Annexes I, II and III to this Regulation. Those delegated acts shall be adopted by **[6 months before the date of application of this Regulation]**.

##### Article 14

##### *Simplified disclosure regime for secondary issuances*

1. The following persons may choose to draw up a **simplified** prospectus under the **simplified** disclosure regime for secondary issuances, in the case of an offer of securities to the public or of an admission to trading of securities on a regulated market:

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- (a) issuers whose securities have been admitted to trading on a regulated market or an SME growth market **or an MTF, other than an SME growth market, with disclosure requirements equivalent to at least those provided for on an SME growth market as specified in Article 33(3)(d), (e), (f) and (g) of MiFID**, for at least 18 months and who issue more securities of the same class;
- (b) issuers whose equity securities have been admitted to trading on a regulated market or an SME growth market **or an MTF, other than an SME growth market, with disclosure requirements equivalent to at least those provided for on an SME growth market as specified in Article 33(3)(d), (e), (f) and (g) of MiFID**, for at least 18 months and who issue non-equity securities.
- (c) offerors of a class of securities admitted to trading on a regulated market or an SME growth market **or an MTF, other than an SME growth market, with disclosure requirements equivalent to at least those provided for on an SME growth market as specified in Article 33(3)(d), (e), (f) and (g) of MiFID**, for at least 18 months.

The **simplified prospectus provided for in the first subparagraph** shall consist of a **summary in accordance with Article 7, a** specific registration document which may be used by persons referred to under (a), (b) and (c) and a specific securities note which may be used by persons referred to under (a) and (c).

**For the purposes of points (a), (b) and (c) of the first sub-paragraph, ESMA shall publish and regularly update a list of MTFs, other than SME growth markets, with disclosure requirements equivalent to at least those provided for on an SME growth market as specified in Article 33(3)(d), (e), (f) and (g) of MiFID.**

2. **In accordance with the principles set out in Article 6(1), and without prejudice to Article 17(2), the simplified prospectus referred to in paragraph 1** shall contain the relevant **reduced** information which **an investor would reasonably require in relation to a secondary issuance for the purpose of making an informed assessment of:**

- (a) prospects of the issuer and of any guarantor, based on **■** financial information included or incorporated by reference into the prospectus covering the last financial year only,
- (b) the rights attaching to the securities,
- (c) the reasons for the issuance and its impact on the issuer, **in particular the working capital statement, the disclosure of capitalisation and indebtedness, the impact on the overall capital structure, and a concise summary of relevant information disclosed under Regulation (EU) No 596/2014 since the date of the last issue.**

**The summary shall only cover the relevant information required under the simplified disclosure regime for secondary issuances.**

The information contained in the **simplified prospectus referred to in paragraph 1** shall be **drafted and** presented in an easily analysable, succinct and comprehensible form and shall enable investors to make an informed investment decision.

3. The Commission shall adopt delegated acts in accordance with Article 42 to specify the reduced information **referred to in paragraph 2**, to be included in the schedules applicable under the **simplified disclosure regime referred to in paragraph 1**.

**When specifying the reduced information to be included in the schedules applicable under the simplified disclosure regime, the Commission shall take into account the need to facilitate access to capital markets, the importance of reducing the cost of, and increasing access to, capital, and the information which an issuer is already required to disclose under Directive 2004/109/EC, where applicable, and Regulation (EU) No 596/2014. In order to avoid imposing unnecessary burdens on issuers, the Commission shall calibrate the requirements so that they focus on the information that is material and relevant for secondary issuances and are proportionate.**

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Those delegated acts shall be adopted by **[6 months before the date of application of this Regulation]**.

## Article 15

### EU Growth prospectus

1. *The following entities shall be entitled to draw up an EU Growth prospectus under the proportionate disclosure regime set out in this Article in the case of an offer of securities to the public, except where the securities are to be admitted to trading on a regulated market:*

- (a) SMEs;
- (b) issuers, other than SMEs, where the offer to the public concerns securities which are to be admitted to trading on an SME growth market;
- (c) issuers, other than those referred to under points (a) and (b), where the offer of securities to the public is of a total consideration in the Union that does not exceed EUR 20 000 000 calculated over a period of 12 months .

An EU Growth prospectus approved pursuant to this Article shall be valid for any offer of securities to the public in any number of host Member States under the conditions set out in Article 23, 24 and 25.

An EU Growth prospectus under the proportionate disclosure regime referred to in the first subparagraph shall be a standardised document, which is easy for issuers to complete.

1a. The EU growth prospectus shall cover the following three key elements:

- (a) key information on the issuer, such as:
  - (i) the name of the issuer and persons responsible for the prospectus;
  - (ii) business overview, current trading and prospects of the issuer;
  - (iii) risk factors relating to the issuer;
  - (iv) financial information, which may be incorporated by reference;
- (b) key information on the securities, such as:
  - (i) the number and nature of the securities forming part of the offer;
  - (ii) the terms and conditions of the securities and a description of any rights attached to the securities;
  - (iii) risk factors related to the securities;
- (c) key information on the offer, such as:
  - (i) the terms and conditions of the offer, including the issue price;
  - (ii) the reasons for the offer and the intended use of the net proceeds.

3. The Commission shall adopt delegated acts in accordance with Article 42 to specify the reduced **content and format specific to the standardised EU Growth prospectus referred to in paragraphs 1 and 1a. Those acts shall specify the information required in the prospectus schedules in simple language, using incorporation by reference where appropriate.**

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*When specifying specific reduced content and format of the standardised EU Growth prospectus the Commission shall calibrate the information requirements to focus on:*

- (a) the information that is material and relevant when making an investment in the securities issued for investors;*
- (b) the need to ensure proportionality between the size of the company and its fundraising needs; and*
- (c) the cost of producing a prospectus.*

*In doing so, the Commission shall take into account the following:*

- the need to ensure that the EU growth prospectus is significantly and genuinely lighter than the full prospectus, in terms of administrative burden and cost to issuers;*
- the need to facilitate access to capital markets for SMEs while ensuring investor confidence in investing in such companies;*
- the need to minimise costs and burden for SMEs;*
- the need to elicit specific types of information of special relevance to SMEs;*
- the size of the issuer and the length of time for which it has been in operation;*
- the various types and characteristics of offers;*
- the various types of information needed by investors relating to the different types of securities.*

Those delegated acts shall be adopted by **[6 months before the date of application of this Regulation]**.

**I**

## Article 16

### *Risk factors*

1. The risk factors featured in a prospectus shall be limited to risks which are specific to the issuer and/or the securities and are material for taking an informed investment decision, as corroborated by the content of the registration document and the securities note. **I**

**1a.** *Risks factors shall also include those resulting from the level of subordination of a security and the impact on the expected size or timing of payments to holders of the securities under bankruptcy, or any other similar procedure, including, where relevant, the insolvency of a credit institution or its resolution or restructuring in accordance with Directive 2014/59/EU (BRRD).*

2. ESMA shall develop guidelines on the assessment **I** of the specificity and materiality of risk factors and on the allocation of risk factors **I**. *In addition, ESMA shall develop guidelines to assist competent authorities in their review of risk factors in a manner which encourages appropriate and focused risk factor disclosure by issuers.*

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## Article 17

### *Omission of information*

1. Where the final offer price and/or amount of securities which will be offered to the public cannot be included in the prospectus:

- (a) the criteria, and/or the conditions in accordance with which the above elements shall be determined or, in the case of price, the maximum price, shall be disclosed in the prospectus; or
- (b) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two working days after the final offer price and/or amount of securities which will be offered to the public have been filed.

The final offer price and amount of securities shall be filed with the competent authority of the home Member State and published in accordance with Article 20(2).

2. The competent authority of the home Member State may authorise the omission from the prospectus of certain information to be included in a prospectus, where it considers that any of the following conditions is satisfied:

- (a) disclosure of such information would be contrary to the public interest;
- (b) disclosure of such information would be seriously detrimental to the issuer, provided that the omission of such information would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the prospectus relates;
- (c) such information is of minor importance in relation to a specific offer or admission to trading on a regulated market and would not influence the assessment of the financial position and prospects of the issuer, offeror or guarantor.

The competent authority shall submit a report to ESMA on a yearly basis regarding the information the omission of which it has authorised.

3. Without prejudice to the adequate information provided to investors, where, exceptionally, certain information required to be included in a prospectus is inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the prospectus relates, the prospectus shall contain information equivalent to the required information, unless no such information exists.

4. Where securities are guaranteed by a Member State, an issuer, an offeror or a person asking for admission to trading on a regulated market, when drawing up a prospectus in accordance with Article 4, shall be entitled to omit information pertaining to that Member State.

5. **ESMA may develop draft guidelines** to specify the cases where information may be omitted according to paragraph 2, taking into account the reports of competent authorities to ESMA mentioned in paragraph 2.

## Article 18

### *Incorporation by reference*

1. Information may be incorporated by reference in a prospectus **or a base prospectus** where it has been previously or simultaneously published electronically, drawn up in a language fulfilling the requirements of Article 25 and **filed in the context of disclosure requirements of Union law or filed under the rules** of the **trading venue or SME growth market**:

- (a) documents which have been approved by **a** competent authority, or filed with it, in accordance with this Regulation;

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- (b) documents referred to in points (f) and (g) of Article 1(3) and points (d) and (e) of Article 1(4);
- (c) regulated information as defined in point (l) of Article 2(1);
- (d) annual and interim financial information;
- (e) audit reports and financial statements;
- (f) management reports as defined in Article 19 of Directive 2013/34/EU of the European Parliament and of the Council <sup>(1)</sup>;
- (g) corporate governance statements as defined in Article 20 of Directive 2013/34/EU;
- (h) [remuneration reports as defined in Article [X] of [revised Shareholders Rights Directive <sup>(2)</sup>];
- (ha) annual reports or any disclosure information required under Article 22 and 23 of Directive 2011/61/EU;**
- (i) memorandum and articles of association.

Such information shall be the most recent available to the issuer.

Where only certain parts of a document are incorporated by reference, a statement shall be included in the prospectus that the non-incorporated parts are either not relevant for the investor or covered elsewhere in the prospectus.

2. When incorporating information by reference, issuers, offerors or persons asking for admission to trading on a regulated market shall ensure accessibility of the information. In particular, a cross-reference list shall be provided in the prospectus in order to enable investors to identify easily specific items of information, and the prospectus shall contain hyperlinks to all documents containing information which is incorporated by reference.

3. Where possible along with the first draft of the prospectus submitted to the competent authority, and in any case during the prospectus review process, the issuer, offeror or person asking for admission to trading on a regulated market shall submit in searchable electronic format any information which is incorporated by reference into the prospectus, unless such information has already been approved by or filed with the competent authority approving the prospectus.

4. ESMA may develop draft regulatory technical standards to update the list **of documents sets out** mentioned in paragraph 1 by including additional types of documents required under Union law to be filed with or approved by a public authority.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

## CHAPTER IV

### ARRANGEMENTS FOR APPROVAL AND PUBLICATION OF THE PROSPECTUS

#### Article 19

##### *Scrutiny and approval of the prospectus*

1. No prospectus shall be published until it, **or all of its constituent parts, have** been approved by the **relevant** competent authority of the home Member State.

<sup>(1)</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

<sup>(2)</sup> [OJ C , , p.].

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2. The competent authority shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market, of its decision regarding the approval of the prospectus within 10 working days of the submission of the draft prospectus.

■ The competent authority shall notify ESMA of the approval of the prospectus and any supplement thereto at the same time as that approval is notified to the issuer, the offeror or the person asking for admission to trading on a regulated market.

3. The time limit referred to in paragraph 2 shall be extended to 20 working days where the offer to the public involves securities issued by an issuer which does not have any securities admitted to trading on a regulated market and who has not previously offered securities to the public.

The time limit of 20 working days shall only be applicable for the initial submission of the draft prospectus. Where subsequent submissions are necessary according to paragraph 4, the time limit of paragraph 2 shall apply.

4. Where the competent authority finds that the draft prospectus does not meet the standards of completeness, comprehensibility and consistency necessary for its approval and/or that amendments or supplementary information are needed:

- (a) it shall inform the issuer, the offeror or the person asking for admission to trading on a regulated market within 10 working days **from** the submission of the draft prospectus and/or **the** supplementary information, and state the **detailed** reasons **for the decision**, and
- (b) the time limits referred to in **paragraphs 2 and 3** shall then apply only from the date on which an amended draft prospectus and/or the supplementary information requested are submitted to the competent authority.

5. By way of derogation from paragraphs 2 and 4, the time limit referred to in those paragraphs shall be reduced to 5 working days for frequent issuers referred to in Article 9(11). The frequent issuer shall inform the competent authority at least 5 working days before the date envisaged for the submission of an application for approval.

A frequent issuer shall submit an application to the competent authority containing the necessary amendments to the universal registration document, where applicable, the securities note and the summary submitted for approval.

***A frequent issuer shall not be required to obtain approval for amendments to the universal registration document unless those amendments concern an omission, or a material mistake or inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer.***

6. Competent authorities shall provide on their websites guidance on the scrutiny and approval process in order to facilitate efficient and timely approval of prospectuses. This guidance shall include contact points in relation to approvals. The issuer or the person responsible for drawing up the prospectus shall have the possibility to directly communicate and interact with the staff of the competent authority throughout the process of approval of the prospectus.

■

9. The level of fees charged by the competent authority of the home Member State for the approval of prospectuses, registration documents, including universal registration documents, supplements and amendments, as well as for the filing of universal registration documents, amendments thereto and final terms, shall be **reasonable and proportionate and shall be** disclosed to the public at least on the website of the competent authority.

10. **ESMA may develop draft regulatory technical standards to specify** the procedures for the scrutiny of completeness, comprehensibility and consistency and the approval of the prospectus.

***Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.***



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11. ESMA shall use its powers under Regulation (EU) No 1095/2010 to promote supervisory convergence with regard to the scrutiny and approval processes of competent authorities when assessing the completeness, consistency and comprehensibility of the information contained in a prospectus. **To that end, ESMA shall develop guidelines addressed to the competent authorities on the supervision and enforcement of prospectuses, covering the examination of compliance with this Regulation and with any delegated and implementing acts adopted pursuant thereto, as well as the application of appropriate administrative measures and sanctions in the case of any infringements in accordance with Articles 36 and 37.** [AM. 2] In particular, ESMA shall foster convergence regarding the efficiency, methods and timing of the scrutiny by the competent authorities of the information given in a prospectus, **using peer reviews where appropriate.**

**11a. ESMA shall develop a central workflow system, capturing the prospectus approval process from initiation through to approval, allowing competent authorities, ESMA and issuers to manage and monitor approval requests online and across the Union.**

12. Without prejudice to Article 30 of Regulation (EU) No 1095/2010, ESMA shall organise and conduct at least one peer review of the scrutiny and approval procedures of competent authorities, including notifications of approval between competent authorities. The peer review shall also assess the impact of different approaches with regard to scrutiny and approval by competent authorities on issuers' ability to raise capital in the European Union. The report on this peer review shall be published no later **than** three years **from** the date of application of this Regulation. In the context of this peer review, ESMA shall **take into account** advice from the Securities and Markets Stakeholder Group referred to in Article 37 of Regulation (EU) No 1095/2010.

## Article 20

### **Publication of the prospectus**

1. Once approved, the prospectus shall be made available to the public by the issuer, the offeror or the person asking for admission to trading on a regulated market at a reasonable time in advance of, and at the latest at the beginning of, the offer to the public or the admission to trading of the securities involved.

In the case of an initial offer to the public of a class of shares that is admitted to trading on a regulated market for the first time, the prospectus shall be available at least six working days before the end of the offer.

2. The prospectus, whether a single document or consisting of separate documents, shall be deemed available to the public when published in electronic form on either of the following websites:

- (a) the website of the issuer, the offeror or the person asking for admission to trading,
  - (b) the website of the financial intermediaries placing or selling the securities, including paying agents,
  - (c) the website of the regulated market where the admission to trading is sought, or of the operator of the multilateral trading facility, where applicable.
3. The prospectus shall be published on a dedicated section of the website which is easily accessible when entering the website. It shall be downloadable, printable and in searchable electronic format that cannot be modified.

The documents containing information incorporated by reference in the prospectus, and the supplements and/or final terms related to the prospectus shall be accessible under the same section alongside the prospectus, including by way of hyperlinks where necessary.

**Without prejudice to the right of withdrawal in Article 22(2), frequent issuers, as referred to in Article 9(11), may, in place of a supplement, choose to incorporate any changes to the universal registration document by way of a dynamic reference to the most recent version of the universal registration document.**

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4. Access to the prospectus shall not be subject to the completion of a registration process, the acceptance of a disclaimer limiting legal liability or the payment of a fee.

5. The competent authority of the home Member State shall publish on its website all the prospectuses approved or at least the list of prospectuses approved, including a hyperlink to the dedicated website sections referred to in paragraph 3 as well as an identification of the host Member State(s) where prospectuses are notified in accordance with Article 24. The published list, including the hyperlinks, shall be kept up-to-date and each item shall remain on the website for the time period referred to under paragraph 7.

At the same time as it notifies ESMA of the approval of a prospectus or of any supplement thereto, the competent authority shall provide ESMA with an electronic copy of the prospectus and any supplement thereto, as well as the data necessary for its classification by ESMA in the storage mechanism referred to in paragraph 6 and for the report referred to in Article 45.

The competent authority of the host Member State shall publish information on all notifications received in accordance with Article 24 on its website.

6. At the latest from the beginning of the offer to the public or the admission to trading of the securities involved, ESMA shall publish all prospectuses received from the competent authorities on its website, including any supplements thereto, final terms and related translations where applicable, as well as information on the host Member State(s) where prospectuses are notified in accordance with Article 24. Publication shall be ensured through a storage mechanism providing the public with free of charge access and search functions. **Key information contained in the prospectuses such as ISIN identifying the securities and the LEI identifying the issuers, offerors and guarantors, shall be machine readable including when meta data is used.**

7. All prospectuses approved shall remain publicly available **in a digital format** for at least 10 years after their publication on the websites specified in paragraphs 2 and 6.

8. In the case of a prospectus comprising several documents and/or incorporating information by reference, the documents and information that constitute the prospectus may be published and distributed separately provided that those documents are made available to the public in accordance with paragraph 2. Each constituent document of the prospectus shall indicate where the other documents which are already approved and/or filed with the competent authority may be obtained.

9. The text and the format of the prospectus, and/or the supplements to the prospectus made available to the public shall at all times be identical to the original version approved by the competent authority of the home Member State.

10. A **■** copy of the prospectus **on a durable medium** shall be delivered to any natural or legal person, upon request and free of charge, by the issuer, the offeror, the person asking for admission to trading or the financial intermediaries placing or selling the securities. Delivery shall be limited to jurisdictions in which the offer to the public is made or where the admission to trading is taking place under this Regulation.

11. In order to ensure consistent harmonisation of the procedures set out in this Article, ESMA may develop draft regulatory technical standards to further specify the requirements relating to the publication of the prospectus.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

12. ESMA shall develop draft regulatory technical standards to specify the data necessary for the classification of prospectuses referred to in paragraph 5.

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ESMA shall submit those draft regulatory technical standards to the Commission by [12 months **from date of** entry into force **of this Regulation**].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

## Article 21

### Advertisements

1. Any advertisement relating either to an offer **of securities** to the public **■** or to an admission to trading on a regulated market shall comply with the principles contained in this Article.
2. Advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it.
3. Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate or misleading. This information contained in an advertisement shall also be consistent with the information contained in the prospectus, where already published, or with the information required to be in the prospectus, where the prospectus is published afterwards.
4. All information concerning the offer **of securities** to the public or the admission to trading on a regulated market disclosed in an oral or written form, even where not for advertising purposes, shall be consistent with that contained in the prospectus.

***Where material information is disclosed by an issuer or an offeror and addressed to one or more selected investors in an oral or written form, such information shall be disclosed to all other investors to whom the offer is addressed, whether or not a prospectus is required under this Regulation. Where a prospectus is required to be published, such information shall be included in the prospectus or in a supplement to the prospectus in accordance with Article 22(1).***

5. The competent authority of the **■** Member State **where the advertisements are disseminated** shall have the power to exercise control over the compliance of advertising activity, relating to an offer **of securities** to the public **■** or an admission to trading on a regulated market, with the principles referred to in paragraphs 2 to 4.

***Where necessary, the competent authority of the home Member State shall assist the competent authority of the Member State where the advertisements are disseminated with assessing the consistency of the advertisements with the information in the prospectus.***

***Without prejudice to the powers laid down in Article 30(1), scrutiny of the advertisements by a competent authority shall not constitute a precondition for the offer of securities to the public or the admission to trading to a regulated market to take place in any host Member State.***

**5b. No fees shall be charged by a competent authority for the scrutiny of advertisements pursuant to this Article.**

**5c. The competent authority of the Member State where the advertisements are disseminated may agree with the competent authority of the home Member State, where the latter is a different competent authority, that the competent authority of the home Member State shall have the power to exercise control over the compliance of advertising activity in accordance with paragraph 5. In the event of such an agreement, the home Member State competent authority shall notify the issuer and ESMA thereof without delay.**

6. **ESMA shall develop draft regulatory technical standards** to further specify the provisions concerning advertisements laid down in paragraphs 2 to 4 **and 5a** of this Regulation, **including to specify the provisions concerning the dissemination of advertisements and to establish procedures on the cooperation between the competent authorities of the home Member State and of the Member State where the advertisements are disseminated.**

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***ESMA shall submit those draft regulatory technical standards to the Commission by [12 months from the date of entry into force of this Regulation].***

***Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.***

## Article 22

### ***Supplements to the prospectus***

1. Every significant new factor, material mistake or inaccuracy relating to the information included in the prospectus which may affect the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the final closing of the offer to the public or the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the prospectus without undue delay.

Such a supplement shall be approved in the same way as a prospectus in a maximum of five working days and published in accordance with at least the same arrangements as were applied when the original prospectus was published in accordance with Article 20. The summary, and any translations thereof, shall also be supplemented, where necessary, to take into account the new information included in the supplement.

2. Where the prospectus relates to an offer of securities to the public, investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within **five** working days after the publication of the supplement, to withdraw their acceptances, provided that the new factor, mistake or inaccuracy referred to in paragraph 1 arose before the final closing of the offer to the public or the delivery of the securities, whichever occurs first. That period may be extended by the issuer or the offeror. The final date of the right of withdrawal shall be stated in the supplement.

***Where an issuer chooses to incorporate any changes to the universal registration document by way of a dynamic reference to the most recent version of the universal registration document, in place of a supplement pursuant to Article 20(3), that shall not affect the investor's right of withdrawal as set out in the first subparagraph.***

3. Where the issuer prepares a supplement concerning information in the base prospectus that relates to only one or several individual issues, the right of investors to withdraw their acceptances pursuant to paragraph 2 shall only apply to the relevant issue(s) and not to any other issue of securities under the base prospectus.

4. Only one supplement shall be drawn up and approved where the significant new factor, material mistake or inaccuracy referred to in paragraph 1 concerns only the information contained in a **registration document or a** universal registration document and where this **registration document or** universal registration document is simultaneously used as a constituent part of several prospectuses. In that case, the supplement shall mention all the prospectuses to which it relates.

5. When scrutinising a supplement before approval, ***without prejudice to subparagraph 2a of Article 20(3)***, the competent authority may request the supplement to contain a consolidated version of the supplemented prospectus in an annex, where this is necessary to ensure comprehensibility of the information given in the prospectus. Such a request shall be deemed to be a request for supplementary information under Article 19(4).

6. In order to ensure consistent harmonisation of this Article and to take account of technical developments on financial markets, ESMA shall develop draft regulatory technical standards to specify situations where a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus requires a supplement to the prospectus to be published.

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ESMA shall submit those draft regulatory technical standards to the Commission by [12 months **from the date of** entry into force **of this Regulation**].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

## CHAPTER V

### CROSS-BORDER OFFERS AND ADMISSIONS TO TRADING AND USE OF LANGUAGES

#### Article 23

##### *Union scope of approvals of prospectuses and universal registration documents*

1. Without prejudice to Article 35, where an offer to the public or admission to trading on a regulated market is provided for in one or more Member States, or in a Member State other than the home Member State, the prospectus approved by the home Member State and any supplements thereto shall be valid for the offer to the public or the admission to trading in any number of host Member States, provided that ESMA and the competent authority of each host Member State are notified in accordance with Article 24. Competent authorities of host Member States shall not undertake any approval or administrative procedures relating to prospectuses.

*The provisions of the first subparagraph of paragraph 1 shall apply mutatis mutandis to universal registration documents that have already been approved.*

*Where a prospectus is submitted for approval in one or more Member States and contains a universal registration document which has already been approved in another Member State, the competent authority considering the application for approval of the prospectus shall not re-review the universal registration document but shall instead accept its prior approval.*

2. Where significant new factors, material mistakes or inaccuracies come to light after approval of the prospectus, as referred to in Article 22, the competent authority of the home Member State shall require that the publication of a supplement be approved in accordance with Article 19(1). ESMA and the competent authority of the host Member State may inform the competent authority of the home Member State of the need for new information.

#### Article 24

##### *Notification*

1. The competent authority of the home Member State shall, at the request of the issuer or the person responsible for drawing up the prospectus and within three working days following receipt of that request or, where the request is submitted together with the draft prospectus, within one working day after the approval of the prospectus, notify the competent authority of the host Member State with a certificate of approval attesting that the prospectus has been drawn up in accordance with this Regulation and with an electronic copy of that prospectus. **ESMA shall establish a portal into which each national competent authority feeds in such information.**

Where applicable, the notification referred to in the first subparagraph shall be accompanied by a translation of the prospectus and/or summary produced under the responsibility of the issuer or person responsible for drawing up the prospectus.

*Where a universal registration document has been approved in accordance with Article 9, the first and second subparagraphs of this paragraph shall apply mutatis mutandis.*

The issuer or the person responsible for drawing up the prospectus **or the universal registration document, as applicable,** shall be notified of the certificate of approval at the same time as the competent authority of the host Member State.

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2. The application of the provisions of Article 17(2) and (3) shall be stated in the certificate, as well as its justification.
3. The competent authority of the home Member State shall notify ESMA of the certificate of approval of the prospectus at the same time as it is notified to the competent authority of the host Member State.
4. Where the final terms of a base prospectus which has been previously notified are neither included in the base prospectus, nor in a supplement, the competent authority of the home Member State shall communicate them electronically to the competent authority of the host Member State(s) and to ESMA as soon as practicable after they are filed.
5. No fee shall be charged by competent authorities for the notification, or receipt of notification, of prospectuses and supplements thereto, or **the universal registration document, as applicable, or** any related supervisory activity, whether in the home Member State or in the host Member State(s).
6. In order to ensure uniform conditions of application of this Regulation and to take account of technical developments on financial markets, ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the notification of the certificate of approval, the prospectus, the supplement of the prospectus **or the universal registration document** and the translation of the prospectus and/or summary.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

## Article 25

### *Use of languages*

1. Where an offer to the public is made or admission to trading on a regulated market is sought only in the home Member State, the prospectus shall be drawn up in a language accepted by the competent authority of the home Member State.
2. Where an offer to the public is made or admission to trading on a regulated market is sought in one or more Member States excluding the home Member State, the prospectus shall be drawn up either in a language accepted by the competent authorities of those Member States or in a language customary in the sphere of international finance, at the choice of the issuer, offeror or person asking for admission.

The competent authority of each host Member State **shall** require that the summary referred to in Article 7 be translated into its official language or languages but it shall not require the translation of any other part of the prospectus.[AM. 3]

For the purpose of the scrutiny and approval by the competent authority of the home Member State, the prospectus shall be drawn up either in a language accepted by this authority or in a language customary in the sphere of international finance, at the choice of the issuer, offeror or person asking for admission to trading.

3. Where an offer to the public is made or admission to trading on a regulated market is sought in more than one Member State including the home Member State, the prospectus shall be drawn up in a language accepted by the competent authority of the home Member State, and shall also be made available either in a language accepted by the competent authorities of each host Member State or in a language customary in the sphere of international finance, at the choice of the issuer, offeror, or person asking for admission to trading.

The competent authority of each host Member State may require that the summary referred to in Article 7 be translated into its official language or languages but it shall not require the translation of any other part of the prospectus.



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4. The final terms and the summary of the individual issue shall be drawn up in the same language as the language of the approved base prospectus.

When the final terms are communicated to the competent authority of the host Member State or, where there is more than one host Member State, to the competent authorities of the host Member States, the final terms and the summary of the individual issue annexed thereto, shall be subject to the language requirements set out in this Article.

## CHAPTER VI

### SPECIFIC RULES IN RELATION TO ISSUERS ESTABLISHED IN THIRD COUNTRIES

#### Article 26

##### *Offer of securities or admission to trading made under a prospectus drawn up in accordance with this Regulation*

1. **Where a** third country issuer **intends** to offer securities to the public in the Union or to seek admission to trading of securities on a regulated market **established in** the Union under a prospectus drawn up according to this Regulation, **it** shall obtain approval of its prospectus, in accordance with Article 19, from the competent authority of its home Member State.

**Once a prospectus is approved in accordance with the first subparagraph, it shall entail all the rights and obligations provided for a prospectus under this Regulation and the** prospectus and the third country issuer shall be subject to all the provisions of this Regulation under the supervision of the competent authority of the home Member State.

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#### Article 27

##### *Offer of securities or admission to trading made under a prospectus drawn up in accordance with the legislation of a third country*

1. The competent authority of the home Member State of a third country issuer may approve a prospectus for an offer to the public or for admission to trading on a regulated market, drawn up in accordance with, and which is subject to, the national legislation of the third country issuer, **provided that:**

- (a) the information requirements imposed by that third country legislation are equivalent to the requirements under this Regulation: **and**
- (b) **the competent authority of the home Member State has concluded cooperation arrangements with the relevant supervisory authorities of the third country issuer in accordance with Article 28.**

2. In the case of an offer to the public or admission to trading on a regulated market of securities issued by a third country issuer, in a Member State other than the home Member State, the requirements set out in Articles 23, 24 and 25 shall apply.

**For such issuers, the competent authority of the home Member State shall be allowed to charge an extra fee reflecting the burden that such an issuance represents.**

3. The Commission **shall be empowered to** adopt delegated acts in accordance with Article 42 establishing general equivalence criteria, based on the requirements laid down in Articles 6, 7, 8 and 13.

On the basis of the above criteria, the Commission may adopt **an** implementing **decision** stating that **the information requirements imposed by** a third country **legislation are equivalent to the requirements under** this Regulation. **Such** implementing **decision** shall be adopted in accordance with the examination procedure referred to in Article 43(2).



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## Article 28

### *Cooperation with third countries*

1. For the purpose of Article 27, and, where deemed necessary, for the purpose of Article 26, the competent authorities of Member States shall conclude cooperation arrangements with supervisory authorities of third countries concerning the exchange of information with supervisory authorities in third countries and the enforcement of obligations arising under this Regulation in third countries, **unless that third country is on the Commission's list of non-cooperative countries**. Those cooperation arrangements shall ensure at least an efficient exchange of information that allows the competent authorities to carry out their duties under this Regulation.

A competent authority shall inform ESMA and the other competent authorities where it proposes to enter into such an arrangement.

2. For the purpose of Article 27, and, where deemed necessary, for the purpose of Article 26, ESMA shall facilitate and coordinate the development of cooperation arrangements between the competent authorities and the relevant supervisory authorities of third countries.

ESMA shall also, where necessary, facilitate and coordinate the exchange between competent authorities of information obtained from supervisory authorities of third countries that may be relevant to the taking of measures under Articles 36 and 37.

3. The competent authorities shall conclude cooperation arrangements on exchange of information with the supervisory authorities of third countries only where the information disclosed is subject to guarantees of professional secrecy which are at least equivalent to those set out in Article 33. Such exchange of information must be intended for the performance of the tasks of those competent authorities.

**3a. ESMA may develop draft regulatory technical standards to determine the minimum content of the cooperation arrangements referred to in paragraph 1.**

**Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.**

**3b. In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to set out a template document for cooperation arrangements that are to be used by competent authorities of Member States.**

## CHAPTER VII

### ESMA AND COMPETENT AUTHORITIES

## Article 29

### *Competent authorities*

1. Each Member State shall designate a single competent administrative authority responsible for carrying out the duties resulting from this Regulation and for ensuring that the provisions adopted pursuant to this Regulation are applied. Member States shall inform the Commission, ESMA and the other competent authorities of other Member States accordingly.

The competent authority shall be independent from market participants.

2. Member States may allow their competent authority to delegate the tasks of publication on the Internet of approved prospectuses.

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Any delegation of tasks to entities shall be made in a specific decision stating the tasks to be undertaken and the conditions under which they are to be carried out, and including a clause obliging the entity in question to act and be organised in such a manner as to avoid conflicts of interests and so that information obtained from carrying out the delegated tasks is not used unfairly or to prevent competition. Such a decision shall specify all arrangements entered into between the competent authority and the entity to which tasks are delegated.

The final responsibility for supervising compliance with this Regulation and for approving the prospectus shall lie with the competent authority designated in accordance with paragraph 1.

The Member States shall inform the Commission, ESMA and the competent authorities of other Member States of the decision referred to in subparagraph 2, including the precise conditions regulating such delegation.

3. Paragraphs 1 and 2 shall be without prejudice to the possibility for a Member State to make separate legal and administrative arrangements for overseas European territories for whose external relations that Member State is responsible.

### Article 30

#### *Powers of competent authorities*

1. In order to fulfil their duties under this Regulation, competent authorities shall have, in accordance with national law, at least the following supervisory and investigatory powers:

- (a) to require issuers, offerors or persons asking for admission to trading on a regulated market to include in the prospectus supplementary information, where necessary for investor protection;
- (b) to require issuers, offerors or persons asking for admission to trading on a regulated market, and the persons that control them or are controlled by them, to provide information and documents;
- (c) to require auditors and managers of the issuer, offeror or person asking for admission to trading on a regulated market, as well as financial intermediaries commissioned to carry out the offer to the public or ask for admission to trading, to provide information;
- (d) to suspend an offer to the public or admission to trading for a maximum of **25** consecutive working days on any single occasion where there are reasonable grounds for suspecting that the provisions of this Regulation have been infringed;
- (e) to prohibit or suspend advertisements or require issuers, offerors or persons asking for admission to trading on a regulated market, or relevant financial intermediaries to cease or suspend advertisements for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for believing that the provisions of this Regulation have been infringed;
- (f) to prohibit an offer to the public where it finds that the provisions of this Regulation have been infringed or where there are reasonable grounds for suspecting that they would be infringed;
- (g) to suspend or require the relevant regulated markets to suspend trading on a regulated market for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for believing that the provisions of this Regulation have been infringed;
- (h) to prohibit trading on a regulated market where it finds that the provisions of this Regulation have been infringed;

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- (i) to make public the fact that an issuer, an offeror or a person asking for admission to trading is failing to comply with its obligations;
- (j) to suspend the scrutiny of a prospectus submitted for approval or suspend an offer to the public or admission to trading where the competent authority is making use of the power to impose a prohibition or restriction pursuant to Article 42 of Regulation (EU) No 600/2014 of the European Parliament and of the Council <sup>(1)</sup>, until such prohibition or restriction has ceased;
- (k) to refuse approval of any prospectus drawn up by a certain issuer, offeror or person asking for admission to trading for a maximum number of 5 years, where this issuer, offeror or person asking for admission to trading has repeatedly and **severely** infringed the provisions of this Regulation;
- (l) to disclose, or to require the issuer to disclose, all material information which may have an effect on the assessment of the securities admitted to trading on regulated markets in order to ensure investor protection or the smooth operation of the market;
- (m) to suspend or require the relevant regulated market to suspend the securities from trading where it considers that the issuer's situation is such that trading would be detrimental to investors' interests;
- (n) to carry out on-site inspections or investigations at sites other than the private residences of natural persons, and for this purpose to enter premises in order to access documents and other data in any form, where a reasonable suspicion exists that documents and other data related to the subject-matter of the inspection or investigation may be relevant to prove an infringement of this Regulation.

Where necessary under national law, the competent authority may ask the relevant judicial authority to decide on the use of the powers referred to in the first subparagraph. In accordance with Article 21 of Regulation (EU) No 1095/2010, ESMA shall be entitled to participate in on-site inspections referred to in point (n) where they are carried out jointly by two or more competent authorities.

2. Competent authorities shall exercise their functions and powers, referred to in paragraph 1, to the fullest extent necessary to exercise their responsibility for supervising compliance with this Regulation and for approving the prospectus in any of the following ways:

- (a) directly;
- (b) in collaboration with other authorities;
- (c) under their responsibility by delegation to such authorities;
- (d) by application to the competent judicial authorities.

3. Member States shall ensure that appropriate measures are in place so that competent authorities have all the supervisory and investigatory powers that are necessary to fulfil their duties.

4. A person making information available to the competent authority in accordance with this Regulation shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.

5. Paragraphs 1 to 3 shall be without prejudice to the possibility for a Member State to make separate legal and administrative arrangements for overseas European territories for whose external relations that Member State is responsible.

## Article 31

### *Cooperation between competent authorities*

1. Competent authorities shall cooperate with each other and with ESMA for the purposes of this Regulation. They shall exchange information without undue delay and cooperate in investigation, supervision and enforcement activities.

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<sup>(1)</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).

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Where Member States have chosen, in accordance with Article 36, to lay down criminal sanctions for infringements of the provisions of this Regulation, they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for possible infringements of this Regulation and provide the same to other competent authorities and ESMA to fulfil their obligation to cooperate with each other and ESMA for the purposes of this Regulation.

2. A competent authority may refuse to act on a request for information or a request to cooperate with an investigation only in any of the following exceptional circumstances:

- (a) where complying with the request is likely to adversely affect its own investigation, enforcement activities or a criminal investigation;
- (b) where judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Member State addressed;
- (c) where a final judgment has already been delivered in relation to such persons for the same actions in the Member State addressed.

3. Competent authorities shall, on request, immediately supply any information required for the purposes of this Regulation.

4. The competent authority may request assistance from the competent authority of another Member State with regard to on-site inspections or investigations.

A requesting competent authority shall inform ESMA of any request referred to in the first subparagraph. In the case of an investigation or an inspection with cross-border effect, ESMA shall, where requested to do so by one of the competent authorities, coordinate the investigation or inspection.

Where a competent authority receives a request from a competent authority of another Member State to carry out an on-site inspection or an investigation, it may:

- (a) carry out the on-site inspection or investigation itself;
- (b) allow the competent authority which submitted the request to participate in an on-site inspection or investigation;
- (c) allow the competent authority which submitted the request to carry out the on-site inspection or investigation itself;
- (d) appoint auditors or experts to carry out the on-site inspection or investigation, and/or
- (e) share specific tasks related to supervisory activities with the other competent authorities.

5. The competent authorities may refer to ESMA situations where a request for cooperation, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time. Without prejudice to Article 258 of the Treaty on the Functioning of the European Union (TFEU), ESMA may, in the situations referred to in the first sentence, act in accordance with the power conferred on it under Article 19 of Regulation (EU) No 1095/2010.

6. ESMA may develop draft regulatory technical standards to specify the information to be exchanged between competent authorities in accordance with paragraph 1.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

7. ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for the cooperation and exchange of information between competent authorities.

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Power is conferred on the Commission to adopt the implementing technical standards referred to in the third subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

## Article 32

### *Cooperation with ESMA*

1. The competent authorities shall cooperate with ESMA for the purposes of this Regulation, in accordance with Regulation (EU) No 1095/2010.
2. The competent authorities shall without delay provide ESMA with all information necessary to carry out its duties, in accordance with Article 35 of Regulation (EU) No 1095/2010.
3. In order to ensure uniform conditions of application of this Article, ESMA may develop draft implementing technical standards to determine the procedures and forms for exchange of information as referred to in paragraph 2.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1095/2010.

## Article 33

### *Professional secrecy*

1. All the information exchanged between the competent authorities under this Regulation that concerns business or operational conditions and other economic or personal affairs shall be considered to be confidential and shall be subject to the requirements of professional secrecy, except where the competent authority states at the time of communication that such information may be disclosed or such disclosure is necessary for legal proceedings.
2. The obligation of professional secrecy shall apply to all persons who work or who have worked for the competent authority or for any entity to whom the competent authority has delegated its powers. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of provisions laid down by Union or national law.

## Article 34

### *Data protection*

With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with the national laws, regulations or administrative provisions transposing Directive 95/46/EC.

With regard to the processing of personal data by ESMA within the framework of this Regulation, ESMA shall comply with the provisions of Regulation (EC) No 45/2001.

## Article 35

### *Precautionary measures*

1. Where the competent authority of the host Member State finds that irregularities have been committed by the issuer, the offeror or the person asking for admission to trading or by the financial institutions in charge of the offer to the public or that those persons have infringed their obligations under this Regulation, it shall refer those findings to the competent authority of the home Member State and to ESMA.
2. Where, despite the measures taken by the competent authority of the home Member State, the issuer, the offeror or the person asking for admission to trading or the financial institutions in charge of the offer to the public persists in infringing the relevant provisions of this Regulation, the competent authority of the host Member State, after informing the competent authority of the home Member State and ESMA, shall take all appropriate measures in order to protect investors and shall inform the Commission and ESMA thereof without undue delay.

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3. ESMA may, in the situations referred to in the second paragraph, act in accordance with the power conferred on it under Article 19 of Regulation (EU) No 1095/2010.

## CHAPTER VIII

### ADMINISTRATIVE MEASURES AND SANCTIONS

#### Article 36

##### *Administrative measures and sanctions*

1. Without prejudice to the supervisory and investigatory powers of competent authorities under Article 30, and the right of Member States to provide for and impose criminal sanctions, Member States shall, in conformity with national law, provide for competent authorities to have the power to take appropriate administrative measures and impose administrative sanctions **which shall be effective, proportionate and dissuasive. Those administrative measures and sanctions shall apply** at least to:

- (a) infringements of Article 3, Article 5, Article 6, Article 7(1) to (10), Article 8, Article 9(1) to (13), Article 10, Article 11 (1) and (3), Article 12, Article 14(2), Article 15(1) and (2), Article 16(1), Article 17(1) and (3), Article 18(1) to (3), Article 19(1), Article 20(1) to (4) and (7) to (10), Article 21(2) to (4), Article 22 (1), (2) and (4), and Article 25 of this Regulation;
- (b) failure to cooperate or comply in an investigation or with an inspection or request covered by Article 30.

Member States may decide not to lay down rules for administrative sanctions as referred to in the first subparagraph where the infringements referred to in point (a) or point (b) of that subparagraph are already subject to criminal sanctions in **■** their national law by [12 months **from the date of** entry into force **of this Regulation**]. Where they so decide, Member States shall notify, in detail, to the Commission and to ESMA, the relevant parts of their criminal law.

By [12 months **from the date of** entry into force **of this Regulation**], Member States shall notify, in detail, the rules referred to in the first and second subparagraph to the Commission and to ESMA. They shall notify the Commission and ESMA without delay of any subsequent amendment thereto.

2. Member States shall, in accordance with national law, ensure that competent authorities have the power to impose at least the following administrative sanctions and measures in relation of infringements listed in point (a) of paragraph 1:

- (a) a public statement indicating the natural person or the legal entity responsible and the nature of the infringement **in accordance with Article 40**;
- (b) an order requiring the natural person or legal entity responsible to cease the conduct constituting the infringement;
- (c) maximum administrative pecuniary sanctions of at least twice the amount of the profits gained or losses avoided because of the infringement where those can be determined;
- (d) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 5 000 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency on [date of entry into force **of this Regulation**], or 3 % of the total annual turnover of that legal person according to the last available financial statements approved by the management body.

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Where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts according to Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

- (e) in the case of a natural person, maximum administrative pecuniary sanctions of at least EUR 700 000, or, in the Member States whose currency is not the euro, the corresponding value in the national currency on [date of entry into force **of this Regulation**].

3. Member States may provide for additional sanctions or measures and for higher levels of administrative fines than those provided for in this Regulation.

### Article 37

#### *Exercise of supervisory powers and sanctioning powers*

1. Competent authorities, when determining the type and level of administrative sanctions and measures, shall take into account all relevant circumstances including, where appropriate:

- (a) the gravity and the duration of the infringement;
- (b) the degree of responsibility of the person responsible for the infringement;
- (c) the financial strength of the person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
- (d) the impact of the infringement on retail investors' interests;
- (e) the importance of the profits gained, losses avoided by the person responsible for the infringement or the losses for third parties derived from the infringement, insofar as they can be determined;
- (f) the level of cooperation of the person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
- (g) previous infringements by the person responsible for the infringement;
- (h) measures taken after the infringement by the responsible person to prevent its repetition.

2. In the exercise of their powers to impose administrative sanctions and other administrative measures under Article 36, competent authorities shall cooperate closely to ensure that the exercise of their supervisory and investigative powers and the administrative sanctions and measures that they impose are effective and appropriate under this Regulation. They shall coordinate their action in order to avoid duplication and overlaps when exercising their supervisory and investigative powers and when imposing administrative sanctions and measures in cross-border cases.

### Article 38

#### *Right of appeal*

Member States shall ensure that decisions taken under the provisions of this Regulation are properly reasoned and subject to a right of appeal before a tribunal.

### Article 39

#### *Reporting of infringements*

1. Competent authorities shall establish effective mechanisms to encourage and enable reporting of actual or potential infringements of this Regulation to them.



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2. The mechanisms referred to in paragraph 1 shall include at least:
  - (a) specific procedures for the receipt of reports of actual or potential infringements and their follow-up including the establishment of secure communication channels for such reports;
  - (b) appropriate protection for employees working under a contract of employment who report infringements at least against retaliation, discrimination and other types of unfair treatment by their employer or third parties;
  - (c) protection of the identity and personal data of both the person who reports the infringements and the natural person who is allegedly responsible for an infringement, at all stages of the procedure unless such disclosure is required by national law in the context of further investigation or subsequent judicial proceedings.
3. Member States may provide for financial incentives to persons who offer relevant information about actual or potential infringements of this Regulation to be granted in accordance with national law where such persons do not have other pre-existing legal or contractual duties to report such information, and provided that the information is new, and that it results in the imposition of an administrative or criminal sanction, or the taking of another administrative measure, for an infringement of this Regulation.
4. Member States shall require employers engaged in activities that are regulated for financial services purposes to have in place appropriate procedures for their employees to report actual or potential infringements internally through a specific, independent and autonomous channel.

#### Article 40

##### *Publication of decisions*

1. A decision imposing an administrative sanction or measure for infringement of this Regulation shall be published by competent authorities on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the infringement and the identity of the persons responsible. That obligation shall not apply to decisions imposing measures that are of an investigatory nature.
2. Where the publication of the identity of the legal entities, or identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise the stability of financial markets or an ongoing investigation, Member States shall ensure that the competent authorities shall either:
  - (a) delay the publication of the decision to impose a sanction or a measure until the moment where the reasons for non-publication cease to exist;
  - (b) publish the decision to impose a sanction or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned; In the case of a decision to publish a sanction or measure on an anonymous basis the publication of the relevant data may be postponed for a reasonable period of time where it is foreseen that within that period the reasons for anonymous publication shall cease to exist;
  - (c) not publish the decision to impose a sanction or measure in the event that the options laid down in points (a) and (b) are considered to be insufficient to ensure:
    - (i) that the stability of financial markets would not be put in jeopardy;

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- (ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

3. Where the decision to impose a sanction or measure is subject to an appeal before the relevant judicial or other authorities, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose a sanction or a measure shall also be published.

4. Competent authorities shall ensure that any publication, in accordance with this Article, shall remain on their official website for a period of at least five years after its publication. Personal data contained in the publication shall be kept on the official website of the competent authority only for the period which is necessary in accordance with the applicable data protection rules

#### Article 41

##### ***Reporting sanctions to ESMA***

1. The competent authority shall, on an annual basis, provide ESMA with aggregate information regarding all administrative sanctions and measures imposed in accordance with Article 36. ESMA shall publish this information in an annual report.

Where Member States have chosen, in accordance with Article 36(1), to lay down criminal sanctions for the infringements of the provisions referred to in Article 36(1) their competent authorities shall provide ESMA annually with anonymised and aggregated data regarding all criminal investigations undertaken and criminal penalties imposed. ESMA shall publish data on criminal sanctions imposed in an annual report.

2. Where the competent authority has disclosed administrative or criminal sanctions or other administrative measures to the public, it shall simultaneously report those administrative sanctions or measures to ESMA.

3. Competent authorities shall inform ESMA of all administrative sanctions or measures imposed but not published in accordance with Article 40(2)(c) including any appeal in relation thereto and the outcome thereof. Member States shall ensure that competent authorities receive information and the final judgement in relation to any criminal sanction imposed and submit it to ESMA. ESMA shall maintain a central database of sanctions communicated to it solely for the purposes of exchanging information between competent authorities. This database shall be accessible only to competent authorities and it shall be updated on the basis of the information provided by the competent authorities.

#### CHAPTER IX

##### **DELEGATED AND IMPLEMENTING ACTS**

#### Article 42

##### ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The **power to adopt delegated acts** referred to in Article 1 **(6)**, Article 2(2), **Article 13(1) and (2)**, Article 14(3), Article 15(3), **and Article 27(3)** shall be conferred on the Commission for an indeterminate period of time from [date of entry into force **of this Regulation**].

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3. The delegation of powers referred to in Article 1 (6), Article 2(2), Article 13(1) and (2), Article 14(3), Article 15(3), and Article 27(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 1 (6), Article 2(2), Article 13(1) and (2), Article 14(3), Article 15(3), and Article 27(3) shall enter into force only **if** no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or **if**, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or **of** the Council.

### Article 43

#### *Committee procedure*

1. The Commission shall be assisted by the European Securities Committee established by Commission Decision 2001/528/EC<sup>(1)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## CHAPTER X

### FINAL PROVISIONS

### Article 44

#### *Repeal*

1. Directive 2003/71/EC is repealed with effect from [date of application **of this Regulation**].

2. References to Directive 2003/71/EC shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex IV of this Regulation.

**I**

4. Prospectuses approved in accordance with the national laws transposing Directive 2003/71/EC before [date of application of this Regulation] shall continue to be governed by that national law until the end of their validity, or until twelve months have elapsed after [date of application of this Regulation], whichever occurs first.

### Article 45

#### *ESMA report on prospectuses*

1. Based on the documents made public through the mechanism referred to in Article 20(6), ESMA shall publish every year a report containing statistics on the prospectuses approved and notified in the Union and an analysis of trends taking into account the types of issuers, in particular SMEs, and the types of issuances, in particular offer consideration, type of transferable securities, type of trading venue and denomination.

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<sup>(1)</sup> Commission Decision 2001/528/EC of 6 June 2001 establishing the European Securities Committee (OJ L 191, 13.7.2001, p. 45).

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2. This report shall contain in particular:
  - (a) an analysis of the extent to which the disclosure regimes set out in Articles 14 and 15 and the universal registration document set out in Article 9 are used throughout the Union;
  - (b) statistics on base prospectuses and final terms, and on prospectuses drawn up as separate documents or as a single document;
  - (c) statistics on the average and overall amounts raised by way of an offer of securities to the public subject to this Regulation, by unlisted companies, companies whose securities are traded on multilateral trading facilities, including SME growth markets, and companies whose securities are admitted to trading on regulated markets. Where applicable, such statistics shall provide a breakdown between initial public offerings and subsequent offers, and between equity and non-equity securities;
  - (ca) **statistics on the costs of producing prospectuses broken down at least by different classes of issuers, sizes of issue and locations as well as the classes of fees and charges incurred by issuers and the classes of service providers that charge them; the statistics shall be accompanied by an analysis of the effectiveness of competition between services providers involved in drawing up prospectuses and recommendations on how to reduce costs.**

#### Article 46

##### Review

Before [5 years **from the date of entry into force of this Regulation**] the Commission shall present a report to the European Parliament and the Council on the application of this Regulation, accompanied where appropriate by a legislative proposal.

The report shall assess, inter alia, whether the prospectus summary, the disclosure regimes set out in Articles 14 and 15 and the universal registration document set out in Article 9 remain appropriate in light of their pursued objectives. The report shall take into account the results of the peer review mentioned in Article 19(12).

#### Article 47

##### Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from [24 months **from the date of entry into force of this Regulation**].
  - 2a. **By way of derogation from paragraph 2, Member States may choose to apply the thresholds set out for the purposes of the exemption in Article 1(3)(d) or the option in Article 3(2) from the date of entry into force of this Regulation.**
3. Member States shall take the necessary measures to comply with Article 11, Article 19(8), Article 29, Article 30, Article 36, Article 37, Article 38, Article 39, Article 40, and Article 41 by [24 months **from the date of entry into force of this Regulation**].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament  
The President

For the Council  
The President

Thursday 15 September 2016

## ANNEX I

## PROSPECTUS

**I. Summary****II. Identity of directors, senior management, advisers and auditors**

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

**III. Offer statistics and expected timetable**

The purpose is to provide essential information regarding the conduct of any offer and the identification of important dates relating to that offer.

A. Offer statistics

B. Method and expected timetable

**IV. Essential information**

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

A. Selected financial data

B. Capitalisation and indebtedness

C. Reasons for the offer and use of proceeds

D. Risk factors

**V. Information on the company**

The purpose is to provide information about the company's business operations, the products it makes or the services it provides, and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plant and equipment, as well as its plans for future capacity increases or decreases.

A. History and development of the company

B. Business overview

C. Organisational structure

D. Property, plant and equipment

**VI. Operating and financial review and prospects**

The purpose is to provide the management's explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods.

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- A. Operating results
- B. Liquidity and capital resources
- C. Research and development, patents and licences, etc.
- D. Trends

#### **VII. Directors, senior management and employees**

The purpose is to provide information concerning the company's directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company.

- A. Directors and senior management
- B. Remuneration
- C. Board practices
- D. Employees
- E. Share ownership

#### **VIII. Major shareholders and related-party transactions**

The purpose is to provide information regarding the major shareholders and others that may control or have an influence on the company. It also provides information regarding transactions the company has entered into with persons affiliated with the company and whether the terms of such transactions are fair to the company.

- A. Major shareholders
- B. Related-party transactions
- C. Interests of experts and advisers

#### **IX. Financial information**

The purpose is to specify which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature. The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

- A. Consolidated statements and other financial information
- B. Significant changes

#### **X. Details of the offer and admission to trading details**

The purpose is to provide information regarding the offer and the admission to trading of securities, the plan for distribution of the securities and related matters.

- A. Offer and admission to trading
- B. Plan for distribution
- C. Markets
- D. Holders of securities who are selling
- E. Dilution (for equity securities only)
- F. Expenses of the issue

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**XI. Additional information**

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

- A. Share capital
  - B. Memorandum and articles of association
  - C. Material contracts
  - D. Exchange controls
  - E. Warning on tax consequences
  - F. Dividends and paying agents
  - G. Statement by experts
  - H. Documents on display
  - I. Subsidiary information
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ANNEX II

**REGISTRATION DOCUMENT**

**I. Identity of directors, senior management, advisers and auditors**

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

**II. Essential information about the issuer**

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

A. Selected financial data

B. Capitalisation and indebtedness

C. Risk factors

**III. Information on the company**

The purpose is to provide information about the company's business operations, the products it makes or the services it provides and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plants and equipment, as well as its plans for future capacity increases or decreases.

A. History and development of the company

B. Business overview

C. Organisational structure

D. Property, plants and equipment

**IV. Operating and financial review and prospects**

The purpose is to provide the management's explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods.

A. Operating results

B. Liquidity and capital resources

C. Research and development, patents and licences, etc.

D. Trends

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**V. Directors, senior management and employees**

The purpose is to provide information concerning the company's directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company.

- A. Directors and senior management
- B. Remuneration
- C. Board practices
- D. Employees
- E. Share ownership

**VI. Major shareholders and related-party transactions**

The purpose is to provide information regarding the major shareholders and others that may control or have an influence on the company. It also provides information regarding transactions the company has entered into with persons affiliated with the company and whether the terms of such transactions are fair to the company.

- A. Major shareholders
- B. Related-party transactions
- C. Interests of experts and advisers

**VII. Financial information**

The purpose is to specify which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature. The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

- A. Consolidated statements and other financial information
- B. Significant changes

**VIII. Additional information**

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

- A. Share capital
  - B. Memorandum and articles of association
  - C. Material contracts
  - D. Statement by experts
  - E. Documents on display
  - F. Subsidiary information
-

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ANNEX III

SECURITIES NOTE

**I. Identity of directors, senior management, advisers and auditors**

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

**II. Offer statistics and expected timetable**

The purpose is to provide essential information regarding the conduct of any offer and the identification of important dates relating to that offer.

- A. Offer statistics
- B. Method and expected timetable

**III. Essential information about the issuer**

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

- A. Capitalisation and indebtedness
- B. Reasons for the offer and use of proceeds
- C. Risk factors

**IV. Interests of experts**

The purpose is to provide information regarding transactions the company has entered into with experts or advisers employed on a contingent basis.

**V. Details of the offer and admission to trading**

The purpose is to provide information regarding the offer and the admission to trading of securities, the plan for distribution of the securities and related matters.

- A. Offer and admission to trading
- B. Plan for distribution
- C. Markets
- D. Selling securities holders
- E. Dilution (for equity securities only)
- F. Expenses of the issue

**VI. Additional information**

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

- A. Exchange controls
  - B. Warning on tax consequences
  - C. Dividends and paying agents
  - D. Statement by experts
  - E. Documents on display
-

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## ANNEX IV

**Correlation table**

(referred to in Article 44)

Directive 2003/71/EC	This Regulation
Article 1(1)	Article 1(1)
Article 1(2) except Article 1(2)(h)	Article 1(2)
Article 1(2)(h)	Article 1(3)(d)
Article 1(3)	Article 4
Article 1(4)	Article 1(5)(a) and (b)
Article 2(1)	Article 2(1)
Article 2(4)	Article 2(2)
Article 3(1)	Article 3(1)
Article 3(2)(a)	Article 1(3)(a)
Article 3(2)(b)	Article 1(3)(b)
Article 3(2)(c)	Article 1(3)(c)
Article 3(2)(d)	—
Article 3(2)(e)	—
Article 3(2) subparagraphs 2 and 3	Article 5
Article 3(3)	Article 3(3)
Article 3(4)	Article 1(5)(b)
Article 4(1)(a)	Article 1(3)(e)
Article 4(1)(b)	Article 1(3)(f)
Article 4(1)(c)	Article 1(3)(g)
Article 4(1)(d)	Article 1(3)(h)

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Directive 2003/71/EC	This Regulation
Article 4(1)(e)	Article 1(3)(i)
Article 4(1) subparagraphs 2 to 5	—
Article 4(2)(a)	Article 1(4)(a)
Article 4(2)(b)	Article 1(4)(c)
Article 4(2)(c)	Article 1(4)(d)
Article 4(2)(d)	Article 1(4)(e)
Article 4(2)(e)	Article 1(4)(f)
Article 4(2)(f)	Article 1(4)(g)
Article 4(2)(g)	Article 1(4)(b)
Article 4(2)(h)	Article 1(4)(h)
Article 4(3)	Article 1(6)
Article 5(1)	Article 6(1)
Article 5(2)	Article 7
Article 5(3)	Article 6(2)
Article 5(4) subparagraph 1	Article 8(1)
Article 5(4) subparagraph 2	Article 8(9)
Article 5(4) subparagraph 3	Article 8(4) and Article 24(4)
Article 5(5)	Article 13(1)
Article 6(1)	Article 11(1)
Article 6(2)	Article 11(2)
Article 7(1)	Article 13(1) subparagraph 1
Article 7(2)(a)	Article 13(1) subparagraph 2, point (a)
Article 7(2)(b)	Article 13(2) subparagraph 2, point (b)
Article 7(2)(c)	Article 13(2) subparagraph 2, point (c)

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Directive 2003/71/EC	This Regulation
Article 7(2)(d)	Article 13(2) subparagraph 2, point (c)
Article 7(2)(e)	Article 15
Article 7(2)(f)	Article 13(2) subparagraph 2, point (d)
Article 7(2)(g)	Article 14
Article 7(3)	Article 13(3)
Article 7(4)	—
Article 8(1)	Article 17(1)
Article 8(2)	Article 17(2)
Article 8(3)	Article 17(3)
Article 8(3a)	Article 17(4)
Article 8(4)	Article 17(5)
Article 8(5)	—
Article 9(1)	Article 12(1)
Article 9(2)	Article 12(1)
Article 9(3)	Article 12(1)
Article 9(4)	Article 12(2)
Article 11(1)	Article 18(1)
Article 11(2)	Article 18(2)
Article 11(3)	Article 18(4)
Article 12(1)	Article 10(1) subparagraph 1
Article 12(2)	Article 10(1) subparagraph 2
Article 12(3)	—
Article 13(1)	Article 19(1)
Article 13(2)	Article 19(2)

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Directive 2003/71/EC	This Regulation
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Article 13(4)	Article 19(4)
Article 13(5)	Article 19(7)
Article 13(6)	Article 19(8)
Article 13(7)	Article 19(10)
Article 14(1)	Article 20(1)
Article 14(2)	Article 20(2)
Article 14(3)	—
Article 14(4)	Article 20(5)
Article 14(4a)	Article 20(6)
Article 14(5)	Article 20(8)
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Article 14(7)	Article 20(10)
Article 14(8)	Article 20(11)
Article 15(1)	Article 21(1)
Article 15(2)	Article 21(2)
Article 15(3)	Article 21(3)
Article 15(4)	Article 21(4)
Article 15(5)	—
Article 15(6)	Article 21(5)
Article 15(7)	Article 21(6)
Article 16(1)	Article 22(1)
Article 16(2)	Article 22(2)
Article 16(3)	Article 22(6)



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Directive 2003/71/EC	This Regulation
Article 17(1)	Article 23(1)
Article 17(2)	Article 23(2)
Article 18(1)	Article 24(1)
Article 18(2)	Article 24(2)
Article 18(3) subparagraph 1	Article 24(3)
Article 18(3) subparagraph 2	Article 20(5) subparagraph 3 and Article 20(6)
Article 18(4)	Article 24(6)
Article 19(1)	Article 25(1)
Article 19(2)	Article 25(2)
Article 19(3)	Article 25(3)
Article 19(4)	—
Article 20(1)	Article 27(1)
Article 20(2)	Article 27(2)
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Article 21(1)	Article 29(1)
Article 21(1a)	Article 32(1)
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Article 21(2)	Article 29(2)
Article 21(3)(a)	Article 30(1)(a)
Article 21(3)(b)	Article 30(1)(b)
Article 21(3)(c)	Article 30(1)(c)
Article 21(3)(d)	Article 30(1)(d)
Article 21(3)(e)	Article 30(1)(e)

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Directive 2003/71/EC	This Regulation
Article 21(3)(f)	Article 30(1)(f)
Article 21(3)(g)	Article 30(1)(g)
Article 21(3)(h)	Article 30(1)(h)
Article 21(3)(i)	Article 30(1)(i)
Article 21(3) subparagraph 2	Article 30(1) subparagraph 2
Article 21(4)(a)	Article 30(1)(l)
Article 21(4)(b)	Article 30(1)(m)
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Article 21(4) subparagraph 2	Article 30(1) subparagraph 3
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Article 22(1)	Article 33(2)
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Article 24a(1)	Article 42(2)
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Directive 2003/71/EC	This Regulation
Article 24b	Article 42(3)
Article 24c	Article 42(5)
Article 25(1)	Article 36(1)
Article 25(2)	Article 40
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P8\_TA(2016)0354

## Asylum: provisional measures in favour of Italy and Greece \*

European Parliament legislative resolution of 15 September 2016 on the proposal for a Council decision amending Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (COM(2016)0171 — C8-0133/2016 — 2016/0089(NLE))

(Consultation)

(2018/C 204/42)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)0171),
  - having regard to Article 78(3) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0133/2016),
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0236/2016),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
  5. Instructs its President to forward its position to the Council and the Commission.

### Amendment 1

#### Proposal for a decision

#### Recital 2

##### Text proposed by the Commission

- (2) Under Article 4(2) of Decision (EU) 2015/1601, as of 26 September 2016, 54 000 applicants should be relocated from Italy and Greece to the territory of other Member States unless by that date, pursuant to Article 4 (3), the Commission makes a proposal to allocate them to **another** beneficiary Member States confronted with an emergency situation characterised by a sudden inflow of persons.

##### Amendment

- (2) Under Article 4(2) of Decision (EU) 2015/1601, as of 26 September 2016, 54 000 applicants should be relocated from Italy and Greece **in the proportions laid down in that Decision (namely 12 764 applicants from Italy and 41 236 from Greece)** to the territory of other Member States unless by that date, pursuant to Article 4 (3), the Commission makes a proposal to allocate them to **other** beneficiary Member States confronted with an emergency situation characterised by a sudden inflow of persons.

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**Amendment 2**  
**Proposal for a decision**  
**Recital 3**

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*Text proposed by the Commission*

- (3) *Article 1(2) of Decision (EU) 2015/1601 provides that the Commission is to keep under constant review the situation regarding massive inflows of third country nationals into Member States. The Commission should submit, as appropriate, proposals to amend that Decision in order to take into account the evolution of the situation on the ground and its impact upon the relocation mechanism, as well as the evolving pressure on Member States, in particular frontline Member States.*

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*Amendment*

*deleted*

**Amendment 3**  
**Proposal for a decision**  
**Recital 3 a (new)**

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*Text proposed by the Commission*

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*Amendment*

- (3a) *Article 4(1)(c) of Decision (EU) 2015/1601 provides for 54 000 applicants to be relocated. Relocation is defined in Article 2(e) of that Decision as the transfer of an applicant from the territory of the Member State responsible for examining the application for international protection to the territory of the Member State of relocation. Relocation does not include the resettlement or admission of persons in need of international protection from a third country to the territory of a Member State.*

**Amendment 4**  
**Proposal for a decision**  
**Recital 3 b (new)**

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*Text proposed by the Commission*

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*Amendment*

- (3b) *It should be the duty of the European Border and Coast Guard Agency to keep under constant review the situation regarding massive inflows of third-country nationals into Member States.*

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**Amendment 5**  
**Proposal for a decision**  
**Recital 4**

Text proposed by the Commission

- (4) The EU Heads of State or Government agreed on 7 March to work on the basis of a series of principles for an agreement with Turkey, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. *Those principles were further developed in the Commission's Communication on next operational steps in EU-Turkey cooperation in the field of migration which called for taking the necessary steps to transfer some of the commitments under the existing relocation decisions, notably all or part of the currently unallocated 54 000 places, to the so called 1:1 scheme.*

Amendment

- (4) The EU Heads of State or Government agreed **through a statement** on 7 March to work on the basis of a series of principles for an agreement with Turkey, including to resettle, for every Syrian readmitted by Turkey from Greek islands, another Syrian from Turkey to the Member States, within the framework of the existing commitments. **This 1:1 scheme should be implemented with the aim of protecting Syrians fleeing war and persecution and in full respect for the right to seek asylum and the principle of non-refoulement enshrined in Union law, in the Geneva Convention of 28 July 1951 and in the Protocol thereto of 31 January 1967 relating to the status of refugees.**

**Amendment 6**  
**Proposal for a decision**  
**Recital 5**

Text proposed by the Commission

- (5) Resettlement, humanitarian admission, or other forms of legal admission from Turkey under national and multilateral schemes **can be expected** to relieve the migratory pressure on Member States **which are beneficiaries of relocation under Decision (EU) 2015/1601** by providing a legal and safe pathway to enter the Union and by **discouraging** irregular entries. Therefore, **the solidarity efforts of Member States consisting in admitting to their territory Syrian nationals present in Turkey who are in clear need of international protection should be taken into account in relation to the 54 000 applicants for international protection referred to above. The number of persons so admitted from Turkey by a Member State should be deducted from the number of persons to be relocated to that Member State under Decision 2015/1601 in relation to those 54 000 applicants.**

Amendment

- (5) **Large-scale** resettlement, humanitarian admission, or other forms of legal admission from Turkey under national and multilateral schemes **are needed** to relieve the migratory pressure on Member States by providing a legal and safe pathway to enter the Union and by **making** irregular entries **unnecessary**. Therefore **they should be extended. To date, only a minimal number of Syrian refugees have been resettled to the Union. In its resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration, the European Parliament called for the development of a greater number of safer and lawful routes for asylum seekers and refugees into the Union, including a binding and mandatory Union legislative approach to resettlement, the establishment of humanitarian admission programmes by all Member States and more extensive use of humanitarian visas. Those measures should be complementary to the relocation schemes adopted pursuant to Decisions (EU) 2015/1523 and (EU) 2015/1601.**

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**Amendment 7**  
**Proposal for a decision**  
**Recital 6**

*Text proposed by the Commission*

- (6) Mechanisms for admission may include resettlement, humanitarian admission or other legal pathways for admission of persons in clear need of international protection, such as humanitarian visa programmes, humanitarian transfer, family reunification programmes, private sponsorship projects, scholarship programmes, labour mobility schemes, and others.

*Amendment*

- (6) Mechanisms for admission may include resettlement, humanitarian admission or other legal pathways for admission of persons in clear need of international protection, such as humanitarian visa programmes, humanitarian transfer, family reunification programmes, private sponsorship projects, scholarship programmes, **access to education**, labour mobility schemes, and others.

**Amendment 8**  
**Proposal for a decision**  
**Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

- (6a) **Council Directive 2003/86/EC<sup>(1a)</sup> provides for measures concerning family reunification to be adopted in conformity with the obligation to protect the family and respect family life enshrined in many instruments of international law. Family reunification is therefore not conditional on other Union policies or solidarity or emergency measures. It should be respected and promoted by Member States in all cases.**

<sup>(1a)</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

**Amendment 25**  
**Proposal for a decision**  
**Recital 6 b (new)**

*Text proposed by the Commission*

*Amendment*

- (6b) **Many applicants in need of international protection currently present in Greece and Italy cannot benefit from the relocation scheme as they fall under Regulation (EU) No 604/2013. Member States need to implement the right to family reunification under Regulation (EU) No 604/2013 quickly and fast-track vulnerable cases to enable them to be reunited with their family as soon as possible.**



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**Amendment 9**  
**Proposal for a decision**

**Recital 7**

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*Text proposed by the Commission*

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- (7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision 2015/1601. ***Therefore, a Member State which chooses to meet its obligations under Decision (EU) 2015/1601 by admitting Syrians present in Turkey through resettlement, cannot count this effort as constituting part of its commitment under the 20 July 2015 resettlement scheme.***

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*Amendment*

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- (7) The commitments that Member States undertook as part of the resettlement scheme agreed in the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 should not be affected by this Decision and should not count towards meeting the obligations under Decision 2015/1601.

**Amendment 10**  
**Proposal for a decision**

**Recital 8**

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*Text proposed by the Commission*

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- (8) To ensure a proper monitoring of the situation, Member States should report on a monthly basis to the Commission on Syrians present in Turkey admitted to their territory ***under the option provided for in this amendment specifying under which scheme, national or multilateral, the person has been admitted and the form of legal admission.***

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*Amendment*

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- (8) To ensure a proper monitoring of the situation, Member States should report on a monthly basis to the Commission on Syrians present in Turkey admitted to their territory, ***the form of admission used and the type of scheme under which it has taken place.***

**Amendment 11**  
**Proposal for a decision**

**Recital 8 a (new)**

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*Text proposed by the Commission*

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*Amendment*

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- (8a) ***Resettlement should not take place at the expense of relocation. Both are important instruments of solidarity. Relocation is a form of internal solidarity among Member States, while resettlement and humanitarian admission or other kinds of admission are a form of external solidarity with third countries hosting the majority of refugees.***

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**Amendment 12**  
**Proposal for a decision**  
**Recital 8 b (new)**

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*Text proposed by the Commission*

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*Amendment*

- (8b) *Regarding the current number of asylum seekers in Greece, and the increasing number of asylum seekers arriving Italy, the need for emergency relocation places is expected to remain high.*

**Amendment 13**  
**Proposal for a decision**  
**Recital 8 c (new)**

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*Text proposed by the Commission*

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*Amendment*

- (8c) *According to recent data by the UNHCR, 53 859 persons in search for international protection currently remain in Greece, the vast majority of them are Syrians (45 %), Iraqis (22 %) and Afghans (21 %). Despite a reduction of the number of arrivals, and given the political nature of the statement of 18 March 2016 of the EU Heads of State or Government on cooperation with Turkey, it is highly uncertain if the current drop in arrivals of asylum seekers to Greece will persist. On the other hand, refugees might turn to new routes, such as the central Mediterranean route to Italy, where the UNHCR reports a 42,5 % increase in the number of migrants arriving via Libya compared with the same period in 2015. It is therefore expected that the need for relocation places will remain high.*

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**Amendment 14**  
**Proposal for a decision**  
**Recital 8 d (new)**

*Text proposed by the Commission*

*Amendment*

- (8d) *In its Communication ‘First report on relocation and resettlement’ of 16 March 2016, the Commission indicated that the implementation of Decision (EU) 2015/1601 presents many shortcomings. Member States’ response to the general call from EASO for 374 experts is clearly insufficient given the critical situation faced by Italy and Greece. Notwithstanding the rising number of unaccompanied minors among asylum seekers and refugees eligible for relocation, only a very limited number of them have been relocated, despite the Council Decisions on relocation providing for vulnerable applicants to be processed as a priority. Some Member States have not made available any places for relocation to date. Only 18 Member States have pledged to relocate applicants from Greece and 19 Member States have pledged to do so from Italy. Among those Member States, some have only made very limited pledges in light of their total allocation.*

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**Amendment 15**  
**Proposal for a decision**  
**Recital 8 e (new)**

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*Text proposed by the Commission*

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*Amendment*

(8e) *The Commission has opened infringement procedures against Italy and Greece on the implementation of Regulation (EU) No 603/2013 of the European Parliament and of the Council<sup>(1a)</sup> and against Greece in relation to the Directive 2013/33/EU of the European Parliament and of the Council<sup>(1b)</sup>. However, no legal action has been undertaken towards Member States not complying with the obligations set out in Decision (EU) 2015/1601.*

<sup>(1a)</sup> *Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice(recast) (OJ L 180, 29.6.2013, p. 1).*

<sup>(1b)</sup> *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).*

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**Amendment 16**  
**Proposal for a decision**  
**Recital 8 f (new)**

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*Text proposed by the Commission*

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*Amendment*

- (8f) *Member States of relocation need to implement fully their obligations under Decisions (EU) 2015/1523 and (EU) 2015/1601 with a view to alleviating the pressure on frontline Member States. Member States of relocation should expeditiously and substantively increase their efforts to reply to the urgent humanitarian situation in Greece and prevent the deterioration of the situation in Italy. To date, Member States have made available just 7 % of the relocation places. Until 5 June 2016 only 793 persons from Italy and 2 033 persons from Greece were effectively relocated. The Commission, in its first report on relocation and resettlement of 16 March 2016, pointed out that Member States would have to achieve a monthly relocation rate of at least 5 680 in order to fulfil their relocation obligations within the two-year deadline.*

**Amendment 17**  
**Proposal for a decision**  
**Recital 8 g (new)**

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*Text proposed by the Commission*

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*Amendment*

- (8 g) *Afghans should also be eligible for relocation under the Decision (EU) 2015/1601. In 2015 the number of asylum applications filed by Afghans in the Union reached an unprecedented level of around 180 000, making Afghans the second largest group of asylum-seekers to the Union in that year. By far the greatest number of them arrive in Greece. Many of them are unaccompanied minors. They have special protection needs, which Greece, due to the ongoing acute asylum pressure, is unable to meet. The deteriorating security situation in Afghanistan, with a record number of terrorist attacks and civilian casualties in 2015, has resulted in a significant increase in the recognition rate of Afghan asylum seekers in the Union: from 43 % in 2014 to 66 % in 2015, according to Eurostat data.*

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**Amendment 18**  
**Proposal for a decision**  
**Recital 14**

Text proposed by the Commission

(14) ***In view of the urgency of the situation***, this Decision should enter into force on the date following that of its publication in the *Official Journal of the European Union*,

Amendment

(14) This Decision should enter into force ***immediately*** on the date following that of its publication in the *Official Journal of the European Union*,

**Amendment 19**  
**Proposal for a decision**  
**Article 1 — paragraph 1 — point - 1 (new)**  
Decision (EU) 2015/1601  
Article 3 — paragraph 2

Present text

2. Relocation pursuant to this Decision shall be applied only in respect of ***an applicant*** belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council (1) is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5 (3) of this Decision.

Amendment

**-1. In Article 3, paragraph 2 is replaced by the following:**

‘2. Relocation pursuant to this Decision shall be applied only in respect of ***applicants with Syrian, Iraqi, Eritrean or Afghan nationality or in respect of those*** belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU of the European Parliament and of the Council (1) is, according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall be taken into account only in respect of applicants who have not already been identified as applicants who could be relocated in accordance with Article 5(3) of this Decision.’

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**Amendment 20****Proposal for a decision****Article 1 — paragraph 1**

Decision (EU) 2015/1601

Article 4 — paragraph 3a

Text proposed by the Commission

Amendment

**In Article 4 of Decision (EU) 2015/1601 the following paragraph 3a is inserted:**

**deleted**

**.‘3a. In relation to the relocation of applicants referred to in point (c) of paragraph 1, the admission by Member States to their territory of Syrian nationals present in Turkey under national or multilateral legal admission schemes for persons in clear need of international protection other than the resettlement scheme which was the subject of the Conclusions of the Representatives of the Governments of the Member States meeting within the Council of 20 July 2015 shall lead to a corresponding reduction of the obligation of the respective Member State.**

**Article 10 shall apply mutatis mutandis for every such legal admission leading to a reduction of the relocation obligation.**

**Every month Member States shall report to the Commission on the number of persons legally admitted for the purposes of this paragraph, indicating the type of scheme under which the admission has taken place and the form of legal admission used.’**

**Amendment 21****Proposal for a decision****Article 1 — paragraph 1 — point 1 a (new)**

Decision (EU) 2015/1601

Article 5 — paragraph 2

Present Text

Amendment

**1a. In Article 5, paragraph 2 is replaced by the following:**

**2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information.**

**‘2. Member States shall, at regular intervals, and at least every 3 months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information. Member States shall make available at least one-third of their relocation places by 31 December 2016.’**



Thursday 15 September 2016

## Amendment 22

## Proposal for a decision

## Article 1 — paragraph 1 — point 1 b (new)

Decision (EU) 2015/1601

Article 5 — paragraph 4

## Present text

4. Following approval of the Member State of relocation, Italy and Greece shall, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member States of relocation, in consultation with EASO, and shall notify the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article.

## Amendment

**1b. In Article 5, paragraph 4 is replaced by the following:**

‘4. Following approval of the Member State of relocation, Italy and Greece shall, as soon as possible, take a decision to relocate each of the identified applicants to a specific Member States of relocation, in consultation with EASO, and shall notify the applicant in accordance with Article 6(4). The Member State of relocation may decide not to approve the relocation of an applicant only if there are reasonable grounds as referred to in paragraph 7 of this Article. **If the Member State of relocation does not approve the relocation within two weeks, that Member State shall be considered to have given its approval.**’

## Amendment 23

## Proposal for a decision

## Article 1 — paragraph 1 — point 1 c (new)

Decision (EU) 2015/1601

Article 5 — paragraph 10

## Present text

10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and not later than 2 months from the time of the indication given by the Member State of relocation as referred to in paragraph 2, **unless the approval by the Member State of relocation referred to in paragraph 4 takes place less than 2 weeks before the expiry of that 2-month period. In such case, the time limit for completing the relocation procedure may be extended for a period not exceeding a further 2 weeks. In addition,** the time limit may **also** be extended, for a **further** 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.

## Amendment

**1c. In Article 5, paragraph 10 is replaced by the following:**

‘10. The relocation procedure provided for in this Article shall be completed as swiftly as possible and no later than 2 months from the time of the indication given by the Member State of relocation referred to in paragraph 2. The time limit may be extended for a 4-week period, as appropriate, where Italy or Greece show objective practical obstacles that prevent the transfer from taking place.’

Thursday 15 September 2016

P8\_TA(2016)0355

## Guidelines for the employment policies of the Member States \*

European Parliament legislative resolution of 15 September 2016 on the proposal for a Council decision on guidelines for the employment policies of the Member States (COM(2016)0071 — C8-0098/2016 — 2016/0043(NLE))

(Consultation)

(2018/C 204/43)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)0071),
  - having regard to Article 148(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0098/2016),
  - having regard to its position of 8 July 2015 on the proposal for a Council decision on guidelines for the employment policies of the Member States <sup>(1)</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs (A8-0247/2016),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
  5. Instructs its President to forward its position to the Council and the Commission.

### Amendment 1

#### Proposal for a decision

#### Recital - 1 (new)

Text proposed by the Commission

Amendment

- (-1) *The Council, by its Decision (EU) 2015/1848 <sup>(1a)</sup>, chose, yet again, to ignore the European Parliament's legislative resolution of 8 July 2015. The Council's approach is not in the spirit of the Treaties, weakening cooperation between the Union institutions and strengthening the 'democratic deficit' towards citizens of the Union. The European Parliament strongly regrets the Council's approach and stresses that its legislative resolution should be taken into consideration.*

<sup>(1a)</sup> Council Decision (EU) 2015/1848 of 5 October 2015 on guidelines for the employment policies of the Member States for 2015 (OJ L 268, 15.10.2015, p. 28).

<sup>(1)</sup> Texts adopted P8\_TA(2015)0261.

Thursday 15 September 2016

**Amendment 2**  
**Proposal for a decision**

**Recital 1**

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*Text proposed by the Commission*

- (1) The Treaty on the Functioning of the European Union (TFEU) stipulates in Article 145 that Member States and the Union shall work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce as well as labour markets that are responsive to economic change and with a view to achieving the objectives defined in Article 3 of the Treaty on European Union (TEU).

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*Amendment*

- (1) The Treaty on the Functioning of the European Union (TFEU) stipulates in Article 145 that Member States and the Union shall work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce as well as labour markets that are responsive to economic change and with a view to achieving the objectives defined in Article 3 of the Treaty on European Union (TEU). ***In accordance with Articles 9 and 10 TFEU, in defining and implementing its policies and activities, the Union is to ensure an inclusive and integrated labour market that is able to address the severe impact of unemployment and secure a high level of employment, ensure decent working conditions across the Union, including adequate wages, and guarantee adequate social protection in accordance with labour regulations, collective bargaining and in line with the principle of subsidiarity, as well as a high level of education and training and combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.***

Thursday 15 September 2016

**Amendment 3**  
**Proposal for a decision**  
**Recital 2**

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*Text proposed by the Commission*

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- (2) The 'Europe 2020 Strategy' proposed by the Commission **enables** the Union to turn its economy towards smart, sustainable and inclusive growth, accompanied by high level employment, productivity and social cohesion. **Five headline targets, listed under the relevant guidelines, constitute shared objectives which guide the action of the Member States, and take into account their relative starting positions and national circumstances as well as the positions and circumstances of the Union.** The European Employment Strategy has the leading role in the implementation of the employment and labour market objectives of the new strategy.

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*Amendment*

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- (2) The 'Europe 2020 Strategy' proposed by the Commission (Europe 2020) **should enable** the Union to turn its economy towards smart, sustainable and inclusive growth, accompanied by **a** high level **of** employment, productivity and social cohesion. **The Union is in need of holistic policies and public investments that will fight against unemployment and poverty. In this regard, the development of employment and social indicators of Europe 2020 to date is of deep concern, as the number of people at risk of poverty and exclusion has increased by five million instead of decreasing, the employment rate in some countries has not yet recovered the pre-crisis level, while in some Member States the rate of young persons who are not in employment, education or training (NEETs) is above 20 % and the rate of early school leavers is up to 23 %.** The European Employment Strategy has the leading role in the implementation of the employment, **social inclusion** and labour market objectives of the new strategy. **Yet those objectives have not been met and more significant efforts must be made by Member States in order to reach the expected results. The achievement of Europe 2020 in the employment and social area must remain a key objective of Member States' employment policies.**

Thursday 15 September 2016

**Amendment 4**  
**Proposal for a decision**  
**Recital 3**

Text proposed by the Commission

- (3) The integrated guidelines **are** in line with the conclusions of the European Council. They give precise guidance to the Member States on defining their National Reform Programmes and implementing reforms, reflecting interdependence and in line with the Stability and Growth Pact. The employment guidelines should form the basis for any country-specific recommendations that the Council may address to the Member States under Article 148(4) **of the TFEU, in parallel with** the country-specific recommendations addressed to the Member States under Article 121(2) **of that Treaty**. The employment guidelines should **also** form the basis for the establishment of the Joint Employment Report sent annually by the Council and the **European** Commission to the European Council.

Amendment

- (3) The integrated guidelines **should be** in line with the conclusions of the European Council. They give precise guidance to the Member States on defining their National Reform Programmes and implementing reforms, reflecting interdependence **and in line with the Stability and Growth Pact**. The employment guidelines should **be taken into account** for any country-specific recommendations that the Council may address to the Member States under Article 148(4) TFEU, **in a balanced way with** the country-specific recommendations addressed to the Member States under Article 121(2) TFEU. **The country-specific recommendations should take account not only of economic indicators but also, where appropriate, of employment and social ones, assessing ex-ante the reforms to be implemented and their impact on citizens.** The employment guidelines should **be established in close cooperation with the European Parliament and should** form the basis for the establishment of the Joint Employment Report sent annually by the Council and the Commission to the European Council. **Three employment indicators — activity rate, youth employment and long-term unemployment — have recently been included in the macroeconomic imbalance procedure and the European Parliament in its resolution of 25 February 2016<sup>(1a)</sup> called for those indicators to trigger an in-depth analysis in the relevant Member States which can result in further economic, labour market and social reforms being suggested and applied.**

<sup>(1a)</sup> Texts adopted, P8\_TA(2016)0058.

Thursday 15 September 2016

**Amendment 5**  
**Proposal for a decision**

**Recital 4**

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*Text proposed by the Commission*

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- (4) The examination of the Member States' National Reform Programmes contained in the Joint Employment Report shows that Member States should continue to make every effort to address the priority areas of increasing labour market participation and reducing structural unemployment, developing a skilled workforce **responding** to labour market needs and promoting **job quality** and lifelong learning, **improve** the performance of education and training systems at all levels and increasing participation in tertiary education, promoting social inclusion and combating poverty.

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*Amendment*

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- (4) The examination of the Member States' National Reform Programmes contained in the Joint Employment Report shows that Member States should **take into account the recommendations of the European Parliament on the Annual Growth Survey, the country-specific recommendations and the employment guidelines and should** continue to make every effort to address the priority areas of increasing labour market participation and reducing structural unemployment **by generating jobs, supporting well-functioning dynamic and inclusive labour market,** developing a skilled workforce **able to respond** to labour market needs and promoting **decent jobs** and lifelong learning, **improving** the performance of education and training systems at all levels and increasing participation in tertiary education, promoting social inclusion **and the reconciliation of the needs of family and professional life, opposing discrimination of every kind and combating poverty, particularly child poverty, as well as improving capacity of the ageing population.**

**Amendment 6**  
**Proposal for a decision**

**Recital 6 a (new)**

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*Text proposed by the Commission*

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*Amendment*

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- (6a) **120 million citizens of the Union — around 25 % — are at risk of poverty and social exclusion. This emergency situation, which is also reflected by the continuing high number of citizens of the Union who are without employment, requires that the Commission adopt measures to encourage Member States to develop national minimum basic income schemes so that they can be ensured decent living conditions.**

Thursday 15 September 2016

## Amendment 7

## Proposal for a decision

## Article 1 — paragraph 1

Text proposed by the Commission

The guidelines for Member States' employment policies as set out in the Annex **to Council Decision of 5 October 2015 on guidelines for the employment policies of the Member States** <sup>(4)</sup> are **maintained for 2016 and** shall be taken into account by the Member States in their employment policies.

<sup>(4)</sup> Council Decision (EU) 2015/1848 of 5 October 2015 on guidelines for the employment policies of the Member States (OJ L 268, 15.10.2015, p. 28).

Amendment

The guidelines for Member States' employment policies, as set out in the Annex, are **hereby adopted. These guidelines** shall be taken into account by the Member States in their employment policies **and reform programmes, which shall be reported in accordance with Article 148(3) TFEU.**

## Amendment 8

## Proposal for a decision

## Annex (new)

Text proposed by the Commission

Amendment

**Guideline 5: Boosting demand for labour**

**Member States, in cooperation with regional and local authorities, should effectively and promptly tackle the serious issue of unemployment, and facilitate and invest in sustainable and quality job creation, address accessibility for at-risk groups and reduce barriers for business to hire people across skill levels and labour market sectors, including by cutting red tape, whilst respecting labour and social standards, promote youth entrepreneurship and in particular support the creation and growth of micro, small and medium enterprises in order to increase the employment rate of women and men. Member States should actively promote, inter alia, green, white and blue-sector jobs and the social economy and foster social innovation.**



Thursday 15 September 2016

Text proposed by the Commission

Amendment

*The tax burden should be shifted away from labour to other sources of taxation that are less detrimental to employment and growth while protecting revenue for adequate social protection and expenditures directed towards public investment, innovation and job creation . Reductions in labour taxation should be aimed at the relevant components of the tax burden, at tackling discrimination and at removing barriers and disincentives to labour market participation, in particular for people with disabilities and those furthest away from the labour market, while respecting existing labour standards.*

*Policies to ensure that wages allow an adequate living income remain important to create employment and decrease poverty in the Union. Member States should therefore, together with the social partners, respect and encourage wage-setting mechanisms allowing for a responsiveness of real wages to productivity developments helping to correct past divergence without fuelling deflationary pressure. Those mechanisms should ensure sufficient resources to satisfy basic needs, taking account poverty indicators specific to each Member State. In this respect, differences in skills and local labour market conditions should be properly evaluated with the aim of ensuring a decent living wage across the Union. When setting minimum wages in accordance with national legislation and practices, Member States and social partners should ensure their adequacy as well as consider their impact on in-work poverty, household income, aggregate demand, job creation and competitiveness.*

*Member States should cut red tape in order to ease the burden on small and medium-sized enterprises, as they contribute significantly to job creation.*

**Guideline 6: Enhancing labour supply and skills**

Thursday 15 September 2016

Text proposed by the Commission

Amendment

Member States should promote sustainable productivity and quality employability through an appropriate supply of relevant knowledge and skills made available and accessible to all. There should be particular focus on health care, social services and transport services which are facing or will face staff shortages in the medium term. Member States should make effective investments in high-quality and inclusive education from an early age and vocational training systems while improving their effectiveness and efficiency to raise the knowhow and skill level of the workforce, while increasing the diversity of skills, allowing it to better anticipate and meet the rapidly changing needs of dynamic labour markets in an increasingly digital economy. To that end, the fact that 'soft skills' such as communication are becoming more important for a large number of occupations should be taken into account.

Member States should promote entrepreneurship among young people *inter alia* by introducing optional entrepreneurship courses and encouraging the creation of student enterprises in high schools and colleges. Member States, in cooperation with local and regional authorities, should step up efforts to prevent young people from dropping out of school and to ensure a smoother transition from education and training to professional life, to improve access and remove barriers to high-quality adult learning for all with particular focus on high-risk groups and their needs, by offering retraining of skills when job losses and changes in the labour market necessitate active reintegration. Simultaneously Member States should implement active ageing strategies to enable healthy working up to the real retirement age.

While ensuring the necessary skills level requested by a continuously changing labour market and supporting education and training alongside programmes for adult learning, Member States should take into account that low-skills jobs are also needed and that employment opportunities are better for the high-skilled than for the medium- and low-skilled.

Thursday 15 September 2016

Text proposed by the Commission

Amendment

*Access to affordable, high-quality, early childhood education and care should be a priority for comprehensive policies and investment coupled with family and parenting support and reconciliation measures helping parents to balance work and family life, as a contribution to preventing early school-leaving and increasing young people's chances on the labour market.*

*The issue of unemployment, in particular long-term unemployment and regional high unemployment should be resolved effectively and promptly, as well as prevented through a mix of demand and supply-side measures. The number of long-term unemployed and the problem of skills mismatch and skill obsolescence should be addressed by means of comprehensive and mutually reinforcing strategies, including the provision of personalised needs-based active support and appropriate social protection schemes to long-term unemployed to return to the labour market in an informed and responsible manner. The youth unemployment needs to be comprehensively addressed, through an overall youth employment strategy. This includes investing in sectors that can create quality jobs for young people and by equipping the relevant actors such as youth support services, education and training providers, youth organisations and public employment services with the necessary means to fully and consistently implement their national Youth Guarantee Implementation Plans, but also by the rapid take-up of resources by Member States. Access to funding for those who choose to start a business should be facilitated by means of a wider availability of information, a reduction in excessive bureaucracy and possibilities to convert several months' unemployment benefits into an upfront start-up grant after presentation of a business plan and in compliance with national legislation.*

*Member States should take into consideration local and regional disparities in drawing up and carrying out measures against unemployment and should work together with local employment services.*

Thursday 15 September 2016

Text proposed by the Commission

Amendment

*Structural weaknesses in education and training systems should be addressed to ensure high-quality learning outcomes and prevent and tackle early school leaving, and promote an all-embracing, high-quality education from the most basic level onwards. This requires flexible educational systems with a focus on practice. Member States, in cooperation with local and regional authorities, should increase the quality of educational attainment by making it accessible to all, set up and improve dual learning systems, adapted to their needs, by upgrading professional training and existing frameworks such as Europass, while ensuring, where necessary, appropriate retraining of skills and recognition of those acquired outside of the formal education system. Links between education and labour market should be strengthened, while ensuring that education is sufficiently broad to provide people with a solid basis for life-long employability.*

*Member States should gear their training systems more closely to the labour market with a view to better transition from training to employment. In particular in the context of digitisation, and in terms of new technologies, green jobs and health care are essential.*

*Discrimination on the labour market as well as with regard to access to the labour market need to be further reduced, especially for groups that face discrimination or exclusion, such as women, older workers, young people, people with disabilities and legal migrants. Gender equality including equal pay must be ensured in the labour market as well as access to affordable, high-quality early childhood education and care as well as the flexibility necessary to prevent the exclusion of those with breaks in their careers due to family responsibilities such as family carers. In this sense, the Women on Board Directive should be unblocked by the Member States.*

*In this respect, Member States should take into account the fact that the rates of young persons who are not in employment, education or training (NEETs) are higher for women than for men and that the NEETs phenomenon is primarily due to an increase in youth unemployment but also to non-education linked inactivity.*

Thursday 15 September 2016

Text proposed by the Commission

Amendment

Member States should make a full, effective and efficient use of European Social Fund and other Union funds support in order to combat poverty, improve quality employment, social inclusion, education, public administration and public services. The European Fund for Strategic Investments and its investment platforms should also be mobilised to ensure that quality jobs are created and workers are equipped with skills needed for the Union's transition towards a sustainable growth model.

#### Guideline 7: Enhancing the functioning of labour markets

Member States should reduce labour market segmentation by tackling precarious employment, underemployment, undeclared labour and zero-hour contracts. Employment protection rules and institutions should provide a suitable environment for recruitment while offering adequate levels of protection to those in employment and those seeking employment or employed on temporary, part-time, atypical contracts or independent work contracts, by actively involving the social partners and by promoting collective bargaining. Quality employment should be ensured for all in terms of socio-economic security, durability, adequate wages, rights at work, decent workplace conditions (including health and safety), social security protection, gender equality, education and training opportunities. Therefore it is necessary to promote the entry of young people into the labour market, the reintegration of long-term unemployed and work-life balance, providing affordable care and modernising work organisation. Upward convergence in working conditions should be promoted across the Union.

Access to the labour market should facilitate entrepreneurship, sustainable job creation in all sectors, including green employment, and social care and innovation, in order to make the best use of people's skills, foster their lifelong development and encourage employee-driven innovation.

Thursday 15 September 2016

Text proposed by the Commission

Amendment

Member States should closely involve national parliaments, social partners, civil society organisations, regional and local authorities in the design and implementation of relevant reforms and policies, in line with the partnership principle and national practices, while supporting the improvement of the functioning and effectiveness of social dialogue at national level, especially in those countries with major problems of wage devaluation caused by recent deregulation of labour markets and weakness of collective bargaining.

Member States should ensure basic standards of quality of active labour market policies by improving their targeting, outreach, coverage and interplay with supporting measures such as social security. These policies should aim at improving labour market access, strengthening collective bargaining and social dialogue and support sustainable transitions on the labour market, with highly qualified public employment services delivering individualised support and implementing performance measurement systems. Member States should also ensure that their social protection systems effectively activate and enable those who can participate in the labour market, protect those (temporarily) excluded from the labour markets and/or unable to participate in it, and prepare individuals for potential risks and changing economic and social conditions, by investing in human capital. Member States should introduce, as one of the possible measures to reduce poverty and in accordance with national practice, a minimum income proportionate to their specific socio-economic situation. Member States should promote inclusive labour markets open to all and also put in place effective anti-discrimination measures.

Mobility of workers should be ensured as a fundamental right and as a matter of free choice, with an aim of exploiting the full potential of the European labour market, including by enhancing the portability of pensions and the effective recognition of qualifications and skills and the elimination of red tape and other existing barriers. Member States should at the same time tackle the language barriers, improving training systems in this matter. Member States should also make an appropriate use of the EURES network in order to encourage worker mobility. Investment in regions experiencing labour outflows should be promoted to mitigate brain drain and encourage mobile workers to return.

Thursday 15 September 2016

Text proposed by the Commission

Amendment

**Guideline 8: Improving the quality and performance of education and training systems at all levels**

Member States should make access to care and to affordable quality early childhood education a priority as both are important support measures for labour market actors and contribute to increasing the overall employment rate while supporting the individuals in their responsibilities. Member States should set up the comprehensive policies and investment needed to improve family and parenting support and reconciliation measures helping parents to balance work and family life, as a contribution to preventing early school leaving and increasing young people's chances on the labour market.

**Guideline 9: Ensuring social justice, combatting poverty and promoting equal opportunities**

Member States, in cooperation with local and regional authorities, should improve their social protection systems by ensuring basic standards to provide effective, efficient and sustainable protection throughout all stages of an individual's life, ensuring life in dignity, solidarity, access to social protection, full respect of social rights, fairness and addressing inequalities as well as ensuring inclusion in order to eliminate poverty, in particular for people excluded from the labour market and for the more vulnerable groups. There is a need for simplified, better targeted and more ambitious social policies including by affordable, high-quality childcare and education, effective training and job assistance, housing support and high-quality health care accessible to all, access to basic services such as bank accounts and the Internet and for action to prevent early school leaving and fight extreme poverty, social exclusion, and more generally all forms of poverty. Child poverty in particular must be decisively tackled.



Thursday 15 September 2016

Text proposed by the Commission

Amendment

*For that purpose a variety of instruments should be used in a complementary manner, including labour activation enabling services and income support, targeted at individual needs. In this respect, it is up to each Member State to set levels of minimum income in accordance with national practice and proportionate to the specific socio-economic situation in the Member State in question. Social protection systems should be designed in a way that facilitate access and take up of all persons in a non-discriminatory way, support investment in human capital, and help prevent, reduce and protect against poverty and social exclusion as well as against other risks such as loss of health or employment. There should be a particular focus on children in poverty due to their parents' long-term unemployment.*

*The pension systems should be structured in a way that their sustainability, safety and adequacy for women and men is ensured by strengthening retirement schemes, aiming at a decent retirement income at least above the poverty level. The pension systems should provide for consolidation, further development and improvement of the three pillars of retirement saving systems. Linking retirement age to life expectancy is not the only instrument by means of which to tackle the challenge of aging. Reforms of pension systems should also, inter alia, reflect labour market trends, birth rate, demographic situation, health and wealth situation, working conditions and the economic dependency ratio. The best way to tackle the challenge of ageing is to increase the overall employment rate, building, inter alia, on social investments in active ageing.*

*Member States should improve the quality, affordability, accessibility, efficiency and effectiveness of healthcare and long term care systems and welfare services as well as decent working conditions in the related sectors, while safeguarding the financial sustainability of these systems by improving the solidarity-based financing.*

*Member States should make a full use of European Social Fund and other Union funds support in order to fight poverty, social exclusion and discrimination, improve accessibility for people with disabilities to promote equality between women and men and improve public administration.*

Thursday 15 September 2016

Text proposed by the Commission

Amendment

*The Europe 2020 headline targets, on the basis of which Member States set their national targets, taking into account their relative starting positions and national circumstances, aims to raise the employment rate for women and men aged 20 to 64 to 75 % by 2020; to reduce the drop-out rate to less than 10 %; to increase the share of 30 to 34-year-olds completing tertiary or equivalent education to at least 40 %; and to promote social inclusion, in particular through the reduction of poverty by aiming to lift at least 20 million people out of the risk of poverty and exclusion <sup>(1a)</sup>.*

<sup>(1a)</sup> Population is defined as the number of people who are at risk of poverty and exclusion according to three indicators (at risk of poverty; material deprivation; jobless household), leaving Member States free to set their national targets on the basis of the most appropriate indicators, taking into account their national circumstances and priorities.







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