



Brussels, 12 December 2017  
(OR. en)

15684/17

**PUBLIC 92**  
**INF 242**

## NOTE

---

Subject: MONTHLY SUMMARY OF COUNCIL ACTS - SEPTEMBER 2017

---

This document lists the acts adopted by the Council in September 2017.<sup>1 2</sup>

It provides information on the adoption of legislative acts, including:

- the date of adoption,
- the relevant Council session,
- the number of the document adopted,
- the Official Journal reference,
- applicable voting rules, voting results and, where appropriate, explanations of vote and statements published in the minutes of the Council.

---

<sup>1</sup> With the exception of certain acts of limited scope such as procedural decisions, appointments, decisions of bodies set up by international agreements, specific budgetary decisions, etc.

<sup>2</sup> In the case of legislative acts adopted in the ordinary legislative procedure, there may be a difference between the date of the Council's meeting where the legislative act is adopted and the actual date of the act in question, since legislative acts adopted in the ordinary legislative procedure are only considered to have been adopted after signature by both the President of the Council and the President of the European Parliament and the Secretaries-General of the two institutions.

This document also contains information on the adoption of non-legislative acts that the Council has decided to make public.

This document is also available on the Council's website at:

[Monthly summaries of Council acts \(acts\) - Consilium](#)

Documents listed in the summary may be obtained from the public register of Council documents at: [Documents and publications - Consilium](#)

It should be noted that this document is exclusively for information purposes - only Council minutes are authentic. These are available on the Council's website at: [Council Minutes - Consilium](#)

---

## INFORMATION ON THE ACTS ADOPTED BY THE COUNCIL IN SEPTEMBER 2017

### Written procedures completed on 4 September 2017

#### NON-LEGISLATIVE ACTS

ACT	DOCUMENT / STATEMENTS
Council Decision of 4 September 2017 adopting the Council's position on the draft general budget of the European Union for the financial year 2018 OJ C 303, 14.9.2017, p. 2–2	10939/1/17 REV 1
Council Decision (EU) 2017/1537 of 4 September 2017 adopting the Council's position on draft amending budget No 3 of the European Union for the financial year 2017 OJ L 234, 12.9.2017, p. 6–6	10975/1/17 REV 1
Council Decision (EU) 2017/1535 of 4 September 2017 adopting the Council's position on draft amending budget No 4 of the European Union for the financial year 2017 OJ L 233, 9.9.2017, p. 6–6	10976/17
Decision (EU) 2017/1599 of the European Parliament and of the Council of 13 September 2017 on the mobilisation of the European Union Solidarity Fund to provide assistance to Italy OJ L 245, 23.9.2017, p. 3–4	10978/17

Written procedures completed on 15 September 2017	
NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Decision (EU) 2017/1793 of 15 September 2017 amending Decision (EU) 2017/1792 on the signing, on behalf of the Union, and provisional application of the Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance OJ L 258, 6.10.2017, p. 3–3	12064/17
Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance OJ L 258, 6.10.2017, p. 4–21	8065/17
<b>Statement by the Commission</b>  As regards the change of the substantive legal basis for the Council Decisions on the EU-US Agreement on insurance and reinsurance, put forward by the Council, the Commission does not object to this change in order to allow for the swift signature and provisional application of this Agreement.  Nevertheless, the Commission considers that Article 207 TFEU only is the legally appropriate substantive legal basis for these Decisions and that therefore the Commission's non-objection in this particular case does not constitute a precedent for future international agreements.	
Council Implementing Decision (CFSP) 2017/1573 of 15 September 2017 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea OJ L 238, 16.9.2017, p. 51–52	12108/17
Council Implementing Regulation (EU) 2017/1568 of 15 September 2017 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea OJ L 238, 16.9.2017, p. 10–11	12113/17

**3560th meeting of the Council of the European Union (GENERAL AFFAIRS) held in Brussels on 25 September 2017****LEGISLATIVE ACTS**

ACT	DOCUMENT	VOTING RULE	VOTES
Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund OJ L 249, 27.9.2017, p. 1–16	43/17	Qualified majority	All Member States in favour, except: Abstention: LU, HU

**Statement by Luxembourg**

In relation to the 'Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Sustainable Development (EFSD) and establishing the EFSD Guarantee and the EFSD Guarantee Fund', Luxembourg takes the view that giving the Member States more time to analyse the negotiating briefs and prepare the Coreper meetings could undoubtedly have resulted in a stronger regulatory framework, taking fuller account of the positions of the Council.

Luxembourg regrets that the proposed package attaches too much importance to migration as opposed to development cooperation and that, rather than restricting its focus to irregular migration like the Council's partial general approach, it continues to refer to migration in the broad sense.

As regards the management of assets, Luxembourg is particularly disappointed that the European Union's development bank was not assigned this task. The tasks of the different European institutions must not be mixed and it is not appropriate for the European Commission to manage assets in this context. Furthermore, the European Investment Bank is a financial institution subject to all the international and European rules that apply to governance with clearly defined responsibilities and Chinese walls, including in respect of risk management and internal control.

As a result, Luxembourg is unable to give its agreement to the proposed package and has therefore decided to abstain on this matter, which must not set a precedent for such instruments in future.

Position (EU) No 5/2017 of the Council at first reading with a view to the adoption of a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA in order to include new psychoactive substances in the definition of ‘drug’ and repealing Council Decision 2005/387/JHA Adopted by the Council on 25 September 2017 OJ C 359, 24.10.2017, p. 1–7	10537/17	Qualified majority	All Member States in favour, except: Against: AT. Not Participating: DK, UK
<p><b>Statement by the Austrian delegation</b></p> <p>We support the main goal, that is “to extend the application of the Union criminal law provisions that apply to illicit drug trafficking to new psychoactive substances posing severe public health and, where applicable, social risks“ (recital 9).</p> <p>However, we think that not all provisions of Framework Decision 2004/757/JHA should apply to new psychoactive substances.</p> <p>Among the conduct described in sub-paragraphs (a), (c) and (d) of Art. 2 paragraph 1 of FD 2004/757, we think that Member States should be given the discretion if the conduct described under (c) – possession or purchase – should be criminalized or not. As the Directive contains minimum standards, any Member State is free to go further – but Member States should not be obliged, by virtue of Union Law, to criminalize such behaviour.</p> <p>Such a more limited approach of the Union legislator would be in line with the principle of subsidiarity in general and also with the conditions foreseen by the Treaties for legislating in criminal law:</p> <p>"The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.' (Art. 83 paragraph 1 TFEU).</p> <p>We think that the possession or purchase of new psychoactive substances in itself do not fulfil the cited (highlighted) criteria of the Treaty."</p>			

### Statement by the United Kingdom

The United Kingdom considers that both Protocol (No. 19) and Protocol (No. 21) to the Treaties apply to the Directive amending Council Framework Decision 2004/757/JHA laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug.

In accordance with Article 7 of Protocol (No. 21), Protocol (No. 21) is without prejudice to the Protocol (No. 19) on the Schengen acquis integrated into the framework of the European Union. Therefore in accordance with Article 5(2) of Protocol (No 19) to the Treaties on the Schengen Acquis, the United Kingdom has indicated that it does not wish to take part in the Directive.

For the avoidance of doubt, the United Kingdom is not exercising its right, in accordance with Article 3(1) of the Protocol (No. 21) to the Treaties on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, to take part in the adoption and application of the Directive.

Accordingly, the United Kingdom is not taking part in the adoption and application of this Directive.

#### NON-LEGISLATIVE ACTS

ACT	DOCUMENT / STATEMENTS
Council Decision (EU) 2017/1789 of 25 September 2017 abrogating Decision 2009/415/EC on the existence of an excessive deficit in Greece OJ L 256, 4.10.2017, p. 5–8	11240/17
Council Conclusions on European Court of Auditors' Special Report No 4/2017: Protecting the EU budget from irregular spending: The Commission made increasing use of preventive measures and financial corrections in Cohesion during the 2007-2013 period	11929/1/17 REV 1

Council Implementing Decision (EU) 2017/1767 of 25 September 2017 authorising the United Kingdom to apply reduced levels of taxation to motor fuels consumed on the islands of the Inner and Outer Hebrides, the Northern Isles, the islands in the Clyde, and the Isles of Scilly, in accordance with Article 19 of Directive 2003/96/EC OJ L 250, 28.9.2017, p. 69–70	9871/17
Council Implementing Decision (EU) 2017/1769 of 25 September 2017 authorising the Republic of Poland to conclude with Ukraine an agreement that includes provisions derogating from point (d) of Article 2(1) and Article 5 of Directive 2006/112/EC on the common system of value added tax, as regards the maintenance of road bridges on the Poland-Ukraine border OJ L 250, 28.9.2017, p. 73–75	11285/17
Council Implementing Decision (EU) 2017/1768 of 25 September 2017 authorising the Republic of Croatia to introduce a special measure derogating from Article 287 of Directive 2006/112/EC on the common system of value added tax OJ L 250, 28.9.2017, p. 71–72	11284/17
Council Implementing Decision (EU) 2017/1774 of 25 September 2017 on subjecting N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryloylfentanyl) to control measures OJ L 251, 29.9.2017, p. 21–22	8858/17



Council Decision on the position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees	12163/17
<p><b>Statement by the Irish delegation</b></p> <p>The Irish delegation notes that it is intended that the Council will make a decision on the Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees less than 3 months after the presentation of this proposal to the Council.</p> <p>In these exceptional circumstances, mindful of the fact that the Conclusions are to be adopted by the UNHCR Executive Committee at its 68th Session on 2-6 October, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.</p>	
<p><b>Statement by the United Kingdom</b></p> <p>The United Kingdom and Ireland have a special position under Protocol 21 to the Treaty on the Functioning of the European Union. Article 3 of Protocol 21 provides the United Kingdom and Ireland with a period of 3 months to consider whether to take part in a measure.</p> <p>That Protocol applies to the proposed Council Decision on the position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees.</p> <p>The United Kingdom regrets that it has not been given the full three months, in accordance with the Treaties, to take a decision on whether to participate in this measure.</p> <p>The United Kingdom is therefore not taking part in the adoption of the Council Decision, and will not be bound by it.</p>	

Council Decision on the conclusion, on behalf of the Union, of 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	5431/17
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	15616/10
Council Decision (EU) 2017/1766 of 25 September 2017 on the position to be adopted on behalf of the European Union within the EPA Committee established by the Interim agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part, regarding the accession of the Republic of Croatia to the European Union and changes in the list of countries and territories associated with the European Union OJ L 250, 28.9.2017, p. 61–68	12109/17
Council Decision (EU) 2017/1790 of 25 September 2017 on the position to be taken, on behalf of the European Union, within the Cooperation Council established by the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Armenia, of the other part, with regard to the adoption of the EU-Armenia Partnership Priorities OJ L 256, 4.10.2017, p. 9–10	11258/17
Council Implementing Decision (CFSP) 2017/1754 of 25 September 2017 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria OJ L 246, 26.9.2017, p. 7–9	12099/17

Council Implementing Regulation (EU) 2017/1751 of 25 September 2017 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria OJ L 246, 26.9.2017, p. 1–3	12102/17
Council Decision on the position to be adopted, on behalf of the European Union, in the International Sugar Council as regards the extension of the International Sugar Agreement 1992	11874/17
Council Conclusions on Special Report No 34/2016 from the European Court of Auditors entitled: "Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain"	12552/17
Council Decision (EU) 2017/2209 of 25 September 2017 on the signing, on behalf of the Union, and provisional application of the Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 316, 1.12.2017, p. 1–2	11897/17
Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 316, 1.12.2017, p. 3–6	11924/17

Council Decision (EU) 2017/2210 of 25 September 2017 on the signing, on behalf of the Union, and provisional application of the Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 316, 1.12.2017, p. 7–8	11915/17
Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 316, 1.12.2017, p. 9–12	11926/17
Council Decision (EU) 2017/2211 of 25 September 2017 on the signing, on behalf of the Union, of the Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) OJ L 316, 1.12.2017, p. 13–14	11916/17
Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)	11927/17

Council Decision on the signing, on behalf of the Union, and provisional application of the Agreement for scientific and technological cooperation between the European Union and the Republic of Lebanon setting out the terms and conditions for the participation of the Republic of Lebanon in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)	11918/17
Agreement for scientific and technological cooperation between the European Union and the Republic of Lebanon setting out the terms and conditions for the participation of the Republic of Lebanon in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)	11928/17
Council Decision on the position to be adopted on behalf of the European Union within the Administrative Committee for the TIR Convention as regards the proposal to amend the Customs Convention on the International Transport of Goods under Cover of TIR Carnets of 1975	11946/17
<b>Written procedures completed on 28 September 2017</b>	
NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Decision (CFSP) 2017/1776 of 28 September 2017 amending Decision (CFSP) 2015/1333 concerning restrictive measures in view of the situation in Libya OJ L 251, 29.9.2017, p. 28–28	12257/17
Council Decision (CFSP) 2017/1775 of 28 September 2017 concerning restrictive measures in view of the situation in Mali OJ L 251, 29.9.2017, p. 23–27	12100/17
Council Regulation (EU) 2017/1770 of 28 September 2017 concerning restrictive measures in view of the situation in Mali OJ L 251, 29.9.2017, p. 1–10	12130/17

**Written procedure completed on 29 September 2017****NON-LEGISLATIVE ACTS****ACT****DOCUMENT / STATEMENTS**

Council Decision authorising the European Commission to negotiate instruments on the enforcement of international commercial settlement agreements resulting from conciliation in the framework of the United Nations Commission on International Trade Law (UNCITRAL)

12176/1/17 REV 1

**Joint Statement by the delegations of France, Spain, Hungary, the Netherlands, Luxembourg, Austria and Italy**

France, Spain, Hungary, the Netherlands, Luxembourg, Austria and Italy underline that the fact that the future negotiations in the framework of UNCITRAL relate to issues falling under Article 81 (2) TFEU is not sufficient to confer external competence to the Union in these matters. In this case, the Union has external competence only in the case where the conclusion of an international agreement may affect common rules or alter their scope.

They recall that recognition and enforcement of international commercial settlement agreements resulting from conciliation are still governed by national law of Member States.

They consider that Member States are therefore also competent to participate actively alongside the European Commission and in accordance with the principle of sincere cooperation, in the negotiations in the framework of the UNCITRAL. In this regard, the directives included in Annex are without prejudice to the assessment of the division of competences between the Union and the Member States, which, if relevant, will have to be re-examined in depth at the end of the negotiations in view of the final text of the Convention.

**Statement by the Republic of Austria**

In addition to our joint statement together with the Republic of France, the Kingdom of the Netherlands, the Kingdom of Spain, the Grand Duchy of Luxembourg, Hungary, the Italian Republic and Austria, Austria recalls its position and concerns concerning the negotiating directives laid down in its comments of 7 September 2017 (11997/17 JUSTCIV 199) and during the latest meetings of the Working Party on Civil Law Matters.

Austria therefore urges the Commission and the Member States to further considerate and reflect the directives included in the Annex (12176/17 JUSTCIV 205 ADD 1 RESTREINT UE/EU RESTRICTED), so as to assure that any future instrument does not restrict companies' or citizens' rights of access to courts, but ensures that their highly valuable standards as laid down respectively in Article 6 of the European Convention on Human Rights and Article 47 of the Charta of Fundamental Human Rights of the European Union are maintained.

In particular, sufficiently high standards for the whole mediation process and the quality and neutrality of the mediator need to be elaborated. The scope of application of the future instrument needs to be narrowed and sufficient defences need to be installed in order to prevent from any misuse to the disadvantage of the more vulnerable party. For the same reason, an enforcing system without any legal control in the State of origin should not be accepted without similar guarantees.

**Statement by the United Kingdom**

While the United Kingdom can support the adoption of the Council Decision authorising the negotiation at UNCITRAL on both a Model Law and a Convention dealing with the enforcement of international commercial settlement agreements, like a number of other Member States it does not accept that the case has been made for there being EU exclusive competence in this area.

In addition, in accordance with the provisions of Protocol 21 to the Treaties, the United Kingdom has notified the President of the Council that it wished to take part in the adoption of this Decision, and considers the inclusion of the word "therefore" in the text of Recital 6 to be inaccurate. The fact that the United Kingdom is taking part in Regulation 1215/2012 does not, in its view, render inoperative the provisions of Protocol 21.