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NOTE

Subject: MONTHLY SUMMARY OF COUNCIL ACTS - FEBRUARY 2017

This document lists the acts adopted by the Council in February 2017.^{1 2}

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.

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

¹ 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.

² 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.

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INFORMATION ON THE ACTS ADOPTED BY THE COUNCIL IN FEBRUARY 2017

3516th meeting of the COUNCIL OF THE EUROPEAN UNION (Foreign Affairs) held in Brussels on 6 February 2017

NON-LEGISLATIVE ACTS

ACT	DOCUMENT / STATEMENTS
Council Implementing Decision (CFSP) 2017/203 of 6 February 2017 implementing Decision 2010/788/CFSP concerning restrictive measures against the Democratic Republic of the Congo OJ L 32, 7.2.2017, p. 22–34	5286/17
Council Implementing Regulation (EU) 2017/199 of 6 February 2017 implementing Article 9(5) of Regulation (EC) No 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo OJ L 32, 7.2.2017, p. 1–14	5287/17
Council Decision (EU) 2017/248 of 6 February 2017 on the conclusion of the Agreement continuing the International Science and Technology Center OJ L 37, 14.2.2017, p. 1–2	8558/16
Agreement continuing the International Science and Technology Center OJ L 37, 14.2.2017, p. 3–12	12681/15
Council Decision (EU) 2017/262 of 6 February 2017 determining, for the General Secretariat of the Council, the appointing authority and the authority empowered to conclude contracts of employment, and repealing Decision 2013/811/EU OJ L 39, 16.2.2017, p. 4–5	15606/16
Council Conclusions on Libya	5321/17

3517th meeting of the COUNCIL OF THE EUROPEAN UNION (General Affairs) held in Brussels on 7 February 2017**LEGISLATIVE ACTS**

ACT	DOCUMENT	VOTING RULE	VOTES
Regulation (EU) 2017/355 of the European Parliament and of the Council of 15 February 2017 on certain procedures for applying the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo * of the other part OJ L 57, 3.3.2017, p. 59–62	56/16	Qualified majority	All Member States in favour, except: Abstention: ES, CY, RO

Statement by the Republic of Cyprus

The Republic of Cyprus hereby recalls the content of its National Declaration that was submitted upon approval of the Council Decisions for the signing and conclusion of the Stabilisation and Association Agreement between the European Union and European Atomic Energy Community of one part, and Kosovo*, of the other part (Annex II of Document 13020/15).

Statement by Romania

Romania recalls its declaration on the signing and concluding of the Stabilisation and Association Agreement between the European Union and European Atomic Energy Community of one part, and Kosovo*, of the other part (doc. 13020/15).

Furthermore, Romania underlines that any procedures related to the Stabilization and Association Agreement application should be considered in light of the above mentioned declaration.

Statement by Spain

Spain's position concerning the Council adoption of the decisions on the signing and on the conclusion of the Stabilization and Association Agreement with Kosovo* is without prejudice to the Spanish position on the international status of Kosovo and is in conformity with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

The use of the legal basis for the Stabilization and Association Agreement with Kosovo of article 37 of the Treaty of the European Union in relation with article 31 of the Treaty of the European Union, as well as of article 217 of the Treaty on the Functioning of the European Union in relation with article 218 of the Treaty on the Functioning of the European Union, is without prejudice to the Spanish position on the international status of Kosovo and is in conformity with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Wording referring Kosovo's European perspective can only be understood as approximation to the EU, without the ultimate objective of EU accession, as the unilateral declaration of independence is not unanimously recognized.

Regulation (EU) 2017/354 of the European Parliament and of the Council of 15 February 2017 amending Regulation (EU) 2015/936 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Union import rules OJ L 57, 3.3.2017, p. 31–58	54/16	Qualified majority	All Member States in favour
NON-LEGISLATIVE ACTS		DOCUMENT / STATEMENTS	
Council Decision (EU) 2017/232 of 7 February 2017 on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of Kiribati on the short-stay visa waiver OJ L 36, 11.2.2017, p. 1–2	12092/15		
Council Decision (EU) 2017/234 of 7 February 2017 on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Federated States of Micronesia on the short-stay visa waiver OJ L 36, 11.2.2017, p. 5–6	9780/16		
Council Decision (EU) 2017/235 of 7 February 2017 on the conclusion, on behalf of the Union, of the Agreement between the European Union and Solomon Islands on the short-stay visa waiver OJ L 36, 11.2.2017, p. 7–8	9785/16		
Council Decision (EU) 2017/225 of 7 February 2017 on the conclusion, on behalf of the Union, of the Agreement between the European Union and Tuvalu on the short-stay visa waiver OJ L 35, 10.2.2017, p. 1–2	9764/16		
Council Decision (EU) 2017/233 of 7 February 2017 on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Republic of the Marshall Islands on the short-stay visa waiver OJ L 36, 11.2.2017, p. 3–4	9775/16		
Council Implementing Decision (EU) 2017/246 of 7 February 2017 setting out a Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk OJ L 36, 11.2.2017, p. 59–61	5660/17		

Statement by Greece

Greece regrets that the adoption of the Commission's proposal for Council Implementing Decision setting out a recommendation for prolonging temporary internal border control in exceptional circumstances, for a temporary period of another three months, is based, among others, on the assumption that "an important number of irregular migrants still remains in Greece and, based on trends observed in the past, the Member States most affected by the secondary movements of irregular migrants coming from Greece, remain exposed to the risk related to their irregular movements".

Greece underlines that there is no concrete evidence for secondary movements from its territory to other EU Member States. Since the November 2015 evaluation, all border controls and patrols at all BCPs of Greece have been further tightened. Among others, in the framework of the National Operation 'SARISA', Greece has taken all necessary measures in close cooperation with FRONTEX to prevent and deter any attempt of absconding from the mainland to the north, including to the former Yugoslav Republic of Macedonia. The situation is monitored constantly and assessed as sustainable.

Additionally, Greece managed to implement fully, timely and effectively in the framework of its action plan almost all the recommendations that have been set by Commission and Council as cited in recital (5). Consequently, Greece recalls that Article 29 of the SBC may be triggered as a last resort and only when the conditions of article 21(3) are met and the Commission finds that the overall functioning of the Schengen area is put at risk as a result of persistent serious deficiencies, relating to external border control.

Moreover, the asylum applications may not be considered as a relevant factor to the prolongation of the temporary internal border controls and Greece cannot see the reasoning behind the Commission's assertion that the five Member States implementing internal border controls should be reporting on the number of asylum applications received by Schengen States in recital (14).

Greece considers that the prolongation of the internal borders control within the Schengen area cannot be justified under the legal basis of Article 29 of the Schengen code and it moreover lacks of proportionality.

In this context, Greece cannot agree to the proposal for this Council Implementing Decision.

Statement by Slovenia

The Republic of Slovenia does not support the Commission's proposal for prolonging the border control on the internal land border between Slovenia and Austria for another 3 months.

The European Commission justifies the permission to prolong temporary border controls for the same Member States and at the same sections of the borders with the need to adequately address the serious threat to public policy and internal security related to the secondary movements of irregular migrants. Additionally, measures needed in the implementation of the European Border and Coast Guard regulation and the number of asylum seekers in Greece were cited as reasons for the Commission's proposal.

Slovenia can not support the further prolongation of border controls, especially as regards the border between Slovenia and Austria, since the relevant facts no longer support the need for continued border control on the internal land borders. The European Border and Coast Guard has been established and is performing tasks as envisaged by the new legal framework and the EU Turkey Statement is being implemented. Greece has made substantial progress and is managing illegal migration considerably better than in the past, which is proven by the significant decrease in the numbers of illegal migrants travelling through the Western Balkans route.

Objectively, threats to the Schengen area can be justified by official statistical data on illegal border crossings, which have serious implications for internal security of a particular state. The total number of persons received from the Austrian authorities in 2016, which stood at 76 persons, cannot be said to constitute a foundation to substantiate such a threat.

The Republic of Slovenia has been fully implementing the Schengen legal order and will continue to do so in the future. Slovenia is convinced that the current circumstances no longer justify the radical interference in fundamental values of the Schengen order in the form of internal border controls and therefore opposes the adoption of this recommendation.

Statement by Hungary

Recognizing that the migratory pressure at the Central-Mediterranean route is the biggest challenge for the European Union yet, Hungary recalls the Malta Declaration by the Members of the European Council on the external aspects of migration adopted on 3 February 2017 stating that on the Eastern Mediterranean route, while pressure remain, arrivals in the last four months of 2016 were down 98% year-on-year. Hungary is of the view that the proposal on the Council Implementing Decision setting out a Recommendation for prolonging temporary internal border control in exceptional circumstances putting the overall functioning of the Schengen area at risk is envisaging measures in relation to the practically closed Western Balkan route, and therefore it creates unnecessary difficulties and causes high economic burden and costs for EU citizens and economic operators in the region. Therefore, Hungary is not in a position to support the adoption of the proposal.

Hungary would like to recall that the reports of the 5 Member States concerned, about the results of the border control at internal borders were not previously available for other Member States. In addition, the proposal of the Commission does not contain any figures from these reports. The given facts and data do not justify either the necessity or the proportionality of the proposed measures and the maintenance of temporary border controls at the specified internal border sections.

The prolongation of internal border controls at certain internal border sections cannot be deemed as either temporary, nor an exceptional or proportionate measure and may lead to the slow disintegration of the Schengen area. In Hungary's view, the proposal is neither legitimate nor legally justified. Furthermore; it only causes unnecessary difficulties for persons enjoying the Union right of the freedom of movement.

Written procedure completed on 13 February 2017

NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Decision (EU) 2017/434 of 13 February 2017 on the signing, on behalf of the Union, and provisional application of the Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part OJ L 67, 14.3.2017, p. 1–2	12965/16
Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part OJ L 67, 14.3.2017, p. 3–30	12966/16

3518th meeting of the COUNCIL OF THE EUROPEAN UNION (Education, Youth, Culture and Sport) held in Brussels on 17 February 2017

NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Implementing Decision (EU) 2017/290 of 17 February 2017 amending Decision 2009/935/JHA as regards the list of third States and organisations with which Europol shall conclude agreements JO L 42 du 18.2.2017, p. 17–18	15778/16
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of the common visa policy	6352/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of management of the external border	6353/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of the Schengen Information System	6354/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Croatia in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of the common visa policy	6359/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Italy on the application of the Schengen acquis in the field of data protection	6355/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Italy on the application of the Schengen acquis in the field of management of the external border	6357/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Italy on the application of the Schengen acquis in the field of return	6358/17
Council Decision (CFSP) 2017/289 of 17 February 2017 amending Decision (CFSP) 2015/2005 extending the mandate of the European Union Special Representative in Afghanistan OJ L 42, 18.2.2017	15587/16

Council Decision (CFSP) 2017/288 of 17 February 2017 amending Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe OJ L 42, 18.2.2017, p. 11–12	5542/17
Council Regulation (EU) 2017/284 of 17 February 2017 amending Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe OJ L 42, 18.2.2017, p. 1–4	5544/17
Council Decision (CFSP) 2017/301 of 17 February 2017 extending the mandate of the European Union Special Representative for the Sahel OJ L 43, 21.2.2017, p. 225–230	5458/17
Council Decision (CFSP) 2017/299 of 17 February 2017 extending the mandate of the European Union Special Representative for the South Caucasus and the crisis in Georgia OJ L 43, 21.2.2017, p. 214–218	5453/17
Council Decision (CFSP) 2017/300 of 17 February 2017 extending the mandate of the European Union Special Representative for the Horn of Africa OJ L 43, 21.2.2017, p. 219–224	5456/17
Council Decision (CFSP) 2017/298 of 17 February 2017 extending the mandate of the European Union Special Representative for Central Asia OJ L 43, 21.2.2017, p. 209–213	5322/17
Council Conclusions on investing in Europe's youth with particular regard to the European Solidarity Corps OJ C 62, 25.2.2017, p. 1–2	6340/17
Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on Inclusion in Diversity to achieve a High Quality Education For All OJ C 62, 25.2.2017, p. 3–7	6356/17

3519th meeting of the COUNCIL OF THE EUROPEAN UNION (Competitiveness (Internal Market, Industry, Research and Space)) held in Brussels on 20 February 2017

LEGISLATIVE ACTS

ACT	DOCUMENT	VOTING RULE	VOTES
Regulation (EU) 2017/540 of the European Parliament and of the Council of 15 March 2017 amending Regulation (EU) No 19/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, and amending Regulation (EU) No 20/2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other OJ L 88, 31.3.2017, p. 1–5	61/16	Qualified majority	All Member States in favour

Joint declaration by the European Parliament, the Council and the Commission

The European Parliament, the Council and the Commission agree on the importance of close cooperation in monitoring the implementation of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part³ as amended by Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador⁴, Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part⁵ and Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other⁶. To that end they agree on the following:

- Upon request by the responsible committee of the European Parliament, the Commission will report to it on any specific concerns relating to the implementation by Colombia, Ecuador or Peru of their commitments on trade and sustainable development.
- If the European Parliament adopts a recommendation to initiate a safeguard investigation, the Commission will carefully examine whether the conditions under Regulation (EU) No 19/2013 or under Regulation (EU) No 20/2013 for ex-officio initiation are fulfilled. If the Commission considers that the conditions are not fulfilled, it will present a report to the responsible committee of the European Parliament including an explanation of all the factors relevant to the initiation of such an investigation.
- The Commission will, by 1 January 2019, assess the situation of Union banana producers. If a serious deterioration in the state of the market or the situation of Union banana producers is found to have occurred, an extension in the period of validity of the mechanism may be considered with the agreement of the parties to the Agreement.

The Commission will continue to carry out regular analyses of the state of the market and the situation of Union banana producers after expiry of the stabilisation mechanism. If a serious deterioration in the state of the market or the situation of Union banana producers is found to have occurred, given the importance of the banana sector for outermost regions, the Commission will examine the situation, together with the Member States and the stakeholders, and decide whether appropriate measures should be considered. The Commission could also convene regular monitoring meetings with the Member States and the stakeholders.

The Commission has developed statistical tools to enable the monitoring and assessment of the trends in imports of bananas and of the situation of the Union banana market. The Commission will pay special attention to reviewing the format of the import surveillance data in order to make available regularly updated information in a more user-friendly manner.

³ OJ L 354, 21.12.2012, p. 3.

⁴ OJ L 356, 24.12.2016, p. 3.

⁵ Regulation (EU) No 19/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part (OJ L 17, 19.1.2013, p. 1).

⁶ Regulation (EU) No 20/2013 of the European Parliament and of the Council of 15 January 2013 implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (OJ L 17, 19.1.2013, p. 13).

NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council conclusions on the Commission Notice on certain Articles of Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions OJ C 65, 1.3.2017, p. 2–3	5808/17
3520th meeting of the COUNCIL OF THE EUROPEAN UNION (Economic and Financial Affairs) held in Brussels on 21 February 2017	
NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Implementing Decision (EU) 2017/320 of 21 February 2017 authorising France to conclude an agreement with the Swiss Confederation concerning Basel-Mulhouse Airport that includes provisions derogating from Article 5 of Directive 2006/112/EC OJ L 47, 24.2.2017, p. 9–10	5472/17
Council Implementing Decision (EU) 2017/319 of 21 February 2017 amending Implementing Decision 2013/677/EU authorising Luxembourg to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax OJ L 47, 24.2.2017, p. 7–8	5470/17
Council Decision (EU) 2017/328 of 21 February 2017 amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of the Bank of Greece OJ L 49, 25.2.2017, p. 34–35	5189/17
Council Conclusions on the European Court of Auditors' Special Report No 29/2016: "Single Supervisory Mechanism- Good start but further improvements needed"	6558/17
Council Recommendations on discharge to be given to the bodies set up under the TFEU and the Euratom Treaty in respect of the implementation of the budget for the financial year 2015	5873/17 + ADD 1
Council Recommendations on discharge to be given to the executive agencies in respect of the implementation of the budget for the financial year 2015	5874/17 + ADD 1
Council Recommendations on discharge to be given to the joint undertakings in respect of the implementation of the budget for the financial year 2015	5875/17 + ADD 1

Council Recommendation on discharge to be given to the Commission in respect of the implementation of the general budget of the European Union for the financial year 2015	5876/1/17 REV 1+ ADD 1
<u>Statement by Sweden and the Netherlands:</u> With reference to: – the European Court of Auditors’ annual report on the implementation of the EU budget concerning the financial year 2015; – discharge to be given to the Commission in respect of the implementation of the EU budget for 2015; – Council recommendation on the discharge to be given to the Commission in respect of the implementation of the general budget of the European Union for the financial year 2015; Appreciate that the overall estimated level of error has improved compared to last year, however, regret that for the 22nd consecutive year, the European Court of Auditors has been unable to grant an unqualified Statement of Assurance on the EU budget as a whole and that the error rate for expenditure remains significantly above the acceptable 2 % threshold; Are of the view that further discussion needs to take place on how the EU-budget can be re-designed to better support overall political priorities, generate results and react to unforeseen challenges, and support the Commission’s “Budget focused on Results” initiative in this regard; For this purpose, call on the Commission to initiate a comprehensive spending-review with the aim to systematically evaluate each area in the EU-budget regarding their efficiency, the EU added value and the contribution towards overall EU-priorities ahead of the next multiannual financial framework; Urge the Commission to continuously examine and identify those areas of spending in the EU-budget where sufficient results could not be achieved and to propose corrective action. The findings from this exercise should be included in the Commission’s report on the evaluation of the Union's finances based on the results achieved according to article 318 of the Treaty to ensure full transparency on action taken; Point to the fact that the levels of error vary considerably between different expenditure areas and call on the Commission to follow up on the requirement of the Financial Regulation and on the Council Recommendations regarding the discharge of the general EU-budget of 2014, to provide an analysis of areas with persistently high levels of error according to article 32(5) of the financial regulation with the aim of significantly reducing errors in the most risk-prone programs. This analysis shall be made publicly available to ensure full transparency and accountability; Strongly urge the Commission and Member States to identify further opportunities to simplify the complex rules and regulatory framework governing EU budget expenditure and delivery systems for shared management in order to improve compliance, as well as focussing on first level controls in order to help get payments right first the time; and Strongly urge the Commission to preserve the unanimously agreed payment ceilings, in particular by: maintaining fiscal discipline in relation to commitments; effectively de-committing unused appropriations in order to make room for new priorities and programmes; increasing transparency by providing long-term forecasts, and ensuring a balance between commitments and payments.	
Council Conclusions on budget guidelines for 2018	5877/17

Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of data protection by Austria	6501/17
Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Spain on the application of the Schengen acquis in the field of management of the external border (Barcelona Airport)	6131/17
Council Recommendation of 21 February 2017 concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (eighth EDF) for the financial year 2015 OJ C 58, 23.2.2017, p. 1–1	5376/17
Council Recommendation of 21 February 2017 concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (ninth EDF) for the financial year 2015 OJ C 58, 23.2.2017, p. 2–2	5377/17
Council Recommendation of 21 February 2017 concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (tenth EDF) for the financial year 2015 OJ C 58, 23.2.2017, p. 3–3	5378/17
Council Recommendation of 21 February 2017 concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (eleventh EDF) for the financial year 2015 OJ C 58, 23.2.2017, p. 4–4	5379/17
Council Conclusions Special Report No 21/2016 by the Court of Auditors: "EU pre-accession assistance for strengthening administrative capacity in the Western Balkans: a meta-audit"	6141/17

3521st meeting of the COUNCIL OF THE EUROPEAN UNION (Transport, Telecommunications and Energy) held in Brussels on 27 February 2017

LEGISLATIVE ACTS

ACT	DOCUMENT	VOTING RULE	VOTES
Regulation (EU) 2017/371 of the European Parliament and of the Council of 1 March 2017 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (revision of the suspension mechanism) OJ L 61, 8.3.2017, p. 1–6	58/16	Qualified majority	26 Member States in favour, 2 not participating: IE, UK

Joint statement by the Commission and the Council

When adopting the implementing act referred to in point (a) of paragraph 4 of Article 1a, the Commission will ensure, based on its assessment and on the types of travel documents specified by the Member State(s) in its / their notification(s), that the categories covered are sufficiently large in order to efficiently address the circumstances at stake.

Those categories can include, depending on the circumstances, all holders of ordinary, service or diplomatic passports from the third country concerned.

Where strong migratory pressure arises from circumstances as described in points (a), (b) or (c) of paragraph 2 of Article 1a, or a high security risk arises from the circumstances as described in point (d) of paragraph 2 of that Article, the Commission will include holders of ordinary passports issued by the third country concerned.

Statements by the Commission

1. The Commission will continue to report in accordance with its statement of November 2010 on the establishment of a follow-up mechanism to the visa liberalisation processes for the Western Balkan countries.
2. The Commission acknowledges that, as stated in recital (4), for the purposes of the suspension mechanism a substantial increase may indicate an increase lower than a threshold of 50 % if applicable in the particular case notified by the Member State concerned.
3. The Commission acknowledges that, as stated in recital (5), for the purposes of the suspension mechanism a low recognition rate may indicate a recognition rate higher than around 3 or 4 % if applicable in the particular case notified by the Member State concerned.

Regulation (EU) 2017/372 of the European Parliament and of the Council of 1 March 2017 amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Georgia) OJ L 61, 8.3.2017, p. 7–8	64/16	Qualified majority	26 Member States in favour, 2 not participating: IE, UK
NON-LEGISLATIVE ACTS			
ACT		DOCUMENT / STATEMENTS	
Council Implementing Decision (EU) 2017/369 of 27 February 2017 on subjecting methyl 2-[[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]amino]-3,3-dimethylbutanoate (MDMB-CHMICA) to control measures OJ L 56, 3.3.2017, p. 210–212		12356/16	
Council Decision (CFSP) 2017/346 of 27 February 2017 extending the mandate of the European Union Special Representative for Human Rights OJ L 50, 28.2.2017, p. 66–69		5447/17	
Council Decision (CFSP) 2017/345 of 27 February 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea OJ L 50, 28.2.2017, p. 59–65		15568/16	
Council Regulation (EU) 2017/330 of 27 February 2017 amending Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea OJ L 50, 28.2.2017, p. 1–8		15572/16	
Council Decision (CFSP) 2017/348 of 27 February 2017 extending the mandate of the European Union Special Representative in Kosovo (This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.) OJ L 50, 28.2.2017, p. 75–79		5457/17	

Statement by the Commission

In light of the rules of the Treaties, a CFSP decision cannot be used as a means to confer power on the Council to enact a derogation from the procurement rules defined in the Financial Regulation given that such power is attributed to the Commission. Moreover, any derogation from the rules on participation in the procurement procedures of the EUSR cannot be of generic and unlimited nature and must be duly justified in each specific case. The Commission considers that the derogating provisions on procurement in the Council Decision can only be interpreted as a purely enabling clause. The Commission continues to exercise its competences in the implementation of the budget of the EUSR as stemming from the Treaties and in accordance with the rules and procedures of the Financial Regulation.

Council Decision (CFSP) 2017/347 of 27 February 2017 extending the mandate of the European Union Special Representative in Bosnia and Herzegovina OJ L 50, 28.2.2017, p. 70–74	5454/17
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Statement by the Commission

In light of the rules of the Treaties, a CFSP decision cannot be used as a means to confer power on the Council to enact a derogation from the procurement rules defined in the Financial Regulation given that such power is attributed to the Commission. Moreover, any derogation from the rules on participation in the procurement procedures of the EUSR cannot be of generic and unlimited nature and must be duly justified in each specific case. The Commission considers that the derogating provisions on procurement in the Council Decision can only be interpreted as a purely enabling clause. The Commission continues to exercise its competences in the implementation of the budget of the EUSR as stemming from the Treaties and in accordance with the rules and procedures of the Financial Regulation.

Council Decision (CFSP) 2017/349 of 27 February 2017 amending Decision 2012/389/CFSP on the European Union Capacity Building Mission in Somalia (EUCAP Somalia) OJ L 50, 28.2.2017, p. 80–80	6127/17
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Statement by the Commission

In light of the rules of the Treaties, a CFSP decision cannot be used as a means to confer power on the Council to enact a derogation from the procurement rules defined in the Financial Regulation given that such power is attributed to the Commission. Moreover, any derogation from the rules on participation in the procurement procedures of the mission cannot be of generic and unlimited nature and must be duly justified in each specific case. The Commission considers that the derogating provisions on procurement in the CFSP Decision can only be interpreted as a purely enabling clause. The Commission continues to exercise its competences in the implementation of the budget of the mission as stemming from the Treaties and in accordance with the rules and procedures of the Financial Regulation.

Council Decision (CFSP) 2017/350 of 27 February 2017 amending Decision 2012/642/CFSP concerning restrictive measures against Belarus OJ L 50, 28.2.2017, p. 81–81	6347/17
Council Regulation (EU) 2017/331 of 27 February 2017 amending Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus OJ L 50, 28.2.2017, p. 9–10	6343/17
Council Conclusions on EU Priorities at UN Human Rights Fora in 2017	5689/17
Statement by Hungary The adoption of the Programme of Action of the International Conference on Population and Development (ICPD) and the Beijing Platform for Action of the Fourth World Conference on Women marked a remarkable consensus. They placed the enjoyment of human rights at the heart of development and important gains in the fields of health, gender equality and education have been achieved since their adoption. These fields are at the core of the 2030 Agenda for Sustainable Development incorporating as founding principles the universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination. Hungary remains dedicated to its human rights commitments, including the protection and promotion of women’s rights and gender equality. Hungary is deeply committed to the implementation of the ICPD Programme of Action and Beijing Platform for Action as well as the 2030 Agenda, serving also as basic references in the fields of sexual and reproductive health and reproductive rights. Hungary notes, that the term of “sexual and reproductive health and rights (SRHR)” and related issues, like “sexual rights”, “comprehensive sexuality education”, “modern methods of contraception”, “emergency contraception”, are lacking consensual definition at international level, including within the European Union. These issues are interpreted and promoted by Hungary in the context of the 2030 Agenda, the ICPD Programme of Action and the Beijing Declaration and Platform for Action and in line with its national legislation. Hungary strongly rejects all forms of discrimination or violence based on any ground or status, including on sexual orientation and gender identity (SOGI). In the meantime Hungary reserves its sovereign right to define the personal scope and the content of family relations and of marriage in accordance with its national legislation. Hungary deems of utmost importance that the mandate and activities carried out by the new United Nations Independent Expert on SOGI observe international law and internationally recognized human rights standards.	

Statement by Croatia

With the wish of securing the timely adoption of Council Conclusions on EU Priorities in UN Human Rights Fora in 2017, Croatia embraces the spirit of consensus; however, we would like to present a statement in our national capacity.

Croatia will continue to promote the universality and indivisibility of human rights, in order that all human beings effectively benefit from these principles. Croatia attaches special importance to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which together with the Universal Declaration of Human Rights form the very foundation of international human rights.

With regard to the promotion of freedom of religion and belief, Croatia is determined to raise awareness about the violence and persecution of Christians and other religious minorities in countries where religious freedoms are not fully respected, especially in the Middle East.

The work and the scope of activities of all Special Procedure mandate holders, especially the new UN Independent Expert on SOGI, should be carried out in strict compliance with international law and internationally recognized human rights. It is our position that there is no need to single out any of the Special Procedure mandate holders as they all perform work in their respective fields of human rights protection.

Croatia will pay special attention to the promotion and the protection of the traditional family, based upon marriage defined as a union of a woman and a man, as the natural and fundamental group unit of society.

Croatia notes that the term “sexual and reproductive health and rights” is lacking consensual definition at international level, including within the European Union. In that sense, Croatia interprets this term in a way that it does not include abortion.

Croatia reserves its right to promote these positions in all multilateral fora in our national capacity.

Statement by Poland (on paragraphs 23 and 25)

Poland rejects any attempts to discriminate whomever on any ground, including sexual orientation, and combats any attempts to use violence against LGBT persons. At the same time, we believe that the creation of the mandate of independent expert on the protection against violence and discrimination based on sexual orientation and gender identity should have been approached in a manner conducive to the elaboration of a consensual outcome. As it was not the case, Poland cannot agree to any language that would welcome the establishment, in a direct or indirect manner, of the above-mentioned mandate of the independent expert.

Poland also remains dedicated to respond to challenges to achieve full equality between women and men. International agreements guide us in this respect, however not all significant issues are addressed by the international instruments. As the term of “sexual and reproductive health and rights” lacks any internationally recognized definition, Poland interprets its scope in line with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action.

3522nd meeting of the COUNCIL OF THE EUROPEAN UNION (Environment) held in Brussels on 28 February 2017

NON-LEGISLATIVE ACTS	
ACT	DOCUMENT / STATEMENTS
Council Decision (EU) 2017/470 of 28 February 2017 on the signing, on behalf of the European Union, of an Agreement in the form of an Exchange of Letters between the European Union and the Swiss Confederation on the cumulation of origin between the European Union, Switzerland, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union OJ L 73, 18.3.2017, p. 1–2	5769/17
Agreement in the form of an Exchange of Letters between the European Union and the Swiss Confederation on the cumulation of origin between the European Union, Switzerland, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union	5803/17
Council Decision (EU) 2017/471 of 28 February 2017 on the signing, on behalf of the European Union, of an Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway on the cumulation of origin between the European Union, Switzerland, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union OJ L 73, 18.3.2017, p. 3–4	5804/17

Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway on the cumulation of origin between the European Union, Switzerland, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union	5814/17
Council Conclusions on European Court of Auditors' Special Report No 23/2016	6483/17
Council Decision (EU) 2017/418 of 28 February 2017 on the conclusion on behalf of the European Union of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the Implementation Protocol thereto OJ L 64, 10.3.2017, p. 1–3	7592/16
Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands	7594/16
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 signature and conclusion of the new Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the Implementation Protocol thereto, the Commission regrets the Council's amendment replacing the legal basis of Article 43(2) in conjunction with Article 218(5), 218(6)a and Article 218(7) TFEU with Article 43 (without mentioning the paragraph) in conjunction with article 218(5), 218(6)a and 218(7) TFEU, and therefore maintains its initial proposal.	
Council Decision to authorise the Commission to open negotiations, on behalf of the European Union, for the renewal of the protocol to the Fisheries Partnership Agreement with the Republic of Guinea-Bissau	5716/17
Statement By The Commission The Commission does not consider it necessary that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.	

Council Decision (EU) 2017/435 of 28 February 2017 on the conclusion of the Agreement amending for the second time 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, as first amended in Luxembourg on 25 June 2005 OJ L 67, 14.3.2017, p. 31–32	16894/11
Council Conclusions on EU relations with the Swiss Confederation	6767/17