Council of the
European Union

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NOTE

Subject:	MONTHLY SUMMARY OF COUNCIL ACTS - JULY 2020

This document lists the acts adopted by the Council in July 2020.

It provides information on the adoption of non-legislative acts, including the date of adoption.

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

Monthly summaries of Council acts (acts) - Consilium

It should be noted that this document is exclusively for information purposes.

INFORMATION ON THE NON-LEGISLATIVE ACTS ADOPTED BY THE COUNCIL IN JULY 2020	
Written procedure completed on 7 July 2020	**CM 2934/20**
Council Decision *on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024)* Council Decision (EU) 2020/984 of 7 July 2020 on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024) OJ L 222, 10.7.2020, p. 4–6	8928/19
Statement by the Commission By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)(a)(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU. In relation to the decision on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024), the Commission regrets the Council's amendment replacing the substantive legal basis of Article 43(2) TFEU with Article 43 (without mentioning the paragraph), and therefore maintains its initial proposal.	8753/20 ADD1
Written procedure completed on 7 July 2020	**CM 2935/20**
Council Decision on the conclusion of the Protocol on implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) Council Decision (EU) 2020/983 of 7 July 2020 on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) OJ L 222, 10.7.2020, p. 1–3	8662/1/19 REV1

Statement by the Commission	6707/20 ADD1
By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)(a)(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU. In relation to the decision on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024), the Commission regrets the Council's amendment replacing the substantive legal basis of Article 43(2) TFEU with Article 43 (without mentioning the paragraph), and therefore maintains its initial proposal.	
Written procedure completed on 7 July 2020	**CM 2937/20**
Council Decision *on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community* Council Decision (EU) 2020/985 of 7 July 2020 on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community OJ L 222, 10.7.2020, p. 7–9	12199/19
Statement by the Commission	
By its judgement in joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council) the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)(a)(v) for the decisions on the conclusion of the agreements) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU. In relation to the decision on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé e Príncipe and the European Community, the Commission regrets the Council's amendment replacing the substantive legal basis of Article 43(2) TFEU with Article 43 (without mentioning the paragraph), and therefore maintains its initial proposal.	6742/20 ADD1

Amended proposal for a Council Decision on the conclusion of the Air Transport Agreement between the EU and USA (Irish language version) Council Decision on the conclusion on behalf of the European Union of the Air Transport Agreement between the European Community and its Member States, of the one part, and the United States of America, of the other part	13419/16
Statement by Spain	
Spain hereby declares that the adoption of this Decision does not affect its legal position on the sovereignty dispute concerning the territory in which Gibraltar Airport is situated. Spain notes that on 20 November 2012 it informed the Commission that it no longer considered the Córdoba Statement to be in force and therefore, as from that date, it did not consider it acceptable to continue making reference to the Ministerial Statement of 18 September 2006 on Gibraltar Airport (Córdoba Statement) in European Union civil aviation legislation and accordingly requested a return to the situation prior to 18 September 2006 in any proposals for new legislation.	9824/20 ADD 1
Country Specific Recommendations 2020 Council Recommendations on the National Reform Programmes 2020 to each Member State, delivering Council Opinions on the updated Stability or Convergence Programmes	8449/5/20 REV5

Statement by Poland	
"1. Poland would like to abstain from voting regarding the approval of the contribution on economic/financial and MIP-related aspects of the draft Council Recommendations on the National Reform Programmes 2020 to each Member State, delivering Council Opinions on the updated Stability or Convergence Programmes; 2. Poland does not support part of country specific recommendation 4 (CSR) where Commission advises to "Enhance the investment climate, in particular by safeguarding judicial independence"; 3. In our opinion there is no evidence of any negative impact of changes in the judicial system on the investment climate in Poland; 4. Since 2017, when the Commission for the first time decided to align the legal certainty, trust in the quality and predictability of regulatory with the investment climate, Poland has been recording a steady increase in both public and private investment (about 22 per cent for last 3 years); 5. Poland has introduced many favorable changes important for investment and business environment. The improvement in investment performance was also confirmed by the Commission in 2020 Country report-Poland but even though the Commission decided to strengthen this issue in the CSR4; 6. Moreover, as stated in the recital 25, some of the CJEU proceedings are pending along with a debate over the scope of authority of the CJEU over the matters pertaining to the Member States' scope of competence, i.e. the organization of the judiciary. So far, Poland complies with the CJEU's guidelines, therefore we don't see a reason to underline the necessity to additionally safeguard the judicial independence; 7. We would like to stress the importance of the European Semester as a framework for enhanced economic policy coordination in Europe. This economic process should be based on facts and figures. Otherwise we can have political statements and recommendations without any economic underpinning and instead of strengthening this important coordination tool we would weaken its effectiveness. We also stressed that European Semester should not duplicate other EU procedures."	9824/20 ADD 1
European Semester 2020 – Recommendation on the economic policy of the euro area Council Recommendation of 20 July 2020 on the economic policy of the euro area 2020/C 243/01 OJ C 243, 23.7.2020, p. 1–7	6301/20

Statement by Malta	
"1. We are supportive of EU and OECD work in curbing tax avoidance and aggressive tax planning; 2. We are also supportive of finding a consensus-based solution in the OECD IF on BEPS i.c.w the ongoing international tax reforms on the digitalisation of the economy; 3. We are however concerned that the wording used in this year's EAR Recommendation 2 stretches beyond known parameters in international taxation; 4. Malta is of the view that the wording therein ("… race to the bottom …") is ambiguous in nature and appears to be implying that lower levels of taxation are in themselves harmful or abusive; 5. Malta does not share this view. Malta is of the view that tax competition is of concern only if it is "harmful" in nature, the parameters of which are identified in EU and international work on harmful tax practices; 6. It is further to be recalled that the setting of taxation levels is an inherent aspect of a country's sovereignty; 7. Our concerns as to what such assertion in Recommendation 2 is meant to translate to in practice (with a view to addressing such Recommendation) have not been addressed in the run-up to its adoption; 8. The EAR Recommendation is premature given the "no prejudice" approach adopted for the ongoing work at the Inclusive Framework on BEPS; 9. Consequently, Malta is abstaining on the adoption of this Council Recommendation."	9824/20 ADD 1
3765th meeting of the Council of the European Union (Foreign Affairs) held in Brussels on 13 July 2020 (Minutes: 9649/20)	
NON-LEGISLATIVE ACTS	
Conclusions on EU priorities for cooperation with the Council of Europe 2020-2022 Council Conclusions on EU priorities for cooperation with the Council of Europe 2020-2022	9177/20

Statement by Bulgaria	9177/20 ADD 1
Statement by Bulgaria on Council Conclusions on EU Priorities for cooperation with the Council of Europe in 2022 - 2020(paragraph 19) Bulgaria reiterates its national position on the notion "gender identity" in the context of the Council of Europe's *Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention)* as follows: Bulgaria attaches great importance to the promotion and protection of human rights, including protection against violence and discrimination. The country has developed a strong national legislation on combatting violence against women and domestic violence. It also continues its efforts on adopting measures and policies to resolve existing challenges. In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe's *Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention)* promotes legal concepts that are incompatible with main principles of the Bulgarian Constitution. Therefore, Bulgaria cannot accept the term "gender identity" according to the said decision of the Bulgarian Constitutional Court. Bulgaria does not tolerate and combats discrimination on the grounds, enumerated in the internationally established and widely adopted conventions on human rights in the UN and Council of Europe fora as well as those enshrined in the EU legislation. However, the leading documents such as the EU Charter of Fundamental Rights and the EU Human Rights Guidelines on Non-discrimination in External Action do not include a legally binding reference to "gender identity". The above represents the position of Bulgaria on all issues related to the ratification of the *Istanbul Convention* by the country and the use of the notion "*gender identity*" in this context.	

Statement by Hungary	9177/20 ADD 2
Statement by Hungary to the Council minutes on Council Conclusions on EU Priorities for cooperation with the Council of Europe in 2020-2022 In view of the incoming chairmanship of the Committee of Ministers of the Council of Europe in 2021, Hungary welcomes the agreement on the Conclusions on EU priorities for cooperation with the Council of Europe 2020-2022. This document sets out the path in which the two organizations can work together, while striving to avoid unnecessary overlaps. Hungary remains dedicated to its human rights commitments, including the specific areas touched upon in the document and to combat all forms of violence against women and domestic violence. However, we must underline that the Hungarian National Assembly decided not to include in the Hungarian national legal system either the concept of gender or the gender-based approach of the Istanbul Convention. Therefore, in line with the relevant declaration of the Hungarian National Assembly, we reserve the right not to recognize the binding force of the Istanbul Convention and we reaffirm that Hungary will not support or promote the ratification of the Istanbul Convention by the European Union.	
Written procedure completed on 16 July 2020	**CM 3084/20**
Council Recommendation amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction Council Recommendation (EU) 2020/1052 of 16 July 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction OJ L 230, 17.7.2020, p. 26–28	9596/20

Statement Portugal	

S. R.

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS
Direção-Geral dos Assuntos Europeus

DECLARAÇÃO DE PORTUGAL

Portugal mantém a posição de princípio segundo a qual a reabertura das fronteiras internas deveria anteceder quaisquer decisões sobre o levantamento das restrições às viagens não essenciais para a União Europeia, de que a adoção da Recomendação (UE) 2020/912 do Conselho constituiu um exemplo.

Relativamente à Recomendação (UE) 2020/912 do Conselho, Portugal continua e entender que a aplicação dos critérios nela inscritos permitiriam o levantamento de restrições a países terceiros que não constam da atual lista de países e cujos residentes não deveriam ser afetados pela restrição temporária das viagens não indispensáveis para a União Europeia.

O Diretor-Geral dos Assuntos Europeus

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Written procedure completed on 28 July 2020	**CM 3203/20**
Council Implementing Decision appointing the European Prosecutors of the European Public Prosecutor's Office	ST 14830/19 + REV1
Statement made by Austria, Estonia, Luxembourg and the Netherlands	
Statement on the appointment of European Prosecutors Regulation (EU) 2017/1939 provides for the establishment of a selection panel made up of 12 persons who undoubtedly have the necessary experience to assess the eligibility of candidates and to establish a ranking of those candidates according to their qualifications and experience. The involvement of an independent selection panel, with an international composition and commonly agreed operating rules, gives a specific legitimacy to the appointment procedure of the 22 European Prosecutors. The purpose of establishing such a panel is to increase trust of the public in the selection process of all European Prosecutors. This trust should not be undermined in the years to come. National selection panels have an important role to play in assessing a large number of applications and in determining the three most qualified candidates that each Member State shall nominate for the position of European Prosecutor. At the same time, a competition between rankings of national selection panels and the ranking of the European selection panel must be avoided, at the risk of eroding the European component of the appointment procedure. It is true that in accordance with Article 16(2) of Regulation (EU) 2017/1939 when selecting and appointing the candidates for the European Prosecutors, the Council has discretion and is not bound by the ranking of candidates established by the European selection panel. However, a situation in which each participating Member State would exclusively follow the ranking of its national panel, where such a ranking exists, would be detrimental to the legitimacy of the European selection panel in a process concerning a body that is, after all, a body of the European Union. The evaluation report on the implementation of Regulation (EU) 2017/1939 should include findings on the effectiveness and possible shortcomings of this selection process, and if need be, should suggest amendments aiming at improving the procedure.	