## Information and Notices

### Notice No | Contents | Page
--- | --- | ---
|  | Resolutions, recommendations and opinions | 

### RESOLUTIONS

**European Parliament**

2011-2012 SESSION

Sittings of 15 to 17 November 2011

The Minutes of this session have been published in OJ C 59 E, 28.2.2012.

TEXTS ADOPTED

**Tuesday 15 November 2011**

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Insolvency proceedings in the context of EU company law</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/01</td>
<td>European Parliament resolution of 15 November 2011 with recommendations to the Commission on insolvency proceedings in the context of EU company law (2011/2006(INI))</td>
<td>1</td>
</tr>
</tbody>
</table>

ANNEX TO THE RESOLUTION | 5 |

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Demographic change and its consequences for the cohesion policy</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/02</td>
<td>European Parliament resolution of 15 November 2011 on demographic change and its consequences for the future cohesion policy of the EU (2010/2157(INI))</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Implementation of Professional Qualifications Directive</th>
<th>Page</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Consumer policy</th>
<th>Page</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Online gambling</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/05</td>
<td>European Parliament resolution of 15 November 2011 on online gambling in the Internal Market (2011/2084(INI))</td>
<td>35</td>
</tr>
</tbody>
</table>

(Continued overleaf)
<table>
<thead>
<tr>
<th>Notice No</th>
<th>Contents (continued)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/06</td>
<td>Honeybee health and beekeeping European Parliament resolution of 15 November 2011 on honeybee health and the challenges of the beekeeping sector (2011/2108(INI))</td>
<td>43</td>
</tr>
<tr>
<td>2013/C 153 E/07</td>
<td>State aid rules on services of general economic interest European Parliament resolution of 15 November 2011 on reform of the EU state aid rules on Services of General Economic Interest (2011/2146(INI))</td>
<td>51</td>
</tr>
</tbody>
</table>

**Wednesday 16 November 2011**

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Contents (continued)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/10</td>
<td>Climate change conference in Durban European Parliament resolution of 16 November 2011 on the climate change conference in Durban (COP 17)</td>
<td>83</td>
</tr>
<tr>
<td>2013/C 153 E/11</td>
<td>Accountability report on financing for development European Parliament resolution of 16 November 2011 on the accountability report on financing for development</td>
<td>97</td>
</tr>
<tr>
<td>2013/C 153 E/12</td>
<td>European cinema in the digital era European Parliament resolution of 16 November 2011 on European cinema in the digital era (2010/2306(INI))</td>
<td>102</td>
</tr>
</tbody>
</table>

**Thursday 17 November 2011**

<table>
<thead>
<tr>
<th>Notice No</th>
<th>Contents (continued)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/C 153 E/13</td>
<td>EU support for the International Criminal Court European Parliament resolution of 17 November 2011 on EU support for the ICC: facing challenges and overcoming difficulties (2011/2109(INI))</td>
<td>115</td>
</tr>
<tr>
<td>2013/C 153 E/15</td>
<td>The open internet and net neutrality in Europe European Parliament resolution of 17 November 2011 on the open internet and net neutrality in Europe</td>
<td>128</td>
</tr>
<tr>
<td>2013/C 153 E/16</td>
<td>Banning cluster munitions European Parliament resolution of 17 November 2011 on banning cluster munitions</td>
<td>132</td>
</tr>
<tr>
<td>2013/C 153 E/17</td>
<td>Modernisation of VAT legislation in order to boost the digital single market European Parliament resolution of 17 November 2011 on the modernisation of VAT legislation in order to boost the digital single market</td>
<td>135</td>
</tr>
<tr>
<td>2013/C 153 E/18</td>
<td>Negotiations of the EU-Georgia Association Agreement European Parliament resolution of 17 November 2011 containing the European Parliament's recommendations to the Council, the Commission and the EEAS on the negotiations of the EU-Georgia Association Agreement (2011/2133(INI))</td>
<td>137</td>
</tr>
</tbody>
</table>

(Continued on page 285)
(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

Insolvency proceedings in the context of EU company law

P7_TA(2011)0484

European Parliament resolution of 15 November 2011 with recommendations to the Commission on insolvency proceedings in the context of EU company law (2011/2006(INI))

(2013/C 153 E/01)

The European Parliament,

— having regard to Article 225 of the Treaty on the Functioning of the European Union,


— having regard to the judgments of the Court of Justice of the European Union of 2 May 2006 (2), 10 September 2009 (3) and 21 January 2010 (4),

— having regard to Rules 42 and 48 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Employment and Social Affairs (A7-0355/2011),

A. whereas disparities between national insolvency laws create competitive advantages or disadvantages and difficulties for companies with cross-border activities which could become obstacles to a successful restructuring of insolvent companies; whereas those disparities favour forum-shopping; whereas the internal market would benefit from a level playing field;

B. whereas steps must be taken to prevent abuse, and any spread, of the phenomenon of forum shopping, and whereas competing main proceedings should be avoided;

C. whereas even if the creation of a body of substantive insolvency law at EU level is not possible, there are certain areas of insolvency law where harmonisation is worthwhile and achievable;

(2) Case C-341/04 Eurofood IFSC Ltd [2006] ECR I-3813.
D. whereas there is a progressive convergence in the national insolvency laws of the Member States;

E. whereas the Insolvency Regulation was adopted in 2000 and has been now in force for more than nine years; whereas the Commission should present a report on its application no later than 1 June 2012;

F. whereas the Insolvency Regulation was the outcome of a very lengthy negotiation process, the result of which is that many sensitive issues were left out and that its approach on a number of questions was already outdated at the moment of its adoption;

G. whereas since the entry into force of the Insolvency Regulation many changes have taken place, 12 new Member States have joined the Union and the phenomenon of groups of companies has increased enormously;

H. whereas insolvency has an adverse impact not only on the businesses concerned but also on the economies of the Member States, and whereas the aim should therefore be to safeguard all economic stakeholders, taxpayers and employers against the repercussions of insolvency;

I. whereas the approach in relation to insolvency proceedings is now centred more on corporate rescue as an alternative to liquidation;

J. whereas insolvency law should be a tool for the rescue of companies at Union level; whereas such rescue, whenever it is possible, is to the benefit of the debtor, the creditors and the employees;

K. whereas insolvency proceedings should not be used abusively by a creditor to avoid joint action for the recovery of debts, and whereas it is therefore necessary to introduce appropriate procedural safeguards;

L. whereas a legal framework should be established that better suits cases of companies which are temporarily insolvent;

M. whereas in its Communication of 3 March 2010 entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’ (COM (2010) 2020), the Commission, referring to the missing links and bottlenecks obstructing the achievement of a single market for the 21st century, stated as follows: ‘Access for SMEs to the single market must be improved. Entrepreneurship must be developed by concrete policy initiatives, including a simplification of company law (bankruptcy procedures, private company statute, etc.), and initiatives allowing entrepreneurs to restart after failed businesses’;

N. whereas insolvency law should also lay down rules for the winding-up of a company in a way which is the least harmful and the most beneficial for all participants once it is established that the corporate rescue is likely to fail or has failed;

O. whereas in each specific case the reasons for the insolvency of a business must be investigated, i.e. it must be ascertained whether the business's financial difficulties are merely transient or whether the business is completely insolvent; whereas what is fundamentally required is to establish all the assets of a debtor and his liabilities in order to be able to assess his solvency or insolvency:
P. whereas groups of companies are a common phenomenon but their insolvency has not yet been addressed at Union level; whereas the insolvency of a group of companies is likely to result in the commencement of multiple separate insolvency proceedings in different jurisdictions with respect to each of the insolvent group members; whereas unless those proceedings can be coordinated, it is unlikely that the group can be reorganised as a whole and it may have to be broken up into its constituent parts, with consequent losses for the creditors, shareholders and employees;

Q. whereas where groups of companies become insolvent, a recovery is currently difficult to achieve in the EU, due to the differences in Member States' rules, thus endangering thousands of jobs;

R. whereas the interlinking of national insolvency registers leading to the creation of a generally accessible and comprehensive EU database of insolvency proceedings would allow creditors, shareholders, employees and courts to determine whether insolvency proceedings have been opened in another Member State and to ascertain the deadlines and details for the presentation of claims; whereas this would promote cost-effective administration and increase transparency while respecting data protection;

S. whereas cross-border ‘living wills’ should be legally enforceable in the case of financial institutions and should be considered for all systemically relevant corporations, even if they are not financial institutions, as an important step in the process of achieving an appropriate cross-border insolvency framework;

T. whereas provisions for insolvency proceedings must allow special arrangements for separation of viable units that provide essential services, such as payment systems and other mechanisms defined in ‘living wills’ and whereas, in this respect, Member States should also ensure that their insolvency laws include adequate provisions allowing special arrangements at EU level for separation of insolvent cross-border conglomerates into viable units;

U. whereas insolvency proceedings should take account of intra-group transfers, with the aim of ensuring that, where appropriate, assets are recoverable across borders, in order to achieve an equitable result;

V. whereas some investment companies, particularly insurers, cannot be dissolved on a ‘snapshot’ basis and require an outcome that achieves an equitable distribution of assets over time; whereas transfer of business, run-off, or continuity of operation should not be prevented and may need to be prioritised;

W. whereas the decision to involve whole groups rather than single legal entities in insolvency proceedings should be outcome-oriented and should take account of any knock-on effects such as the triggering of other resolution tools or the effect on guarantee schemes that cover multiple brands within a group;

X. whereas it would be appropriate to explore the definition of harmonised bail-in procedures and standards for cross-border conglomerates, including in particular debt-to-equity swaps;

Y. whereas although employment law is the responsibility of the Member States, insolvency law can have an impact on employment law, and whereas in the context of increasing globalisation – and, indeed, of the economic crisis – the issue of insolvency needs to be considered from an employment-law perspective, as differing definitions of ‘employment’ and ‘employee’ in Member States should not undermine the rights of employees in the event of insolvency; whereas, however, any debate on the specific issue of insolvency should not automatically be a pretext for regulating employment law at EU level;
Z. whereas the objective of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (1) is to ensure a minimum degree of protection for employees in the event of insolvency, whilst maintaining adequate flexibility for Member States; whereas differences between Member States in terms of implementation do exist and those differences should be considered;

AA. whereas Directive 2008/94/EC explicitly includes in its scope part-time employees, employees with a fixed-term contract and employees with a temporary employment relationship; whereas greater protection in the event of insolvency should also be afforded to employees on non-standard contracts;

AB. whereas the current lack of harmonisation with regard to the ranking of creditors reduces predictability of outcomes of judicial proceedings; whereas it is necessary to increase the priority of employees' claims relative to other creditors' claims;

AC. whereas the scope of Directive 2008/94/EC, in particular the understanding of 'outstanding claim', is too wide, as a number of Member States apply a narrow definition of remuneration (e.g. excluding severance pay, bonuses, reimbursement arrangements, etc.) that can result in substantial claims not being met;

AD. whereas Member States are competent to define 'remuneration' and 'pay', provided that they adhere to the general principles of equality and non-discrimination between workers, with the result that any insolvency situation which is potentially prejudicial to the latter should be taken into account for the purposes of compensating them in accordance with the social objective of Directive 2008/94/EC and with threshold levels of compensation to be determined;

AE. whereas, due to employment contracts across the EU and the diversity of such contracts within Member States, it is currently impossible to seek to define 'employee' at European level;

AF. whereas exemptions from the scope of Directive 2008/94/EC should be avoided as far as possible;

AG. whereas the legislative action requested in this resolution should be based on detailed impact assessments, as requested by Parliament;

1. Requests the Commission to submit, on the basis of Article 50, Article 81(2) or Article 114 of the Treaty on the Functioning of the European Union, one or more proposals relating to an EU corporate insolvency framework, following the detailed recommendations set out in the Annex hereto, in order to ensure a level playing field, based on a profound analysis of all viable alternatives;

2. Confirms that the recommendations respect fundamental rights and the principle of subsidiarity;

3. Considers that the financial implications of the requested proposal should be covered by appropriate budgetary allocations;

4. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council.

ANNEX TO THE RESOLUTION

DETAILED RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

Part 1: Recommendations regarding the harmonisation of specific aspects of insolvency and company law

1.1. Recommendation on the harmonisation of certain aspects of the opening of insolvency proceedings

The European Parliament proposes harmonisation of the conditions under which insolvency proceedings may be opened. The European Parliament considers that a directive should harmonise aspects of the opening of proceedings in such a way that:

— insolvency proceedings can be brought against debtors who are natural persons, legal entities or associations;

— insolvency proceedings are initiated in a timely manner in order to allow a rescue of the troubled enterprise;

— insolvency proceedings can be opened concerning the assets of the above-mentioned debtors, the assets of entities without legal personality (e.g. a European Economic Interest Grouping), a descendant’s estate and the assets of a community of property;

— all companies can start insolvency proceedings in cases where the insolvency is temporary, in order to protect themselves;

— insolvency proceedings can also be opened after the dissolution of a legal entity or of an entity without legal personality, as long as the distribution of the assets has not yet taken place, or in cases where assets are still available;

— insolvency proceedings can be opened by a court or other competent authority upon a written request of a creditor or the debtor; the request for the opening of the proceedings can be withdrawn as long as the proceedings have not been opened or the request has not been refused by a court;

— a creditor may request the opening of proceedings if he/she has a legal interest therein and shows credibly that he/she has got a claim;

— proceedings can be opened if the debtor is insolvent, i.e. unable to satisfy the payment obligations; if the request is made by the debtor, the proceedings can also be opened if the debtor’s insolvency is imminent, i.e. if the debtor is likely not to be able to satisfy the payment obligations;

— as far as mandatory filing for bankruptcy by the debtor is concerned, the proceedings must be opened within a period of between one and two months after the cessation of payments if the court has not already initiated preliminary proceedings or other appropriate measures in order to protect the assets and provided that adequate assets are available to cover the costs of the insolvency proceedings;

— Member States are required to lay down rules rendering the debtor liable in the event of non-filing or improper filing, and to provide for effective, proportionate and dissuasive sanctions.

1.2. Recommendation on the harmonisation of certain aspects of the filing of claims

The European Parliament proposes harmonisation of the conditions under which claims in insolvency proceedings are to be filed. The European Parliament considers that a directive should harmonise aspects of the filing of claims in such a way that:

— the date for determining outstanding claims is the date on which the employer becomes insolvent, i.e. the date of the decision on the application to open insolvency proceedings or the date when the opening of proceedings was refused on grounds that the costs were not covered;
creditors file their claim with the liquidator in written form within a certain period of time;

Member States are required to fix the above-mentioned period of time within one to three months from the date of publication of the bankruptcy decision;

the creditor is required to submit documentation in support of the claim;

the liquidator establishes a table of all claims filed and that table is displayed at the competent court within the meaning of point (d) of Article 2 of the Insolvency Regulation;

late filings, i.e. filings by a creditor who has missed the deadline for filing the claim, are to be verified but may entail additional costs for the creditor in question.

1.3. Recommendation on the harmonisation of aspects of avoidance actions

The European Parliament proposes harmonisation of aspects of avoidance actions in such a way that:

the laws of the Member States provide for the possibility of challenging acts done before the opening of the proceedings which are detrimental to the creditors;

acts that can be the object of an avoidance action are transactions in a situation of imminent insolvency, the creation of security rights, transactions with connected parties and transactions carried out with the intention of defrauding creditors;

the periods during which an act can be challenged by an avoidance action vary according to the nature of the act at issue: the periods start with the date of the request for the opening of proceedings, the periods could be between three and nine months for transactions carried out in a situation of imminent insolvency, between six and twelve months for the creation of security rights, between one and two years for transactions with connected parties, and between three and five years for transactions carried out with the intention of defrauding creditors;

the onus of proof to show whether or not an act can be challenged lies in principle with the party who claims that the act can be challenged; for transactions with connected parties, the onus of proof lies with the connected person.

1.4. Recommendation on the harmonisation of general aspects of the requirements for the qualification and work of liquidators

the liquidator must be approved by a competent authority of a Member State or appointed by a court of competent jurisdiction of a Member State, must be of good repute and must have the educational background needed for the performance of his/her duties;

the liquidator must be competent and qualified to assess the situation of the debtor’s entity and to take over management duties for the company;

when main insolvency proceedings are opened, the liquidator should be empowered for a period of six months to decide on the protection of assets with retroactive effect in cases where companies have moved capital;

the liquidator must be empowered to use appropriate priority procedures to recover monies owing to companies, in advance of settlement with creditors and as an alternative to transfers of claims;

the liquidator must be independent of the creditors and other stakeholders in the insolvency proceedings;

in the event of a conflict of interest, the liquidator must resign from his/her office.

1.5. Recommendation on the harmonisation of aspects of restructuring plans

The European Parliament proposes harmonisation of aspects of the establishment, effects and content of restructuring plans in such a way that:
As an alternative to complying with statutory rules, debtors or liquidators may present a restructuring plan;

the plan must contain rules for the satisfaction of the creditors and for the debtor’s liability after the insolvency proceeding have been concluded;

the plan must contain all relevant information enabling the creditors to decide whether they can accept the plan;

the plan must be approved or disapproved in a specific procedure before the relevant court;

unimpaired creditors, or parties that are not affected by the plan, should not be entitled to vote on the plan or, at least, should not be able to impede it.


2.1. Recommendation on the scope of the Insolvency Regulation

The European Parliament considers that the scope of the Insolvency Regulation should be broadened to include insolvency proceedings in which the debtor remains in possession or where a preliminary liquidator has been appointed. Annex A to the Insolvency Regulation should be revised accordingly.

2.2. Recommendation on the definition of ‘centre of main interests’

The European Parliament considers that the Insolvency Regulation should include a definition of the term ‘centre of main interest’ formulated in such a way as to prevent fraudulent forum-shopping. The European Parliament suggests that a formal definition should be inserted, based on the wording of Recital 13, which is concerned with the objective possibility for third parties to ascertain it.

The European Parliament considers that the definition should take account of such features as the externally ascertainable principal transaction of business operations, the location of assets, the centre of the operational or production activities, the workplace of employees, etc.

2.3. Recommendation on the definition of ‘establishment’ in the context of secondary proceedings

The European Parliament considers that the Insolvency Regulation should include a definition of ‘establishment’ as any place of operations where the debtor carries on a non-transitory economic activity with human means and goods and services.

2.4. Recommendation on cooperation between courts

The European Parliament considers that Article 32 of the Insolvency Regulation should provide for an unequivocal duty of communication and cooperation not only between liquidators but also between courts.

In the event of main and secondary insolvency proceedings being opened, the timeframes for these procedures should be harmonised and shortened.

2.5. Recommendation on certain aspects of avoidance actions

The European Parliament considers that Article 13 of the Insolvency Regulation should be reviewed so that it does not encourage cross-border avoidance actions but helps to prevent avoidance actions from succeeding by means of choice-of-law clauses.

In any event, the review of the avoidance action rules should take into account the consideration that healthy subsidiaries of an insolvent holding company should not be driven into insolvency due to avoidance actions rather than being sold in the interests of the creditors as a going concern.
Part 3: Recommendations on the insolvency of groups of companies

Due to the different levels of integration which may exist within a group of companies, the European Parliament considers that the Commission should present a flexible proposal for the regulation of the insolvency of groups of companies, taking into account the following:

1. Whenever the functional/ownership structure allows it, the following approach should apply:

   A. Proceedings should be opened in the Member State where the operational headquarters of the group are located. Recognition of the opening of the proceedings should be automatic.

   B. The opening of the main proceedings should result in a stay of the proceedings opened in another Member State against other group members.

   C. A single insolvency practitioner should be appointed.

   D. In every Member State in which ancillary proceedings are opened, a committee should be set up to defend and represent the interests of local creditors and employees.

   E. If it is impossible to determine which assets belong to which debtor, or to assess inter-company claims, recourse should exceptionally be had to the aggregation of estates.

2. For insolvency proceedings in respect of decentralised groups, the instrument should provide for the following:

   A. Rules for mandatory coordination and cooperation between courts, between courts and insolvency representatives and between insolvency representatives.

   B. Rules on immediate recognition of judgments concerning the opening, conduct and closure of insolvency proceedings and judgments handed down in connection with such proceedings.

   C. Rules on access to courts by liquidators and creditors.

   D. Rules to facilitate and promote the use of various forms of cooperation between courts to coordinate the insolvency proceedings and establish the conditions and safeguards that should apply to those forms of cooperation. These would affect the exchange of information, the coordination of operations and the drafting of common solutions:

      — communication of information between courts by any means,

      — coordination of the administration and supervision of the debtor's assets and affairs,

      — the negotiation, approval and implementation of insolvency agreements concerning the coordination of proceedings,

      — the coordination of hearings.

   E. Rules allowing and promoting the appointment of a common liquidator for all proceedings, to be nominated by the courts involved and assisted by local representatives forming a steering committee; and rules laying down the procedure governing cooperation between members of the steering committee.

   F. Rules allowing and promoting cross-border insolvency agreements which would address the allocation of responsibility for various aspects of the conduct and administration of the proceedings between the different courts involved and between insolvency representatives, including:

      — allocation of responsibilities between the parties to the agreement;

      — availability and coordination of relief;
— coordination of recovery of assets for the benefit of creditors generally;
— submission and processing of claims;
— methods of communication, including language, frequency and means,
— use and disposal of assets;
— coordination and harmonisation of the reorganisation plans;
— issues related specifically to the agreement, including amendment and termination, interpretation, effectiveness and dispute resolution;
— administration of proceedings, in particular with respect to stays of proceedings or agreements between parties not to have recourse to certain legal actions;
— safeguards;
— costs and fees.

Part 4: Recommendation on the creation of an EU insolvency register

The European Parliament proposes the creation of an EU insolvency register in the context of the European e-Justice Portal, which should contain, for every cross-border insolvency opened, at least:

— the relevant court orders and judgments,
— the appointment of the liquidator and that person's contact details,
— the deadlines for filing claims.

Transmission of these data to the EU registry by the courts should be compulsory.

The information should be expressed in the official language of the Member State in which the proceedings are opened and in English.

Demographic change and its consequences for the cohesion policy

P7_TA(2011)0485

European Parliament resolution of 15 November 2011 on demographic change and its consequences for the future cohesion policy of the EU (2010/2157(INI))

(2013/C 153 E/02)

The European Parliament,

— having regard to DG REGIO’s Fifth Report on Economic, Social and Territorial Cohesion, in particular pages 230 to 234,
— having regard to its resolution of 11 November 2010 on demographic challenges and solidarity between the generations (1),

— having regard to its resolution of 21 February 2008 on the demographic future of Europe (2),

— 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 of 10 May 2007 entitled ‘Promoting solidarity between the generations’ (COM(2007)0244),

— having regard to its resolution of 23 March 2006 on demographic challenges and solidarity between the generations (3),

— having regard to the Commission Communication of 12 October 2006 entitled ‘The demographic future of Europe – from challenge to opportunity’ (COM(2006)0571),


— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development and the opinions of the Committee on Employment and Social Affairs and the Committee on Women’s Rights and Gender Equality (A7-0350/2011),

A. whereas demographic change in the EU and worldwide is a fact and dealing with it constitutes one of the core tasks for the future, and whereas the EU population is the oldest in the world;

B. whereas demographic change is characterised by population ageing and substantial migration flows both from third countries into the EU and within the EU from east to west and from rural to urban areas;

C. whereas demographic change is creating new tasks for some regions in particular, but, instead of being viewed purely as a threat, it should also be seen as an opportunity;

D. whereas the study entitled ‘Regions 2020’ by the Commission’s DG Regio has identified demographic change as a central challenge;

E. whereas demographic change affects rural and urban areas in equal measure, with implications, inter alia, for the provision of good infrastructure and services,

F. whereas, although meeting the full range of demographic challenges is principally the task of the Member States, the regions must be proactive, for which they need European-level support,

G. whereas, under the 2007-2013 operational programmes, the Member States have earmarked EUR 30 billion in Structural Fund resources for measures linked to demographic change, and whereas regional and local authorities are central to the process of addressing this change, so that regional policy will be a key instrument among the EU’s means of action,

(2) OJ C 184 E, 6.8.2009, p. 75.
General

1. Considers that the rising life expectancy in Europe is to be welcomed; believes that the public is often aware only of the dangers and not of the opportunities inherent in demographic change;

2. Considers that all opportunities should be carefully examined and exploited in an appropriate manner, including with the support provided by the cohesion policy instruments;

3. Believes that the impact of demographic change varies substantially from region to region, depending on whether it is rapid or slow and whether the region concerned is a region of net immigration or of shrinking population and therefore requires a different adjustment strategy, and must be tackled in a coordinated way by all European, national and regional authorities; notes that in regions of shrinking population, particularly rural regions, quality of life is defined differently from the way it is in regions with a growing population, and therefore considers that different support strategies are needed; takes the view that workforce migration accentuates the effects of demographic change and that population ageing is only part of the picture;

4. Considers that the ERDF and ESF can contribute to the task of addressing the challenges stemming from demographic change in the EU, namely the increase in the number of older people and the decline in the young population; advocates the use of ERDF funds to support the adaptation of housing to the needs of the elderly in order to guarantee a high quality of life for an ageing society; calls on the Member States and the regions to use the funding available under the ERDF and ESF to support young families;

5. Considers that a political framework for gender equality can help us to face demographic challenges; requests, therefore, that the issue of gender equality should be considered in all debates on demographic issues;

6. Considers that the current worsening demographic situation in at least some Member States will stimulate discussions regarding pension-systems reform in the near future;

Structural policy reforms

7. Calls on the Member States and regions to consider the divergent development levels of the regions and also demographic indicators, for example the dependency ratio, when allocating and distributing EU structural funds and when defining impact indicators; points out that globally the EU has the highest proportion of elderly people among its population; believes that the Commission should also propose ways of addressing demographic change on a Europe-wide basis; considers it essential in terms of both access to infrastructure and services and environmental protection to assess not only workforce migration, but also the need to guarantee the conditions that keep people in their own regions, in order to avoid population concentration in certain urban areas;

8. Believes that joint solutions and synergies can be found by implementing EU policies, including where demographic change is concerned; calls on the Commission to include demographic change as a horizontal objective in the future cohesion policy; calls, further, on the Commission to insist that this issue is taken into account when concluding investment partnerships with Member States;

9. Encourages the Member States and regions to pay greater heed than in the past to demographic change and its effects, making measures to tackle it a horizontal objective in the shaping of the national strategic framework programmes (or any corresponding document) and in their operational programmes; considers, in that connection, that the flagship measures in the EU2020 strategy, including the active and healthy ageing partnership, could be directly linked to the preferences of the partners in these programmes;
10. Calls for proactive measures to prevent the negative consequences of demographic change and increase technical assistance to the regions suffering the most from depopulation and ageing, in order to ensure that they retain their absorption capacity and the ability to benefit from the Structural Funds;

11. Believes that public and private actors in Europe will have the opportunity to play a pioneering role in responding to the challenges posed by demographic change and ageing, employing social innovations and other means; points out that the costs generated by ageing will in future account for an ever increasing proportion of public and private investment alike; realises that the field is one offering growing potential to the business world and for innovations;

12. Highlights the fact that demographic change, especially population ageing, has a clear impact on the provision of social infrastructure, such as pension systems, nursing care and healthcare, with regional authorities having to meet changing demand from various population groups;

13. Calls for future ESF rules that are simpler to manage and therefore enable small organisations to benefit more from funding and develop and manage innovative social projects; calls on the Commission, under the future ESF, to increase funding for transnational pilot projects at EU level which address social and employment issues, in order to facilitate innovative regional, cross-border and macro-regional cooperation and so meet common challenges arising from demographic change;

**Urban development/infrastructure**

14. Encourages the regions to use the Structural Funds to help address demographic challenges and to improve access to social and administrative services, including in small and remote towns and villages, by promoting the specific potential of each region and strengthening the factors that make people want to stay;

15. Calls on the Commission to create more flexible conditions in order to promote cross-financing between ERDF and ESF when devising and implementing integrated urban development plans/strategies;

16. Believes that, if depopulation is to be prevented, then child- and family-friendly towns and cities need to be developed and adapted to the needs of people with disabilities and with restricted mobility; considers that one feature of this design is that wherever possible distances between workplaces, housing and recreational areas should not be excessive; calls on the regions to ensure, in the field of urban planning, that residential, commercial and green areas alternate and are developed in a balanced and harmonious way and that connections with suburban areas earmarked as new residential areas are improved; urges, in addition, that teleworking opportunities should be developed further;

17. Notes that small towns in regions of net emigration have a particularly important role to play as service centres; calls for this anchor function to be taken into account in the future Structural Funds, in particular by improving the coordination of the EAFRD with the ERDF and the ESF; notes that rural depopulation has negative knock-on effects on urban areas and that economically and socially vibrant rural areas constitute a public good, which should be recognised in the form of an adequately resourced rural development programme; calls on the Member States, regions and municipalities to provide a comprehensive and functioning service network for their citizens of all ages in order to prevent rural exodus and depopulation;

18. Points out that ERDF funds can also be used to prevent the social exclusion of the elderly, for example by establishing dedicated infrastructure and services for the elderly and ensuring accessibility for all;
19. Considers that, in areas with a dwindling population, financial support should be provided for adaptation strategies; believes that urban and regional planning must take greater account of changing infrastructure uses, including by revitalising and restructuring inner cities, an area where cooperation with private partners is also important; notes that one of the priorities for urban policy should be to develop elderly-friendly towns and cities; calls for urban tourism potential and heritage objectives to be acknowledged and developed, as these present opportunities to attract new residents into areas at risk of depopulation;

20. Calls on the regions to develop innovative concepts for local public transport in order to address, among other things, the challenge of dwindling passenger numbers, particularly in rural areas; calls on the Commission to provide financial support for these types of project;

The elderly, children and families

21. Advocates that loans with low interest rates which could support the adaptation of housing to the needs of the elderly could be given priority under the ERDF; proposes offering the opportunity for financial resources to be provided under certain conditions for sheltered housing complexes and multi-generational housing, with a view to preventing the isolation of the elderly and harnessing their creative potential, in order to guarantee a better quality of life for an ageing society;

22. Encourages the Member States to bring welfare and healthcare benefits into line with the needs of everyone, especially families and children, and provide funding to ensure the availability of care at home and universal healthcare for elderly people, irrespective of their income, age and social status, so as to prevent the depopulation of rural areas and peripheral regions;

23. Considers that public investment in health and care systems is important for social cohesion in Europe; calls on the Member States to ensure good healthcare provision in rural areas as well, for example through the provision of regional medical care gateway clinics and health services which make it possible to combat 'medical desertification', and, in border regions, through closer cross-border cooperation between clinics and between stakeholders, and by considering the possibility of using the Structural Funds to promote additional measures in the field of telemedicine and care and to support active ageing; calls on the Commission to find innovative ways of providing financial support for these actions;

24. Warns of the danger of specific regional problems affecting the provision of services of general interest, in particular a lack of skilled workers in care-related professions in certain regions; believes that these regions should develop specific regional responses to the needs and difficulties of service provision, and use ESF funds to train care workers in order to ensure that a high quality of care is guaranteed and that new jobs are created, including through retraining programmes for the unemployed; points out that this makes a direct contribution to the EU2020 objective of creating more jobs;

25. Stresses the importance of creating conditions which enable people to achieve a work/family/private life balance and, for example, of providing, where feasible, universally available, reliable, all-day childcare facilities of high quality for children of all ages, including facilities and opportunities for pre-school-learning, in order to prevent depopulation; recognises, at the same time, the valuable role played by extended families in taking care of children;

26. Regards it as important that enough affordable housing space should be available for families, so that family and working life can be reconciled more effectively, because support for young families can help to increase the birth rate in Member States;
Migration/integration

27. Emphasises that the migration might give rise to certain integration problems;

28. Points out that the migration of qualified workforce from the new to the old Member States is one of the biggest demographic problems facing the new Member States and is having a negative impact on the age structure of their population; emphasises, further, that migration also concerns healthcare professionals and hence endangers the sustainability of the healthcare system in regions which are less developed;

29. Recognises, however, that migration offers, in particular to regions experiencing net outflows, the opportunity to stem the negative impact of demographic change, and calls, therefore, on the Member States to recognise the integration of migrants as a strategically important policy measure;

30. Calls on the Member States to agree on a common strategy on legal migration, not least since Europe is, especially in certain given sectors, reliant upon the migration of skilled workers (both between the Member States and from outside the EU, particularly those bordering the Union) for demographic reasons; considers that the Member States must seek to ensure that skilled workers are retained, in order to contribute to the balanced development of the regions and to alleviate the effects of demographic change;

31. Proposes that more funding should be provided for the integration of immigrants in order to dispel prejudices, and that training and communal events to encourage exchanges could be promoted;

Employment

32. Calls on the Commission to gear the ESF in such a way that account is taken of people at all stages of life and to ensure that more use is made of professional and voluntary potential in meeting the challenges of demographic change; notes that the experience and know-how of older people should be utilised, for example for coaching projects, to facilitate generational changeover, and that appropriate solutions are required for this purpose; takes the view that intergenerational communication offers an opportunity that should be seized;

33. Believes that the regions should use ESF funds in a decisive manner to combat youth unemployment in order to ensure the social integration of young people and give them the opportunity to take up a suitable profession; points out that this could be achieved, for example, by supporting training measures for and entrepreneurship among young people;

34. Believes that support should continue to be given with a view to raising the female employment rate; calls, therefore, for more women to be given access to skilled jobs and lifelong learning programmes, provided that the qualifications obtained correspond to the needs of the labour market; recommends that the Member States develop systems for encouraging employees to participate in special projects to help them reconcile work and family life;

35. Stresses that, for European regions facing demographic challenges, establishing an environment conducive to a competitive and innovative private sector is central to creating new employment opportunities across all generations;

Analysis/best practice

36. Considers that demographic developments in the regions should be statistically measured; calls on the Commission to submit proposals to make local, regional and national databases on demographic development comparable, so that data can be evaluated at European level and that the exchanges of best practices between States, regions and localities can be fostered;
37. Calls on the Commission to improve the Demographic Vulnerability Index and calculate it every five years in order to show which regions in Europe are particularly vulnerable to demographic change; urges the Commission to devise pilot procedures with a view to charting the practices applied in the regions with the most exacting requirements;

38. Calls on the Member States and regional and local authorities to enhance cooperation with local and regional stakeholders on issues connected with demographic change; considers that in border regions this cooperation must also tie in with the wishes and scope for cross-border initiatives; suggests that training programmes be developed in this field in order to create a better understanding and awareness of the issues involved; urges the regions to exchange best practices relating to the challenges linked to ageing;

39. Proposes to the Commission that it should promote, as part of territorial cooperation, EU-wide networks in which regional and local authorities and civil society actors can learn from one another about tackling the problems resulting from demographic change;

40. Asks the Commission to find ways of reshaping the idea of an Erasmus programme for local and regional elected representatives in an appropriate form and to explain its idea for a summer or winter school in greater detail, so that representatives from the European regions can exchange good experience and approaches to solutions on demographic matters;

41. Calls on the Commission to produce a compilation of best practices, analyse them and share them with Member States and the regions so that they can be used as an example in devising policy to meet demographic challenges;

42. Calls on Member States and regions to exchange experience, best practices and new approaches to preventing the negative consequences of demographic change;

* * *

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

Implementation of Professional Qualifications Directive

P7_TA(2011)0490


(2013/C 153 E/03)

The European Parliament,


— having regard to its resolution of 19 February 2009 on the creation of a European professional card for service providers (2),

(2) OJ C 76 E, 25.3.2010, p. 42.
Tuesday 15 November 2011

— having regard to the judgment of the Court of Justice of 19 January 2006 in Case C-330/03, Colegio de Ingenieros de Caminos, Canales y Puertos (ECR 2006),

— having regard to the EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens’ rights (COM(2010)0603),

— having regard to the public consultation on Directive 2005/36/EC, launched by the Commission in March 2011,


— having regard to the hearing it held with national parliaments on 26 October 2010 on the transposition and application of Directive 2005/36/EC,

— having regard to the study it commissioned on the recognition of professional qualifications (PE 447.514),


— having regard to SOLVIT’s 2010 annual report on the development and performance of the SOLVIT network in 2010,

— having regard to its resolution of 6 April 2011 on a Single Market for Europeans (1),

— having regard to the Commission Communication of 13 April 2011 entitled ‘Single Market Act, Twelve levers to boost growth and strengthen confidence’ (COM(2011)0206),


— having regard to the Commission working document of 5 July 2011 on the summary of the responses to the public consultation on the modernisation of the Professional Qualifications Directive (2),

— having regard to the Commission working document of 5 July 2011 on the evaluation of the Professional Qualifications Directive (3),

— having regard to Rules 48 and 119(2) of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and to the opinions of the Committee on Employment and Social Affairs and the Committee on Environment, Public Health and Food Safety (A7-0373/2011).

(1) Texts adopted, P7_TA(2011)0145.
A. whereas changing demographics will make the mobility of professionals across the European Union increasingly important;

B. whereas changing labour markets call for greater transparency, simplification and flexibility in the rules on the recognition of professional qualifications;

C. whereas professional mobility is a key factor for economic development and sustainable economic recovery;

D. whereas, according to the findings of the European Centre for the Development of Vocational Training (Cedefop), demand for highly skilled workers is expected to rise by over 16 million jobs in the European Union between now and 2020;

E. whereas the right to obtain employment or provide services in another Member State is a fundamental right under the Treaties and constitutes a concrete example of how citizens can benefit from the Single Market;

F. whereas free movement of persons within the EU and the right to recognition of merit and professional skills will only exist when the invisible barriers that now exist have been reduced to a minimum and certain national rules that currently disproportionately hinder use of the right to skilled jobs have disappeared;

G. whereas ensuring that the system for recognition of professional qualifications is designed in the best possible way is a prerequisite for enabling everyone to fully enjoy the benefits of freedom of movement;

H. whereas the Single Market Act highlighted the fact that modernising the system for recognising professional qualifications is key to enhancing economic growth and boosting the confidence of members of the professions and of the public;

I. whereas one of the main reasons for difficulties in recognising academic titles and professional qualifications is a lack of confidence in the criteria used for accreditation and granting academic qualifications in the country of origin, so that there is an urgent need to establish automatic recognition measures by removing prejudice and formal national obstacles to recognition;

J. whereas some 100 000 decisions on recognition have been taken under the Directive since 2007, making mobility possible for 85 000 professionals (1);

K. whereas health professionals are the most mobile of the regulated professions in the EU, with some 57 200 doctors, nurses, dentists, pharmacists, midwives and veterinary surgeons being granted recognition between 2007 and 2010;

L. whereas there is still a gap between citizens' expectations and reality, with more than 16 % of SOLVIT cases in 2010 relating to recognition of professional qualifications (2);

M. whereas it is difficult to identify the authority responsible for recognition of professional qualifications, the procedures relating to which are complex;

---

N. whereas the Directive on the application of patients' rights in cross-border health care requires that Member States of treatment ensure that information on the right to practise of health professionals listed in national or local registers established on their territory is made available to the authorities of other Member States, with an exchange of information taking place via the Internal Market Information system;

O. whereas SOLVIT cases relating to professional qualifications numbered 220 in 2010, with over two thirds of these cases emerging from just four Member States;

P. whereas Directive 2005/36/EC consolidated rules set out in 15 previous directives adopted from the 1960s onwards;

Q. whereas Directive 2005/36/EC was not transposed on time by all the Member States, only being fully implemented three years after the original deadline;

R. whereas the proper application of this Directive would reinforce the human dimension of the Single Market;

S. whereas the introduction of a European professional card could simplify and speed up the process of recognising professional qualifications;

**Simplification for citizens**

1. Believes that the free movement of a growing number of highly skilled persons and of workers is one of the key benefits of European cooperation and of a competitive internal market, an important factor in the development of economies across the EU and a right enjoyed by every EU citizen; firmly believes that workers' mobility should be enhanced for citizens of the EU and that indirect barriers should be eliminated, provided that a balance is struck between mobility and the quality of professional qualifications;

2. Encourages all initiatives that aim to facilitate cross-border mobility as a means to the efficient functioning of labour markets and a way of enhancing economic growth and competitiveness within the EU; recognises the need for modernisation of Directive 2005/36/EC in order to guarantee a clear, robust legal framework;

3. Calls on the Commission and the Member States to further encourage mobility among professionals; argues that the relatively low numbers of mobile professionals is cause for concern and suggests that strategies be devised to tackle this problem; underlines the result of the recent Eurobarometer survey according to which more than 50 per cent of young people in Europe are willing or keen to work abroad (1);

4. Calls on Member States to promote the benefits of the directive among their citizens and professionals;

5. Considers that dialogue between stakeholders with a view to regularly updating the requirements for initial training, recognition of experience and continuous professional development has an essential role to play in harmonising training; considers, moreover, that superimposing a '28th regime' on national systems is not the way to resolve the issue of differences in training in a clear and satisfactory manner;

6. Points out that the principle of partial access is seen as undesirable by the majority of respondents to the Commission's public consultation, is difficult to monitor in practice and must be clarified; stresses, however, that partial access could have benefits, but only for those professions where tasks can be clearly demarcated; calls for a thorough evaluation of the principle, and for it to be applied on a case-by-case basis, but excluding regulated professions with health and safety implications;

7. Welcomes the overall success of the automatic recognition procedure; stresses, however, that the recognition process under the general system based on professional experience is excessively cumbersome and time-consuming for both the competent authorities and those engaged in certain professions;

8. Notes, while underlining the importance of the prior declaration system, that numerous concerns were raised in the Commission’s public consultation of 2011, and that measures to improve temporary mobility for professionals should therefore form a key aspect of the forthcoming revision of the Professional Qualifications Directive; calls for further clarification of the concept of temporary and occasional provision of services, bearing in mind that one definition covering all professions would be impossible to develop and would undermine subsidiarity;

9. Argues that the competent authorities face difficulties in applying the prior declaration regime as there is no consistent approach to assessing the temporary and occasional nature of a service, and that it is extremely difficult to monitor the service providers’ activities on the ground; calls on the Commission to evaluate the current provisions set out in Article 7 of the directive and to explain further the question of existing case-law, with regard specifically to professions with public health and safety implications; calls on the Commission to present its conclusions to Parliament;

10. Stresses that Article 7(4) of the Directive, which allows Member States to carry out prior checks on qualifications for those professions related to health and safety and not already covered under automatic recognition, is considered essential by a vast majority of stakeholders; argues, however, that in order to enhance transparency, Member States should clarify which professions they consider to have health and safety implications;

11. Agrees with the Commission that the definition of ‘regulated education and training’ is too restrictive and may have an undue impact on temporary mobility for professionals; considers that the definition should encompass any training that allows a profession to be pursued in the Member State of origin;

12. Calls on the Commission to make it clear that a declaration for the purposes of temporary mobility should in principle be valid throughout the territory of a Member State, and to assess whether a yearly declaration is needed;

13. Calls for service providers who provide their services exclusively to consumers escorted by them to other Member States, and who therefore have no contact with local consumers in the host Member State (e.g. tour guides, trainers, medical personnel accompanying sportsmen or -women), to be exempted from the prior declaration requirement pursuant to Article 7; advocates this in the case of all services that do not concern public health and safety;

14. Calls on the Commission to coordinate and consolidate the various sources of information currently available on issues relating to the recognition of professional qualifications – including National Contact Points (NCPs) and professional bodies – with the Your Europe portal, which signposts the single points of contact currently available under the Services Directive; argues that this will provide professionals, in their own language, with a public interface where they can upload documents, access and print their professional card, and obtain up-to-date information on the recognition process, and administrative information on competent authorities, professional bodies and the documents to be submitted;

15. Argues that dialogue and exchanges of information within each individual profession must be enhanced, and that cooperation between the competent authorities and NCPs must be improved, at both national and intra-Member State level; calls on the Commission to facilitate networks of competent authorities and professional bodies for the most mobile professions, to exchange general information about national processes and education requirements, and to share best practice and investigate possibilities for deeper cooperation, such as common platforms; considers that public authorities and the social partners must engage in a structured dialogue on how to enhance the professional integration of young people;
16. Calls on the Member States to improve the efficiency of public authorities in providing information both about workers’ rights and about procedures for the recognition of professional qualifications, thereby reducing the deterrent effect of bureaucracy, as part of measures to boost mobility;

17. Calls on the Member States, therefore, to use modern communication technologies, including databases and online registration procedures, to ensure that the deadlines set under the general recognition system are met and that significant improvements are made in terms of access to information and knowledge of procedures;

18. Calls for a mandatory obligation for competent authorities to provide up-to-date contact information to all other competent authorities in their given profession;

19. Calls on the Commission to set guidelines regarding the time period within which an individual who has submitted a complete dossier should expect a decision from the competent authority; reducing this time period through greater use of IMI and optimising procedures would also facilitate mobility; calls on the Member States to provide sufficient resources to ensure professional recognition within a reasonable time period;

20. Calls on the Member States, the competent authorities and the Commission to provide for greater transparency, so that applicants or persons affected can be given a full explanation as to the reasons for the non-recognition of their diploma or professional qualification;

21. Argues that the current procedure for notification of new diplomas is too complex; calls on the Commission to facilitate notification of new diplomas and to update Annex V of the Directive in a more timely manner;

22. Urges the Member States, the competent authorities and the Commission to ensure that recognition of diplomas and certificates is on a par with recognition of professional qualifications, so as to create a genuine single market at European and international level and thereby avoid regulating what has already been regulated;

23. Stresses that compensation measures, which allow competent authorities to impose an aptitude test or an adaptation period of up to three years and which play an invaluable role in ensuring consumer and patient safety, must be reviewed in order to assess their suitability for resolving existing problems; calls for better explanations and for an evaluation of the Code of Conduct in order to assist competent authorities;

24. Calls for non-binding EU guidelines on the application of compensation measures to be devised in consultation with competent authorities, professional bodies, Member States and the European Parliament;

25. Stresses that it is particularly complicated and costly for the authorities to examine qualification levels pursuant to Article 11, and very difficult for citizens to understand; suggests that the five levels of qualification pursuant to Article 11 often lead to confusion with the eight levels of the European Qualifications Framework; agrees with the Commission that deleting Article 11 and Annexes II and III would mean that the competent authorities would no longer be required to determine the eligibility of an applicant according to pre-defined levels of qualifications but could focus on identifying whether there are substantial differences in training in order to decide whether compensation measures are necessary; notes, therefore, that deleting levels of qualification, including Annexes II and III, would considerably simplify the recognition process;

26. Points out that education and training systems still differ substantially from one Member State to another; takes the view, therefore, that periods usually spent at vocational schools as part of sandwich training should count towards the minimum periods of schooling required for certain professions;
27. Calls on the Member States and the competent authorities, with the support of the Commission, to institute studies with a view to establishing a European Competences, Qualifications and Occupations taxonomy in order to ascertain whether formal qualifications and occupations correspond to the same skills and qualifications in the various Member States and in order to develop a European analytical tool.

28. Takes the view that the Code of Conduct should be circulated more widely in order to ensure that the directive is implemented more effectively since this will promote uniformity in the way its provisions are interpreted.

**Updating existing provisions**

29. Calls on the Commission to reintroduce the mechanisms for dialogue among Member States, competent authorities and professional bodies with a view to updating, as regularly as possible and in line with scientific and technical developments, the minimum training requirements for the sectoral professions in order to reflect current professional practice, to update the current classification of economic activities based on professional experience, and to establish a simple mechanism for continually updating minimum training requirements; taking into account the future developments of the Bologna and Copenhagen Processes, urges the Commission to evaluate the introduction of a competence-based approach by defining minimum training requirements in terms not only of duration of training, but also of learning outcomes.

30. Urges the Commission not to fragment the process of modernising automatic recognition, as is suggested in the Green Paper, and to ensure that Parliament is given proper oversight when substantial changes are made to the directive.

31. Welcomes recent reforms undertaken as part of the Bologna process and the benefits this process provides for European students in terms of mobility and employability; encourages the European Commission to assist Member States in making the European Credit Transfer Scheme (ECTS) more transparent and comparable in order for ECTS to become an essential tool for facilitating the mutual recognition of qualifications and, ultimately, mobility.

32. Calls on the Commission to consider the importance of standardised learning outcomes and clinical competencies when setting out minimum training requirements.

33. Calls on the Commission to look into the possibility of further extending the scope for automatic recognition in future.

34. Asks for further clarification of the proposed lengthening of the duration of general education as an admission requirement for nurse and midwife training.

35. Asks for further clarification of the proposed deletion of Article 21(4) of the Professional Qualifications Directive.

36. Calls on the Member States to carry out a comparison of minimum training requirements and to organise more regular exchanges among themselves, and also among the competent authorities, with a view to bringing minimum training requirements more closely into line.

37. Points out that the assessment of the implementation of Directive 2005/36/EC requires a list to be drawn up of certificates or any other evidence of formal qualification recognised in one or more Member States but not recognised in other Member States; the list should also include cases where citizens who have obtained a degree in a Member State other than their state of origin are refused recognition in their own Member State when they return.
38. Highlights the high number of regulated professions in the European Union and calls on the Member States to reconsider the justification for the classification of certain professions, in order to ascertain whether formal qualifications and occupations correspond to the same skills and qualifications in all the Member States; considers that reducing the total number of regulated professions in the EU would enhance mobility; notes, however, that classification may be justified by consumer protection considerations, particularly in the case of the medical, legal and technical professions;

39. Argues that the most effective way of making free movement of professionals possible would be to reduce the number of regulated professions in the EU; calls on the Commission to include in a revised directive a mechanism whereby Member States can check their regulatory provisions, with the exception of those related to healthcare professions, and remove them if they are not proportionate;

**Upgrading public health and safety**

40. Argues that protection of consumer and patient safety is a vital objective in the context of the revision of the directive and that the success of this directive depends greatly on ensuring mobility while guaranteeing safety; draws attention to the special status of healthcare professionals;

41. Stresses that there have been serious problems associated with professionals continuing to practise in the EU despite being suspended or struck off;

42. Calls for the establishment, within the framework of the Internal Market Information System (IMI), for those professions not already covered under the Services Directive, of a proactive alert mechanism which would make it compulsory to issue an alert to all Member States when a regulatory action is taken against a professional’s registration or their right to provide services, on condition that the alert system contains no other information, respects the presumption of innocence and complies with existing data protection rules;

43. Points out that the public and patients need better assurances that healthcare professionals benefiting from recognition have kept their skills and knowledge up to date;

44. Highlights the call from stakeholders to place greater emphasis on continuous professional development (CPD), including (life-long) formal, non-formal and informal learning, and on the need to assess it; points out that global competition and the orientation towards a knowledge-based economy are creating new challenges for skills development and education; calls on the Commission, therefore, to explore methods of documenting all education, perhaps via European Skill Passports and the European Qualifications Framework, as well as IMI, and to devise a comparability table of the various CPD systems existing in the Member States; calls further on the Commission to evaluate whether an appropriate solution to the varying levels of CPD for healthcare workers might be compensation measures; encourages the competent authorities to provide information on CPD during the recognition process, to exchange best practices in this area and to exchange information on CPD, especially in respect of those sectors and Member States in which it is mandatory;

45. Stresses the importance of ongoing training being specifically tailored to the needs of the employment market in each of the Member States so as to ensure better use of training resources for those in employment;

46. Stresses that an extension of the recognition procedure to cover third-country qualifications may give rise to abuses of the system in the form of forum shopping, and would be extremely dangerous for the competent authorities in the host Member State;
47. Insists that, for healthcare professionals, the ability to communicate with colleagues and patients is fundamental in terms of avoiding dangerous or potentially life-threatening situations;

48. Takes the view that Article 53 of Directive 2005/36/EC, on language requirements, must be clarified, as there is ongoing controversy over the interpretation of this provision among the Commission, the ECJ and the Member States; calls, therefore, on the Commission and the Member States to revise the language requirement regime for the healthcare professions by providing the competent authorities with the necessary flexibility to ascertain and, only if necessary, test the technical and conversational language skills of professionals as part of the recognition process; considers that, without prejudicing the ability of employers to satisfy themselves regarding the language competence of professionals when recruiting to a particular post, the principle of proportionality should be scrupulously applied in this regard, so that such tests do not become an additional barrier;

49. Argues that language competence is crucial in facilitating a professional’s integration in another country, ensuring the quality of the services provided and protecting consumer and patient safety;

50. Stresses that, in order to protect patients, practitioners providing e-health services should offer the same quality and safety standards as in the provision of non-electronic healthcare services; it should therefore be clarified that the requirements of this directive and, if necessary, additional ones should apply to e-health service providers;

51. Points out that the development of e-health and of a remote healthcare system requires that, after their training, nurses and doctors are able to take care of patients of different nationalities, and that it will therefore be necessary to promote collaboration among training centres, hospitals and universities in different countries in the case of the professionals and graduates who have to take care of patients using these tools;

Integrating professionals and injecting confidence into the system

52. Welcomes the results of the professional card pilot projects announced at the Single Market Forum in Krakow; insists that any professional card must be voluntary, should certify the academic and professional experience acquired and must be linked to the IMI system; believes that a professional card could be a useful tool to aid mobility for some professions, simplify administrative procedures and enhance safety; calls on the Commission, prior to the introduction of any card, to provide evidence of the possible added value for the recognition process; stresses that the introduction of any card must meet specific safety and data protection conditions, and insists that the necessary safeguards against abuse and fraud must be established;

53. Reiterates that if the EU is to reduce the uneven implementation and enforcement of Directive 2005/36/EC on the recognition of professional qualifications throughout the EU-27, all Member States need to have more confidence and faith in each other's systems;

54. Supports the extension of the IMI to professions not yet covered by this information system, as set out in the proposal for a Regulation on administrative cooperation through the Internal Market Information System (1) (the ‘IMI Regulation’), and to the professions which are not covered by Directive 2005/36/EC;

55. Calls for mandatory introduction of the IMI for competent authorities in order to facilitate proactive administrative cooperation and simplify recognition procedures; considers that the IMI could be further enhanced, for instance by expanding the features available in order to facilitate the work of national authorities; asks the Commission to put in place accompanying training and technical support measures in order to ensure that full use is made of the potential efficiency gains the system offers;

56. Calls for enhanced mobility of graduates and for compliance with the judgment in the Morgenbesser case (1); argues that Member States should encourage remunerated supervised practice for graduates from other Member States if they offer such a possibility to their own nationals; stresses, moreover, that the professional experience acquired during the supervised practice should be recognised in the home Member State;

57. Highlights the fact that the concept of common platforms, as outlined in Article 15 of the directive, has not been successful in that no such platforms currently exist; argues that they have the potential to be useful tools in facilitating mobility and that they should be defined and controlled by the professionals themselves; welcomes the Commission’s wish to improve this concept in a revised article; calls on the Commission to allow Member States the necessary flexibility to choose whether or not to take part in any common platform and to lower the threshold for Member State participation;

58. Argues that the introduction of any common platform should be made contingent on an internal market test and subject to parliamentary oversight;

59. Highlights the fact that this Directive should integrate data protection, in line with Directive 95/46/EC, and that revisions of this directive should also include developments in data protection provisions; notes that there should be up-to-date contact information for the part of the competent authority responsible for data management, and clear policies regarding the storage and use of a professional’s data, as well as guidelines for the correction of erroneous information;

60. Notes that the negotiations between the EU and Switzerland have led to an agreement regarding the amending of Annex III of 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 so as to include Directive 2005/36/EC; notes that the agreement foresees a provisional application of most of the Directive, with the exception of Title II, which requires adaptations in Switzerland, and that the Council Decision regarding the abovementioned agreement will lapse if the Swiss fail to notify the completion of their internal procedures for the implementation of the Decision within 24 months of the adoption of the decision; is committed to following developments on this issue closely;

61. Calls on the Commission to ensure that any revised directive is properly transposed by the deadline set; urges the Member States to give the directive due priority;

[...]

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

(1) Court of Justice judgment of 13 November 2003, Case C-313/01, Morgenbesser, ECR I–13467.
Consumer policy

P7_TA(2011)0491

European Parliament resolution of 15 November 2011 on a new strategy for consumer policy
(2011/2149(INI))

(2013/C 153 E/04)

The European Parliament,

— having regard to the Charter of Fundamental Rights of the European Union, as incorporated into the
Treaties by Article 6 of the Treaty on European Union (TEU),

— having regard to Article 26 of the Treaty on the Functioning of the European Union (TFEU), which
stipulates that 'the internal market shall comprise an area without internal frontiers in which the free
movement of goods, persons, services and capital is ensured in accordance with the provisions of the
Treaties',

— having regard to Article 3(3) of the TEU, which commits the Union to working for 'a highly competitive
social market economy, aiming at full employment and social progress, and a high level of protection
and improvement of the quality of the environment',

— having regard to Article 9 of the TFEU, which stipulates that 'in defining and implementing its policies
and activities, the Union shall take into account requirements linked to the promotion of a high level of
employment, the guarantee of adequate social protection, the fight against social exclusion, and a high
level of education, training and protection of human health',

— having regard to Article 11 of the TFEU, which stipulates that 'environmental protection requirements
must be integrated into the definition and implementation of the Union policies and activities, in
particular with a view to promoting sustainable development',

— having regard to Article 12 of the TFEU, which stipulates that ‘consumer protection requirements shall
be taken into account in defining and implementing other Union policies and activities',

— having regard to Article 14 of the TFEU and Protocol 26 thereto on services of general (economic)
interest,

— having regard to the Commission communication to the European Council on Europe 2020, a strategy
for smart, sustainable and inclusive growth (COM(2010)2020),

— having regard to its legislative resolution of 6 July 2011 on the Council position at first reading with a
view to the adoption of a regulation of the European Parliament and of the Council on the provision of
and Regulation (EC) No 608/2004 (1),

— having regard to its legislative resolution of 23 June 2011 on the proposal for a directive of the
European Parliament and of the Council on consumer rights (2),

(2) Texts adopted, P7_TA(2011)0293.

— having regard to the Commission Staff Working Paper of 7 April 2011 entitled ‘Consumer Empowerment in the EU’ (SEC(2011)0469),


— having regard to its resolution of 20 October 2010 on the financial, economic and social crisis: Recommendations concerning the measures and initiatives to be taken (mid-term report) (1),

— having regard to its resolution of 21 September 2010 on completing the internal market for e-commerce (2),

— having regard to its resolution of 5 July 2011 on a more efficient and fairer retail market (3),

— having regard to Professor Mario Monti’s report of 9 May 2010 to the Commission on revitalising the Single Market, entitled ‘A New Strategy For The Single Market’,

— having regard to its resolution of 20 May 2010 on delivering a Single Market to consumers and citizens (4),

— having regard to its resolution of 9 March 2010 on consumer protection (5),


— having regard to the Commission communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on cross-border business-to-consumer e-commerce in the EU (COM(2009)0557),

— having regard to the Commission communication of 7 July 2009 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a harmonised methodology for classifying and reporting consumer complaints and enquiries (COM(2009)0346) and to the accompanying Draft Commission Recommendation (SEC(2009)0949),

— having regard to the Commission communication of 2 July 2009 on the enforcement of the consumer acquis (COM(2009)0330),

(3) Texts adopted, P7_TA(2011)0307.
(4) OJ C 161 E, 31.5.2011, p. 84.
— having regard to the Commission recommendation of 29 June 2009 on measures to improve the functioning of the Single Market (1) and to the Commission recommendation of 12 July 2004 on the transposition into national law of directives affecting the internal market (2),


— having regard to Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, which aims to create an overall framework of rules and principles in relation to accreditation and market surveillance (4),


— having regard to the report of the European Economic and Social Committee, Section for the Single Market, Production and Consumption, on ‘Obstacles to the European Single Market 2008’ (6),

— having regard to Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the ‘Regulation on consumer protection cooperation’) (7),

— having regard to its resolution of 12 December 2006 on the Council common position for adopting a decision of the European Parliament and of the Council establishing a programme of Community action in the field of consumer policy (2007-2013) (8),


— having regard to Directive 2004/113/EC of the Council of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (10),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Economic and Monetary affairs (A7-0369/2011),

A. whereas EU citizens have a crucial role to play as consumers in achieving the Europe 2020 goals of smart, inclusive and sustainable growth, since consumer expenditure generates more than half of EU GDP;

B. whereas, according to the Material Deprivation Rate index, 16.3% of the EU’s population is at risk of poverty, and whereas this percentage rises to 17.1% for women;

C. whereas, as shown in the Special Eurobarometer 342 on Consumer empowerment from April 2011, a substantial majority of consumers feels confident and knowledgeable, but, at the same time, a considerable proportion lack knowledge about basic consumer legislation;

D. whereas consumers do not form one single homogenous group, as there are considerable differences among consumers in terms of consumer skills, awareness of legislation, assertiveness and willingness to seek redress;

E. whereas, according to the Special Eurobarometer 342 on Consumer empowerment from April 2011, women spend more time shopping (3.7 hours in a typical week) than men (2.8 hours);

F. whereas, according to the 5th edition of the Consumer Conditions Scoreboard of March 2011, consumers still face very different conditions across the EU;

G. whereas consumers’ dissatisfaction with the functioning of financial services stems in part from the bad advice they receive and the fact that, according to the Consumer Markets Scoreboard, the majority of consumers do not know their rights in relation to financial services and 98% fail to choose the most appropriate investment option, at an estimated cost of 0.4% of EU GDP;

H. whereas disclosure of information is both necessary and important in all sectors of financial services for consumers; whereas the strategy must recognise that it is not sufficient merely to provide competitive markets in which consumers can make decisions in their best interests; whereas if this disclosure is to be more efficient, it is important that information should be provided in EU and regional official languages;

I. whereas groups of people who are particularly vulnerable because of their mental, physical or psychological infirmity, age or credulity - for example children, teenagers and the elderly - or are made vulnerable by their social and financial situation (such as those with excessive debts) need special protection;

J. whereas the EU has set targets for the reduction of CO₂ emissions, calling for more sustainable patterns of consumption;

K. whereas a properly functioning internal market should offer consumers a wider choice of high-quality products and services at competitive prices and, at the same time, a high level of consumer and environmental protection;

L. whereas the internal market must grow without undermining consumer protection and whilst guaranteeing the free movement of services and ensuring that due attention is paid to the protection of workers;

M. whereas empowered consumers are better able to identify the best prices, selling conditions and quality, therefore driving competition and innovation;

N. whereas a fully integrated internal market would create multiple benefits for European consumers, such as lower prices and a wider selection of products and services;
O. whereas, as shown in the Consumer Conditions Scoreboard from March 2011, retailers show a lack of knowledge of basic EU consumer rights, which can both work to the detriment of consumers and also affect retailers’ own willingness to trade cross-border;

P. whereas all stakeholders (including the Commission, national enforcement authorities, consumer organisations and the private sector) need to step up their efforts to achieve the objective of a high level of consumer protection and empowerment, as the effectiveness of public market surveillance and enforcement are vital to ensuring that illegal and unsafe products do not reach or are removed from the European market;

Q. whereas, given the current economic downturn, strong and consistent enforcement is all the more important, as the crisis is affecting consumers’ choices;

R. whereas the European Parliament and national parliaments must contribute to the more effective transposition and enforcement of consumer protection legislation by continuing to work closely with each other;

S. whereas the European Parliament and national parliaments should protect the health and well-being of EU citizens;

**Core objectives**

1. Welcomes the Commission’s initiative to launch a Consumer Agenda, and emphasises the need for the Commission to propose a proactive policy for defining smart regulation, with the objective of achieving a coherent legal framework; calls, further, for all future consumer policy measures to be based on a holistic approach which places consumers at the heart of the Single Market;

2. Stresses that policy priorities should be linked and be supported by statistics from the Consumer Scoreboard; calls on the Commission to take account in its consumer policy strategy of the recently published top 20 main concerns of citizens and businesses regarding the Single Market;

3. Welcomes the Commission’s proposals in its 2012 Work Programme to review consumer policy and its legislative strategy, integrating initiatives across all its responsible services; notes, in particular, the need to ensure that consumers throughout the EU receive the full protection offered by key items of legislation, such as the Unfair Commercial Practices and Consumer Credit Directives;

4. Welcomes the strategic approach to consumer protection, drawing on lessons from the 2007-2013 strategy; emphasises the need for better coordination between consumer policy and social and environmental goals, as part of the Europe 2020 strategy;

5. Emphasises the need for the proper implementation and enforcement of existing legislation (in particular the latest consumer rights directive) accompanied by dissemination of appropriate information concerning the rights and obligations of each party; emphasises, further, the need to examine the existing acquis following the adoption of the consumer rights directive and in the light of planned new initiatives;

6. Stresses the need for coherence in the way that policies on consumer protection are implemented and, in that connection, proposes that discussions be re-opened on how this portfolio is divided up within the Commission;
7. Calls on the Commission to ensure better coordination between its policies which affect consumers;

8. Calls on the Commission and the Member States to strengthen international cooperation and the exchange of information with non-EU countries in the field of consumer protection;

9. Highlights the numerous challenges facing the Consumer Agenda, including empowering consumers and reducing levels of inequality, encouraging sustainable consumption, reducing consumer exposure to unsafe products and protecting consumers, especially children, against misleading advertising; calls for an in-depth review among policy-makers of ways of designing smarter policies which provide consumers with information they need and can actually use, without creating additional burdens for companies;

10. Calls on the Commission to guarantee special protection for groups of consumers who are particularly vulnerable because of their mental, physical or psychological infirmity, age or credulity, or made vulnerable by their social and financial situation; supports the Commission's work on behavioural economics, seeing this as essential to ensuring that consumer protection measures are effective in practice;

11. Urges the Commission to improve the criteria and arrangements for carrying out more impact assessments, and to review, where appropriate, EU legislation which has an impact on consumer policy and establish best practices by means of which Member States can implement existing legislation correctly;

**Consumer empowerment**

12. Notes the significant increase in e-commerce, which is now very important to consumers, with 40% of EU citizens purchasing online; points out that consumers' and retailers' confidence needs to be increased, particularly as regards cross-border online purchasing and trading, by guaranteeing their respective rights and obligations on the internet;

13. Deplores the large gap between the levels of domestic and cross-border online retail purchasing; notes that according to the Consumer Scoreboard 44% of consumers say that uncertainty about their rights discourages them from buying goods from other Member States and that late or non-delivery and fraud are the major factors preventing take-up in cross-border purchasing; calls, therefore, for the EU's consumer policy strategy to support growth and innovation in the retail sector and, in particular, the completion of the digital single market, in order to help EU consumers shop cross-border;

14. Points out that consumer confidence is a driving force in the economy with regard to both domestic and cross-border trade, online and offline;

15. Stresses the need to inform consumers about their rights and obligations and ensure that consumers' rights are fully respected when it comes to internet use and protection of intellectual property rights, at the same time protecting personal data and privacy;

16. Stresses that consumers' personal data have substantial economic value, for example databases containing consumer profiles used in connection with targeted advertising; points out that users are mostly unaware of the value of the data they voluntarily make available to companies; asks the Commission to ensure that there is a sufficient degree of competition in the market for on-line advertising and search engines and monitor the way data is used by the companies concerned, in accordance with the existing data protection framework;
17. Emphasises the need to provide consumers and traders with more transparent and comparable information, for example through the use of unit price indications and accurate and transparent internet price-comparison websites, as well as meaningful and effective product labelling;

18. Emphasises the importance of labelling and, in this context, calls on the Commission to take account of consumers' growing calls concerning, for example, fair trade, carbon footprints, the scope for and types of recycling and origin marking;

19. Underlines the need to ensure universal access to fast broadband and telecommunications networks and broad access to goods and services online, including by removing distribution restrictions, tackling geographic segmentation and developing electronic payment services;

20. Emphasises that the Consumer Agenda needs to highlight the market in content for digital products, e.g. e-books;

21. Emphasises the need to empower consumers by providing them with useful, targeted and understandable information; insists that the EU and national authorities, and consumer organisations and companies, need to step up their efforts to improve consumer education; calls on the Commission to propose 'consumer-friendly' Single Market legislation, so as to ensure that consumer interests are fully taken into account in the functioning of the Single Market;

22. Calls on the Commission and Member States to provide adequate support and capacity building to consumer organisations in each Member State, with a view to strengthening their role and resources, thereby enhancing consumer empowerment;

23. Stresses the need to educate consumers, from as early an age as possible, so that they understand and make use of the information appearing on products; calls on the Commission to make European logos for which the recognition rate still appears unsatisfactory (in particular the CE conformity marking logo, the European Ecolabel, the Möbius strip for recycling or risk marking) more identifiable and more intuitive;

24. Calls on the Commission to launch information campaigns in all the Member States concerning the European 'CE' designation and the significance thereof, making it clear to consumers what it does (or does not) represent and providing them with more comprehensive information, while seeking to raise awareness of product safety in professional circles;

25. Believes that civil society, together with consumer organisations and businesses, should further channel innovative solutions for the dissemination of single market information, thereby enabling people to take full advantage of existing opportunities; emphasises the important role played by civil society in helping SMEs and consumers, particularly those in the most vulnerable positions, such as young people or those without internet access, to overcome existing linguistic, technological and administrative barriers and restrictions in Member States;

26. Deplores the fact that switching provider or tariff is still difficult in certain sectors, hampering consumers' freedom of choice and damaging competition; calls on the Commission to look more closely into this issue to ensure that consumers reap the full benefits of the Single Market;

27. Calls on the Commission to look into the remaining obstacles to bank switching by consumers and to consider ways of eliminating them, such as setting up an EU-wide bank account number portability system;

28. Notes the importance to consumers with access to bank accounts of transparent bank charges, faster transaction times and easier procedures for moving bank accounts;
29. Notes that some 30 million EU citizens do not have access to basic banking services and calls on the Commission to put forward a proposal, as it announced it would do in the Single Market Act and in its 2011 work programme;

**Consumer protection and product safety**

30. Emphasises the need to design consumer policies that take the specific characteristics of vulnerable consumer groups into account;

31. Calls for explicit links to be established between the strategy and the competition policy programme, and joined-up action to achieve this, so consumers can benefit from services which are better adapted to their needs and supplied on better terms;

32. Stresses the urgent need to increase the general level of safety of consumer products in the EU, especially in the framework of the forthcoming revision of the General Product Safety Directive; calls on the Commission, in cooperation with the responsible EU agencies, to look more closely into the issues of the impact of chemicals on consumers' health, antibiotic resistance and nanotechnologies, on the basis of existing EU legislation in those fields;

33. Stresses, further, the need to increase the safety standards for toys, and urges Member States quickly to transpose and fully implement the new Toy Safety Directive;

34. Calls on the Commission to develop a common assessment and labelling system, as indicated in its resolution on a single market for enterprises and growth, based on the product's whole life cycle, particularly in order to simplify and harmonise systems, overcome the cost of fragmentation for business and consumers and prevent misleading advertising;

35. Calls for better product safety guarantees, particularly in e-commerce on the internal market;

36. Calls for the RAPEX notification system to be strengthened and made more effective and transparent for consumers, in order to improve overall awareness of the risks posed by specific consumer products and enable companies and customs authorities to take swift and appropriate action;

37. Notes, in that connection, the importance of transparent and reliable markets, of improving professional standards and avoiding conflicts of interest in the provision of financial services to consumers, and the crucial role of financial education;

38. Stresses the importance of access to financial education and financial advice, and calls for better regulation of financial advisory services;

39. Points out that the new European Supervisory Authorities (ESAs) have explicit powers and responsibilities relating to consumer protection in the area of financial services and expects the strategy to reflect these and enhance the consumer-protection capabilities of the ESAs, drawing on national authorities' existing best practices and ensuring adequate participation by interested parties, notably consumer representatives;

40. Calls for a high level of consumer protection to be established throughout the EU, so that the internal market in the field of financial services can be further strengthened and protectionist practices combated;
41. Calls for targeted funding to be allocated to consumer research projects, especially in the field of consumer behaviour and data collection, to help design policies that meet the needs of consumers;

42. Proposes expanding European support for research in emerging sectors, such as green and ethical consumption, and for the pooling of everyday consumer goods (cars, bicycles, household appliances, etc.);

43. Calls on the Commission to continue its work on the sale of goods and unfair contract terms, a review of the rules on unfair commercial practices (UCP), the Consumer Credit Directive, the Misleading Advertising Directive and the broader issue of whether the rules on UCP need to apply to business-to-business relations; urges Member States to fully and correctly implement internal market rules and legislation, in particular the consumer rights directive, the E-commerce directive and the regulation on the provision of food information to consumers;

44. Calls on the Commission to highlight the importance of standardisation in the Consumer Agenda, with a view to simplifying complex processes and complex consumer information on services, for example, and to ensure that both consumer organisations and national authorities are involved in this important task;

Towards a more social and sustainable consumer policy in Europe

45. Calls on the Commission to include a consumer accessibility element in the Consumer Agenda in order to make sure that vulnerable groups have access to the essential products and services they need; points out that this will clearly demonstrate the social dimension of consumer policies;

46. Points out that older people and people with disabilities are still faced by safety and access problems in connection with mainstream products and services; points out, in that connection, that standards can be successfully used to make products and services accessible to as many consumers as possible, irrespective of their age or physical abilities;

47. Calls on the Commission to take the gender perspective into account in the Consumer Agenda, in keeping with its commitment to implementing gender mainstreaming as an integral part of its policy-making; calls on the Commission to ensure that the Consumer Agenda rules out all discrimination on grounds of sex in connection with access to and the supply of goods and services;

48. Calls on the Commission to address the issue of how private consumption can become more sustainable in order to promote innovation, economic growth and a low-carbon economy, in keeping with the objective set in the Europe 2020 strategy; takes the view that special attention should be paid to smart energy systems; the use of new technologies should enable all network users to participate in the internal energy market, in order to save energy and reduce or mitigate the costs of energy, while safeguarding the supply of energy to vulnerable consumers;

49. Calls on the Commission, Member States and stakeholders to coordinate their efforts to inform consumers better about more efficient ways to buy and consume food, in order to prevent and combat food waste;

50. Stresses the importance of evaluating the impact of liberalisation on consumer satisfaction, and calls, in that connection, for an assessment of the functioning of the energy market;
**Enforcement of consumer rights and redress**

51. Encourages the Commission to further support and spotlight the work of the European Consumer Centres network (ECC-Net), which should play a central role in informing consumers of their rights and in supporting them if they make a complaint; emphasises the key role played by the Cross-border Enforcement and Cooperation Network (CPC Network) in ensuring that consumer protection laws are correctly enforced and fostering cooperation among competent national authorities;

52. Calls on the Commission to use all its powers under the Treaties to improve the transposition, application and enforcement of all consumer-related EU legislation; calls on the Member States to step up their efforts to fully and correctly implement this legislation;

53. Calls for more accessible and more effective redress mechanisms, such as alternative dispute resolution, collective redress or online dispute resolution, in order to empower consumers throughout the EU; notes with concern that the current lack of compensation is a major loophole in the legal system as it allows for illegal profits to be retained by traders;

54. Calls for accessible and effective redress mechanisms for European consumers, as these are essential if barriers in the internal market, particularly as regards e-commerce, are to be eliminated, and calls on the Commission to come forward with one or more proposals through the ordinary legislative procedure, thereby ensuring the proper involvement of Parliament;

55. Welcomes the ongoing work to develop a European alternative dispute resolution (ADR) system, using existing national and business systems to combine a high level of consumer protection with fair conditions of trade for entrepreneurs;

56. Calls on the Commission to draw on best practices from Member States, such as the Nordic ombudsman model, and to consider giving ECC-Net legal authority in the area of consumer dispute resolution;

57. Believes that such a system will enhance the Single Market and deliver a fair system of redress for consumers in cross-border disputes, thereby building confidence between consumers and industry and avoiding costly litigation for both the industry and consumers;

58. Calls on the Commission to launch an interinstitutional debate on the appropriate way forward in order to improve the legal protection of consumers in their market transactions, with due regard to the approach set out in the Consumer Rights Directive;

59. Stresses the need for the forthcoming Multiannual Financial Framework for the post-2013 period to include adequate funding for measures to achieve the goals set out in this report and in the forthcoming Consumer Agenda; points out that adequate and guaranteed funding from the EU is required if consumer organisations are to be able to represent consumers in all Member States;

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

European Parliament resolution of 15 November 2011 on online gambling in the Internal Market
(2011/2084(INI))
(2013/C 153 E/05)

The European Parliament,

— having regard to the Commission communication of 24 March 2011 entitled ‘Green Paper on online gambling in the Internal Market’ (COM(2011)0128),

— having regard to Articles 51, 52 and 56 of the Treaty on the Functioning of the European Union,

— having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty on the Functioning of the European Union,

— having regard to the relevant case law of the Court of Justice of the European Union (1),

— having regard to the Council conclusions of 10 December 2010 and the progress reports of the French, Swedish, Spanish and Hungarian Council Presidencies on the framework for gambling and betting in the EU Member States,

— having regard to its resolution of 10 March 2009 on the integrity of online gambling (2),

— having regard to its resolution of 8 May 2008 on the White Paper on Sport (3),

— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (4),


(1) In particular the judgments in the following cases: Schindler 1994 (C-275/92), Gebhard 1995 (C-55/94), Lääärä 1999 (C-124/97), Zenatti 1999 (C-67/98), Anomar 2003 (C-6/01), Gambelli 2003 (C-243/01), Lindman 2003 (C-42/02), Fixtures Marketing Ltd v OY Veikkaus Ab 2004 (C-444/02), Fixtures Marketing Ltd v Svenska Spel AB 2004 (C-338/02), Fixtures Marketing Ltd v OY Veikkaus Ab 2005 (C-46/02), Stauffer 2006 (C-386/04), Unibet 2007 (C-432/05), Placanica and others 2007 (C-338/04, C-359/04 and C-360/04), Kommission v Italien 2007 (C-206/04), Liga Portuguesa de Futebol Profissional 2009 (C-42/07), Ladbrokes 2010 (C-258/08), Sporting Exchange 2010 (C-203/08), Sjöberg and Gerdin 2010 (C-447/08 and C-448/08), Markus Stoß and others 2010 (C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 and C-410/07), Carmen Media 2010 (C-46/08) and Engelmann 2010 (C-64/08).
(2) OJ C 87 E, 1.4.2010, p. 30.
Tuesday 15 November 2011


— having regard to the Commission communication of 6 June 2011 entitled ‘Fighting corruption in the EU’ (COM(2011)0308),

— 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 (2),


— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs (A7-0342/2011),

A. whereas the online gambling sector is growing constantly, to some extent outside the control of the national governments of the citizens to whom such gambling services are provided, and whereas this sector is unlike other markets on account of the risks involved in terms of consumer protection and the fight against organised crime,

B. whereas, in application of the principle of subsidiarity, there is no specific European legislative act regulating online gambling,

C. whereas gambling services are subject to a number of EU acts such as the Audiovisual Media Services Directive, the Unfair Commercial Practices Directive, the Distance Selling Directive, the Anti-Money Laundering Directive, the Data Protection Directive, the Directive on privacy and electronic communications, and the Directive on the common system of value added tax,

D. whereas the gambling sector is regulated differently in different Member States and this not only makes it difficult for regulated providers to provide lawful gaming services on a cross-border basis, but also for regulators to protect consumers and combat illegal online gambling and potential crime associated with it at EU level,

E. whereas the value added by a pan-European approach to combating crime and fraud, in particular when it comes to preserving the integrity of sport and protecting gamblers and consumers, is considerable,

F. whereas Article 56 TFEU guarantees the freedom to provide services but whereas, as a consequence of its particular nature, online gambling was exempted from the E-Commerce, Services and Consumer Rights Directives,

G. whereas, while the Court of Justice has clarified a number of important legal questions concerning online gambling in the EU, legal uncertainty remains with regard to a number of other questions, which can only be solved at the political level; whereas this legal uncertainty has led to a significant increase in the availability of illegal gambling offers and the high risks associated with them;

H. whereas online gambling, if not properly regulated, may involve a greater risk of addiction than traditional physical, location-based gambling, owing inter alia to increased ease of access and the absence of social control,

I. whereas consumers must be educated about the potential harm of online gambling and protected against dangers in this area, especially addiction, fraud, scams and underage gambling,

J. whereas gambling represents a considerable source of revenue, which most Member States channel to publicly beneficial and charitable purposes such as sport,

K. whereas it is essential to ensure the integrity of sport by stepping up the fight against corruption and match fixing,

L. whereas, in order to achieve these objectives, it is essential to introduce mechanisms for scrutinising sports competitions and financial flows, along with common supervisory mechanisms at the EU level,

M. whereas international-level cooperation among all stakeholders (institutions, sports federations and betting operators) is also crucial with a view to pooling good practices,

1. Welcomes the fact that the Commission has taken the initiative of launching public consultation in connection with its Green Paper on online betting and gambling, which will facilitate pragmatic and realistic consideration of the future of this sector in Europe;

2. Welcomes the Commission’s clarification of the fact that the political process initiated by means of the Green Paper is in no way aimed at deregulating/liberalising online gambling;

3. Recalls the growing economic importance of the online gambling industry, the take from which was over EUR 6 billion, or 45% of the world market, in 2008; agrees with the Court of Justice of the European Union that this is an economic activity with specific characteristics; recalls that this growth also entails an increased social cost from compulsive gambling and illegal practices;
4. Takes the view that efficient regulation of the online gambling sector should in particular:

(a) channel the natural gaming instinct of the population,

(b) combat the illegal gambling sector,

(c) guarantee effective protection for gamblers, with specific attention to vulnerable groups, in particular young people,

(d) preclude risks of gambling addiction, and

(e) ensure that gambling is proper, fair, responsible and transparent,

(f) ensure that specific measures are promoted to guarantee the integrity of sporting competition,

(g) ensure that a considerable proportion of government revenue from gambling is used for publicly beneficial and charitable purposes, and

(h) ensure that gaming is kept free from crime, fraud and any form of money laundering;

5. Sees such regulation as having the potential to ensure that sports competitions are attractive to consumers and to the public, that sports results remain credible and that the competitions retain their prestige;

6. Underscores the standpoint of the European Court of Justice (1) whereby the Internet is simply a channel for offering games of chance with sophisticated technologies that can be used to protect consumers and to maintain public order, although Member States' discretion in determining their own approach to the regulation of online gambling is unaffected thereby and they can still restrict or prohibit the provision of certain services to consumers;

Subsidiarity principle and European added value

7. Emphasises that any regulation of the gambling sector is subject to, and must be underpinned by, the subsidiarity principle, given the different traditions and cultures in the Member States, which must be understood as 'active subsidiarity', entailing cooperation among the national administrations; considers, however, that this principle implies compliance with the rules of the internal market in so far as applicable in accordance with the ruling by the ECJ concerning gambling;

8. Is of the opinion that an attractive, well regulated provision of gambling services, both on the Internet and via traditional physical gambling channels, is necessary to ensure that consumers do not use operators which do not fulfil national licensing requirements;

9. Rejects, accordingly, any European legislative act uniformly regulating the entire gambling sector, but nonetheless takes the view that, in some areas there would be clear added value from a coordinated European approach, in addition to national regulation, given the cross-border nature of online gambling services;

(1) Carmen Media 2010 (C-46/08).
10. Recognises the Member States' discretion in determining how gambling is organised, while observing the basic EU Treaty principles of non-discrimination and proportionality; respects in this context the decision by a number of Member States to ban all or certain types of online gambling or to maintain government monopolies on that sector, in accordance with the jurisprudence of the Court of Justice, as long as they adopt a coherent approach;

11. Points out that the European Court of Justice has accepted in a number of rulings that granting exclusive rights to a single operator subject to tight public-authority control may be a means of improving protection of consumers against fraud and combating crime in the online gambling sector more effectively;

12. Points out that online gambling is a special kind of economic activity, to which internal market rules, namely freedom of establishment and freedom to provide services, cannot fully apply; recognises, however, the consistent jurisprudence of the Court of Justice of the European Union which emphasises that national controls should be enacted and applied in a consistent, proportionate and non-discriminatory manner;

13. Stresses, on the one hand, that providers of online gambling should in all cases respect the national laws of the countries in which those games operate and, on the other hand, that Member States should retain the right to impose measures to address illegal online gambling in order to implement national legislation and exclude illegal providers from market access;

14. Is of the opinion that the principle of mutual recognition of licences in the gambling sector does not apply, but nevertheless, in keeping with internal market principles, insists, that Member States which open up the online gambling sector to competition for all or certain types of online gambling must ensure transparency and make non-discriminatory competition possible; suggests, in this instance, that Member States introduce a licensing model which makes it possible for European gambling providers meeting the conditions imposed by the host Member State to apply for a licence; licence application procedures, which reduce administrative burdens by avoiding the unnecessary duplication of requirements and controls carried out in other Member States, could be set up in those Member States that have implemented a licensing system, while ensuring the pre-eminent role of the regulator in the Member State in which the application has been submitted; takes the view, therefore, that mutual confidence among national regulators needs to be enhanced through closer administrative cooperation; respects, furthermore, the decision of some Member States to determine the number of operators, types and quantities of games on offer, in order to protect consumers and prevent crime, on condition that those restrictions are proportionate and reflect a concern to limit activities in that sector in a consistent and systematic manner;

15. Calls on the Commission to explore – in keeping with the principle of ‘active subsidiarity’ – all possible tools or measures at the EU level designed to protect vulnerable consumers, prevent addiction and combat illegal operators in the field of gambling, including formalised cooperation between national regulators, common standards for operators or a framework directive; is of the opinion that a pan-European code of conduct for online gambling agreed between regulators and operators could be a first step;

16. Takes the view that a pan-European code of conduct for online gambling should address the rights and obligations of both the service provider and the consumer; considers that this code of conduct should help to ensure responsible gaming, a high level of protection for players, particularly in the case of minors and other vulnerable persons, support mechanisms both at EU and national level that fight cyber crime, fraud and misleading advertisement and ultimately provide a framework of principles and rules which ensures that consumers are protected evenly across the EU;
17. Stresses that more action should be taken by Member States to prevent illegal gambling providers from offering their services online, for example by blacklisting illegal gambling providers; calls on the Commission to examine the possibility of proposing a legally binding instruments obliging banks, credit card issuers and other payment system participants in the EU to block, on the basis of national black lists, transactions between their clients and gambling providers that are not licensed in their jurisdiction, without hindering legitimate transactions;

18. Respects the right of the Member States to draw on a wide variety of repressive measures against illegal online gambling offers; supports, in order to increase the efficiency of the fight against illegal online gambling offers, the introduction of a regulatory principle whereby a gambling company can only operate (or bid for the required national licence) in one Member State if it does not operate in contravention of the law in any other EU Member State;

19. Calls on the Commission, as guardian of the Treaties, and the Member States to continue to carry out effective checks on compliance with EU law;

20. Notes the fact that more progress could have been made on pending infringement cases since 2008 and that no Member State has ever been referred to the European Court of Justice; urges the Commission to continue its investigation of the possible inconsistencies of Member States gambling legislation (offline and online) with the TFEU and – if necessary – to pursue those infringement proceedings that have been pending since 2008 in order to ensure such consistency; reminds the Commission, as ‘guardian of the Treaties’, of its duty to act swiftly upon receipt of complaints about violations of the freedoms enshrined in the Treaties;

Cooperation among regulatory bodies

21. Calls for cooperation among national regulatory bodies to be considerably expanded, giving them a sufficient remit, with the Commission as coordinator, to develop common standards and take joint action against online gambling operators which operate without the required national licence; states that, in particular as a means of identifying blacklisted gamblers and combating money laundering, betting fraud and other organised crime, national standalone solutions are not successful; in this context; considers the establishment of a regulator with suitable powers in each Member State to be a necessary step towards more effective regulatory cooperation; states that the Internal Market Information System could serve as the basis for more effective cooperation among national regulatory bodies; takes note of initiatives by national regulators to work together more closely, such as the Gaming Regulators European Forum (GREF) network and the European Regulatory Platform; calls for closer cooperation and better coordination among EU Member States, Europol and Eurojust in the fight against illegal gambling, fraud, money laundering and other financial crimes in the area of online gambling;

22. Takes the view that the various forms of online gambling – such as rapid interactive games of chance which have to be played at a frequency of seconds, betting, and lotteries involving a weekly draw – differ from one another and require different solutions insofar as some forms of gambling afford greater opportunities for abuse than others; notes in particular that the opportunity for money laundering depends on the strength of identification, the type of game and the methods of payment used, which makes it necessary, in respect of some forms of game, to monitor play in real time and exercise stricter control than is the case with other forms of game;

23. Emphasises the need to address the protection of customer accounts opened in connection with online gambling in the event of the service provider becoming insolvent; suggests, therefore, that any future legislation aim to protect deposits in the event that fines are imposed on the websites in question, or legal proceedings brought against them;
24. Asks the Commission to support consumers if they have been affected by illegal practices and to offer them legal support;

25. Recommends the introduction of pan-European uniform minimum standards of electronic identification; considers that registration should be performed in such a way that the player’s identity is established and at the same time it is ensured that the player has at his disposal a maximum of one gambling account per gambling company; emphasises that robust registration and verification systems are key tools in preventing any misuse of online gambling, such as money laundering;

26. Is of the opinion that in order to effectively protect consumers, especially vulnerable and young players, from the negative aspects of gambling online, the EU needs to adopt common standards for consumer protection; emphasises, in this context, that control and protection processes need to be in place before any gaming activity begins and could include, inter alia, age verification, restrictions for electronic payment and transfers of funds between gambling accounts and a requirement for operators to place notices about legal age, high-risk behaviour, compulsive gambling and national contact points on online gambling sites;

27. Calls for effective methods to be used to tackle problem gambling, inter alia by means of gambling bans and compulsory limits on expenditure over a particular period, albeit set by the customer himself; stresses that, in addition, if an expenditure limit can be raised, a time lag should apply before this takes effect;

28. Stresses that compulsive gambling is in fact a behavioural disorder which may affect up to 2% of the population in some countries; calls, therefore, for a survey of the extent of the problem in each EU Member State as a basis for an integrated strategy designed to protect consumers from this form of addiction; takes the view that as soon as a gambling account is created, comprehensive and accurate information must be made available with regard to gambling games, responsible gambling and opportunities for treatment of dependence on gambling;

29. Calls on the Commission and the Member States to take note of studies already conducted in this field, to focus on research examining the incidence, formation and treatment of gambling addiction and to collect and publish statistics on all channels (online and offline) of gambling sectors and gambling addiction in order to produce comprehensive data on the entire gambling sector of the EU; underlines the need for statistics from independent sources, particularly concerning gambling addiction;

30. Calls on the Commission to prompt the formation of a network of national organisations taking care of gambling addicts, so that experience and best practices can be exchanged;

31. Observes that, according to a recently published study (1), the gambling sector was identified as the sector where the lack of an alternative dispute resolution system most frequently makes itself felt; suggests, therefore, that national regulatory agencies could establish alternative dispute resolution systems for the online gambling sector;

32. Notes that the risk of fraud in sports competitions – although present since the outset – has been exacerbated since the emergence of the online sports betting sector and represents a risk to the integrity of sport; is therefore of the opinion that a common definition of sport fraud and cheating should be developed and that betting fraud should be penalised as a criminal offence throughout Europe;

Gambling and sport: the need to ensure integrity

32. Notes that the risk of fraud in sports competitions – although present since the outset – has been exacerbated since the emergence of the online sports betting sector and represents a risk to the integrity of sport; is therefore of the opinion that a common definition of sport fraud and cheating should be developed and that betting fraud should be penalised as a criminal offence throughout Europe;

33. Calls for instruments to increase cross-border police and judicial cooperation, involving all Member States’ competent authorities for the prevention, detection and investigation of match-fixing in connection with sport betting; in this respect, invites Member States to consider dedicated prosecution services with primary responsibility for investigating match-fixing cases; calls for a framework for cooperation with organisers of sports competitions to be considered with a view to facilitating the exchange of information between sports disciplinary bodies and state investigation and prosecution agencies, by setting up, for example, dedicated national networks and contact points to deal with cases of match-fixing; this should happen, where appropriate, in cooperation with the gambling operators;

34. Considers, therefore, that a uniform definition of sports fraud should be set at European level and included in the criminal law of all Member States;

35. Expresses its concerns over the links between criminal organisations and the development of match-fixing in relation to online betting, the profits from which feed other criminal activities;

36. Notes that several European countries have already adopted strict legislation against money laundering through sport betting, sport fraud (classifying it as a specific and criminal offence) and conflicts of interests between betting operators and sport clubs, teams or active athletes;

37. Notes that online operators licensed in the EU already play a role in identifying potential instances of corruption in sport;

38. Stresses the importance of education for protecting the integrity of sport; calls, therefore, on the Member States and sports federations to adequately inform and educate sportspeople and consumers starting from a young age and at all levels (both amateur and professional);

39. Is aware of the particular importance of the contribution from gambling revenue towards the funding of all levels of professional and amateur sport in the Member States, including measures to safeguard the integrity of sporting competitions from betting manipulations; calls on the Commission to look at alternative financing arrangements, while respecting practices in the Member States, in which revenues from sports betting might be routinely used to safeguard the integrity of sporting competitions from betting manipulations, while considering that no funding mechanism should lead to a situation from which only very few professional, widely televised sports would benefit while other sports, especially grassroots sport, would see the funding generated by sport betting diminished;

40. Reaffirms its position that sports bets are a form of commercial use of sporting competitions; recommends that sporting competitions should be protected from any unauthorised commercial use, notably by recognising the property rights of sports event organisers, not only in order to secure a fair financial return for the benefit of all levels of professional and amateur sport, but also as a means of strengthening the fight against sports fraud, particularly match-fixing;

41. Stresses that the conclusion of legally binding agreements between organisers of sports competitions and online gambling operators would ensure a more balanced relationship between them.

42. Notes the importance of transparency in the online gambling sector; envisages, in this connection, annual reporting obligations, which should demonstrate, inter alia, what activities of general interest and/or sports events are financed and/or sponsored by means of the proceeds from gambling; calls on the Commission to investigate the possibility of compulsory annual reporting.
43. Points to the need to provide a reliable alternative to illegal gambling services; emphasises the need for pragmatic solutions with regard to advertising for, and sponsoring of, sports events by online gambling operators; is of the opinion that common advertising standards should be adopted which provide sufficient protection for vulnerable consumers, but at the same time make sponsorship of international events possible;

44. Calls on the Commission and Member States to work with all sports stakeholders with a view to identifying the appropriate mechanisms necessary to preserve the integrity of sport and the funding of grassroots sport;

*  *
*  *

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

Honeybee health and beekeeping

P7_TA(2011)0493

European Parliament resolution of 15 November 2011 on honeybee health and the challenges of the beekeeping sector (2011/2108(INI))

(2013/C 153 E/06)

The European Parliament,

— having regard to its resolution of 25 November 2010 on the situation in the beekeeping sector (1),

— having regard to the Communication of the Commission of 6 December 2010 on honeybee health (COM(2010)0714),

— having regard to the Conclusions of the Council of 17 May 2011 on honeybee health,

— having regard to the Communication of the Commission of 3 May 2011 ‘Our life insurance, our natural capital: an EU biodiversity strategy to 2020’ (COM(2011)0244),

— having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (2), which lays out special provisions for the apiculture sector in the European Union,

— having regard to the EFSA scientific report of 11 August 2008 and the scientific report commissioned and adopted by EFSA on 3 December 2009 on Bee Mortality and Bee Surveillance in Europe,

— having regard to the ruling of the European Court of Justice on case C-442/09 (3), concerning the labelling of honey containing genetically modified material,

(3) OJ C 24, 30.1.2010, p. 28.


— having regard to its resolution of 8 March 2011 on the ‘EU protein deficit: what solution for a long standing problem?’ (3),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0359/2011),

A. whereas beekeeping as an economic and social activity plays a crucial role in the sustainable development of rural areas, creates jobs and provides an important ecosystem service via pollination, which contributes to the improvement of biodiversity by maintaining the genetic diversity of plants,

B. whereas beekeeping and biodiversity are mutually dependent; whereas, via pollination, bee colonies provide important environmental, economic and social public goods, thus ensuring food security and maintaining biodiversity, and whereas, by managing their bee colonies, beekeepers perform an environmental service of paramount importance, as well as safeguarding a sustainable production model in rural areas; whereas ‘bee pastures’, diverse foraging grounds and certain crops (rape, sunflowers, etc.) provide bees with the rich nutrition necessary in order to maintain their immune defences and stay healthy,

C. whereas concerns have been raised that owing to the high cost of establishing a beekeeping enterprise, there are fewer people entering the sector, resulting in a shortfall in the hives needed to pollinate vital agricultural crops,

D. whereas a decrease in the number of bee colonies has been reported in both the EU and other parts of the world; whereas pollinator species, which contribute to agricultural productivity, are in decline; whereas, in the event of a marked intensification of this trend, farmers in the EU, as well as those in other parts of the world, may have to resort to human-assisted pollination, which would entail a twofold increase in expenditure on pollination; whereas science and veterinary practice currently provide little in the way of effective prevention or disease control against certain pests and diseases, owing to insufficient research and development of new bee-health medicines in the past decades, which is the result of the limited size of the market and the consequent low interest of big pharmaceutical companies; whereas the limited number of medicines available to fight the Varroa destructor mite are in many cases no longer effective,

E. whereas the health of individual bees and colonies is affected by numerous lethal and sub-lethal factors, many of them interconnected; whereas the limited number of marketed medicines to fight the Varroa destructor mite are in many cases no longer sufficiently efficient, owing to the emergence of resistance; whereas the use of pesticides, changing climatic and environmental conditions, loss of plant biodiversity, land use change, mismanaged beekeeping practices and the presence of invasive species may

(3) Texts adopted, P7_TA(2011)0084.
weaken colonies’ immune systems and favour opportunistic pathologies; whereas honeybees can be exposed to plant protection products via direct and indirect pathways such as wind drifting, surface water, droplet guttation, nectar and pollen,

F. whereas beekeepers can contribute to, and help maintain, the health and well-being of their bees, although the quality of their environment plays a large role in determining how successful they are.

G. whereas minimal use of veterinary products and active substances is advocated, as is maintaining a healthy colony immune system, but whereas resistance problems exist; whereas active substances and medicines are not metabolised by bees, and European producers rely on clean, residue-free, high-quality honey,

H. whereas a large number of European beekeepers are amateur and not professional apiarists,

**Research and dissemination of scientific knowledge**

1. Calls on the Commission to increase the level of support for honeybee-health-related research under the next financial framework (FP8) and to focus the research on technological developments and disease prevention and control, particularly on the impact of environmental factors on the bee colony immune system and their interactions with pathologies, on defining sustainable agricultural practices, on promoting non-chemical alternatives (i.e. preventative agronomic practices such as crop rotation and use of biological control) and on generally further encouraging Integrated Pest Management techniques and the development of veterinary medical products for current EU honeybee-disease-causing agents, especially the Varroa destructor mite, as it is the main pathogenic agent and requires a greater variety of active substances to combat it, given its great ability to develop resistance and to combat endoparasites and other opportunistic diseases;

2. Considers it important to take urgent measures to protect bee health, taking into account the specificities of beekeeping, the diversity of actors involved and the principles of proportionality and subsidiarity;

3. Reiterates concerns that increased mortality among honeybees and wild pollinators in Europe would, if left unchecked, have a profound negative impact on agriculture, food production and security, biodiversity, environmental sustainability and ecosystems;

4. Calls on the Commission to promote the setting up of appropriate national surveillance systems in close cooperation with beekeepers’ associations and to develop harmonised standards at EU level to allow comparison; stresses the need for uniform identification and registration of bee hives at national level, with annual revision and updating; insists that the funding for identification and registration should not come from the existing programmes for the improvement of production and marketing of honey in the European Union (Council Regulation (EC) No 1221/97 (1));

5. Calls on the European Commission to support a European Network of ‘reference hives’ to monitor the effect of environmental conditions, beekeeping practices and agricultural practices on bee health;

6. Calls on the Commission to draw up three-year programmes based on a declaration by all Member States of the number of hives actually registered rather than on estimated figures;

7. Welcomes the establishment of the EU reference laboratory for bee health, which should focus on activities not covered by existing expert networks or national laboratories, and synthesise the integrated knowledge stemming from their research;

8. Stresses the need to support diagnostic laboratories and field tests at a national level and points out that overlaps in funding should be avoided;

9. Calls on the Commission to set up a steering committee, together with representatives of the beekeeping sector, which will assist the Commission in establishing the annual work programme of the EU reference laboratory; deplores the fact that the first annual work programme of the EU’s reference laboratory was presented without prior consultation of stakeholders;

10. Calls on the Commission to continue supporting scientific research on honeybee health, building on the good examples of COST Action COLOSS and the BeeDoc and STEP initiatives, and to encourage Member States to support scientific research in this area; stresses nevertheless that relations with beekeepers and beekeeper organisations should be enhanced;

11. Calls on the Commission to rule out overlaps in the use of funds in order to increase their effectiveness in guaranteeing economic and ecological added value for both bee-keepers and farmers; calls on the Commission to encourage Member States to raise their level of funding for research;

12. Calls on the Member States to encourage and oversee the setting up of national melliferous plant phenology monitoring networks;

13. Calls on the Commission actively to encourage a greater degree of information-sharing among Member States, laboratories, beekeepers, farmers, industry and scientists, on ecotoxicological studies affecting honeybee health so as to make possible informed, independent scientific scrutiny; calls on the Commission to help this process by making available its relevant webpage in all official languages of the Member States concerned;

14. Welcomes the Commission’s ‘Better Training for Safer Food’ initiative, but calls for the exercise to be extended beyond 2011 and the number of participants from national authorities to be increased;

15. Calls for support for training programmes for beekeepers on disease prevention and control, as well as for farmers and foresters on botanical knowledge, bee-friendly use of plant protection products, the impact of pesticides and non-chemical agronomic practices to prevent weeds; calls on the Commission, in cooperation with beekeeping organisations, to submit guidelines for the veterinary treatment of hives;

16. Calls on the authorities and representative organisations in the Member States to support the dissemination of appropriate scientific and technical knowledge about bee health among beekeepers; underlines the fact that a permanent dialogue is needed between beekeepers, farmers and the relevant authorities;

17. Stresses the need to ensure adequate training for veterinarians, as well as the possibility for beekeepers to consult veterinarians and the involvement of apiculture specialists in national veterinary authorities;
Veterinary products

18. Recognises that the development of innovative and effective treatments against Varroa mites, which are implicated in some 10% of annual losses, is of high importance; considers that there is a need to increase support for authorised veterinary treatments in order to reduce the negative effects of diseases and pests; asks the Commission to introduce common guidelines regarding veterinary treatment in the sector, stressing the need for it to be properly used; calls for guidelines to be introduced for the use of molecules and/or formulations with a base of organic acids and essential oils and other substances authorised for biological pest control;

19. Calls on the Member States to provide financial support for the research, development and field-testing of new bee-health medicinal products, especially for SMEs, in light of the beekeeping sector’s contribution to biodiversity and the public good in the form of pollination, taking into consideration the high cost of veterinary treatment currently borne by beekeepers by comparison with health costs in other livestock sectors;

20. Highlights the need to offer the pharmaceutical industry incentives for the development of new medicinal products designed to combat bee diseases;

21. Calls on the Commission to work out more flexible rules for the authorisation and availability of veterinary products for honeybees, including medicines of natural origin and others that do not have health effects on insects; welcomes the Commission’s proposal on the revision of the veterinary medicinal product directive, but notes that the current limited availability of such products should not be used as a basis for the registration/marketing of antibiotics to treat other opportunistic pathologies in honeybee colonies, given their impacts on the quality of bee products and resistance;

22. Welcomes the Commission’s intention to introduce maximum residue levels for the use of medicinal products through the ‘cascade’ procedure in order to eliminate the current legal uncertainty, which hinders the treatment of sick bees;

23. Calls for a change in the regulatory environment so that the European Medicines Agency, in a spirit of protecting intellectual rights, can ensure exclusivity for the manufacturing and marketing of novel active substances in innovative bee-health veterinary products during a certain transitional period;

24. Calls on the Commission to look into the possibility of extending cover under the European Union Veterinary Fund to bee diseases when the fund is next revised;

25. Welcomes the Commission’s intention to propose a comprehensive Animal Health Law; calls on the Commission to adjust the scope and financing of European veterinary policy to take account of the specific characteristics of bees and beekeeping so that bee diseases can be combated more effectively via adequate availability of effective, standardised medicines in all Member States and financing of bee health in the framework of the European veterinary policy; calls on the Commission to ensure greater harmonisation among the Member States, focusing its efforts on combating and controlling varroasis in the EU;

26. Supports breeding programmes which concentrate on disease and pest tolerance, especially with reference to varroasis;

Effects of modern agriculture on bees

27. Emphasises that the European Union has only recently, with the committed involvement of the European Parliament, adopted new, stricter rules on the authorisation of plant protection products and their sustainable use, in order to ensure that they are safe for human beings and the environment; notes that these rules include additional, strict criteria relating to bee safety; calls on the Commission to keep Parliament informed about the successful implementation of the new rules;
28. Invites the Commission to improve risk assessment methodology for pesticides in order to protect colony health and population development and to ensure appropriate access to the findings and methodology of ecotoxicological studies included in the authorisation dossiers;

29. Stresses the importance of sustainable farming and calls on the Member States to transpose and fully implement, as soon as possible, Directive 2009/128/EC on the sustainable use of pesticides, and particularly Article 14 thereof, which highlights the fact that it will be mandatory for all farmers in the EU to apply integrated pest management as of 2014, and to pay particular attention to the use of those pesticides that may have an adverse effect on bees and colony health;

30. Calls on the Commission, on the basis of reliable and effective tests under real conditions, with harmonised protocols, to consider chronic larval and sub-lethal toxicity in the risk assessment of pesticides, as laid down in Regulation (EC) No 1107/2009 on the placing on the market of plant protection products, which has been in application since 14 June 2011; calls further on the Commission to pay special attention to the use of specific pesticides that have had an adverse effect on bee and colony health under certain circumstances; calls on the Commission also to strengthen research on potential substance-pathogen and substance-substance interactions; notes that all application methods should also be considered;

31. Welcomes the fact that experts from the European Food Safety Authority are carrying out an independent assessment of the requirements placed on the industry as regards supplying data on the various pesticides;

32. Calls, in a spirit of dialogue between beekeepers, agricultural stakeholders and public authorities, for the setting up of a system to encourage preliminary notification of beekeepers in all Member States in advance of pesticide applications, especially aerial insecticidal treatment operations (e.g. mosquito controls), and a system to provide on request information about the position of hives when these operations take place; calls, further, for improved information transfer via an internet-based database between beekeepers and farmers as regards the setting up of hives in the vicinity of fields, for example;

33. Calls on the Member States to consider the advisability of making beekeeping and bee health part of agricultural training;

34. With special regard to the 2009 EFSA project entitled ‘Bee Mortality and Bee Surveillance in Europe’, calls on the Commission to conduct objective research on the possible negative effects of GMO crops and monocultures on honeybee health;

Production and food safety aspects, protection of origin

35. Calls on the Commission constantly to monitor the animal health situation in source countries, to apply the strictest animal health requirements and to put in place an appropriate monitoring system for the propagation material coming from third countries, in order to avoid introducing exotic bee diseases/parasites such as Aethina tumida beetles and Tropilaelaps mites into the EU; calls on the Commission and Member States, in cooperation with beekeeping organisations, to increase transparency regarding the frequency, percentage, characteristics and, above all, the results of the security checks performed at border control posts;

36. Calls for a provisional threshold limit (Reference Point for Action) of 10 ppb to be set for veterinary products authorised in the European Union, in view of the different analytical methods that are applied in the various Member States;
37. Calls on the Commission to include No Action Levels (NALs) or Reference Points for Action (RPAs) or Maximum Residue Limits (MRLs) in honey and other apicultural products for substances that cannot be authorised for the European beekeeping sector, as well as to harmonise veterinary border controls and controls on the internal market since, in the case of honey, low-quality imports, adulteration and substitutes distort the market and exert constant pressure on prices and the final quality of the product on the EU's internal market, and there must be a level playing field for products/ producers from the EU and from third countries; notes that the MRLs must take into account residues from good veterinary practice;

38. Calls on the Commission to put in place or modify the annexes to Council Directive 2001/110/EC (1) (Honey Directive) in order to improve the standards of EU production by establishing clear legal definitions for all apicultural products, including honey varieties, and defining the important parameters of the quality of honey, such as proline and saccharase content, low level of HMF or humidity, and adulteration (such as the glycerine content, sugar isotope ratio (C13/C14), pollen spectrum and aroma and sugar content of honey); calls for support for research into effective methods of detecting adulteration of honey; calls on the Commission to ensure that monitoring of the natural properties of honey which applies to European products also applies to products from third countries;

39. Calls on the Commission to harmonise rules on labelling with the provisions of the Regulation on Agricultural Quality Schemes and to introduce obligatory labelling with the country of origin for imported and EU-produced apicultural products or, in the case of mixtures of products with different origins, obligatory labelling with every country of origin;

40. In the spirit of the EU's new quality policy, calls on beekeepers, their representative organisations and commercial companies to make better use of the EU origin labelling schemes (PDO and PGI) for hive products, which could contribute to the affordability of apicultural activity, and calls on the Commission, in close cooperation with beekeeping associations, to propose quality denominations and promote the direct sale of beekeeping products on local markets;

41. Calls for action to boost consumption of European honey and apiculture products, including by promoting honeys with characteristics specific to certain varieties and geographical areas;

Measures in connection with the conservation of biodiversity and the forthcoming reform of the Common Agricultural Policy

42. Stresses the need for consultation with beekeepers by European and national authorities during the drawing up of apiculture programmes and of related legislation, in order to ensure the effectiveness of these programmes and their timely implementation; calls on the Commission to provide significantly more financial resources, by stepping up the current support for apiculture in the CAP after 2013 and guaranteeing the continued existence and improvement of the existing support programmes (Regulation (EC) No 1221/97) for the beekeeping sector, and to encourage the development of joint projects, and on the Member States to provide technical assistance for the beekeeping sector; calls on the Commission to ensure that the system of co-financing is compatible with the establishment of direct aid under the first pillar of the CAP (optional implementation of the current Article 68 of the CAP) by those states that consider it necessary; stresses also the need to encourage young beekeepers to enter the sector; calls on the Commission to provide a safety net or a common insurance system for apiculture in order to mitigate the impact of crisis situations on beekeepers;

43. Urges the Commission, within the framework of the EU's new biodiversity strategy, to make financial resources available for apiculture as a priority and/or at a higher rate in all projects and actions submitted under the CAP dealing exclusively with subspecies and eco-types of Apis mellifera native to each region;

44. Calls on the Commission to clarify, in the forthcoming reform of the CAP, the support measures and aid to be assigned to the European beekeeping sector, taking account of the environmental and social public goods that honeybee colonies provide via pollination and of the environmental service performed by beekeepers in managing their bee colonies;

45. Notes that, according to the Commission report of 28 May 2010, the overall number of beekeepers in the EU has risen slightly in comparison with 2004; points out that, according to the report, this increase is solely attributable to the accession of Bulgaria and Romania to the EU, and that, without the beekeepers from those countries, there would have been a significant decrease in the number of beekeepers in the EU; views this as indicative of the gravity of the situation in the beekeeping sector in the EU and of the need to grant it assistance and to implement concrete measures to keep beekeepers in beekeeping;

46. Calls on the Commission to consider the possibility of creating a special scheme for assistance to beekeepers within the framework of the direct aid scheme, for example through bee colony payments, which will help safeguard the beekeeping sector in the EU, keep beekeepers in beekeeping, encourage young people to become beekeepers and ensure bees continue to act as pollinators;

47. Calls on the Commission to promote sustainable agricultural practices in the CAP, to encourage all farmers to employ simple agronomic practices in line with Directive 2009/128/EC and to strengthen agri-environmental measures specific to the beekeeping sector, in the spirit of the new EU Biodiversity Strategy; calls on the Member States to lay down agri-environmental measures geared to apiculture in their rural development programmes and to encourage farmers to engage in agri-environmental measures supporting ‘bee-friendly’ grasslands on field margins and to employ an advanced level of integrated production, taking a holistic approach to farming and using biological control where possible;

48. Reaffirms that the Commission considers honeybees to be a domesticated species, and therefore a livestock sector, which facilitates better health, welfare and protection measures (1) and makes for better information on conserving wild pollinators; calls, therefore, for a bee health protection strategy to be established and for the beekeeping sector to be incorporated into agricultural legislation and veterinary legislation taking account of its specific character, particularly with regard to compensation for beekeepers’ losses in their bee population;

49. Calls on all stakeholders in the beekeeping sector to take advantage of the opportunities offered by the current common agricultural policy and the upcoming reform thereof, which take proper account of producer organisations throughout the agricultural sector;

Conservation of bee biodiversity

50. Urges the Commission, within the framework of Council Directive 92/43/EEC (2) (Habitats Directive) to define the conservation status of the species Apis mellifera and, where appropriate, to include it in the Annexes to the Directive; calls on the Commission, given the urgent need to conserve the species Apis mellifera and the various subspecies that occur in the European Union, to look into the possibility of creating a specific programme or regulation within the Life+ financial instrument that will make it possible to establish a pan-European project to restore wild populations of this species;

51. Urges the Commission, within the framework of Council Directive 92/65/EEC (3), to ban, at least temporarily, the import from third countries of live bees and species of the genus Bombus sp. in order to prevent the introduction of exotic diseases, particularly given that there is no shortage of genetic resources for apiculture in the European Union, bearing in mind the main subspecies from which the breeds and varieties currently used in apiculture originated;

(1) Through initiatives such as the Animal Health Strategy for the EU (2007-2013), which helps provide a single and clear regulatory framework for animal health, improves coordination and the efficient use of resources by relevant European agencies, and emphasises the importance of maintaining and improving diagnostic capability.
52. Recalls that measures to promote biodiversity are also vital in the non-farm sector; notes that green spaces along roads, verges of railway lines, forest cuttings for energy transmission networks and public and private gardens cover substantial areas where rational management methods can considerably increase pollen and nectar resources for bees and pollinating insects; considers that this development should be pursued in the context of harmonious land management, which in particular maintains road safety;

* *

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

State aid rules on services of general economic interest

P7_TA(2011)0494

European Parliament resolution of 15 November 2011 on reform of the EU state aid rules on Services of General Economic Interest (2011/2146(INI))

(2013/C 153 E/07)

The European Parliament,

— having regard to Articles 14 and 106 of the Treaty on the Functioning of the European Union and to Protocol No 26 thereto,

— having regard to the Communication from the Commission of 23 March 2011 on reform of the EU state aid rules on Services of General Economic Interest (COM(2011)0146),

— having regard to the Commission staff working document of 23 March 2011 on the application of EU state aid rules on Services of General Economic Interest since 2005 and the outcome of the public consultation (SEC(2011)0397),

— having regard to the public consultation organised by the Commission in 2010 on ‘state aid rules on services of general economic interest’,

— having regard to the ‘Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest’ of 7 December 2010 (SEC(2010)1545),

— having regard to Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (1),

— having regard to Commission Decision 2005/842/EC of 28 November 2005 on the application of Article 86(2) of the EC Treaty to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2),

— having regard to the Community framework for state aid in the form of public service compensation (3),

Tuesday 15 November 2011

— having regard to the Communication from the Commission of 19 January 2001 on European services of general interest (1),

— having regard to the Communication from the Commission of 26 September 1996 on European services of general interest (2),

— having regard to the opinion of the Committee of the Regions of 1 July 2011 on reform of the EU state aid rules on Services of General Economic Interest (3),

— having regard to the opinion of the European Economic and Social Committee of 15 June 2011 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on reform of the EU state aid rules on Services of General Economic Interest (4),

— having regard to the judgment of the European Court of Justice of 24 July 2003 in the case of Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH (5),

— having regard to its resolutions of 5 July 2011 on the future of social services of general interest (6), of 14 March 2007 on social services of general interest in the European Union (7), of 27 September 2006 on the Commission white paper on services of general interest (8), of 14 January 2004 on the green paper on services of general interest (9), of 13 November 2001 on the Commission communication entitled ‘Services of general interest in Europe’ (10) and of 17 December 1997 on the Commission communication entitled ‘Services of general interest in Europe’ (11),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection (A7-0371/2011),

A. whereas services of general economic interest (SGEI) have an important place in the shared values of the Union, and promote fundamental rights and social, economic and territorial cohesion, and are thus crucial to the fight against societal inequalities and, increasingly, also to sustainable development;

B. whereas SGEI make a significant contribution to the Member States’ economic performance and competitiveness and thus not only help to prevent and overcome economic crises but also serve the cause of general economic well-being;

C. whereas the successful implementation of the Europe 2020 strategy is bolstered by the provision of SGEI, and whereas these services can help with reaching growth targets in the areas of employment, education and social integration in particular, so that in the end the high level of productivity, employment and social cohesion that has been set can be achieved;

D. whereas cost-effective solutions by competing private undertakings are necessary in the interest of the citizen and essential against the background of the budgetary situation;

(6) Texts adopted, P7_TA(2011)0319.
E. whereas SGEI are services that cannot always be provided, or cannot be provided adequately, without public intervention;

F. whereas social services of general interest (SSGI) play an important role in underpinning basic rights and make a major contribution to equality of opportunity;

G. whereas the current EU legislation provides for exemption from notification for hospitals and social housing, i.e. SGEI meeting basic social needs;

H. whereas Articles 106 and 107 TFEU provide the legal basis for the reform of state aid rules for SGEI, and Article 14 TFEU allows the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, to establish the principles and conditions for the operation of SGEI, particularly economic and financial conditions, without prejudice to the competences of the Member States;

I. whereas Protocol No 26 TFEU establishes that SGEI should be characterised by a high level of quality, safety and affordability, equal treatment and the promotion of universal access and user rights, and explicitly recognises their essential role;

J. whereas the Member States and their public authorities are in the best position to properly serve their citizens and thus are responsible for determining the precise extent and the way in which SGEI are provided, and whereas Article 1 of Protocol No 26 to the Lisbon Treaty explicitly recognises the wide discretionary powers of national, regional and local authorities to manage, commission and organise them;

K. whereas compensatory payments encompass all advantages granted by the state or through state resources in any form whatsoever;

1. Notes the aims of the reform proposed by the Commission in seeking to clarify the application of the rules on aid for SGEI, taking into account their diversity;

2. Demands that the Commission provide clarification of the relationship between the rules of the internal market, and the provision of public services and that it ensure that the principle of subsidiarity is applied in the definition, organisation and financing of public services;

3. Highlights the improvements in terms of application and comprehensibility that have been possible thanks to the measures taken in 2005, known as the Altmark package; points out that the public consultations have nevertheless shown that the legal instruments need to be even clearer and more straightforward, proportionate and effective;

4. Stresses that the outcome of the public consultation also indicates that, apart from the administrative burden, other factors possibly militating against the application of the rules on state aid to SGEI have been uncertainties and misinterpretations, especially of key concepts in the rules such as ‘act of entrustment’, ‘reasonable profit’, ‘undertaking’, ‘economic and non-economic services’ and ‘internal market relevance’;

5. Welcomes the Commission’s move to provide further clarifications on the distinction between non-economic and economic activities in the context of SGEI, in order to create greater overall legal certainty, and to avoid cases being brought before the European Court of Justice and infringement proceedings opened by the Commission; calls on the Commission to provide further clarification regarding the fourth criterion which the European Court of Justice stated in the Altmark judgment and to ensure that the method of calculation of reasonable profit is clear enough and appropriate to the diversity of SGEI; calls on the Commission, therefore, to avoid a closed list; suggests that, in doing so, the Commission should not confine itself to reiterating the case law of the European Court of Justice but should provide determining criteria to help understand and apply the concepts used; asks the Commission to elaborate its understanding of a genuine SGEI;
6. Is concerned about the additional requirements that the Commission wants to introduce in order to ensure that the development of trade is not affected to an extent contrary to the interests of the Union, and believes that these will result in legal uncertainty;

7. Stresses that the ‘act of entrustment’ is a guarantee of transparency which must be retained in order to give more visibility for citizens but that the scope for mandating (act of entrustment) should be enhanced, in particular by means of the more flexible application of the rules; calls for a project accompanied by a ‘contract of objectives’ to be considered as an eligible act of entrustment;

8. Stresses that any reform of the EU state aid rules must take into account the special function of SGEI and must adhere strictly to the principle of subsidiarity, as the primary responsibility for commissioning, providing, financing and organising SGEI, in accordance with Protocol No 26 TFEU, rests with the Member States and their national, regional and local authorities, which have wide discretion in that regard and freedom of choice;

9. Stresses that particular attention must be paid, when reviewing the rules, to ensuring that the Community concepts and terms used are clearly tailored to the nature of public services and the diversity of forms of organisation and stakeholders involved, and that they take proper account of the actual risk of an impact on trade between Member States;

10. Highlights the specific nature of SGEI at regional and local level, which does not affect competition in the internal market and where a simplified and transparent procedure should be possible that encourages innovation and the participation of small and medium-sized enterprises (SMEs);

11. Supports the concept of thresholds for exemption from the requirement of notification of state compensatory payments for SGEI, with the associated lessening of the administrative burden; suggests, on the basis of the consultations carried out, that the thresholds which determine the application of the SGEI Decision should be raised;

12. Stresses that the specific nature of SGEIs is recognised in Article 14 TFEU and Protocol 26 annexed to the Treaty of Lisbon, and recognises the special role of national, regional and local authorities in this connection; stresses that reform of the EU rules on state aid for SGEI is only part of the necessary clarification of the legal provisions which apply to SGEI through a European consistent legal framework; notes that any legal instrument will have to ensure satisfactory legal certainty; calls on the Commission to bring forward by the end of 2011 a communication with measures designed to ensure that SGEI and SSGI have a framework enabling them to perform their tasks, as it undertook to do in the Single Market Act;

13. Emphasises that, under Article 106(2) TFEU, undertakings entrusted with the operation of services of general interest are subject to the rules prohibiting and controlling state aid only in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them by national, regional or local authorities; highlights, in this regard, the clear stipulation in Article 14 TFEU that the Union and the Member States, each within their respective powers and within the scope of application of the Treaty, shall take care that such services operate on the basis of principles and conditions to enable them to fulfil their mission; calls therefore for the reform of the EU state aid rules to take account of both these articles and to ensure that compensation granted to SGEI does not come with an excessive burden for public finances or low quality of the services provided;

14. Deems that the forthcoming Commission proposal on EU 2020 Project Bonds could and should be a major vector for the development of services of general interest in the Member States as well as at EU level; underlines that procedures established with that purpose should be explicitly laid down in a project eligibility framework to be defined following the ordinary legislative procedure;
15. Considers it extremely important that compensation payments to SGEI do not distort competition or harm other non-compensated companies operating in the same sectors or markets;

16. Points out that access to compensation for the net cost of delivering public services is among the economic and financial conditions necessary for undertakings entrusted with the operation of public services to perform properly the particular tasks assigned to them by public authorities, especially in these times of crisis, in which public services are playing a vital role as an automatic stabiliser, protecting the most vulnerable sections of the public and thus helping to mitigate the social impact of the crisis;

17. Would emphasise here that the development of public-public cooperation, by pooling resources, offers great potential for increasing efficiency in the use of public resources and modernising public services to meet the new needs of people in their local areas; also emphasises the importance of cross-border cooperation;

18. Asserts emphatically that public services must be of high quality and accessible to all sections of the population; views with concern, in this regard, the restrictive stance taken by the Commission, which, in relation to state aid for social housing associations, classifies the services provided by such associations as SSGI only if they are reserved for socially disadvantaged persons or groups, this restrictive interpretation being at odds with the higher goal of fostering an appropriate social mix and universal access;

19. Is of the opinion that good-quality services are based on the human rights of European citizens; and that this rights-based approach should be strengthened;

20. Recalls the substantial investment needed to upgrade infrastructure, especially in the regions where it is most lacking and in particular in the areas of energy, telecommunications and public transport, in order to enable the provision of future smart energy or broadband services;

21. Calls on the Commission to include investment costs for infrastructure necessary to the functioning of SGEI within the costs that compensatory payments may cover; reminds the Commission that the provision of SGEI is sometimes based on long-term public investment aid rather than on annual compensation payments;

22. Calls on the Commission, when negotiating bilateral trade agreements, to accept the public-sector provisions of SGEI and SSGI in partner countries;

Simplification/proportionality

23. Welcomes the Commission’s intention to ensure, through a more diverse approach to the application of state aid rules, that the administrative burden placed on the public authorities and on service providers is proportionate to the potential impact of the measure concerned on competition in the internal market;

24. Calls therefore for the provisions to be framed in such a way as to ensure that they can be applied correctly and that they place no unnecessary burden on the public authorities and the undertakings entrusted with the operation of services of general interest, enabling them to perform in full the specific tasks assigned to them; asks the Commission in that context to make it easier to understand the rules and foresee the obligations regarding public compensation payments for SGEI and thus attain greater legal certainty for public authorities and service providers;
25. Calls on the Commission, as part of the intended simplification of the state aid rules, to introduce greater flexibility and transparency in the monitoring of over-compensation and in particular to improve measures to prevent over-compensation; suggests, to this end, that, in the case of multiannual contracts, checks for over-compensation should be carried out only at the end of the contractual period and in any event at intervals of no more than three years and that transparent criteria should be set for the calculation of compensation payments for SGEI as this would result in significant time and cost savings for both service providers and the public authorities;

26. Calls on the Commission to ascertain from the public authorities and operators whether the ‘Guide to the application of the European Union rules on state aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest’ of 7 December 2010 effectively fulfils its purpose; asks the Commission, should it prove necessary, to provide the public authorities and operators with a learning tool to guide them towards the proper application of these rules;

27. Calls on the Commission to simplify the rules for mandating; asks that a call for proposals accompanied by a target-based contract be deemed to constitute a mandate;

Social services

28. Calls on the Commission to come up with special de minimis arrangements for SSGI that can be assumed to entail no substantial detriment to trade between Member States; suggests, to this end, that appropriate higher thresholds be proposed for social services of this type;

29. Supports the retention of the existing exemption without thresholds for hospitals and social housing; welcomes the Commission’s assertion that it wishes to exempt further categories of SSGI from the requirement that aid to them be the subject of notification; calls on the Commission to ensure that compensation payments for all SGEI meeting essential social needs as defined by Member States, such as care of the elderly and of people with disabilities, the care and social inclusion of vulnerable groups, child and youth welfare, healthcare and access to the labour market are exempted from the requirement of notification;

30. Considers that the special remit and character of SSGI should be protected and clearly defined; calls on the Commission, therefore, to assess what would be the most effective way of attaining this objective, taking into account the possibility of sector-specific rules;

Local services

31. Welcomes the Commission’s intention to introduce a ‘de minimis’ rule in respect of state aid to undertakings entrusted with the operation of SGEI where the locally limited scale of the activity means that only a negligible impact on trade between Member States is likely and where it is ensured that the compensation is used exclusively for the operation of the SGEI in question; asks the Commission to assess whether SGEI in the field of culture and education should also be the subject of a special arrangement;

32. Calls on the Commission to propose appropriate thresholds for the ‘de minimis’ rule for compensation payments to undertakings entrusted with the operation of SGEI, so that these services can be dealt with by a simplified procedure and the considerable administrative burden on service providers be significantly reduced without negative effects on the Single Market; suggests as a possible reference in this respect the combined indices of amount of compensation payment and level of turnover of the undertaking entrusted with the operation of the service by the local authority; considers furthermore that a threshold for a period of three financial years might be more appropriate in order to ensure the necessary flexibility;

33. Recalls that SGEI providers have a variety of different statuses, such as associations, foundations, voluntary and community organisations, non-profit organisations and social enterprises; recalls that some of those operate exclusively at local level, do not engage in commercial activities and reinvest locally any profits from services of general interest;
Quality and efficiency aspects

34. Emphasises how important it is for SGEI to be of high quality and the need for them to be universally accessible; points out in this regard that the Commission’s responsibility, under the TFEU competition rules, is confined to monitoring state aid for the provision of SGEI, and that these do not provide a legal basis for setting quality and efficiency criteria at European level; considers that the definition of quality and efficiency for SGEI should be established with due regard for the subsidiarity principle;

* * *

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

European platform against poverty and social exclusion

P7_TA(2011)0495

European Parliament resolution of 15 November 2011 on the European Platform against poverty and social exclusion (2011/2052(INI))

(2013/C 153 E/08)

The European Parliament,

— having regard to the Treaty on European Union, in particular Article 3(3) thereof, and the Treaty on the Functioning of the European Union, in particular Articles 9, 148, 160 and 168 thereof,

— having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 1, 16, 21, 23, 24, 25, 30, 31 and 34 thereof,

— having regard to the revised European Social Charter, in particular Articles 30 (on the right to protection against poverty and social exclusion), 31 (on the right to housing) and 16 (on the right of the family to social, legal and economic protection) thereof,


— having regard to the Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation (2),


— having regard to the conclusions of the Employment, Social Policy, Health and Consumer Affairs Council meeting of 8 June 2010 on the theme ‘Equity and Health in All Policies: Solidarity in Health’ (4),

— having regard to the Council declaration of 6 December 2010 on ‘The European Year for Combating Poverty and Social Exclusion: Working together to fight poverty in 2010 and beyond’ (5),

having regard to the conclusions of the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) meeting of 7 March 2011 (1),

having regard to the opinion of the Social Protection Committee of 15 February 2011 entitled ‘The European Platform against Poverty and Social Exclusion: Flagship Initiative of the Europe 2020 Strategy’ (2),

having regard to the report of the Social Protection Committee of 10 February 2011 entitled ‘SPC Assessment of the social dimension of the Europe 2020 Strategy’ (3),

having regard to the opinion of the Social Protection Committee entitled ‘Solidarity in health: on reducing health inequalities in the European Union’ (4),

having regard to the opinion of the Committee of the Regions on the European Platform against Poverty and Social Exclusion (5),

having regard to the opinion of the European Economic and Social Committee on the European Platform against Poverty and Social Exclusion (6),

having regard to the Commission recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market (7),

having regard to the Commission communication entitled ‘Solidarity in health: reducing health inequalities in the EU’ (COM(2009)0567),

having regard to the Commission communication entitled ‘Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’ (COM(2010)0573),

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 Commission communication to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘An EU Framework for National Roma Integration Strategies up to 2020’ (COM(2011)0173),


having regard to its resolution of 4 October 2001 on the United Nations World Day to overcome extreme poverty (8),

having regard to its resolution of 9 October 2008 on promoting social inclusion and combating poverty, including child poverty, in the EU (9),

having regard to its resolution of 6 May 2009 on the active inclusion of people excluded from the labour market (10),

having regard to its resolution of 19 February 2009 on Social Economy (11).


(2) Opinion of the Social Protection Committee (SPC) addressed to the Council, Council of the European Union, 6491/11, SOC 124, 15 February 2011.

(3) Report of the Social Protection Committee to the Council, Council of the EU, 6624/11 ADD 1 SOC 135 ECOFIN 76 SAN 30, 18 February 2011.


(6) OJ C 248, 28.5.2011, p. 130.


(9) OJ C 9 E, 15.1.2010, p. 11.


(11) OJ C 76 E, 25.3.2010, p. 16.
— having regard to its resolution of 16 June 2010 on EU 2020 (1),

— having regard to its resolution of 20 May 2010 on the contribution of the Cohesion policy to the achievement of Lisbon and the EU 2020 objectives (2),

— having regard to its resolution of 6 July 2010 on promoting youth access to the labour market, strengthening trainee, internship and apprenticeship status (3),

— having regard to its position of 8 September 2010 on the proposal for a Council decision on guidelines for the employment policies of the Member States; Part II of the Europe 2020 Integrated Guidelines (4),

— having regard to its resolution of 20 October 2010 on the financial, economic and social crisis: recommendations concerning measures and initiatives to be taken (mid-term report) (5),

— having regard to its resolution of 20 October 2010 on the role of minimum income in combating poverty and promoting an inclusive society in Europe (6),

— having regard to its resolution of 16 February 2011 concerning the Commission Green Paper entitled ‘Towards adequate, sustainable and safe European pension systems’ (7),

— having regard to its resolution of 8 March 2011 on the face of female poverty in the European Union (8),

— having regard to its resolution of 7 September 2010 on the role of women in an ageing society (9),

— having regard to its resolution of 7 July 2011 on the Scheme for food distribution to the most deprived persons in the Union, (10)

— having regard to its resolution of 9 March 2011 on the EU strategy on Roma inclusion,

— having regard to its declarations of 22 April 2008 on ending street homelessness (11) and of 16 December 2010 on an EU homelessness strategy (12),

— having regard to the final recommendations of the European Consensus Conference on Homelessness of 9 and 10 December 2010,

— having regard to its resolution of 14 September 2011 on an EU Homelessness Strategy (13),


(2) OJ C 161 E, 31.5.2011, p. 120.
(9) OJ C 308 E, 20.10.2011, p. 49.
Tuesday 15 November 2011

— having regard to the Council conclusions on the European Pact for Gender Equality for the period 2011-2020 (1),


— having regard to its resolution of 17 June 2010 on gender aspects of the economic downturn and financial crisis (2),

— having regard to its resolution of 5 July 2011 on the future of Social Services of General Interest (3),

— having regard to its resolution of 19 October 2010 on precarious women workers (4),

— having regard to the Eurostat 2010 publication ‘Combating poverty and social exclusion – A statistical portrait of the European Union 2010’,

— having regard to the Commission communication to Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion’ (COM(2010)0758),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Budgets, the Committee on Culture and Education and the Committee on Women’s Rights and Gender Equality (A7-0370/2011).

Figures

A. whereas 116 million people in the EU are at risk of poverty and 42 million (8%) live ‘in conditions of severe material deprivation and can not afford a number of necessities considered essential in order to live a decent life in Europe’ (5); whereas poverty is the unacceptable reflection of an uneven distribution of wealth, income and resources in a prosperous European economy; whereas the most vulnerable groups, such as the elderly and people with disabilities, have been those most severely affected by the financial, economic and social crisis; whereas the austerity measures currently being taken in the EU, and those to be taken in the future, must not undermine employment and social protection, worsen the situation for the most disadvantaged or put at risk of unemployment, economic insecurity or poverty millions of people who were previously still managing to live on, and meet their basic needs from, their wages or retirement pensions, notably as a result of cuts in public service and social assistance budgets; whereas the application of tougher conditions and penalties as part of social activation policies designed to address the crisis is exacerbating the difficulties faced by the most vulnerable people at a time when few decent jobs are on offer; whereas the gap between rich and poor is continuing to widen as a result of the crisis;

Violations of fundamental rights

B. whereas the Commission’s new strategy for implementing the Charter of Fundamental Rights aims, inter alia, to improve access to fundamental rights for the most disadvantaged; whereas the Charter must be respected in its entirety, and whereas severe poverty represents a violation of human rights and a serious erosion of human dignity and encourages stigmatisation and injustice; whereas the key objective of income support schemes must be to lift people out of poverty and enable them to live in dignity;

(1) Council conclusions of 7 March 2011, Brussels.
(2) OJ C 236 E, 12.8.2011, p. 79.
(3) Texts adopted, P7_TA(2011)0319.
Commitments not honoured

C. whereas poverty and social exclusion increased and involved new social categories between 2000 and 2008 despite the undertakings given by the Union in relation to the target, set at the Lisbon summit of 23 and 24 March 2000, of eradicating poverty in the EU by 2010, and the progress which the Nice European Council of 7 and 9 December 2000 agreed should be made; whereas it is impossible to reduce poverty and social exclusion, or to boost inclusive growth, if nothing is done to combat inequality and discrimination, or if countries’ economies do not develop and there is no solidarity with the weakest groups in society, that is, if national wealth is not shared fairly;

D. whereas the risk of poverty directly affects rural communities and especially small farms and young farmers threatened by the effects of the economic crisis and by excessive fluctuations in commodity prices;

20 million people

E. whereas one of the five major objectives of the Europe 2020 strategy is the soft target – i.e. not coupled with sanctions – of reducing the number of people at risk of poverty by 20 million, on the basis of three indicators agreed upon by the Member States (the at-risk-of-poverty rate after social transfers, the severe material deprivation index and the percentage of people living in jobless households or households with very low work intensity); whereas, although this target acknowledges the importance of combating poverty and social exclusion, the figures of 116 million people at risk of poverty and 42 million living in conditions of severe material deprivation mean that, from the outset, it reflects the abandonment of millions of people in Europe, with the associated risk of generating threshold effects which exclude the most vulnerable people from the scope of policies geared to measurable results; whereas, if the most intractable situations are not addressed from the outset, the policies implemented will have no impact on them; whereas the European Platform against Poverty is one of the seven flagship initiatives of the Europe 2020 strategy;

F. whereas social inequality is increasing in some Member States, in particular as a result of economic inequality in terms of income and wealth distribution, labour market inequalities, social insecurity and unequal access to the social functions of the state, such as welfare, health, education and the legal system;

Relationship between the economy and poverty

G. whereas poverty – which has been running at a high level in the EU Member States for many years – is having a steadily increasing impact on the economy, is detrimental to growth, increases public budget deficits and undermines the EU’s competitiveness, and whereas these factors in themselves create poverty and unemployment, particularly long-term unemployment, which affects one-third of the jobless, and whereas this situation that is worse in the more economically vulnerable countries; whereas the preservation of social rights in the European Union is crucial to any attempt to address poverty;

H. whereas poverty can be classed as a human rights violation and is thus proof of the effort still needed to achieve the aims set out in Article 3(3) of the Treaty on European Union;

I. whereas any stringent budgetary policy needs to be intelligent, with scope for counter-cyclical investment in major policy priorities;

J. whereas structural reforms must be adopted in order to keep Europe competitive, create jobs and fight poverty;
Multidimensional poverty

K. whereas poverty is a multi-faceted problem requiring an integrated response which is tailored to different stages of life and to people's multidimensional needs, and which is also based on guaranteeing access to rights, resources and services, as reflected in the common objectives of the Open Method of Coor-
dination for social protection and social inclusion (2006), in order to meet basic needs and prevent social exclusion;

L. whereas the 2010 European Year against Poverty and Social Exclusion was successful in raising public awareness and encouraging political commitment;

Decent work/the working poor

M. whereas growth and employment – even in a decent job – alone are not sufficient to lift people out of poverty, and whereas the labour market has become increasingly fragmented, working and living conditions have deteriorated considerably, particularly in the wake of the financial crisis, and work has become much less secure – a trend which must be combated; whereas the problem of the working poor has gained increasing recognition in recent years, but does not yet appear to be being addressed to an extent commensurate with the challenges it represents for our societies; whereas the number of working poor has grown considerably in recent years, with 8 % of the working population living in poverty and 22 % of those at risk of poverty holding jobs (1); whereas the availability of decent, egalitarian working conditions is a step towards reducing poverty and social exclusion among families and people living alone;

N. whereas, nevertheless, people with few or no qualifications are more exposed to labour market hazards, insecure and poorly paid employment, and poverty;

Homelessness

O. whereas homelessness is one of the most extreme forms of poverty and deprivation, and a problem which remains unresolved in all the Member States; whereas, for various reasons, most of the Member States now have large numbers of homeless people, necessitating specific measures with a view to integrating them into society; whereas, according to Eurobarometer, almost one European in four regards the excessive cost of decent housing as one of the main causes of poverty, and almost nine Europeans in ten believe poverty makes it harder to gain access to decent housing; whereas public authorities may lose contact with their citizens if the latter lose their housing, and whereas this not only makes it much harder to help them, but is also indicative of an advanced stage in the process whereby an individual becomes excluded from society;

P. whereas the accessibility and quality of social services such as health care, cultural services, housing and education are additional factors that have an impact on poverty;

Q. whereas homelessness – or not having a decent home – severely erodes human dignity and has major consequences in relation to all other rights;

Basket of basic goods and services

R. whereas the poverty threshold of 60 % of median national income is a compelling, helpful and necessary indicator of relative poverty, but should be complemented by other indicators such as the concept and calculation of a ‘basket of basic goods and services’ at national level (which is merely a short-term response to the specific situation of people suffering from poverty) and those agreed by the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) in June 2010 (risk of poverty, material deprivation and households with very low work intensity) in response to public policy needs;

Social protection

S. whereas social protection, including minimum income systems, is a basic element of modern democracies that substantially guarantees the human right to social, economic, political and cultural participation in society and plays a key role in stabilising the economy by limiting the impact of crises, and in redistributing resources at every stage of life, while also affording protection against social risks and preventing and alleviating poverty and social exclusion, throughout the life cycle;

T. whereas, according to the OECD, the proportion of social benefits unclaimed ranges from 20 % to 40 %;

Health

U. whereas poverty and social exclusion remain a key social determinant of health (1) and living conditions, including life expectancy, particularly in view of the impact of child poverty on child health and well-being, and whereas there is still a significant gap between rich and poor when it comes to affordable access to health services and to income and wealth, which is continuing to widen in some respects;

V. whereas certain sectors of society, such as one-parent families, elderly women, minorities, people with disabilities and the homeless, are among the most vulnerable groups at risk of poverty;

W. whereas the principle of non-discrimination, including the rejection of social discrimination, is a cornerstone of the system of fundamental rights;

Elderly people

X. whereas, because our society is ageing, the number of dependent people will increase considerably in the near future; whereas, in a number of countries, elderly people – in particular women – are at greater risk of poverty than the general population as a result of their loss of income on retirement and other factors such as physical dependence, solitude and social exclusion; whereas the breakdown of intergenerational social bonds is a major problem facing our societies;

Y. whereas pension policies are crucial to any attempt to address poverty;

Gender

Z. whereas women are in general more vulnerable to poverty than men, owing to various factors such as gender discrimination at work (which results in a persistent gender pay gap and subsequent pension disparities), career breaks to care for dependants, and labour market discrimination; whereas only 63 % of women work in Europe, compared with 76 % of men, and whereas there is a lack of support networks and concrete measures to help working people achieve a work/life balance, such as affordable care services;

AA. whereas poverty impacts differently on poor women and men, boys and girls, as poor women and girls often find it more difficult to access suitable social services and income;

AB. whereas the Platform does not take into consideration the specific gender-related factors that affect women and men, and insufficient attention is paid to the feminisation of poverty;

AC. whereas the effect of the gender pay gap on lifetime earning indicates that women will have lower pensions and whereas, as a result, women are more affected than men by persistent and extreme poverty: 22 % of women aged 65 and over are at risk of poverty as compared to 16 % of men;

AD. whereas 20 % of children are at risk of poverty, compared with 17 % of the EU’s overall population, and whereas low-income families are one of the groups at greatest risk of poverty;

AE. whereas family policies are an essential part of policies to address poverty and social exclusion;

AF. whereas the first indications that a young person is likely to drop out of school are an early warning sign of a recurring cycle of poverty;

**Young people**

AG. whereas unemployment among young people, which is already higher than for other age groups, has exploded in the EU since the crisis and is now running at over 20 %, and whereas it has now reached a critical level in all the Member States, putting young people at risk of falling into poverty from a very early age; whereas this alarming situation calls for urgent political, economic and social responses and will, in combination with demographic changes, exacerbate skills shortages; whereas vocational training can play a vital role in helping young people and low-skilled workers to join the labour market; whereas, at the same time, getting a job does not always mean escaping poverty, and whereas young people are especially susceptible to finding themselves among the working poor;

**Migrants**

AH. whereas migrants and ethnic minorities are especially vulnerable workers, who are being hit hard by the economic crisis – and consequently by increased poverty and social exclusion – because of the insecure jobs they are likely to hold on account of their place of origin or level of skills; whereas migrant workers should enjoy the same working and pay conditions and the same level of access to training and social protection as nationals of the countries in which they are working;

AI. whereas people with disabilities, whose poverty rate is 70 % higher than average, should be the central focus of a strategy aimed at highlighting the added value they provide once they have joined the labour market;

**Roma**

AJ. whereas a significant proportion of European Roma are marginalised and live in deplorable socio-economic conditions, and whereas they are often subjected to serious discrimination and segregation in all aspects of life, as are other marginalised communities;

AK. whereas the increasing poverty in the EU is currently being exacerbated by the economic and financial crisis and by soaring food prices in the context of almost inexistence food surpluses in the EU, and whereas 43 million people are currently at risk of food poverty; whereas the scheme for food distribution to the most deprived persons in the Union, set up in 1987, currently provides food aid for 13 million people suffering from poverty in 19 Member States, and whereas its distribution chains involve some 240 food banks and charities; whereas the recent Judgment T-576/08 of the
European Court of Justice, which deems it illegal to purchase food for the scheme on the market, jeopardises EU food aid for the most deprived, given the scheme's increased dependency on market purchases, and whereas it appears that the ECJ's annulment of Article 2 of Regulation (EC) No 983/2008 will have an immediate negative impact on the scheme in 2012 and the years to come, leading to an abrupt end to food aid for the most deprived citizens of 19 Member States;

AL. whereas housing and domestic energy costs are substantial household budget items which have increased over the last decade and must be taken into account as major factors contributing to the risk of poverty;

AM. whereas family carers provide the greatest proportion of care in the EU;

AN. whereas the inability of people living in poverty to make use of basic banking services, such as withdrawals, transfers and standing orders, is a considerable obstacle to their re-entry into the labour market and reintegration into society,

Participation

1. Calls on the Commission to boost the involvement of organised civil society, of all stakeholders (such as NGOs, social economy organisations, service providers, experts in social innovation and the social partners) and of people living in poverty themselves – in partnership with the associations within which they freely express their opinions, and which have acquired experience and knowledge, particularly through the development of national platforms against poverty and social exclusion in each Member State – in the development of a European strategy at all levels of governance (European, national, regional and local); calls on the Commission to enhance cooperation between local, regional and national authorities and the EU institutions, including Parliament; believes that synergies should involve all stakeholders, including SMEs and businesspeople; calls for discussions with people living in poverty and social exclusion to be extended at national level, and for their participation and their contribution to the annual convention on poverty and social exclusion to be made a formal and central part of that convention, and calls for appropriate and regular follow-up of the recommendations thereby developed;

2. Calls on the Commission to play a coordinating role and to guide the Member States in order to meet the current challenges and combat poverty and social exclusion, being mindful that combating poverty is primarily the responsibility of national policies, while also showing the necessary solidarity and providing relevant technical assistance;

3. Calls for the Platform against Poverty also to serve to bring together, at European level, those national organisations representing the groups at greatest risk of poverty which are not yet federated;

Joint training

4. Calls for poverty awareness seminars to be provided within the EU institutions and Member State governments by organisations with practical experience of combating poverty, and for joint training on social and exclusion issues to be run on a trial basis, bringing together EU officials and people with hands-on experience of combating poverty;

5. Calls on the Member States to make the enjoyment of the cultural heritage accessible to all sections of society and to avoid cutting resources in this sector, which guarantees social inclusion and provides quality jobs;
6. Reiterates the crucial role played by volunteering and active citizenship as an instrument of cohesion and action to combat economic, social and environmental disparities, encouraging citizens to get involved in public life through sport, culture, the arts, and social and political activism;

7. Calls for disadvantaged people to be guaranteed access to mobility programmes for education and work, and for the share of the budget set aside for such programmes to be increased; draws attention to the fact that ‘Youth on the move’ should promote mobility for all apprentices, trainees and students and the recognition of non-formally and informally acquired vocational skills;

8. Encourages initiatives that are also intergenerational, to reduce the digital divide of disadvantaged people, by providing them with access to information and communication technologies, in keeping with the European Digital Agenda;

9. Calls on the Member States to encourage the teaching of new technologies from the outset as part of the educational curriculum;

**Evaluation mechanism**

10. Calls for the establishment of a regular, critical evaluation mechanism involving Parliament, the Committee of the Regions and the European Economic and Social Committee, based on precise indicators at national and European level, which will make it possible to evaluate the multiple dimensions of poverty and measure the Member States’ progress – bearing in mind the gender and age distribution of poverty – towards achieving the poverty reduction target and breaking it down into sub-targets, insofar as the lack of a detailed definition of poverty leaves the Member States too much leeway, giving rise to a risk of aberrant interpretations; calls on the Commission to improve national and European indicators as regards the comparability of national statistics on poverty among vulnerable groups, and to promote, in conjunction with Eurostat, the compilation of more detailed statistics as part of a comprehensive scoreboard on poverty and social exclusion which will make it possible, inter alia, to track the number of people receiving less than 50 % or 40 %, respectively, of the median income, and to use this as a basis for conducting an annual evaluation of poverty situations in the EU, supplementing the statistical approach with a qualitative and participatory approach; calls on the Commission to ensure that the policies implemented are beneficial to all and not just to those close to the poverty threshold;

11. Calls on the Commission/Eurostat to carry out a comprehensive analysis of poverty and social exclusion and to compile the statistics through a qualitative and participative approach broken down by gender and age, in order to highlight the problem of poverty among older women; hopes that the Institute for Gender Equality will, as soon as it is fully operational, contribute to resolving the problem of inadequate systematic and comparative data broken down by gender;

12. Calls for the national statistics on poverty to be improved and made more comparable by developing indicators at the European level;

13. Calls, in the light of the current crisis, for a detailed, up-to-date study of the number of people living in poverty and the number at risk of falling into poverty, to be carried out as a matter of urgency in the coming months;

14. Calls on the Commission to draw up and present an annual report to Parliament on the Member States’ progress in reducing poverty and social exclusion;
**Horizontal social clause**

15. Calls on the Commission to take full account of the correct horizontal social clause as specified in Article 9 TFEU, under which the EU has to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health, and calls on the Commission to specify how the Platform will affect assessments of the implementation of that clause; calls for more in-depth social impact assessments of EU policies, even where those policies are initiated by the European Council rather than the Commission, as in the case of the Euro Plus pact; takes the view that such in-depth analysis of the application of this clause will make it possible to avoid a levelling-down of social standards in Europe and facilitate the development of a common social basis in Europe; calls for this social impact assessment to be carried out in conjunction with associations active in combating poverty, and for it to take the situation of the poorest people in Europe as a benchmark; takes the view that such assessments should involve Parliament, the Committee of the Regions, the European Economic and Social Committee and the Commission departments responsible for social affairs, under the supervision of a director-general reporting to the Commission Secretariat;

**Budget**

16. Calls on the Commission to identify more precisely the budget lines relevant to the Platform and the level of appropriations allocated to them, particularly as regards the ESF and its contribution to this flagship initiative through the funding of political priorities such as preventing early school leaving and addressing poverty among children, women, the elderly and migrant workers; calls on the Commission to set out its proposals for combating poverty and social exclusion in the 2014-2020 multiannual financial framework, so as to ensure adequate funding of the initiatives launched to combat poverty and social exclusion; calls on the Commission to identify the financial support needed for agreed thematic priorities, and to ask the Member States to provide financial support for the civil society actors involved, at national level, in the national reform programmes, the Flagship Platform and the national strategies for social protection and social inclusion; recommends pressing ahead with, and providing increased funding for, European programmes which can contribute to various aspects of the fight against social exclusion, poverty and social and economic inequality, including health inequality (such as the research Framework Programme and the Progress programme);

17. Takes note that, in the draft budget 2012, the European Commission has estimated the increase for the European Platform against Poverty flagship initiative at 3.3 %, as compared to last year; asks the Commission to provide further explanation on the contribution of the European Social Fund (ESF) to this flagship initiative and on specific measures addressing priorities such as the fight against poverty among children, women, elderly people and migrant workers, and the prevention of early school leaving; in this context, regrets the lack of clarity and the overlapping of the different instruments and budgetary lines via which the Europe 2020 targets are to be achieved through the EU budget;

**Food distribution scheme for the most deprived people in the EU**

18. Contest the Commission's decision to review downwards, from EUR 500 million to EUR 113.5 million, the budget for the 2012 food distribution scheme for the most deprived people in the EU (the MDP scheme); deeply deplores this situation, coming as it does at a time of serious economic and social crisis; calls, therefore, on the Commission and the Council to find a way to continue the MDP scheme for the last two years of the current funding period (2012 and 2013) and for the next funding period (2014-2020), giving it a legal basis that cannot be contested by the CJEU and maintaining the annual financial ceiling at EUR 500 million so as to ensure that people dependent on food aid do not suffer food poverty;

**Social Open Method of Coordination (OMC)**

19. Calls for the social open method of coordination to be strengthened and applied correctly in the field of poverty, inter alia through the common development, implementation and evaluation of national strategies for social inclusion and protection, on the basis of commonly defined objectives, via national platforms against poverty, exchanges of good practice concerning policies on effective access to fundamental rights, and implementation of the EU Charter of Fundamental Rights and the revised Social Charter (which
not all the Member States have ratified), in particular Articles 30 and 31 thereof; stresses that the work of the Council's Social Protection Committee should continue to be taken into account in this connection; calls for the Platform to promote and monitor the involvement of local authorities, social economy enterprises and other local stakeholders in drawing up and implementing the national strategy reports;

Basket of basic goods and services

20. Calls on the Commission, in consultation with the European Central Bank, to propose common principles to define the ‘basket of basic goods and services’ required to enable everyone to live in dignity, and points out that these immediate needs are inseparable from respect for human dignity and effective access to all fundamental rights – whether civil, political, economic, social or cultural – without exception; calls for the target of price stability to be clarified so that specific national situations which do not necessarily have a significant impact on the euro-system indicators can be taken into account;

21. Calls for the Parliament's Employment Committee to be granted an explicit role in the Platform, particularly in monitoring the effectiveness of the Platform and of EU and Member State policies designed to reduce poverty and social exclusion, in the context of the Europe 2020 strategy;

22. Calls for the Platform to make it possible to map, as accurately as possible, the degree of access to these basic requirements (which vary according to the place and group concerned) under the various systems in place for the provision of assistance to the poor;

23. Calls on the Commission to specify the objectives and scope of the annual convention of the European Platform against Poverty, which might include exchanging best practice and directly involving people living in poverty; suggests that this meeting should last at least the whole week in which the International Day for the Eradication of Poverty (17 October) falls;

24. Takes the view that improving the quality and comparability of national statistics under the Platform, so as to measure trends in respect of inequality and improvements in well-being, is essential in order to improve the Union’s policies in this area;

25. Calls on the Commission to ensure that the Platform takes account of the outcomes of the 2010 European Year for Combating Poverty and the 2012 European Year of Active Ageing and Intergenerational Solidarity;

2008 recommendation

26. Welcomes the Commission’s announcement of a communication on the implementation of its 2008 recommendation concerning the active inclusion strategy, and calls for that communication to include, in particular, a timetable for implementing the strategy’s three component strands, specifying a multiannual work programme for delivery at national and EU level; expresses its concern at the postponement of the communication on active inclusion to 2012, and asks the Commission to bring forward the publication of that communication to 2011; calls for an explicit commitment by the Council, the Commission and Parliament to mobilise all poverty reduction policies and ensure that economic, employment and social inclusion policies help to eradicate poverty rather than increasing it;

27. Draws attention to the three component strands of the European strategy for the active inclusion of people excluded from the labour market, as set out in the Commission’s 2008 recommendation, namely:

— sufficient income support: the Member States should recognise the individual’s basic right to adequate resources and social assistance as part of a comprehensive and consistent drive to combat social exclusion;
inclusive labour markets: the Member States should provide persons whose condition renders them fit for work with effective help to enter or re-enter, and stay in, employment that corresponds to their work capacity;

— access to quality services: the Member States should ensure that those concerned receive appropriate social support to facilitate their economic and social inclusion;

Exercise of fundamental rights

28. Calls for the Platform to be geared towards the exercise of the rights that enable everyone to live in dignity, particularly in the fields of employment, housing, health care, social security and an adequate standard of living, justice, education, training, culture and the protection of families and children; calls for the Fundamental Rights Agency to produce a study on effective access by the poorest people to the whole range of fundamental rights and the other rights enshrined in the international agreements to which the Member States are signatories, and on the discrimination those people face, with the participation of NGOs within which socially excluded people can freely express their opinions, and bearing in mind that securing the right to housing is a necessary prerequisite for the full exercise of other fundamental rights, including political and social rights;

29. Calls on the Council to include a section on "Extreme poverty and fundamental rights" in the thematic areas in the next multiannual framework of the Fundamental Rights Agency;

Homelessness

30. Believes that the situation of the homeless calls for particular attention and the introduction of additional measures on the part of both the Member States and the Commission, with a view to ensuring their full integration by 2015, which will necessitate the collection and annual publication of comparable data and reliable statistics at EU level, together with an account of the progress achieved and the objectives set in the respective national and EU strategies for fighting poverty and social exclusion; calls on the Commission to develop, as a matter of urgency, an EU homelessness strategy in accordance with the 2010 Joint Report of the Commission and the Council on Social Protection and Social Inclusion, the final recommendations of the 2010 European Consensus Conference on Homelessness and Parliament's resolution on an EU homelessness strategy; calls on the Commission to draw up a detailed roadmap for the implementation of this strategy in the 2011-2020 period; calls on the Platform to promote the exchange of best practice in order to prevent public institutions from losing contact with people who are homeless;

31. Calls on the Social Protection Committee to undertake annual monitoring of the progress made by the Member States with regard to homelessness, on the basis of the 2009 'light year' national thematic reports on homelessness and in accordance with the 2010 Joint Report of the Commission and the Council on Social Protection and Social Inclusion;

Education/training

32. Takes the view that a comprehensive and effective way out of poverty can be found only if the necessary strengthening of social protection instruments is accompanied by significant reinforcement of education and training paths at every level; supports the development of more inclusive education systems to tackle the problem of early school leaving and enable young people from disadvantaged social groups to reach a higher level of education, with a view to countering the intergenerational transmission of poverty; supports access to validation of acquired experience and to life-long training, as a means of reducing poverty by securing access to employment, in particular for disadvantaged groups, so as to help them gain access to decent, quality jobs; takes the view, therefore, that it is essential to implement life-long learning programmes properly and to develop them further, and for Member States to cooperate in relation to education, vocational training and personalised job-seeking assistance, and stresses that more measures of this kind must be taken to assist the most vulnerable sectors of the population; recommends developing an EU strategy with a view to tackling in-work poverty, creating quality jobs and agreeing principles for quality work;
33. Points out that the increasing number of insecure employment contracts in most Member States is having the effect of exacerbating the segmentation of the labour market and reducing the protection afforded to the most vulnerable; stresses, therefore, that, in addition to vocational and in-service training, the creation of new jobs must proceed in accordance with the basic principles laid down by the ILO, putting into practice the concept of decent work and quality jobs (including decent working conditions, the right to work, health and safety at work, social protection, and arrangements for worker representation and dialogue with employees) and applying the principles of equal pay for men and women and equal treatment for EU workers and third-country nationals legally resident in the EU; urges the Member States to step up their efforts to combat substantially and effectively the problem of undeclared employment, which, as well as having a hugely adverse impact on the viability of social security schemes, is incompatible with the principles of decent work and denies access to such schemes, thereby engendering a risk of greater poverty; calls on the Commission to tackle the problem of the working poor, support the creation of secure jobs and ensure the correct application of flexible contract arrangements so that they cannot be abused;

34. Emphasises that young people’s main concern is to be autonomous, having access to health care and to decent accommodation for a reasonable price, while being able to undergo training, work and find self-fulfilment; calls, therefore, on the Member States to abolish age-related discrimination in respect of access to minimum income schemes, such as the exclusion of young people from these schemes because of their lack of social security contributions;

35. Stresses the need for specific additional provisions for the most disadvantaged groups (people with disabilities or chronic illnesses, single-parent families and families with large numbers of children) to cover the additional costs they incur, in particular in relation to personal assistance, the use of special facilities, medical care and social support;

36. Urges the Member States to make public employment offices more effective, inter alia by identifying the needs of the labour market more accurately, since employment is the first step in preventing and combating poverty and social exclusion;

37. Emphasises that the transition from school, vocational training or higher education to employment must be better prepared and must follow on directly from education or training; emphasises, therefore, that it is extremely important to implement the European Youth Guarantee initiative effectively and to make it an instrument for active integration into the labour market; believes that the social partners, local and regional authorities and youth organisations should be involved in the development of a sustainable strategy to reduce youth unemployment, which must include formal recognition of the qualifications obtained;

38. Recommends that the Member States, in implementing the principles of flexicurity in the labour market, ensure, after consulting the social partners, that in practice equal weight is given to both flexibility and workers’ security, and that incentives are provided to increase the participation of those workers in vocational training;

39. Recalls that women are at greater risk of falling into extreme poverty than men, given the shortcomings of welfare systems and the fact that discrimination persists, especially in the labour market, necessitating a whole range of specific policies which should be tailored to both the gender dimension and the specific circumstances;

40. Calls on the Member States to provide increased resources in order to enable public employment services to operate effectively;

41. Calls on the Commission to relax the rules and supervisory procedures relating to the granting of compensation for the discharge of public service obligations, which place a heavy burden on local authorities that set up local public services to help the most deprived members of society;
42. Calls for the knowledge, experience, and informal competences and skills of disadvantaged people in situations of poverty and social exclusion and/or traditional communities to be valued and for systems validating experience acquired in non-formal and informal training to be promoted, and furthermore for it to be identified how these could contribute to their integration into the labour market;

Migrants

43. Calls, with due regard to differing practices, to collective labour agreements and legislation in the various Member States and to the subsidiarity principle, for respect for equal rights and equal social protection for all in each Member State, irrespective of whether people are EU citizens or third-country nationals; calls on the Member States to combat illegal and undeclared work;

44. Calls, in particular, for measures aimed at cultural and linguistic integration in the host country in order to overcome social exclusion;

45. Calls on the Commission and the Member States to step up their cooperation with third countries in the field of education and culture, with a view to reducing poverty and social exclusion in such countries, supporting development and also prevent immigration driven solely by economic factors;

46. Believes that in-work poverty reflects inequitable working conditions, and calls for efforts to change this state of affairs, through pay levels in general and minimum wage levels in particular, which – whether regulated by legislation or by collective bargaining – must ensure a decent standard of living;

47. Notes that being employed does not suffice to guarantee a way out of poverty, as further action is needed to combat the problem of the working poor and ensure access to decent and lasting employment;

48. Calls on the Member States to promote the full participation of women in the job market and the introduction of legislation on equal pay, and to give greater consideration to the issue of adequate pensions for women;

49. Recommends introducing appropriate taxation of very high salaries in order to help fund social protection systems and the minimum wage and reduce income disparities;

People with disabilities

50. Recommends that the Member States develop new measures to help vulnerable and socially excluded groups, especially people with disabilities, find jobs with enterprises (including social economy enterprises) or public bodies, so as to promote inclusion, not least in those regions that are economically weaker and socially more vulnerable, or that they further develop existing legislation, such as the 2000 Employment Directive, which deals with the employment of people with disabilities; recommends that the Member States ensure that people with disabilities participate in education from early childhood, by removing the current barriers and providing them with assistance; recommends that the Member States promote accessible environments for people with disabilities and pay particular attention to the situation of early childhood education and care so as to prevent the irreversible exclusion, without any hope of reintegration, of children born with disabilities; calls on the Commission and the Member States to step up exchanges of best practice and introduce multifaceted measures for the integration of the people with disabilities into the job market; recommends that the Member States ensure that the elderly and people with disabilities have access to social and health care services;
Gender

51. Strongly criticises the fact that the gender aspect of poverty and social exclusion is completely ignored in the Commission's European Platform against Poverty and Social Exclusion;

52. Stresses that women in rural areas are often not seen as part of the workforce although their contribution to daily agricultural work is as important as the contribution made by men, with the result that they are excluded socially from their rights as employees and are vulnerable to poverty;

53. Invites the Commission and the Member States to take the gender-specific perspective as a key component in all common policies and national programmes in order to eradicate poverty and combat social exclusion; takes the view, furthermore, that Member States should take the gender dimension into account in their plans for recovery from the recession;

54. Notes, in view of the importance of welfare policies in combating poverty and social exclusion, the need for effective and adequate social security benefits to support vulnerable groups (such as people with disabilities, single-parent families and the unemployed) as well as specific segments of the population (such as families with large numbers of children);

55. Calls on the Member States to improve the protection provided for employees who are unfit to carry on working as a result of illness, an accident at work or an industrial disease, to prevent their being reduced to financial insecurity; would like to see national legislation strengthened, therefore, to make it mandatory for redeployment to be offered before employment can be terminated;

56. Calls for the Platform to work towards defining a special status for workers with disabilities which would guarantee their long-term employment;

57. Urges the Member States, as part of measures to support employment – especially among women – through the reconciliation of work and family life, to facilitate access to quality and affordable care facilities, since a significant proportion of EU citizens remain outside the labour market because they are taking care of a family member, which increases the risk that they will fall into poverty;

Use of funding

58. Acknowledges the need to assess, where possible, the effectiveness, impact, coordination and value for money of the use of EU funds – especially the European Social Fund (ESF) – in terms of achieving the poverty reduction target, even where this is not their primary objective, by reducing economic disparities, prosperity imbalances and differences in living standards between EU Member States and regions, and thereby promoting economic and social cohesion; maintains that priority must be given to projects that combine employment targets and strategies with integrated active inclusion approaches, such as projects designed to strengthen intergenerational solidarity at regional and local level or which specifically contribute to gender equality and the active inclusion of vulnerable groups; stresses the importance of effective action for solidarity, including reinforcement, anticipated transfers, and reductions in the Member States' share of cofinancing in respect of budgetary funding, so as to create decent jobs, support production sectors, fight poverty and social exclusion and avoid creating new forms of dependence; stresses the importance of supporting efforts to combat poverty and social exclusion, facilitate access to quality jobs, promote non-discrimination, guarantee an adequate income and promote access to high-quality services;

59. Highlights the crucial role played by the cohesion policy and the structural funds in promoting employment and social inclusion and in tackling poverty in urban areas, where the majority of disadvantaged people live, as well as in rural areas; underlines the relevant contribution of the European Globalisation Adjustment Fund (EGF) in preventing poverty among workers hit by the crisis, and of the European Progress Microfinance Facility in supporting entrepreneurship; calls for the specific function of each fund to be preserved within the next multiannual financial framework (MFF);
60. Emphasises that the European Social Fund is still the main instrument specifically intended to promote social inclusion, and believes it must be strengthened in order to meet effectively the ambitious targets set as part of the Europe 2020 strategy and the Platform against Poverty;

61. Takes the view that instruments such as the European Progress Microfinance Facility and the Grundtvig programme have an important role to play in preventing poverty and social exclusion, and believes they should be developed on the basis of in-depth analyses;

62. Calls on the Commission to identify priority areas for EU spending so that funding may be directed more effectively toward micro-regions and/or those neighbourhoods whose inhabitants suffer most from poverty and social exclusion;

63. Takes the view that the European Globalisation Adjustment Fund, under which specific customised assistance can be provided for workers made redundant as a result of the current crisis or of globalisation, should be allowed to continue operating beyond 2013, and that it should be fully funded by the EU budget as regards both commitments and payments;

**Economic governance/European Semester**

64. Calls on the Member States to submit national reform programmes consistent with the aim of the Platform and with the Union’s objectives of social and sustainable development, and, supporting the Commission’s recognition that poverty ‘is unacceptable in 21st-century Europe’, calls on them to refrain from calling into question wage indexation systems and collective labour agreements or restricting, in an unreasonable and unjustified way, their capacity for investment and social spending in the context of economic governance, whilst ensuring the sustainability of public finances and the creation of well-paid jobs, bearing in mind that poverty reduction is an essential corollary of smart, sustainable and inclusive growth; calls for clarification of the status of national action plans for social inclusion and, in particular, the question of their integration into national reform programmes under the Europe 2020 strategy; calls on the Commission to develop country-specific recommendations with a view to meeting the poverty reduction target, especially in the event that those programmes are not successful, bearing in mind that poverty reduction requires us to step up our efforts and mobilise all parties and all our resources to reduce poverty and extreme poverty significantly in the medium term, and to reduce greatly or eradicate poverty by 2020 at the latest; proposes that the Commission draw up guidelines at European level for the Member States so as to ensure that local authorities and other stakeholders participate effectively in the drafting of national reform programmes; notes that ‘territorial pacts’ potentially offer the most comprehensive and consistent means of involving local authorities in this process, as proposed in the Fifth Cohesion Report; believes that the Europe 2020 target of reducing the number of people at risk of poverty by 20 million can be achieved only if the austerity measures currently being taken in the EU, and those to be taken in the future, do not undermine employment and social protection, especially for the most disadvantaged people;

65. Takes the view that the Member States should aim to translate the targets relating to the reduction of social exclusion/poverty into ambitious national and regional targets, and should include a specific target relating to child poverty and specific strategies involving a multidimensional approach to child and family poverty;

66. Calls for all NGOs and small associations to be given support in their efforts to promote fundamental rights, so as to strengthen the necessary human investment, allow people living in poverty to participate and ensure that they are better informed about access to rights and justice;

67. Welcomes the proposal on global grants, which could help a number of smaller NGOs and associations in their work to combat poverty;
68. Urges the Member States to agree to, and adopt as soon as possible, the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426); calls on the Commission to continue to support efforts to overcome technical difficulties within the Council in order to ensure a swift agreement is reached, and to close gaps in the existing anti-discrimination legislation, which does not currently cover all relevant aspects, with a view to further eradicating discrimination, including social discrimination;

69. Suggests that the actions proposed in the Platform should acknowledge the consequences of multiple discrimination and introduce policy-oriented measures as presently provided for, for example, in Spanish and Romanian legislation, and in particular that the concept of gender mainstreaming should be developed in order to respond to multiple discrimination;

70. Calls for the establishment of wage equality between men and women and for equal treatment of EU workers and third-country nationals;

71. Urges the Commission to consult as to how best to combat negative discrimination based on social origin;

Social economy

72. Welcomes the Commission’s desire to take greater account, through various initiatives, of the role of social economy actors (as defined in Parliament’s resolution of 19 February 2009 on the social economy), in particular by clarifying the legal framework applicable to social economy enterprises (for mutual societies, foundations and cooperatives) so that there are no more obstacles hindering them from making a full contribution, with legal certainty, to reducing poverty and social exclusion by proposing innovative and sustainable responses to citizens’ needs; stresses at the same time that the social economy is not limited to this area of activity; is concerned, however, that no reference is made to the statute for a European association, given that the not-for-profit sector is a major actor in the fight against poverty; stresses, however, that the measures currently being proposed to promote the social economy, in particular associations and mutual societies, do not adequately reflect its potential contribution to the policy on combating poverty and social exclusion, to the economy and to the European social model, and, more generally, do not match its role in responding to the consequences of the economic and social crisis; stresses, in particular, its demands and expectations in relation to the recognition of SSGIs, as reaffirmed in Parliament’s resolution of 5 July 2011 on the future of social services of general interest; notes the proposals for a revision of the EU provisions on public procurement procedures and state aid, and reiterates its call for them to be adapted to the specific nature of the tasks of SSGIs and the way in which they are organised; supports the creation of decent jobs and the provision of personalised job-seeking assistance via specialised training and placement agencies and social economy enterprises, in view of their expertise in helping disadvantaged people find jobs; reiterates its call for sectoral legislative initiatives in relation to the quality and accessibility of social services of general interest, in particular in the areas of health, education, public transport, energy, water and communication;

73. Highlights the importance of social, health, care and education services in bridging skills gaps, promoting social integration and combating poverty and social exclusion; recalls their potential to create new jobs and calls for strong and sustainable investment in these key services and infrastructures and for their further development; looks forward to the Commission’s action plan to address the shortage of health workers;

74. Calls for strong support to ensure the quality and accessibility of social services, especially in the areas of health, long-term care, education, transport, energy, water and communication;
Housing

75. Recommends that the Member States adopt a proactive policy on decent housing in order to ensure universal access to quality housing at affordable prices or on preferential terms of purchase, and to prevent the loss of such housing, with guaranteed access to services essential to health and safety (bearing in mind that lack of housing represents a serious erosion of human dignity), along with a proactive energy policy that steps up the use of renewable energies and boosts energy efficiency in order to combat energy poverty; calls, in the context of housing, for more attention to be paid to migrants, who are often exploited and forced to live in sub-standard housing; recalls Protocol 26 annexed to the Treaty of Lisbon, which concerns social housing, and calls for its provisions to be respected, in particular as regards the Member States' freedom to organise social housing, including the question of financing; encourages the Member States to implement special housing programmes and opportunities for homeless people, with a view to guaranteeing the most basic living standards for the most vulnerable members of society;

76. Recommends that the Member States expand the supply of quality social housing and emergency housing in order to guarantee access for all, and in particular for the most disadvantaged, to decent, affordable housing; considers that it costs society and the community more to rehouse people who have been evicted from their accommodation than it does to keep them there; recommends, therefore, the implementation of policies to prevent evictions, in particular by the public authorities taking responsibility for payment of rents and rent arrears of persons threatened with eviction;

77. Recalls the link between living in deprived neighbourhoods, which increases poverty and social exclusion, and increased health problems; sees, therefore, EU action in deprived neighbourhoods as a cost-efficient way to combat exclusion and reduce health expenditure, and calls on the Commission to step up such action under the next cohesion policy and other EU programmes;

78. Calls for an increase in the ERDF budget for measures to improve energy efficiency in social housing in order to tackle energy poverty;

79. Draws attention to the major effort required of the EU and the Member States to reduce energy costs in household budgets, in the case of the EU by ensuring security of supply so as to protect against significant price fluctuations in the energy market, and in the case of the Member States by strengthening their policies in support of household energy efficiency;

Roma

80. Calls for Roma people, and the organisations that represent and work with them, to be actively involved in the drafting and implementation of the national Roma integration strategies up to 2020, so as to contribute to achieving the EU poverty target; calls on the EU and the Member States to implement the European strategy to promote Roma inclusion as soon as possible, and calls on the Member States to propose, by the end of this year, measures to promote the inclusion of Roma in accordance with the European framework for coordinating national Roma inclusion strategies presented by the Commission in April 2011; stresses that, as with the fight against poverty and social exclusion, the inclusion and integration of Roma will require greater efforts in order to achieve their full inclusion – and put an end to the numerous forms of discrimination to which they are subject – by 2020; calls for other marginalised communities, such as immigrants, to be involved in all EU or Member State policies relating to their social inclusion;

81. Highlights the importance of social, health, care and education services in bridging gaps, promoting social integration and combating poverty and social exclusion; recalls their potential to create new jobs, and calls for significant and sustainable investment in these key services and infrastructures and for their further development; looks forward to the Commission's action plan to address the shortage of health workers;
82. Calls for the interests of people with disabilities to be taken into account in the planning, use and monitoring of EU funding, with particular regard to support for education, training, employment and independent living (transport and communication);

Children

83. Calls for the fight against child poverty to focus on prevention through the provision of equal access to high-quality early childhood education and childcare services, in order to prevent children from starting school life with multiple disadvantages, and to other facilities for children (such as activity centres available during term-time and holiday periods, and extracurricular cultural and sports activities), ensuring that the network of such services and centres covers all areas adequately; calls for financial support for services having proven their worth and for the systematic integration of policies designed to support poor families into all relevant areas of activity, combining a universal approach with targeted measures for the most vulnerable families, in particular the families of children with disabilities, single-parent families and families with large numbers of children; calls for the parent-child relationship to be given particular attention in programmes to combat poverty and social exclusion, so as to prevent children being placed in care as a consequence of severe poverty;

84. Emphasises that all children and young people have a right to education under the UN Convention on the Rights of the Child, including children and young people who do not have a residence permit in the countries in which they reside;

85. Points out that thousands of children are separated from their parents as a result of their living conditions (lack of housing) or because their parents are living in severe poverty (material, social and cultural) and have not received the necessary support to help them fulfil their parental responsibilities;

86. Calls for special attention to be given to the future of young people, and for a clear strategy to help young people find a decent first job commensurate with their level of training;

87. Emphasises that the fight against poverty requires a holistic and consistent approach, embracing all policy areas; also points out that it is particularly important to step up action at both European and national level with a view to preventing and combating this problem;

88. Points to the need to adopt a more comprehensive approach to the issue of child poverty, and emphasises the results obtained so far in terms of establishing ‘common principles’, as reflected in the conclusions of the Employment Council of 6 December 2010, which call for combating child poverty to be a priority;

89. Welcomes the Commission’s desire to present a recommendation on child poverty in 2012;

90. Endorses the conclusions of the June EPSCO Council, which support an integrated strategy to prevent child poverty and promote child well-being, focusing on adequate family income, access to services, including early learning and childcare, and children’s participation; calls for a detailed roadmap for implementation of the proposed communication in 2012;

91. Emphasises the importance of structural funding, in particular the European Social Fund, as a key tool for helping the Member States to combat poverty and social exclusion; calls on the Member States for more co-funded projects to support services such as care facilities for children, the elderly and dependent persons;
92. Calls on the Commission to ensure that the austerity policies agreed with the Member States do not hinder or call into question the attainment of the Europe 2020 target of lifting 20 million people out of poverty;

93. Calls for efforts to tackle the vicious circle of poverty in order to combat the perpetuation of poverty in subsequent generations;

94. Calls on the Member States to recognise the true value of the role of artists in social integration and the fight against poverty, in particular by promoting their working environment and status;

**Minimum income**

95. Wishes the Commission to launch, in full compliance with the principle of subsidiarity, a consultation on the possibility of a legislative initiative concerning a sensible minimum income which will allow economic growth, prevent poverty and serve as a basis for people to live in dignity, play a full part in society and make headway with finding employment or identifying training opportunities, and which will play an automatic stabilising role for the economy, with due regard for differing practices, and for collective labour agreements and legislation in the various Member States, bearing in mind that the definition of a minimum income remains the prerogative of each Member State; wishes the Commission to help the Member States share best practice in relation to minimum income levels, and encourages the Member States to develop minimum income schemes based on at least 60 % of the median income in each Member State;

**Unclaimed benefits**

96. Points out that, according to the OECD, 20 % to 40 % of benefits are not taken up; calls on the Member States to evaluate their income support and social security benefit systems in order to avoid the creation of hidden poverty, by increasing transparency, informing benefit recipients more effectively of their rights, establishing more effective advisory services, simplifying procedures and putting in place measures and policies to fight the stigma and discrimination associated with minimum income recipients;

97. Calls on the Member States to provide adequate support, training and respite services to family carers so that elderly people and those who need care can remain in their own homes and communities for as long as they wish to;

98. Calls on the Commission to assess the role of high indebtedness in poverty and to promote the exchange of best practice within the Platform concerning ways to tackle high indebtedness;

**Elderly people – carer’s leave**

99. Maintains that elderly care programmes, including home care, must be developed and reviewed in all the Member States so as to prevent elderly people falling into exclusion or poverty, and adds that families caring for the elderly should also be provided with support (financial if possible), in line with the objective of promoting a sustainable society and in particular with a view to improving support for active ageing and solidarity between generations, encouraging accessibility and solidarity and improving the quality of long-term care; calls on the Commission to assess whether a directive on carer’s leave could help achieve this;

100. Calls on the Commission to pay proper attention to developing social innovation and fact-based support for social policy, and to making more considered use of impact assessments with a view to providing genuine added value and proposing sustainable and innovative solutions consistent with demographic trends;
Tuesday 15 November 2011

101. Stresses the importance of developing policy proposals at Member State level to tackle problems associated with poverty and exclusion, such as homelessness and drug and alcohol addiction; calls for more effective exchanges between Member States of best practice in these areas;

102. Emphasises that it is important to propose measures that simplify access to EU funding for organisations active in the voluntary sector;

103. Calls on the Commission to take account of Parliament’s report on the Green Paper on the future of pensions in Europe;

104. Recommends that the Member States establish an adequate minimum pension which allows the elderly to live in dignity;

105. Calls on the Commission to envisage a set of framework guidelines and principles with a view to ensuring adequate and sustainable pension arrangements, so as to combat effectively the risk of poverty faced by women as a result of precarious and sporadic employment and low remuneration; notes that it is necessary to ensure that welfare provisions can be brought more closely into line with individual and family circumstances while enhancing the value attached to maternity and the provision of care;

* *

106. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.
ACP-EU Joint Parliamentary Assembly in 2010

P7_TA(2011)0501

European Parliament resolution of 16 November 2011 on the work of the ACP-EU Joint Parliamentary Assembly in 2010 (2011/2120(INI))

(2013/C 153 E/09)

The European Parliament,

— having regard to the partnership agreement between the members of the African, Caribbean and Pacific group of states (ACP), of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (Cotonou Partnership Agreement) (1) and revised in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010 (2),

— having regard to the Rules of Procedure of the ACP-EU Joint Parliamentary Assembly (JPA), as adopted on 3 April 2003 (3) and most recently amended in Port Moresby (Papua New Guinea) on 28 November 2008 (4),


— having regard to the Declaration for development-friendly Economic Partnership Agreements (EPAs) adopted by the JPA on 22 November 2007 in Kigali (Rwanda) (6),

— having regard to the Declaration on the Second Revision of the ACP-EU Partnership Agreement (Cotonou Partnership Agreement) adopted by the JPA on 3 December 2009 in Luanda (Angola) (7),

— having regard to the Communiqué adopted on 29 April 2010 in Mahé (Seychelles) at the JPA East Africa/Indian Ocean regional meeting (8),

— having regard to the European Consensus on Humanitarian Aid signed on 18 December 2007 (9),

— having regard to the resolutions adopted by the JPA in 2010:

— in Tenerife on:

— The financial and economic impact of climate change in ACP countries;

— The social impact of the global crisis;

— Post-disaster reconstruction and rehabilitation in Haiti, and the link between poverty and natural disasters;

— Supporting the consolidation of peace in Southern Sudan; and

(2) OJ L 287, 4.11.2010, p. 3.
(4) ACP-EU/100.291/08/fin.
(6) OJ C 58, 1.3.2008, p. 44.
(7) OJ C 68, 18.3.2010, p. 43.
(8) APP 100.746.
Wednesday 16 November 2011

— The Declaration on the EU-Latin America bananas agreement and its impact on ACP and EU banana producers and the conclusions on the Regional Strategy Papers for the six ACP regions (1);

— in Kinshasa on:

— Free and independent media;

— Post-Copenhagen: technology transfer, new technologies and technical capacity-building in the ACP countries;

— Achieving the MDGs: innovative responses to meet the social and economic challenges;

— Food security;

— The security problem in the Sahel-Saharan region: terrorism and trafficking in drugs, arms and human beings; and

— The Declaration on the announcement of the results of the second round of the presidential election held on 28 November 2010 in Côte d’Ivoire (2);

— having regard to the Declaration of 28 September 2010 by the ACP Parliamentary Assembly on the peaceful co-existence of religions and the importance given to the phenomenon of homosexuality in the ACP-EU partnership,

— having regard to the statement of 6 December 2010 made in response to the abovementioned ACP Declaration by EU Members of the ACP-EU JPA from the EPP, S&D, ALDE, Verts/ALE and GUE/NGL Groups of the European Parliament,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Development (A7-0315/2011),

A. whereas the EU Council was not represented at the 20th Session in Kinshasa,

B. whereas the ACP-EU JPA is the largest parliamentary body encompassing countries of both the North and the South,

C. whereas the budget of the ACP Secretariat made it possible for two fact-finding missions, to Madagascar and Haiti, and one election observation mission, to Burundi, to be organised in 2010,

D. whereas the Commissioner with responsibility for development and humanitarian aid gave an undertaking at the JPA session in Wiesbaden (Germany) in June 2007 to subject Country and Regional Strategy Papers for the ACP countries (2008-2013) to democratic scrutiny by parliaments; and welcoming the fact that that undertaking has been fulfilled and that conclusions were adopted on the Regional Strategy Papers at the 19th Session in Tenerife,

E. whereas the revision of the Cotonou Partnership Agreement in 2010 provided a valuable opportunity to strengthen the role of the JPA and its regional dimension and develop parliamentary scrutiny in ACP regions and countries,

(2) OJ C 126, 28.4.2011.
F. whereas the JPA regional meeting held in the Seychelles in 2010 was a considerable success and resulted in the adoption of the abovementioned Mahé Communiqué;

G. whereas the situation in Haiti is still very serious 20 months after the earthquake that devastated the island, and welcoming the conclusions of the JPA mission to the country and the resolution adopted in Tenerife,

1. Welcomes the fact that in 2010 the JPA continued to provide a framework for an open, democratic and in-depth dialogue between the European Union and the ACP countries on the Cotonou Partnership Agreement, including the EPAs, and also the Regional Strategy Papers for the six ACP regions;

2. Stresses the need to pay more attention to the outcomes of the work of the ACP-EU JPA, and to ensure coherence between its resolutions and those of the EP; asks for more participation and involvement of MEPs in its meetings and activities;

3. Regrets the fact that the EU Council was absent from the 20th Session in Kinshasa, and urges the High Representative to ensure that the establishment of the European External Action Service (EEAS) will lead to a clarification of the role of the EU Council and a clear delineation of responsibility between the EEAS and the Commission in terms of the implementation of the Cotonou Partnership Agreement;

4. Stresses in particular the crucial role of the ACP national parliaments in managing and monitoring, and local authorities and non-state actors in monitoring, the Country and Regional Strategy Papers and the implementation of the European Development Fund (EDF), and calls on the Commission to guarantee their involvement; emphasises, further, the need for close parliamentary scrutiny during the negotiation and conclusion of EPAs;

5. Calls on the parliaments of the ACP countries to insist that their governments and the Commission involve them in the process of drafting and implementing the Country and Regional Strategy Papers relating to cooperation between the EU and their countries over the period from 2008 to 2013 and ensure their full participation in the EPA negotiations;

6. Calls on the JPA to maintain its pressure on EU Member States to take urgent steps to meet their 0.7 % GNI commitments in order to achieve the MDGs, as well as their specific pledges to Africa and LDCs, and recommends fully transparent, multiannual, binding measures, including legislation;

7. Calls on the Commission to supply all available information to the parliaments of the ACP countries and to assist them in exercising democratic scrutiny, in particular by means of capacity-building;

8. Calls on the parliaments and governments of the ACP countries to take steps to tackle climate change that take account of the need to maintain growth, eradicate poverty and guarantee fair access to resources; calls in this respect on the Commission, in conjunction with the ACP governments and the JPA, to verify that the European Water Fund, established to provide the very poor in the ACP countries with a water supply and basis sanitation facilities, is being properly used and proving beneficial;

9. Urges the JPA, the European Commission, and the ACP parliaments and governments to uphold the full right to land and to take measures restricting the phenomenon of land hoarding that could lead to severe environmental damage, the migration of local smallholders and workers, exploitation of resources and the loss of means of subsistence and food security;
10. Draws attention, in this regard, to the need to involve parliaments in the democratic process and in the national development strategies; stresses their vital role in establishing, following up and monitoring development policies;

11. Stresses the necessity of upholding the media’s freedom and its independence, these being vital elements in ensuring pluralism and the involvement of democratic opposition groups and minorities in political life;

12. Calls on the European Union and the ACP countries to encourage citizens, and particularly women, to participate on issues such as gender violence or human trafficking; since the involvement of society is vital if progress is to be made in resolving these problems; acknowledges the problem-solving and conflict-resolution skills of women, and urges the Commission and the JPA to include more women in task forces and working groups dealing with issues such as family life, child care, education, etc.;

13. Calls on parliaments to exercise close parliamentary scrutiny of the EDF; highlights the JPA’s key position in this debate and calls on it and the parliaments of the ACP countries to take an active part therein, in particular in connection with the ratification of the revised Cotonou Partnership Agreement;

14. Asks the European Commission to update the JPA on the state of play of the ratification of the Cotonou Partnership Agreement, as revised in Ouagadougou on 22 June 2010;

15. Welcomes the increasingly parliamentary – and hence political – nature of the JPA, together with the ever more active role played by its members and the greater quality of its debates, which are helping it to make a vital contribution to the ACP-EU partnership;

16. Deplores strongly the fact that virtually no mention was made during the JPA in Kinshasa of the increase in acts of mass sexual violence and of general impunity, particularly in the east of the Democratic Republic of the Congo;

17. Calls on the Commission and the JPA to promote equitable and sustainable development incorporating the social dimension, which supports new forms of enterprises (e.g. cooperatives);

18. Reasserts that the principle of non-discrimination, including discrimination on the basis of sexual orientation, will not be compromised in the ACP-EU partnership;

19. Asks the European Commission to provide the members of the JPA with information on the Community financing granted to host countries in the form of budgetary support; stressed that some States benefiting from budgetary support have a controversial political system and that Members of the European Parliament should be informed of the Commission’s assessment of the eligibility criteria for budgetary support and of the monitoring thereof;

20. Considers the exchanges of views with local authorities on the situation in the country, which took place for the first time in Kinshasa, to be a significant example of this enhanced dialogue;

21. Emphasises once again the significance of the abovementioned Declaration by the JPA on the EU-Latin America bananas agreement, given the major impact this agreement will have henceforth on the competitiveness of ACP and EU banana producers; calls in this regard on the European Parliament and the Council to do all that is in their power to find an agreement which enables compensation for ACP banana producers, provided for in the regulation establishing the banana accompanying measures to be released; asks the JPA Bureau, therefore, and the Committee on Economic Affairs, Finance and Trade to continue to monitor closely developments on this matter;
22. Calls on the JPA to continue to monitor the situation in Haiti, Madagascar and South Sudan, and to send an observation mission to monitor the level and effectiveness of humanitarian aid to the populations struck by famine in the Horn of Africa; draws attention to the need to cooperate closely with the new Haitian authorities and to support them as they structure their institutions, move towards a fully operational democracy and throughout the whole of the reconstruction process;

23. Calls on the JPA to continue to organise its own election observation missions on the same basis as the successful mission to Burundi, inasmuch as they reflect the JPA’s dual legitimacy, while ensuring the independence of its electoral missions and close coordination with other regional observation bodies;

24. Welcomes the fact that one further regional meeting provided for in the Cotonou Partnership Agreement and the JPA Rules of Procedure was held in 2010; considers that these meetings make for a genuine exchange of views on regional issues, including conflict prevention and resolution, regional cohesion and EPA negotiations; commends the organisers of the extremely successful meeting in the Seychelles;

25. Welcomes the establishment of the Working Group on Working Methods, and calls on the JPA Bureau to implement its recommendations in order to improve the efficiency and the political impact of the JPA both in the implementation of the Cotonou Partnership Agreement and on the international stage;

26. Stresses the importance of the on-site visits organised during the JPA, which complement the part-session discussion; regrets that the visits arranged in Kinshasa lacked relevance;

27. Instructs its President to forward this resolution to the EU Council, the Commission, the ACP Council, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the JPA Bureau and the governments and parliaments of Spain and the Democratic Republic of Congo.

Climate change conference in Durban

P7_TA(2011)0504

European Parliament resolution of 16 November 2011 on the climate change conference in Durban (COP 17)

(2013/C 153 E/10)

The European Parliament,

— having regard to the United Nations Framework Convention on Climate Change (UNFCCC) and to the Kyoto Protocol to the UNFCCC,

— having regard to the results of the United Nations Climate Change Conference in Bali in 2007 and to the Bali Action Plan (Decision 1/COP 13),

— having regard to the 15th Conference of the Parties (COP 15) to the UNFCCC and the fifth Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP5) held in Copenhagen, Denmark, from 7 to 18 December 2009, and to the Copenhagen Accord,

— having regard to the 16th Conference of the Parties (COP 16) to the UNFCCC and the sixth Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP6), held in Cancún, Mexico, from 29 November to 10 December 2010, and to the Cancún Agreements,
Wednesday 16 November 2011

— having regard to the forthcoming 17th Conference of the Parties (COP 17) to the UNFCCC and the seventh Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP7), to be held in Durban, South Africa, from 28 November to 9 December 2011,

— having regard to the EU climate and energy package of December 2008,


— having regard to its resolutions of 25 November 2009 on the EU strategy for the Copenhagen Conference on Climate Change (2), of 10 February 2010 on the outcome of the Copenhagen Conference on Climate Change (COP 15) (3) and of 25 November 2010 on the Climate Change Conference in Cancun (4),

— having regard to its resolution of 4 February 2009 on ‘2050: The future begins today – Recommendations for the EU’s future integrated policy on climate change’ (5),

— having regard to the Commission White Paper on ‘adapting to climate change: towards a European Framework for action’ (COM(2009)0147) and to its resolution of 6 May 2010 (6) thereon, and to the Intergovernmental Panel on Climate Change (IPCC) Special Report on Renewable Energy Sources and Climate Change Mitigation of 9 May 2011 (7),

— having regard to its resolution of 11 May 2011 on the Commission Green Paper on forest protection and information in the EU: preparing forests for climate change (8),

— having regard to the Council Conclusions of 14 March 2011 on the follow-up to the Cancún Conference and to the ECOFIN Conclusions of 17 May 2011 on Climate Change,

— having regard to the decisions taken at the Tenth Conference of the Parties (COP 10) of the United Nations Convention on Biological Diversity (CBD), in particular the COP 10 (2010) Decision on Geoengineering,

— having regard to the joint statement of 20 December 2005 by the Council and the representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: ‘The European Consensus’, and in particular points 22, 38, 75, 76 and 105 thereof (9),

— having regard to the Report of the House of Commons’ Environmental Audit Committee, entitled ‘The impact of UK overseas aid on environmental protection and climate change adaptation and mitigation’, which was published on 29 June 2011,

— having regard to the United Nations Millennium Declaration of 8 September 2000, which set out the Millennium Development Goals (MDGs) as objectives established jointly by the international community for the elimination of poverty,

— having regard to the Council Conclusions of 25 June 2009 on integrating environment in development cooperation,

(5) OJ C 67 E, 18.3.2010, p. 44.
(6) OJ C 81 E, 15.3.2011, p. 115.
— having regard to the Nairobi Declaration of 25-29 May 2009 on the African Process for Combating Climate Change,

— having regard to the question of 27 September 2011 to the Council on the climate change conference in Durban (COP 17) (O-000216/2011 - B7-0639/2011) and to the question of 27 September 2011 to the Commission on the climate change conference in Durban (COP 17) (O-000217/2011 - B7-0640/2011),

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas scientific evidence overwhelmingly demonstrates the existence of climate change and its impacts, thus rendering international action imperative to meet one of the major challenges of the 21st century and beyond;

B. whereas a legally binding international agreement consistent with the principle of a 'common but differentiated responsibility' must remain the overall goal, thus recognising the leading role to be played by developed countries and the appropriate contribution to be made by developing countries;

C. whereas the existing commitments and pledges made under the Copenhagen Accord and formalised within the Cancún Agreements are insufficient to meet the objective of limiting the overall global annual mean surface temperature increase to 2 °C ('the 2 °C objective');

D. whereas the Commission roadmap for moving to a competitive low-carbon economy in 2050 and setting long-term targets reconfirms the EU's objective of reducing greenhouse gas emissions by 80-95 % by 2050 in order to keep climate change below 2 °C, whilst concluding that 80 % of the reduction by 2050 has to be achieved internally within the EU;

E. whereas it is important to build on the trust and transparency restored during the COP 16 Conference in Cancún, in order to maintain the political momentum required to pave the way for a comprehensive international agreement with concrete goals and corresponding policy measures;

F. whereas the Cancún Agreements urge developed countries to increase the ambition of their emission reduction targets, with a view to reducing their aggregate greenhouse gas emissions to a level consistent with the IPCC's AR4 25-40 % range for 2020 as compared to 1990 levels;

G. whereas collective greenhouse gas emission reductions in the developed countries at the high end of the IPCC's AR4 25-40 % range for 2020 as compared to 1990 levels are necessary for the 2 °C objective to be achieved with only a 50 % degree of probability;

H. whereas radical changes in the geo-political world over the past decades, with some developing countries now being major economic and political players, need to be taken into account, leading to a new balance of power and influence, entailing new roles and new responsibilities;

I. whereas European countries face critical choices to preserve their future prosperity and security, and whereas moving to a domestic greenhouse gas emissions reduction target which is in line with the EU's climate objectives can be combined with a healthier economy, and an increase in green jobs and innovation;
J. whereas according to some estimates women represent 70 % of the poor worldwide, work two-thirds of the working hours but own less than 1 % of property, and are therefore less able to adapt, and more vulnerable, to climate change;

K. whereas Article 7 of the Cancun Agreements stresses that 'gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change';

L. whereas substantial differences in scope, structure and design exist between Land Use, Land-Use Change and Forestry (LULUCF) reporting under the UNFCCC Convention and LULUCF accounting under the Kyoto Protocol, undermining Parties’ climate change mitigation efforts;

M. whereas accounting for ‘forest management’ activity, which is responsible for the majority of LULUCF sector emissions, is voluntary under the Kyoto Protocol;

N. whereas the 2010 World Development Report estimates that the overall incremental cost of mitigation and adaptation in poor countries will be between USD 170 billion and USD 275 billion per year by 2030;

O. whereas any climate-change agreement should take into account existing development processes both at international level (namely the MDGs and the Paris Declaration on aid effectiveness) and at national level (National Adaptation Programmes of Action);

P. whereas EU aid should help developing countries to phase out high-carbon development and build up low-carbon infrastructure, and whereas EU aid should also support local economic development, green jobs and poverty reduction and must not be tied to the involvement of or used to subsidise EU businesses;

Q. whereas the current scale of the World Bank’s lending to support fossil fuel-powered energy generation must be in line with the objective of reducing greenhouse gas emissions;

R. whereas parliamentarians, especially from developing countries, can and should play a crucial role in this agenda, ensuring government accountability and effectiveness as well as providing a vital knowledge link with constituents, both aspects being important in ensuring a country’s resilience to climate change;

S. whereas the existing financial mechanisms are complex and fragmented; whereas the commitment to provide 0.7 % of GNP for ODA in order to achieve the MDGs has not been honoured by most donor countries; and whereas the financial mechanisms of the UNFCC depend on replenishments through voluntary contributions from donors;

T. whereas improvements in forest governance are a fundamental prerequisite for lasting reductions in deforestation; whereas climate negotiations need to reflect previous efforts to address problems of deforestation and forest degradation, such as the EU FLEGT Action Plan designed to curtail illegal logging by addressing forest governance;
U. whereas a common system to monitor the whole range of instruments available for adaptation funding should be set up in order to ensure an accountable and transparent funding system;

**Key Objectives**

1. Urges the Parties to ensure the conclusion of a comprehensive, international, fair, ambitious and legally binding agreement post-2012, building on the international rules-based system of the Kyoto Protocol in line with the 2 °C objective and the peaking of global and national greenhouse gas emissions as soon as possible;

2. Calls on Heads of State and Government worldwide to demonstrate real political leadership and will during the negotiations and to give this issue the highest priority;

3. Urges the EU publicly and unequivocally to confirm its strong commitment to the Kyoto Protocol and to take all necessary steps to avoid any gap between Kyoto Protocol commitment periods; calls, therefore, on the EU to declare openly prior to Durban that it is ready to continue with the second commitment period of the Kyoto Protocol and, further, to define concrete steps to bridge ‘the gigatonne gap’, i.e. the difference between the current ambition levels and those required to keep global warming below 2 °C; calls on the EU to ensure that the gap is identified and quantified in Durban and to press for measures to close the gap;

4. Recognises, however, that comparable progress under the Convention track is required to secure any post-2012 international, fair, ambitious and legally binding agreement that would meet the 2 °C objective; highlights, in that connection, the importance of (subglobal) alliances with the most progressive states as a means of lending further impetus to the negotiation process; calls for the COP to agree on a time-bound mandate to secure a legally binding agreement under the Convention to be implemented as soon as possible, and at the latest by 2015; recalls, in that connection, that the industrialised countries need to reduce their emissions by 25-40 % below 1990 levels by 2020, while the developing countries as a group should achieve a substantial deviation below the currently predicted emissions growth rate, of the order of 15-30 %, by 2020;

5. Urges all international partners to close the gigatonne gap which exists between the scientific findings and the current Parties’ pledges, to come up with commitments and actions for emissions reductions which are more ambitious than those contained in the Copenhagen Accord, based on the principle of a ‘common but differentiated responsibility’, and to address emissions from international aviation and maritime transport and HFCs in order to ensure consistency with the 2 °C objective; notes that the detailed communication to Parties of where current pledges take us, and what more needs to be done, is an important step towards raising awareness among Parties and securing higher pledges;

6. Emphasises the importance of progress at the Durban Conference in further implementing the Cancún Agreements, in establishing the peak date for global emissions and a global emissions reduction goal for 2050, defining a clear pathway towards 2050, including intermediate global emissions reduction goals, and agreeing on policy instruments to ensure that the objectives set are met, and in addressing the overall question of the future form of the commitments of both developed and developing countries; reiterates that, according to the scientific evidence presented by the IPCC, the 2 °C objective requires that global greenhouse gas emissions peak by 2015 at the latest and be reduced by at least 30 % as compared with 1990 by 2050 and continue to decline thereafter;
7. Calls for the Durban Conference to define a process for addressing the adequacy of emission reduction pledges based on the peak year and the 2050 reduction goal as well as the 2 °C objective;

8. Welcomes the roadmap for moving to a competitive low-carbon economy in 2050, setting long-term targets reconfirming the EU’s objective of reducing greenhouse gas emissions by 80-95 % by 2050 in order to keep climate change below 2 °C; notes the conclusion that 80 % of the reduction by 2050 has to be achieved internally within the EU and that a linear reduction makes economic sense;

9. Reiterates that cumulative emissions are decisive for the climate system; notes that even if it were to meet the 2050 targets on the basis of the pathway set out in the Commission roadmap, the EU would still be responsible in terms of greenhouse gas emissions for approximately double its per-capita share of the global 2 °C-compatible carbon budget, and that delaying emissions reductions increases the cumulative share significantly;

10. Welcomes the Commission’s latest communications and its analyses of how a 30 % climate protection target can be achieved; supports the view set out therein that, regardless of the outcome of the international negotiations, it is in the EU’s own interest to aim for a climate protection target of over 20 %, since this would have the simultaneous effect of creating green jobs and boosting growth and security;

11. On the basis of realistic expectations as to the likely outcomes of the COP 17, calls on the EU and the Member States to conclude as many partial agreements as possible, in areas such as science, technology transfer and LULUCF, in order to maintain overall positive progress in the negotiations, thereby creating certainty as to future climate change policies and negotiations;

12. Calls on the EU and its Member States to develop a principle of ‘climate justice’; insists that the greatest injustice would occur if the EU did not tackle climate change, because poor people in poor countries would suffer in particular;

13. Recalls that poor countries are the most vulnerable to the impacts of climate change and have the least capacity to adapt;

14. Points out that responses to climate change have an impact on gender equality at all levels and that, in order to ensure win-win solutions and to avoid aggravating inequalities, gender considerations should be integrated into climate policies, in line with global agreements on gender mainstreaming and the Convention for the Elimination of Discrimination Against Women;

**EU Strategy**

15. Stresses the need for wider and more effective EU climate diplomacy by all EU institutions in advance of Durban (in particular regarding EU-Africa relations), which should seek to present a clearer EU profile on climate policy, bringing a new dynamic to the international climate negotiations and encouraging partners throughout the world also to introduce binding reductions in emissions and appropriate climate change mitigation and adaptation measures, in particular with reference to the EU proposal for full decarbonisation by 2050;
16. Calls on the European Union to take the lead and push for an ambitious EU climate policy which reduces climate change in order to demonstrate the advantages of such a policy and encourage other countries to follow suit;

17. Stresses, in this context, the importance of the European Union, as major player, speaking with ‘one voice’ in seeking an ambitious international agreement and a high level of ambition in the COP 17 negotiations and staying united in that regard;

18. Emphasises the European Union’s unique position as a supranational entity which has - in order to make its working methods more effective - moved away from decision-making by unanimity to decision-making by qualified majority, which might also represent a way forward in the future for the UNFCCC;

19. Emphasises that in order to provide new impetus and leverage for future negotiations, additional emphasis should be placed on the way that combating climate change can also offer economic possibilities and a pathway towards more resource-efficient societies in general;

20. Is of the opinion that capacity-building - not only with regard to technology transfer, but in general - is of vital importance and that it requires an integrated approach and a streamlined institutional architecture encouraging synergies and coordination;

21. Stresses the importance of the systematic integration of gender equality as a cross-cutting issue in the climate fund’s governance structure and operational guidelines;

22. Points out that gender-balanced participation in decision-making covering all phases and aspects of funding is essential; calls on the EU to strive for female representation of at least 40 % in all relevant bodies;

23. Highlights the fact that if the EU is reluctant to proceed to a second commitment period under the Kyoto Protocol a very negative message will be sent to developing countries;

Building on the Cancún Agreements at the Durban Conference

24. Welcomes the success achieved in reaching the Cancún Agreements at COP 16 in 2010, by acknowledging the global and urgent problem of climate change and by setting goals and laying down ways of tackling the problem, while restoring trust in the UNFCCC process as the means of finding a global solution to climate change; asks all the participants to maintain the positive atmosphere of the negotiations in Cancún and looks to the Durban Conference to make further progress towards the continuation and strengthening of the rules-based multilateral climate regime;

25. Recalls in particular the acknowledgement of the 2 °C objective in the Cancún Agreements (including the recognition of the need to consider, in the context of a first review, strengthening the long-term global goal on the basis of the best available scientific knowledge, in relation to a global average temperature rise of 1.5 °), and the establishment of a process for defining the peak date of global emissions, a global emissions reduction goal for 2050 and policy measures to ensure that the objectives set are achieved;

26. Calls on the Parties to use the Durban Conference to bring into operation the necessary agreed mechanisms, such as the Green Climate Fund and the Adaptation Committee, to focus on the development of the Technology Mechanism (including the Climate Technology Centre and Network) and the registry to record mitigation measures taken by developing countries seeking international support, and to address the remaining key issues and make progress on the issue of the legal form of a future post-2012 framework, including a timeline for securing agreement on that framework;
27. Highlights the need for further efforts to be made at the Durban Conference to develop the transparency provisions for commitments and actions and the need to agree on a clear work programme in relation thereto, including Measurement, Reporting and Verification Systems (MRVs);

28. Notes that there are still gaps in sectoral and non-market based approaches, and emphasises the need, in particular, to address the production and consumption of HFCs under the Montreal Protocol; notes that there is a need for a comprehensive international approach to non-CO₂ climate-relevant anthropogenic emissions, not least because the cost of reducing these emissions is lower than that for the reductions envisaged in the carbon sector, even taking the current carbon price into account; calls for a reform of the project-based mechanisms, such as the Clean Development Mechanism (CDM) and Joint Implementation (JI), whilst avoiding any lock-in to high-carbon infrastructure through the inappropriate use of flexible mechanisms, which would increase the overall cost of efforts to achieve the decarbonisation objective, through the introduction of stringent project-quality standards guaranteeing respect for human rights and reliable, verifiable and real additional emissions reductions that also support sustainable development in developing countries; endorses, moreover, the Commission’s view that sectoral mechanisms for economically more advanced developing countries should be agreed for the period beyond 2012, while high-quality CDM should remain available to LDCs; calls for any new international sectoral offset crediting mechanisms to ensure environmental integrity and incorporate climate benefits beyond the 15-30 % deviation from business as usual;

29. Calls for the environmental effectiveness of Annex I emissions reduction targets to be the guiding principle as regards the EU approach to international accounting rules for forest management, to flexible mechanisms and to the banking towards post-2012 targets of any overachievement during the first commitment period of the Kyoto Protocol;

30. Recognises the importance of proactive adaptation to the unavoidable consequences of climate change, in particular in the regions of the world most affected by a changing climate, and especially of protecting the most vulnerable groups within societies; therefore calls for an agreement in Durban with strong political and financial commitments to assist those developing countries in capacity-building;

Financing

31. Recalls that developed countries have committed themselves to providing new and additional resources from public and private sources amounting to at least USD 30 billion in the period 2010-2012 and USD 100 billion per year by 2020, with special emphasis on the vulnerable and least-developed countries; calls on the Commission and the Member States to honour their commitments and guarantee that resources for adaptation and mitigation come on top of the 0.7 % ODA target and specify how much of the commitment will come from public funding; further stresses the need to mobilise both domestic and international resources from all possible sources to contribute to achieving this goal and to identify a path for additional emissions reduction measures during the period from 2013 to 2020; calls, further, on the Conference of the Parties to define a framework for climate financing during the intermediate period from 2013 to 2020; also stresses the need for such funding to be provided on the basis of fair, transparent and non-discriminatory rules coupled with effective capacity-building, the reduction of tariff and non-tariff barriers to environment-related goods, services and investment, concrete support for low-emission infrastructure and well-defined, predictable rules;

32. Emphasises that a variety of sources is required, and calls on the Parties to explore further sources for long term-financing that will provide the required new, additional, adequate and predictable financial flows;
33. Calls on the EU and its Member States to ensure comprehensive and transparent reporting on the implementation of ‘fast-start’ financing, as well as timely delivery to support the implementation of mitigation and adaptation action in developing countries, and stresses the need to avoid a financing gap after 2012 (when the fast-start finance period ends) and to work towards the identification of a path for scaling up climate funding from 2013 to 2020;

34. Emphasises the importance of reliable statistics on emissions with comparable data and regular evaluation reports;

35. Calls for the Durban Conference to take concrete steps in implementing the Cancun Agreements as regards long-term financing, including sources and scaling up from fast-start finance from 2013; calls, in this context, for the use of innovative sources of financing and for a tax on financial transactions to be established at international level and for the revenues to be used in particular to support climate action in developing countries, in line with objectives set under the UNFCCC;

36. Calls on the Parties to bring the Green Climate Fund into full operation at the Durban Conference and to develop it in a way that ensures that the new fund is capable of supporting transformational changes towards low-carbon and climate-resilient development in developing countries;

37. Calls on the Conference of the Parties to specify a definition of the ‘new and additional’ principle;

38. Stresses the importance of predictability and continuity in climate financing; calls for full transparency and for adequate measures to ensure the scaling up of climate finance between 2013 and 2020; calls, in this regard, for an end to double accounting;

39. Urges the Commission to define, as soon as possible, procedures and instruments for promoting and facilitating private-sector contributions to funding for developing countries;

40. Calls on the Commission to ensure that agreements on international property rights concluded within the World Trade Organisation (WTO), which are a key instrument for encouraging private-sector involvement in the spread of new technologies, are not called into question;

41. Recalls that current climate-dedicated financial flows to developing countries, though growing, cover only a fraction (less than 5 %) of the estimated amounts that developing countries would need over several decades;

42. Insists on the need to build up a coherent financial architecture for climate change in Durban, in particular to guarantee that there is no financing gap after 2012; stresses, in this context, that both new resources (i.e. Financial Transaction Tax, emission of Special Drawing Rights, shipping/aviation levies, etc.) and effective delivery mechanisms are needed;

43. Advocates the establishment of a compliance mechanism to ensure a more effective delivery of commitments made with regard to greenhouse gas reduction, finance, technology and capacity building;
44. Calls on donors to pledge the amount of funds for replenishment of the Global Environment Facility and, within this framework, to continue to give high priority to African countries and to allocate financial resources based on the needs and priorities of countries;

45. Calls on the Commission and the EU Member States to build better links between the MDGs and climate change by incorporating impacts of, and adaptation to, climate change into projects and programmes aimed at achieving the MDGs, and into all broader strategies for poverty reduction and development policies; urges the Commission, in this context, to upgrade its financial reporting tool to facilitate financial analysis of EU climate-related commitments and step up climate mainstreaming in development policies;

46. Recalls that only public funding is crucial for reaching the most vulnerable communities struggling to adapt to climate change, and help poor countries adopt sustainable development strategies; stresses, furthermore, that the Commission and Member State governments must make sure this funding is additional to existing aid targets, in line with Article 4(3) of the UNFCCC; calls on the Commission to provide, in line with the Bali Action Plan of December 2007, for ‘additional climate financing’ criteria in a measurable, reportable and verifiable manner;

47. Recalls that the ‘polluter pays’ principle is aimed at having a positive effect on reducing pollution, yet encounters difficulties in being implemented in developing countries; urges therefore that climate change funding for developing countries address this issue in more detail;

48. Calls on the World Bank to ensure that its portfolio is ‘climate-smart’;

49. Stresses that gender balance in all climate finance decision-making bodies should be guaranteed, including the Green Climate Fund Board and possible sub-boards for individual funding windows; underlines that members of civil society, including representatives of gender equality organisations and women’s groups, should be given opportunities for active participation in the work of the GCF Board and all of its sub-boards;

50. Points out that gender inequalities in access to resources, including credit, extension services, information and technology, must be taken into account in developing mitigation activities; underlines that adaptation efforts should systematically and effectively address gender-specific impacts of climate change in the areas of energy, water, food security, agriculture and fisheries, biodiversity and ecosystem services, health, industry, human settlements, disaster management, and conflict and security;

**Transformation towards a sustainable economy and industry**

51. Underlines that many countries are moving fast towards the new green economy, for various reasons, including climate protection, resource scarcity and efficiency, energy security, innovation and competitiveness; notes, for example, the magnitude of investment programmes dedicated to energy transition in countries such as the US, China and South Korea; calls on the Commission to analyse such programmes including their levels of ambition and to assess the risk of the EU losing its leadership;

52. Welcomes these international moves and reiterates that internationally coordinated action helps to address the carbon leakage concerns of the relevant sectors concerned, in particular energy-intensive sectors; calls for an agreement to ensure an international level-playing field for carbon intensive industries;
53. Is concerned that the financial and budgetary crisis affecting most of the industrialised economies has curbed the level of attention of governments towards the international climate negotiations in Durban; considers that the EU's effort to transform its economy must not falter e.g. in order to avoid job leakage and in particular green job leakage, and that the EU must convince its partners worldwide, including China and the USA, that emission reductions are feasible without losing competitiveness and jobs, in particular if performed collectively;

54. Stresses the need to develop and implement urgently a holistic raw-materials and resource strategy, including on resource efficiency, in all sectors of the economy in both developed and developing countries, in order to achieve long-term sustainable economic growth, and calls on the EU and its Member States to lead by example in this regard; calls on the EU and its Member States to support developing countries at both national and local level by making available expertise on sustainable mining, increased resource efficiency and reuse and recycling;

55. Considers that sectoral approaches combined with economy-wide caps in industrialised countries can contribute to reconciling climate action with competitiveness and economic growth; stresses the importance of adopting a holistic, horizontal, sectoral approach to industrial emissions as an added value in connection with international negotiations and European CO₂ targets; hopes that such an approach might also be part of a post-2012 international framework for climate action;

56. Highlights the role of the CDM for European industry to achieve emission abatements and to accelerate technology transfer; recalls that the CDM needs to be reformed to require stringent project quality to guarantee the high standard of such projects, with reliable, verifiable and real additional emission reductions that also support sustainable development in such countries; considers that in the future the CDM should be limited to Least Developed Countries;

57. Reiterates that a global carbon market would be a sound basis to achieve both substantial emission abatements and a level playing field for the industry; calls on the EU and its partners to find, in the immediate future, the most effective way of promoting links between the EU ETS and other trading schemes aiming for a global carbon market, ensuring greater diversity of abatement options, improved market size and liquidity, transparency and, ultimately, more efficient allocation of resources;

Research and technology

58. Welcomes the agreement reached in Cancun on the Cancun Adaptation Framework to enhance action on adaptation to climate change, and on the establishment of a Technology Mechanism, including a Technology Executive Committee and a Climate Technology Centre and Network, to enhance technology development and transfer, striking the right balance between adaptation and mitigation and intellectual property rights in order to make this facility fully operational;

59. Stresses that the development and deployment of breakthrough technologies hold the key to fighting climate change and, at the same time, convincing the EU's partners worldwide that emissions reductions are feasible without losing competitiveness and jobs; calls for an international commitment to increase R&D investments in breakthrough technologies in the relevant sectors; considers it essential that Europe should lead by example by substantially increasing expenditure devoted to research on climate-friendly and energy-efficient industrial and energy technologies and that Europe should develop close scientific cooperation in this field with international partners, such as the BRIC countries and the United States;
60. Considers that innovation is key to maintaining global warming below 2 °C and notes that there are different ways of encouraging innovation; calls on the Commission to assess the various mechanisms to reward frontrunner businesses which differ according to their capacity to trigger innovation and to transfer and deploy technologies globally;

61. Highlights the importance of building closer cooperation between Europe and LDCs; calls, therefore, on the Commission to come forward in good time before Durban with ideas for common research programmes on alternative energy sources and on how the EU can encourage cooperation within various industrial sectors between developed and developing countries, with a specific focus on Africa;

62. Urges the establishment of an institutional framework to tackle all aspects of technology development and transfer by putting, in particular, a special focus on Appropriate Technology (AT) that is designed with special consideration for the environmental, ethical, cultural, social, political, and economic aspects of the community for which it is intended; calls for the creation of patent pools, whereby a number of patents held by different entities, such as companies, universities or research institutes, are made available to others in a common pool for production or further research development; and calls for recognition of the right of developing countries to use to the full TRIPS flexibilities;

63. Notes the huge potential for renewable energy in many developing countries; calls on the EU and its Member States to implement renewable energy projects in developing countries and to make available technology, expertise and investment;

64. Considers that adequate research on migration as a result of climate change is necessary to address this issue properly;

**Energy, energy efficiency and resource efficiency**

65. Regrets that energy savings potential is not adequately tackled internationally and in the EU; underlines that energy savings allow job creation, economic savings and energy security, competitiveness and emission cuts; calls on the EU to pay more attention to energy savings in international negotiations, be it when discussing technology transfer, development plans for developing countries or financial assistance;

66. Considers it of the utmost importance for climate negotiations that industrialised countries fulfil their financing commitments undertaken in Copenhagen and Cancun; calls for a swift and internationally coordinated implementation of the Pittsburgh G-20 objective to phase out inefficient fossil fuel subsidies over the medium term which would demonstrate an important contribution to climate protection and would be particularly relevant within the current context of public deficits in many countries;

67. Points out that across the globe an estimated 2 billion people continue to lack access to sustainable and affordable energy; stresses the need to address the energy poverty issue in compliance with climate policy objectives; notes that energy technologies are available, addressing both global environmental protection and local development needs;

68. Considers that Europe should support South African efforts to enable African countries to find partners and financing for investments in renewable energy and green technologies;
Land Use, Land Use Change and Forestry (LULUCF)

69. Calls for an agreement in Durban on robust rules on LULUCF that strengthen the level of ambition of the Annex I Parties, are designed to deliver emissions reductions from forestry and land use, require that Annex I Parties account for any increases in emissions from LULUCF and are consistent with the Parties' existing commitments to protect and enhance greenhouse gas sinks and reservoirs in order to ensure the environmental integrity of the sector's contribution to emissions reductions; in addition to sound LULUCF accounting, calls for policy measures to be defined in order to recognise the value of the carbon storage in harvested wood products:

70. Considers that LULUCF reporting must be referenced to a fixed historical base year/period and applied across the Kyoto Protocol and Convention tracks;

71. Calls in this respect for the mandatory inclusion of emissions (removals and releases) from forest management in Annex I Parties' post-2012 LULUCF reduction commitments;

72. Calls on the Commission, the Member States and all Parties to work in the Subsidiary Body for Scientific and Technological Advice as well as other international fora to establish a new UN definition of forests on a biome basis, reflecting the wide-ranging differences in biodiversity as well as carbon values of different biomes, while clearly distinguishing between native forests and those dominated by tree monocultures and non-native species;

73. Notes with concern the assumption of carbon neutrality for biomass used for energy purposes which governs accounting under the UNFCCC; calls for the establishment of new and more robust accounting rules which reveal the true GHG saving potential of bioenergy;

74. Encourages the establishment of a fund to reward or provide incentives for reducing emissions through sustainable land-management practices, including forest conservation, sustainable forest management, the avoidance of deforestation, afforestation and sustainable agriculture;

75. Recalls that, in order to reduce emissions from deforestation and degradation of forest, there is a need to shift away from a narrow process of quantification of forest carbon fluxes towards a broader approach, including the identification of the direct and underlying drivers of deforestation, based on a consultation process similar to the Voluntary Partnership Agreement consultation process;

Reduced Emissions from Deforestation and Forest Degradation

76. Recognises the need for regulatory certainty in a long-term financing mechanism for REDD+; urges the Conference of Parties to define a mechanism to mobilise further funding for REDD+ from public as well as private sources;

77. Highlights the need for further action at COP 17 to implement REDD+ (reducing emissions from deforestation and forest degradation) and to address any possible shortcomings in this regard especially with regard to long-term financing and robust and transparent forest monitor systems and, particularly on the effective consultation with parties, indigenous and local communities;
78. Stresses that the design of the REDD+ mechanism should ensure significant benefits for biodiversity and vital ecosystem services beyond climate change mitigation and should contribute to strengthening the rights and improving the livelihood of forest-dependent people, particularly of indigenous and local communities.

79. Takes the view that the funding mechanism for REDD should be based on performance criteria, including on forest governance, and take into consideration the objectives of the Strategic Plan for Biodiversity 2011 agreed under CBD COP 10 in Nagoya;

80. Underlines the need to speed up public financing for performance-based REDD+ action rewarding reductions in deforestation in accordance with national baselines with a view to halting gross tropical deforestation by 2020 at the latest;

81. Regrets that REDD funding is based on such a broad definition of forests that may include single species plantations of non-native species; considers that this definition may provide a perverse incentive to divert funding from the much needed protection of old and ancient forests to new commercial plantations and from innovation;

82. Calls, furthermore, on the EU to make sure that REDD+ includes safeguard mechanisms ensuring that the rights of the people living in the forests are not violated and that the loss of forests is efficiently halted; insists, in particular, that REDD+ should not undermine any advance made so far with FLEGT (Forest Law Enforcement, Governance and Trade), especially regarding forest governance, clarification and recognition of customary tenures;

Maritime transport and international aviation

83. Welcomes recent progress in the International Maritime Organisation (IMO) on the introduction of mandatory energy efficiency measures for international shipping, but notes that this can only be seen as a first step; calls on the EU to push for ambitious targets for emissions reductions in shipping to encourage further progress in the IMO in taking the necessary steps towards globally binding reductions in emissions from maritime transport within the UNFCCC;

84. Wishes to highlight that, as a result of increases in ship traffic, emissions from maritime transport will increase despite these measures, since they apply to new ships only; is therefore of the opinion that alternative approaches (i.e. carbon pricing, further technology-centred measures also for existing ships) need to be stressed in this regard;

85. Calls on the EU to ensure that the full impact of aviation is taken into account in an international agreement in the form of binding reduction targets for aviation, and urges all actors to make sure that these targets are backed up by enforcement structures; believes that resolution of this issue has become increasingly pressing and supports the inclusion of aviation in the European emissions trading system;

86. Recognises the principle of 'common but differentiated responsibilities' and advocates the introduction of international instruments with global emission reduction targets to curb the climate impact of international aviation and maritime transport;
87. Believes that the EU delegation plays a vital role in the climate change negotiations, and therefore finds it unacceptable that Members of the European Parliament have been unable to attend the EU coordination meetings at previous Conferences of the Parties; expects at least the chairs of the European Parliament delegation to be allowed to attend EU coordination meetings in Durban;

88. Notes that, in accordance with the Framework Agreement concluded between the Commission and Parliament in November 2010, the Commission must facilitate the inclusion of Members of Parliament as observers in Union delegations negotiating multilateral agreements; recalls that, pursuant to the Lisbon Treaty (Article 218 TFEU), Parliament must give its consent to agreements between the Union and third countries or international organisations;

89. Recalls the obligation of Parties to the UNFCCC to encourage the widest participation in the UNFCCC process, including that of non-governmental organisations; calls for the participation at the COP 17 negotiations of the International Forum of Indigenous Peoples, since such peoples are particularly affected by climate change and climate change adaptation;

90. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Secretariat of the UNFCCC, with the request that it be circulated to all non-EU contracting parties.

Accountability report on financing for development

The European Parliament, having regard to the UN Millennium Declaration of 8 September 2000,

— having regard to the G20 summits held in Pittsburgh on 24 and 25 September 2009, in London on 2 April 2009, in Toronto on 26 and 27 June 2010 and in Seoul on 11 and 12 November 2010,

— having regard to the G8 summits held in L’Aquila, Italy, from 8 to 10 July 2009, in Deauville, France, on 26 and 27 May 2011 and in Muskoka, Canada, on 26 June 2010,

— having regard to the Monterrey Consensus and the Doha Declaration, adopted at the respective International Conferences on Financing for Development held in Monterrey, Mexico, from 18 to 22 March 2002 and in Doha, Qatar, from 29 November to 2 December 2008,

— having regard to the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action,

— having regard to the European Consensus on Development (1) and the EU Code of Conduct on Complementarity and Division of Labour in Development Policy (2),

— having regard to its resolution of 15 June 2010 on ‘progress towards the achievement of the Millennium Development Goals: mid-term review in preparation of the UN high-level meeting in September 2010’ (1),

— having regard to its resolution of 25 March 2010 on the effects of the global financial and economic crisis on developing countries and on development cooperation (2),

— having regard to its resolution of 18 May 2010 on the EU Policy Coherence for Development and the ‘Official Development Assistance plus’ concept (3),

— having regard to its resolution of 23 September 2008 on the follow-up to the Monterrey Conference of 2002 on financing for Development (4),

— having regard to its resolution of 22 May 2008 on the follow-up to the Paris Declaration of 2005 on Aid Effectiveness (5),

— having regard to its resolution of 5 July 2011 on increasing the impact of EU development policy (6),

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas last year the Member States gave only 0.43 % of their GNI in official development assistance (ODA), despite the Millennium commitment to give 0.7 % by 2015 and an interim 2010 target of 0.56 %;

B. whereas 15 Member States cut their aid budgets in 2009 or 2010;

C. whereas the Member States promised in 2005 to channel 50 % of all new aid to sub-Saharan Africa, but whereas they have actually given only half this amount, and whereas the Member States have also failed to honour their pledge to give 0.15 % of their GNI to least-developed countries (LDCs) by 2010;

D. whereas, since such commitments refer to percentages of GNI and therefore correspond to a reduction in real terms in times of recession, the economic crisis is a poor excuse for cutting aid budgets proportionally;

E. whereas failing to keep its aid promises will seriously undermine confidence in the EU and damage its credibility as far as its partners in the developing world are concerned, while, on the other hand, honouring those commitments would send a powerful, unequivocal signal to poor nations and other donors;

F. whereas poor tax governance in developing economies prevents equitable wealth redistribution, starves governments of funds and hampers poverty eradication;

G. whereas illicit capital flows from developing countries are estimated to amount to roughly 10 times the level of global development assistance;

H. whereas innovative financing mechanisms currently account for just 3% of EU development aid;

I. whereas pro-poor schemes to improve access to financial services, such as microfinance schemes, can afford extraordinary help to smallholder farmers, particularly women, in achieving food self-sufficiency and food security;

J. whereas migrants' remittances to developing countries exceed global aid budgets, and whereas, although the EU made a commitment in 2008 to lower the cost of remittances, only minimal changes have been made;

K. whereas EU aid-for-trade amounted to EUR 10.5 billion in 2009, while trade-related assistance amounted to EUR 3 billion, a figure which is well above target;

L. whereas Article 208 TFEU states that: 'The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries';

M. whereas developing countries, and the LDCs in particular, have been hit especially hard by the crisis, leading notably to a new rise in debt levels;

N. whereas the EU provided EUR 2.3 billion in fast-start climate funding for developing countries in 2009;

O. whereas the EU has pledged to ensure that climate funding is 'new and additional';

P. whereas ineffective aid wastes up to EUR 6 billion of public money every year;

1. Welcomes the Commission's communication on the EU Accountability Report 2011 on Financing for Development as an extremely useful exercise in transparency and peer review;

**Development aid**

2. Acknowledges the growing pressure on national budgets as a result of the financial and economic crisis; believes, however, that achieving the poverty eradication goal will require, above all, policy change in industrialised and developing countries to address the structural causes of poverty;

3. Reiterates its deep concern about the current acquisition of farmland by government-backed foreign investors, particularly in Africa, which is liable to undermine local food security; urges the Commission to include the issue of land grabbing in its policy dialogue with developing countries so as to make policy coherence the cornerstone of development cooperation at both national and international level and prevent the expropriation of small farmers and unsustainable land and water use;
4. Commends the EU and its Member States for remaining the world’s largest donor of ODA, despite the crisis;

5. Welcomes the Member States’ recent renewed commitment to meeting their ODA commitments, especially the target of giving 0.7% of their GNI; agrees with the Council that ODA alone will not be enough to eradicate global poverty; is of the view that EU development policy should aim to eliminate structural obstacles to the poverty eradication goal by implementing policy coherence for development between EU policies on agriculture, trade, investment, tax havens, access to raw materials and climate change;

6. Expresses, nonetheless, its deep concern about the fact that in 2010 the EU fell some EUR 15 billion short of its own ODA goal for that year, that it will need practically to double its aid in order to meet its 2015 Millennium target, that it has failed to increase substantially its aid to Africa and the LDCs, in spite of its pledges to do so, and that a number of Member States have shrunk their aid budgets in 2009 and 2010, with further cuts scheduled for 2011 and beyond;

7. Highlights the huge contribution made by well-managed aid to sustainable development in the fields of health, education, gender and biodiversity, and in many other fields;

8. Calls therefore on all the Member States to take urgent steps to honour their commitment to give 0.7% of their GNI, as well as their specific pledges to Africa and the LDCs, and recommends fully transparent, binding, multiannual measures, including legislation;

**Other aspects of financing for development**

9. Agrees with the Council and the Commission that mobilising domestic resources in partner countries is the key to sustainable development; calls on EU donors to prioritise capacity-building in this area, especially as regards stronger tax systems and better tax governance, and to step up efforts worldwide to promote tax-related transparency and country-by-country reporting and to combat tax evasion and illicit capital flight, through legislation where necessary;

10. Urges the Commission to include the fight against misuse of tax havens and against tax evasion and illicit capital flight in its development policy as a matter of priority;

11. Calls on all the Member States further to boost support for the Extractive Industries Transparency Initiative, and calls on the Commission rapidly to propose EU legislation that at least matches US legislation in terms of the objective of ensuring that the extractive industry in developing countries pays proper taxes and that its production meets social and environmental standards, in compliance with due diligence requirements;

12. Calls on the EU and its Member States to unlock other sources of international development finance besides ODA, inter alia by:

— proposing innovative levies such as a financial transaction tax to fund global public goods, including development aid,

— significantly reducing the cost of remittances,
— stepping up the blending of EU grants and EIB loans, without this leading to cuts in aid spending,

— supporting schemes to improve access to financial services, such as microfinance schemes, in developing countries;

13. Welcomes the EU’s significant and growing support for aid-for-trade and trade-related assistance; expects the LDCs to benefit to a greater degree from such support in future;

14. Recalls that EU trade policies, as well as other policies such as those on agriculture, fisheries, migration and security, must – under the Lisbon Treaty – be consistent with EU development policy goals, and calls for the implementation of policy coherence for development (Article 208 of the Lisbon Treaty) in order to address the structural problem of poverty eradication;

15. Urges the Member States to step up their efforts to ensure full implementation of existing debt relief initiatives, in particular those relating to heavily indebted poor countries and multilateral debt relief;

16. Welcomes the EU’s recent substantial support for climate action in the developing world, but reiterates its demand that this be additional to existing development aid;

17. Expects the Fourth High-Level Forum on Aid Effectiveness – to be held in Busan, Korea, in November – to produce tangible results as regards more effective aid which provides better ‘value for money’: notes the progress, albeit uneven, identified in the 2011 accountability report, but urges the Member States to step up their efforts to improve donor coordination (including as regards the European External Action Service), joint programming and the division of labour in the field;

18. Urges EU donors to upgrade policy dialogue with emerging economies on development cooperation, and encourages the Member States to support South-South and triangular development cooperation initiatives; believes there is no longer any justification for aid in the form of grants to cash-rich nations;

OECD-DAC peer review

19. Asks to be involved in the next OECD-DAC peer review of EU development cooperation;

   *

   *

20. Instructs its President to forward this resolution to the Council, the Commission, the Member States, the EIB, the UN organisations, the ACP-EU Joint Parliamentary Assembly, the G20, the IMF and the World Bank.
The European Parliament,

— having regard to Article 167 of the Treaty on the Functioning of the European Union,


— having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (1),

— having regard to Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (2),


— having regard to the Commission Recommendation of 24 August 2006 on the Digitisation and Online Accessibility of Cultural Material and Digital Preservation (4),

— having regard to the Council conclusions of 13 November 2006 on the Digitisation and Online Accessibility of Cultural Material, and Digital Preservation (5),

— having regard to the Council conclusions of 18 and 19 November 2010 on the opportunities and challenges for European cinema in the digital era (6),

— having regard to the Commission communication concerning the State aid assessment criteria of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (7),


— having regard to the Commission staff working document of 2 July 2010 on the challenges for European film heritage from the analogue and the digital era (Second implementation report of the Film Heritage Recommendation) (SEC(2010)0853),

— having regard to the Commission communication of 26 August 2010 on ‘A Digital Agenda for Europe’ (COM(2010)0245),

— having regard to the Commission communication of 24 September 2010 on opportunities and challenges for European cinema in the digital era (COM(2010)0487),

— having regard to the Commission Green Paper of 27 April 2010 on ‘Unlocking the potential of cultural and creative industries’ (COM(2010)0183),

— having regard to the Commission Green Paper of 13 July 2011 on the online distribution of audiovisual works in the European Union: opportunities and challenges towards a digital single market (COM(2011)0427),

— having regard to its resolution of 2 July 2002 on certain legal aspects relating to cinematographic and other audiovisual works (1),

— having regard to its resolution of 13 November 2001 on achieving better circulation of European films in the internal market and the candidate countries (2),

— having regard to its resolution of 19 February 2009 on Social Economy (3),

— having regard to Committee of the Regions’ opinion of 2 April 2011 on ‘European cinema in the digital era’ (4),

— having regard to its resolution of 12 May 2011 on unlocking the potential of cultural and creative industries (5),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Culture and Education and the opinion of the Committee on the Internal Market and Consumer Protection (A7-0366/2011),

A. whereas culture forms a fundamental basis for European identities and shared values;

B. whereas culture is at the heart of contemporary debates on identity, social cohesion and the development of a knowledge-based economy, as is stated in the 2001 UNESCO Universal Declaration on Cultural Diversity;

C. whereas everyone has the right to participate in the cultural life of the community and to enjoy the arts and whereas cinema art, moreover, helps people to acknowledge one another, sharing the same human experience, helping to create a European identity;

D. whereas investments in culture show long-term, non-material, multigenerational results in shaping the European identity;

E. whereas the European audiovisual sector, including cinema, constitutes a significant part of the EU economy and should be more competitive at the global level;

(3) OJ C 76 E, 25.3.2010, p. 16.
(4) OJ C 104, 2.4.2011, p. 31.
F. whereas European film is an important part of culture, promoting dialogue and understanding, embodying and showing European values within and outside of the EU, whilst playing a significant role in the preservation and support of cultural and linguistic diversity;

G. whereas European cinema should strengthen territorial and social integrity;

H. whereas the digital era brings new opportunities for the audiovisual sector, in particular in the film industry as regards more effective distribution, screening and availability of films and as regards the higher audio and visual quality that it offers for European audiences, while it also creates some serious challenges to European cinema in the process of moving to digital technologies, particularly with regard to finance;

I. whereas digital technologies therefore contribute to the implementation of EU and national goals on the screening and accessibility of European works, and on social cohesion;

J. whereas digital cinema technology makes possible flexible promotion planning and last-minute changes in material;

K. whereas the first phase of the digitisation of European cinema has been of uneven benefit;

L. whereas the latest generation of digital equipment is approximately 25-30% cheaper than previous models and is now at a more accessible level to both European cinemas and funding programmes;

M. whereas not all cinemas are equally capable of coping with the challenge of digitisation of cinemas;

N. whereas the complete digitisation of both the European film industry and its cinemas must be accomplished urgently, to avoid a reduction of access to cultural diversity and availability on multiple platforms, and should be supported at European and national level;

O. whereas independent and art-house screens constitute Europe's unique cinema network, representing diverse programming that appeals to an audience outside the commercial mainstream;

P. whereas the concerns expressed by art-house cinema organisations, which have suggested special and priority measures to promote the production and distribution of independent European films, should be acknowledged;

Q. whereas local and regional governing bodies are key entities in defending and promoting European cultural heritage, in particular the digitisation of films and cinemas, and therefore constitute fundamental partners in the digitisation process;

R. whereas cinemas are an important means of preserving the quality of life and social interaction in old city centres and in the suburbs, and of regenerating urban areas;

S. whereas European cinematographic works need to meet with success in Europe if they are to be distributed internationally, thus enabling them to meet their financial objectives and constitute a form of cultural cooperation and diplomacy through which not only the works, but also Europe's diverse mix of cultures, are disseminated in third countries;
T. whereas the digital transition should be as fast as possible in order to avoid the doubling of production and distribution costs;

U. whereas the European film industry is currently fragmented along national and linguistic borders, and whereas films are in the first place made for and consumed by the local audience of the country of origin;

State of play

1. Emphasises the important contribution of European cinema to investment in digital technologies, innovation, growth and jobs;

2. Points out that almost 1 billion cinema tickets were sold in the EU in 2010, demonstrating cinema’s continued popularity and huge financial, growth and employment potential;

3. Stresses that European cinema is of growing importance to the economy, as it provides more than 30 000 jobs;

4. Stresses that, in addition to the economic impetus provided by the arts sector in the EU, European cinema also has, in particular, an extremely important cultural and social dimension and is an important factor in the cultural development and identity of Europe;

5. Notes that the European cinema market is highly fragmented and diversified, a great majority of the cinemas having only one or two screens;

6. Notes that multiplexes constitute the majority of digitised cinemas;

7. Notes that in Europe, there is a geographical imbalance in the accessibility of cinemas and film to citizens, most notably in Eastern Europe and in rural areas;

8. Emphasises the importance of the social and cultural role played by cinemas, one which must be preserved, particularly in rural and remote areas;

9. Notes that the potential of the European film industry is constantly growing, but the proportion of European productions showing in cinemas must be progressively increased;

10. Points out that small commercial and non-commercial cinemas make a vital contribution to preserving cultural heritage by including European productions in their programmes;

11. Points out that film screening is in the process of changing, with growing numbers of multiplexes and a marked reduction in the number of screens in small towns and old city centres;

12. Considers that the diversity of the EU’s cinematic landscape must be preserved;

13. Observes that, partly because of the primacy assigned to blockbuster films, the diversity of films in Europe and cinemas’ freedom to decide on their programming are endangered and as a result there is reason to fear an irreversible market concentration in the field of cinema;

14. Emphasises therefore that the digital roll-out must preserve programming diversity and cultural facilities for rural and urban areas in all EU countries and must not result in the closure of small and art-house cinemas to the benefit of multiplexes;
15. Points out that digitisation makes it possible to distribute cultural contents throughout the internal market more cheaply, and safeguards the competitiveness and diversity of European cinema;

16. Notes that there is increasing pressure for all films to be compatible with digital projection, while some European cinemas have already converted to 100% digital;

17. Notes with concern that the survival of many independent cinemas is being endangered by the high costs of converting to digital technology and competition from cinemas which primarily show films from the USA;

18. Notes that independent distributors are having problems coping with the dual costs they must meet in the transition period, which is having a ripple effect throughout the cinema industry;

19. Notes that multi-territory or pan-European licensing is crucial for unlocking the potential of online distribution film markets, for promoting a wider circulation of European films, for better consumer access to European films and for availability of European films on Video On Demand (VOD) platforms;

20. Notes that a number of EU schemes exist that have the potential to support the transition of the film industry to the digital age, such as the MEDIA programme;

21. Notes that, as a result of inadequate funding, European cinema is being insufficiently promoted internationally;

22. Stresses the importance of all the stages in the production chain in creating cinema content and the need to support all those stages;

23. Points out that multimedia technology is supplanting other forms of communication and that there is therefore a need to teach people how to receive it;

Opportunities and challenges

24. Calls on the Member States and the Commission to financially support the full digitisation in terms of equipment of EU cinemas and to establish European and national programmes to support the transition to digital technologies as quickly as possible and encourage the circulation of European films within an audiovisual sector that is globally very competitive;

25. Stresses in this respect that the programmes should be flexibly aligned with practical requirements;

26. Highlights that digital cinema should aim at improving the quality of picture and sound (when a 2K resolution minimum is implemented), in order to allow a more diversified and flexible programming of live events, and also of recorded broadcasts and of educational, cultural and sporting events, while enabling the use of a wide range of innovative technologies that will continue to attract audiences into the future;

27. Underlines that it is essential to support and promote EU productions and recognises that the EU contributes significantly to digital creativity and innovation such as 3D;

28. Acknowledges that although the digitisation of cinemas is a key priority, a consistent technological development should be taken into account, since in the medium and long term it may be necessary to further adapt to newer screening formats;
29. Recalls that the European shift to digital cinema should aim at creating new opportunities for the distribution of European films, maintaining the diversity of European production and enhancing its accessibility for European citizens;

30. Underlines that VOD may provide European film companies with the opportunity of reaching larger audiences;

31. Acknowledges that creation and innovation are matters of general interest, and urges that investing in programmes should be prioritised and supported in order to stimulate the supply of good quality content available on the networks;

32. Urges small and independent cinemas to take every advantage of their commercial potential, through product diversification, adding value to the service they provide and utilising the niche market they occupy;

33. Believes that digitisation is a very important opportunity to promote the presence of official regional languages in cinemas as well as foreign language learning;

**Threats**

34. Acknowledges that the high costs of digitisation, which will provide long-term commercial benefit, can nevertheless create a significant burden for many small and independent cinemas and film theatres whose programming goes beyond the main stream, with a high proportion of European films;

35. Acknowledges in this respect that in the face of closure, or in order to prevent it, such cinemas and film theatres require special and priority support;

36. Calls therefore on the Commission to propose specific measures to provide support for these cinemas;

37. Observes that cinemas bear the heaviest burden in relation to the costs of digitisation and that, because this entails the creation of basic infrastructure which is important to the public and will facilitate better cultural services than hitherto, irrespective of place of residence, public funding is important, particularly for small and independent cinemas;

38. Recognises that cinemas are places where people meet and exchange views, and stresses that the disappearance of small and independent cinemas, in particular in small towns and less developed regions, limits access to European cultural resources, culture and cultural dialogue;

39. Stresses that the problem of small cinemas mainly exists in rural areas, where they can play a particularly strong social role as meeting places;

40. Draws attention to the difficult situation of small urban cinemas which, as art-house cinemas, help to preserve cultural heritage;

41. Recognises that the digitisation of small and independent cinemas has to be achieved as urgently as possible in order to keep these venues open for films, cultural diversity and audiences;

42. Highlights the threat of copyright fraud and illegal downloading to the cinema industry; calls for intellectual property rights to be properly enforced by Member States;
Wednesday 16 November 2011

43. Recognises furthermore the threats to the quality of the works projected and respect for authors’ moral rights caused by metallic screens which create significant luminance differences across the image; taking into account that metallic screens are made for 3D; recommends avoiding screening 2D films on metallic screens in order to respect authors’ moral rights and to preserve the quality experience of the viewers;

44. Points out that the European film industry faces problems with the circulation and distribution of films, especially those with lower budgets, and that many productions reach only national markets and rarely get screened internationally, which prevents them from reaching wider audiences across the continent and the world;

45. Warns of the current lack of suitable training of projectionists to handle new digital cinema equipment and to adapt it to each specific film so to respect the quality of the projected work;

46. Acknowledges that the digitisation of audiovisual production and distribution poses new challenges to film heritage institutions in their activities of collecting, conserving and preserving the European audiovisual heritage;

Interoperability, standardisation and archiving

47. Underlines the need to ensure the interoperability of digital projection systems and materials, as well as other devices, as they are particularly needed for smaller and medium-sized screens which take account of the economic context of the European cinema market and thus preserve the diversity of cinema and films;

48. Stresses the need to ensure that the digitisation of cinemas is as technologically neutral as possible;

49. Recommends the standardisation of systems based on ISO standards in the areas of production, distribution and film screening;

50. Considers however that in the particular case of digital screening the digitisation of cinemas must not under any circumstances result in the establishment of a single standard;

51. Notes that this would also be inappropriate with reference to further new technical developments such as cinema projection systems using laser technology;

52. Underlines the importance of standardising the 2K resolution system, which allows the screening of films in 3D, HDTV and Blu-Ray as well as for VOD services;

53. Welcomes therefore the fact that, with the 2K standard, a unique, open and compatible worldwide ISO standard has been developed for digital projection, which takes into account the specific needs of European exhibitors;

54. Calls on European and national standardisation organisations to promote the use of this standard accordingly;

55. Welcomes the Commission’s announcement, in its 2010-2013 Standardisation Work Programme for Industrial Innovation, of the plan to specify by 2013 voluntary standards for the submission of digital films to archives, for their preservation and for 3D projection;
56. Allows for the further possibility of funding less expensive projectors, which can be used successfully in venues where more alternative content is shown, and furthermore has the potential to benefit specialist films such as documentaries and foreign language films;

57. Concedes that, although the archiving of films will become technically easier as a result of their digitisation or purely digital production, it will entail more challenges in future because of the issues of standards and copyright;

58. Recommends that Member States adopt legislative measures to ensure that audiovisual works, which in future could form the beginnings of a European multimedia library and become an important instrument for protecting and promoting the national heritage, will be digitised, collected by means of compulsory deposit mechanisms, catalogued, preserved and disseminated for cultural, educational and science purposes, whilst respecting copyright;

59. Recommends that the digital transition be made as quickly as possible to avoid the cost of producing both celluloid and digital versions of films and a dual distribution/exhibition system, whilst also providing an incentive for advertisers to switch from 35mm to the digital format;

60. Calls on the Commission to use the European digital library EUROPEANA not only as a digital library for printed products but also for the European film heritage and to define the remit of EUROPEANA accordingly;

61. Underlines the need to provide support for cinemas and film libraries that promote and preserve film heritage;

62. Recommends that Member States set up compulsory deposit mechanisms for digital formats or adapt their existing mechanisms to such formats by requesting the deposit of a standard digital master for digital films;

**State aid**

63. Calls on Member States to take EU competition rules into account when designing State aid schemes for digital conversion, in order to avoid distortions of the financing terms for digital cinema;

64. Calls on the Commission to draw up clear guidelines for State aid, building on experiences in various Member States, in order to increase legal certainty whilst leaving Member States free to shape film and cinema funding at national level;

65. Emphasises that, while public support should be technology-neutral, it should also guarantee the sustainability of investments, taking into account exhibitors' specific business models and distributors' technical requirements;

66. Calls on the Member States to provide support to national film studios and other relevant institutions in the transition to working with digital technology;

**Financing models**

67. Emphasises the need for public and private investment as the cinema sector enters the digital era;
68. Stresses that in order to ease the digitisation process, flexible and diversified financing, both public and private, should be made available at local, regional, national and European level, particularly to support small and independent cinemas, within a framework that sets out the priorities and complementarities at the various levels and establishes quantifiable objectives;

69. Underlines that although the European Structural Funds are a significant source of financing for digitisation projects and training initiatives, funding should be increased, the waiting times shortened and the applications simplified as part of the new Multiannual Financial Framework 2014-2020;

70. Recommends that the financing of digitisation projects by the European Structural Funds include commitments by supported cinemas to screen European films;

71. Furthermore, calls for mechanisms to improve support through European Regional Development Fund programmes;

72. Calls on the Commission and Member States to disseminate best practices in the area of the financing of digitisation, including market-based solutions such as small cinemas forming networks to conclude collective agreements with distributors; calls on the Commission, Member States and regions to focus public funding for digital conversion on cinemas which cannot cover their financing needs from other sources, and to keep the transitional period as short as possible;

73. Calls on the Commission to carefully examine the implications which the transition from traditional to digital cinema has for all the stakeholders and parties involved; stresses that Member States should take into account the costs for small local cinemas, and possible opportunities/consequences for the labour market, when drawing up their national digitisation programmes;

74. Considers that cinemas located in less well populated areas, where cultural events are rare, and which are not in a position to pay the costs of converting to digital, should be fitted out with digital equipment;

75. Underlines the availability of preferential loans provided by the European Investment Bank for cinemas which are pursuing digitisation and do not have proper funding;

76. Underlines the role of public-private partnerships as a method for financing the digitisation of cinemas and stresses that they should be promoted;

77. Stresses that publicly or privately funded digitisation of cinemas must not jeopardise the independence of film theatres and will not lead to a reduction in the diversity of programming and in the market share of European films;

78. Calls on the Commission to resolve this issue in the light, also, of the prolongation of the application of the Cinema Communication;

79. Notes in this respect that any public funds provided for the digitisation of cinema and film should be subject to the same scrutiny as state aid to other sectors;

80. Encourages cooperation between cinema operators, local authorities, venues, film clubs/societies and film festivals in order to best make use of digital technologies provided for by funding from EU avenues;

81. Considers that mechanisms integrating distributors and exhibitors should be implemented and calls for strengthened cooperation between small cinemas to minimise the costs of investment in digital equipment;
82. Encourages Member States to increase funding for research connected with digital cinema technology, and particularly channels for disseminating film material and the methods for compressing it, so that the network established will be interactive and offer high quality projection and at the same time allow easier use of compressed and decompressed images.

83. Highlights the importance of appropriate investment in research, funding and training for professionals already working in this field to enable them to adapt to the use of new technologies and to guarantee social inclusion and employment protection;

84. Underlines the need to implement training programmes targeted at professionals in the audiovisual sector allowing them to learn to use digital technologies and adapt to new business models, and acknowledges the success of the initiatives already under way in that field; considers that the EU must pledge support and funding for these programmes;

Virtual Print Fee (VPF)

85. Acknowledges that the so-called VPF commercial model for financing the installation of digital equipment is suitable for large cinema networks but is not an optimal solution for small and independent cinemas, which are restrained by the lack of investment funds, and that therefore the VPF financing model may also hamper cultural diversity;

86. Highlights the fact that many small, rural and art-house cinemas which mainly show European content are excluded from the VPF model and that alternative financing models, including public support, may be necessary to maintain and strengthen cultural diversity and to safeguard competitiveness;

87. Calls therefore for VPF financing models to be adjusted in accordance with the requirements and specificities of independent programme and art film cinemas;

88. Notes that financing models should be promoted which enable independent cinemas to gain access to VPF payments from all distributors; recommends organising purchasing cooperatives in order to make the advantage of group rates available to all cinemas;

Film education

89. Underlines that film education helps develop an analytical mind and train young people generally, as it enables learning about heritage to be combined with becoming aware of the complexity of the universe of images and sounds;

90. Underlines that education through film, including cinema culture and language, allows citizens to have a critical understanding of different forms of media, thereby increasing and enhancing the resources and opportunities offered by ‘digital literacy’;

91. Underlines that film education should enable citizens to gain wider knowledge, to appreciate the art of film and to reflect on the values that films convey;

92. Calls on Member States to include film education in their national education programmes;

93. Highlights the importance of film education in independent cinemas at all stages of education in order to develop audiences for European films;
94. Encourages Member States to support educational programmes in film schools and other relevant institutions on the possibilities of making films using digital technology and on digital film production and distribution;

95. Calls for high quality and up-to-date training for both technical and managerial staff to be provided for by either EU funding avenues or successful applicants to funding avenues, in order to ensure optimum use of EU-funded digital technologies;

96. Calls on Member States to develop and promote special programmes and events, for example in the framework of film festivals, to develop young European citizens’ education and taste for European films;

The MEDIA Programme

97. Acknowledges that the MEDIA Programme has supported the European audiovisual industry for more than two decades and has contributed to the development, distribution and promotion of European films, and to the training of cinema operators in digital techniques;

98. Welcomes, in this context, the commitment given by Mr Barroso on 18 March 2011 to maintain and further strengthen the MEDIA programme;

99. Stresses the importance of the MEDIA Programme in the digitisation of cinemas and calls for existing funding lines to be maintained, as well as for increased funds in the next generation of the programme to tackle the challenges brought by digital technologies;

100. Calls on the Commission to earmark funding under the new MEDIA programme for the post-2013 period and from the European Fund for Regional Development (EFRD) to support the digitisation of cinemas showing European content;

101. Points out that it is necessary for the next generation of the programme to envisage measures generating substantial added value and contributing to the overall ‘Europe 2020’ strategy;

102. Underlines that new initiatives must be introduced as part of the next generation of the MEDIA programme to improve and promote translation, dubbing, subtitling and surtitling, in order to support independent cinemas dedicated to European films;

103. Recalls that the investment in new cinema technology and the transition to digital should improve accessibility for disabled people, particularly through the introduction of audio description;

104. Calls therefore for a ‘digital programme heading’ to be included in the MEDIA programme in order to simplify conversion to digital formats;

105. Draws attention to the importance of the MEDIA continuous training programme as a tool for professionals in the sector to upgrade their skills so as to adapt to changing technologies and production methods;

106. Points out the added value of the MEDIA initial training programme which facilitates film students’ mobility in Europe, leading to better integration in the professional sector and to increased European cooperation and coproductions; in this light calls for this funding line to be increased;

107. Recommends that the MEDIA programme invest in VOD as part of its efforts to support pan-European distribution, promote transnational collaboration between platforms and reward initiatives involving cross-border collaboration;
108. Emphasises the added value of European support, particularly with regard to cross-border screening of films and in preventing further fragmentation of the European cinema market;

**Models of distribution**

109. Notes that digital technologies have affected the way in which films are distributed over a variety of platforms and devices either through linear or non-linear services;

110. Recognises that, following the initial outlay on the digitisation process, digital infrastructure will thereafter reduce distribution costs considerably, and allow small independent film distributors to give wider releases to their films and thereby reach larger audiences;

111. Recognises that the successful conversion to digital technology is inextricably linked to access to high-speed broadband, as a means of distribution of digital content, the upgrading of digital software and many other essential functions, and therefore calls on institutions which wish to upgrade to digital technologies to make provision for the dependent nature of this relationship;

112. Notes that digital technologies have fostered the rapid development of short films and video and that they allow new distribution patterns and flexible releases such as the possibility to release a film on a variety of platforms soon after theatrical release;

113. Considers furthermore that the exclusive exploitation period for film theatres should be retained to protect the diversity of cinema;

114. Points out that one weak point in the digitisation process is the fact that distributors, and especially independent distributors, receive insufficient support for digital distribution and are therefore unable to keep up with that process;

115. Encourages Member States to focus financial aid on distribution;

116. Encourages European institutions to implement preparatory actions and pilot projects aiming at testing new business models that could improve the circulation of European audiovisual works;

117. Encourages Member States to devise a strategy for establishing a digital cinema network including film studios, single-screen and multiplex cinemas and live screening facilities, using all data transmission channels, including satellite;

118. Underlines the need to accompany the development of new online exploitation methods with the implementation, at European level, of fair remuneration for audiovisual authors that is proportional to the revenues generated by these new formats and services;

**Promotion of European cinema**

119. Encourages Member States to ensure the widest possible inclusion of European films in the screening programmes of their cinemas in order to enhance their circulation and promotion across the EU, and to enable EU citizens to appreciate the richness and diversity of such films, through the widest variety of platforms;

120. Suggests that there is a need to promote and support European coproductions and that the increase in such productions may result in the wider distribution of European films across the continent;
121. Supports the activities of cinema networks, such as Europa Cinemas, that promote European film worldwide by financially and operationally helping cinemas which exhibit a significant number of European films;

122. Acknowledges the importance of supporting independent cinemas dedicated to European films (such as Europa Cinemas members) in order to reinforce their European programming policy and diversity and their competitiveness on the market;

123. Calls for technology-neutral support for all cinemas which show a high proportion of European films and for an ambitious programme, irrespective of their turnover or number of customers;

124. Encourages Member States to promote and support the dissemination and circulation of European films on their territories through dedicated events and festivals; encourages the Member States also to support the various film schools in existence in Europe;

125. Highlights that films winning awards at European festivals should be given marketing support to further facilitate international VOD releases and to help promote European cinema;

126. Recognises the role of the EP LUX Prize in promoting European films and multilingualism by translating subtitles for the winning film into all 23 official languages of the EU while also generating societal debates amongst EU citizens;

127. Proposes better cooperation and interaction with third countries aimed at raising the profile of European productions on the world market, and particularly in the Mediterranean area, promoting cultural exchanges and launching new initiatives in support of the Euro-Mediterranean dialogue and the democratic development of the whole region, not least in view of the commitments arising from the Euro-Mediterranean Conference on Cinema;

* *

* *

128. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.
EU support for the International Criminal Court

P7_TA(2011)0507

European Parliament resolution of 17 November 2011 on EU support for the ICC: facing challenges and overcoming difficulties (2011/2109(INI))

(2013/C 153 E/13)

The European Parliament,

— having regard to the Rome Statute of the International Criminal Court (ICC), which entered into force on 1 July 2002,

— having regard to the Convention on the Prevention and Punishment of the Crime of Genocide, which entered into force on 12 January 1951,

— having regard to its previous resolutions on the International Criminal Court, in particular those of 19 November 1998 (1), 18 January 2001 (2), 28 February 2002 (3), 26 September 2002 (4) and 19 May 2010 (5),

— having regard to its previous resolutions on Annual Reports on Human Rights in the World, the most recent being that of 16 December 2010 (6),


— having regard to Council Decision 2011/168/CFSP of 21 March 2011 on the International Criminal Court (8),

— having regard to the Action Plan of 4 February 2004 and to the Action Plan to follow up on the Decision on the International Criminal Court of 12 July 2011,

— having regard to the Agreement between the International Criminal Court and the European Union on cooperation and assistance (9),

— having regard to the European Security Strategy (ESS) of 2003 entitled ‘A Secure Europe in a Better World’, which was adopted by the European Council on 12 December 2003,


— having regard to Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (11), and Council Decision 2003/335/JHA of 8 May 2003 on the investigation and prosecution of genocide, crimes against humanity and war crimes (12),

(5) OJ C 161 E, 31.5.2011, p. 78.
(8) OJ L 76, 22.3.2011, p. 56.
— having regard to UN Security Council Resolutions 1593 (2005) on Sudan/Darfur and 1970 (2011) on Libya,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on Development and the Committee on Women’s Rights and Gender Equality (A7-0368/2011),

A. whereas justice, the rule of law and the fight against impunity are the pillars of sustainable peace in that they guarantee human rights and fundamental freedoms;

B. whereas as of September 2011, 117 states have ratified the Rome Statute; whereas achieving its universal ratification should nevertheless remain a primary objective;

C. whereas the universal nature of justice implies its even application, free of exceptions and double standards; whereas nowhere should be a safe haven for those who have committed genocide, crimes against humanity, extrajudicial executions, war crimes, torture, mass rape or forced disappearances;

D. whereas justice should be seen as an indispensable element underpinning peace and conflict resolution efforts;

E. whereas maintaining the independence of the ICC is crucial not only to ensuring that it is fully effective, but also to promoting the universality of the Rome Statute;

F. whereas the ICC is the first permanent international judicial body capable of trying individuals for genocide, crimes against humanity and war crimes, thus making a decisive contribution to the upholding of human rights and to international law by combating impunity, playing a crucial deterrent role and sending a clear signal that impunity for these crimes will not be tolerated;

G. whereas pursuing the ‘interests of justice’ regardless of political considerations (Article 53 of the Rome Statute) is the founding principle of the Court; whereas the ICC plays a key role in promoting international justice and thus contributing to security, justice and the rule of law, as well as to the preservation of peace and the strengthening of international security;

H. whereas the ICC has jurisdiction over crimes committed after the entry into force of the Rome Statute on 1 July 2002;

I. whereas, in accordance with the Preamble of the Statute, as well as with the principle of complementarity, the ICC only acts in instances where national courts are unable or unwilling to hold credible trials at home, so that States Parties retain the primary responsibility for prosecuting war crimes, crimes against humanity and genocide; whereas cooperation among States Parties to the Rome Statute and with regional organisations is of the utmost importance, particularly in situations where the jurisdiction of the Court is being challenged;

J. whereas the ICC’s policy of ‘positive complementarity’ supports the capacity of national courts to investigate and prosecute war crimes;
The need to enhance support for the Court through political and diplomatic action

1. Reiterates its full support for the ICC, the Rome Statute and the international criminal justice system, whose primary objective is the fight against impunity for genocide, war crimes and crimes against humanity;

2. Reiterates its full support for the Office of Prosecutor, the Prosecutor’s proprio motu powers and the progress in initiating new investigations;

3. Urges Parties and non-parties to the Rome Statute to refrain from exercising political pressure on the Court in order to preserve and guarantee its impartiality and to allow for justice based on law, rather than on political considerations, to be dispensed;
4. Underlines the importance of the principle of universality, and calls on the EEAS, the EU Member States and the Commission to continue their vigorous efforts to promote universal ratification of the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court (APIC) and national implementing legislation;

5. Welcomes the fact that the EU and most Member States made specific pledges at the Kampala conference, and recommends that the fulfilment of these pledges should take place in a timely manner and be reported back at the next Assembly of States Parties, scheduled to take place on 12-21 December 2011 in New York;

6. Welcomes the adoption of amendments to the Rome Statute, including on the crime of aggression, and calls on all EU Member States to ratify them and incorporate them into their national legislation;

7. Welcomes the review of the EU Common Position on the ICC through the adoption of a Decision on 21 March 2011, notes that the new decision takes into consideration the challenges faced by the Court and stresses that the decision provides a good basis for the EU and its Member States to assist the Court in tackling them;

8. Welcomes the revised EU Action Plan agreed on 12 July 2011 to follow up the Decision on the ICC, which outlines effective, concrete measures to be taken by the EU to deepen its future support for the Court, and encourages the Council Presidency together with the Commission, the EEAS and the Member States to make implementation of the Action Plan a priority;

9. Stresses that full and prompt cooperation between States Parties, including EU Member States, and the Court remains essential to the effectiveness and success of the international criminal justice system;

10. Calls on the EU and its Member States to comply with all requests by the Court to provide assistance and cooperation in a timely manner to ensure, inter alia, the execution of pending arrest warrants and the provision of information, including requests aimed at helping to identify, freeze and seize the financial assets of suspects;

11. Urges all the EU Member States that have not yet done so to enact national legislation on cooperation and to conclude framework agreements with the ICC for the enforcement of the Court’s sentences and on matters of investigation, collecting evidence, finding, protecting and relocating witnesses, arresting, extraditing, holding in custody and hosting indicted persons when released on bail and imprisoning sentenced persons; calls on the Member States to mutually cooperate through their police, judicial and other relevant mechanisms to ensure adequate support for the ICC;

12. Encourages the EU Member States to amend Article 83 of the Treaty of the Functioning of the European Union to add the crimes under the jurisdiction of the ICC to the list of crimes for which the EU has competences; more specifically, urges the EU Member States to transfer competences to the EU in the area of identification and confiscation of assets of persons indicted by the ICC, notwithstanding the fact that judicial proceedings are initiated by the ICC; calls on the EU Member States to cooperate in exchanging relevant information through the existing Asset Recovery Offices as well as through the Camden Asset Recovery Inter-Agency Network (CARIN);

13. Urges the EU Member States to incorporate fully the provisions of the Rome Statute and the Agreement on Privileges and Immunities of the Court (APIC) into their national legislation;
14. Welcomes the adoption at the Kampala Review Conference of amendments to the Rome Statute relating to the crime of aggression and calls on all the EU Member States to ratify them and integrate them into their national legislation; recommends that, in the interests of strengthening the universality of the Rome Statute, efforts should be made by joint agreement to achieve a more precise definition of the relevant offences establishing an act of aggression in breach of international law;

15. Notes that the Court, according to the results of the Kampala Conference, would not be able to exercise its jurisdiction over the crime of aggression until after January 2017, when a decision is to be made by States Parties to activate this jurisdiction;

16. Welcomes the contribution of some EU Member States to the fight against impunity for the worst crimes known to humanity through the application of universal jurisdiction; encourages all the EU Member States to do the same; recommends that the role of the EU Network of Contact Points for War Crimes, Crimes against Humanity and Genocide in facilitating cooperation between EU law enforcement authorities in the prosecution of serious crimes should continue to be strengthened;

17. Underlines the fundamental role of international criminal jurisdictions in fighting impunity and addressing the relevant violations of international law concerning the illegal use and recruitment of child soldiers; is firmly opposed to children under the age of 18 years being conscripted or recruited into the armed forces or used in any way in military action; points out the importance of safeguarding their rights to a peaceful childhood, education, physical integrity, safety and sexual autonomy;

18. Calls for the establishment of effective policies and enhancing mechanisms to ensure that victims’ participation at the ICC has substantive impact, including more accessible psychological, medical and legal counselling and easy access to witness protection programmes; highlights the importance of promoting awareness of sexual violence in conflict zones by means of law programmes, the documentation of gender-based crimes in armed conflicts, and the training of lawyers, judges and activists on the Rome Statute and on international jurisprudence in relation to gender-based crimes against women and children;

19. Urges the European Union and its Member States to ensure that there are training programmes for, but not limited to, police investigators, prosecutors, judges and army officials that focus, first, on the provisions of the Rome Statute and the relevant international law and, second, on the prevention, detection, investigation and prosecution of violations of these principles;

20. Takes note of the Cooperation and Assistance Agreement between the EU and the ICC; calls on the EU Member States to apply the principle of universal jurisdiction in tackling impunity and crimes against humanity, and highlights its importance for the effectiveness and success of the international criminal justice system;

21. Strongly encourages the EU and its Member States to use every diplomatic opportunity and diplomatic instrument to press for effective cooperation with the ICC, in particular with regard to the execution of pending arrest warrants;

22. Strongly encourages the EU and its Member States, with the help of the EEAS, to put in place a set of stringent internal guidelines, modelled on existing UN and ICC guidelines that are followed by the Office of the Prosecutor, outlining a code of conduct for contact between EU and Member State officials and persons wanted by the ICC, in particular when the latter still occupy official posts, regardless of their status and whether they are nationals of States Parties or non-parties to the Rome Statute;
23. Asks the EU and its Member States, in the event of a partner country issuing an invitation to, or expressing a willingness to allow, visits on its territory by an individual who is the subject of an ICC arrest warrant, to exert strong pressure on that country without delay, with a view to either arresting or supporting an arrest operation or, as a minimum, to preventing the travel of such an individual; notes that recently such invitations have been issued to Sudan's President Omar al-Bashir by Chad, China, Djibouti, Kenya and Malaysia among others;

24. Recognises the recent decision by the ICC Prosecutor to issue arrest warrants for Saif al-Islam Gaddafi and intelligence chief Abdullah al-Sanoussi of Libya in relation to the alleged crimes against humanity since the beginning of the country's uprising; stresses that their successful capture, and subsequent trial by the ICC, will serve as a crucial contribution to the fight against impunity in the region;

25. Expresses its deep concern that ICC States Parties such as Chad, Djibouti and Kenya have recently welcomed Sudan's President al-Bashir on their territories without arresting him and surrendering him to the Court, despite their clear legal obligation under the Rome Statute to arrest and surrender him;

26. Stresses the importance of strong EU action to anticipate and avoid or condemn such instances of non-cooperation; reiterates the need for the EU (and Member States) to set up an internal protocol with concrete, standard actions enabling them to respond in a timely and consistent way to instances of non-cooperation with the Court, when appropriate in coordination with mechanisms of other relevant institutions, including the Assembly of States Parties;

27. Notes that African States had a major role in creating the ICC and regards their support and close cooperation as indispensable to the Court's effective functioning and independence;

28. Calls on the African States Parties to the Rome Statute of the ICC to fulfil their obligations under the ICC Rome Statute and, in accordance with the African Union Constitutive Act, actively to support the task of holding the world's worst offenders to account by showing strong support for the Court during African Union (AU) meetings, and urges the AU to break the cycle of impunity for the gravest crimes and assist the victims of atrocities; expresses support for the Court's request to open a liaison office with the African Union in Addis Ababa;

29. Urges the EU and its Member States to mainstream the work of the ICC and the provisions of the Rome Statute in its development programmes aimed at strengthening the rule of law; calls on the EU and its Member States to provide the necessary technical, logistical and financial assistance and expertise to developing countries which have only limited resources with which to adapt their national legislation to the principles of the Rome Statute and to cooperate with the ICC, no matter whether these countries have ratified the Statute or not; further encourages the EU and its Member States to support training programmes for the police, judicial, military and administrative authorities of developing countries to introduce them to the provisions of the Rome Statute;

30. Encourages the next ACP-EU Joint Parliamentary Assembly to discuss the fight against impunity in international development cooperation and relevant political dialogue, as advocated in several resolutions and in Article 11.6 of the revised Cotonou Agreement, with a view to mainstreaming the fight against impunity and the strengthening of the rule of law within existing development cooperation programmes and actions;

31. Encourages the EEAS and the diplomatic services of the EU Member States to apply in a systematic and targeted manner the diplomatic tools used by them both to raise support for the ICC and to promote wider ratification and implementation of the Rome Statute; notes that these tools include démarches, political declarations, statements, and ICC clauses in agreements with third countries, as well as political and human rights dialogues; advises that appropriate action should be taken based on the evaluation of results;
32. Stresses the need for the ICC to expand its focus beyond situations of armed conflict and, more proactively, to investigate human rights emergencies that escalate to the level of crimes against humanity, and situations where domestic authorities are demonstrably unwilling to investigate, prosecute and punish alleged offenders;

33. Urges that the High Representative/Vice-President and the EU Member States launch diplomatic efforts to encourage UN Security Council members to pursue referrals to the ICC to open investigations into cases in which officials from States which are not a party to the Statute and which have allegedly engaged in crimes against humanity continue to enjoy ongoing impunity, including the recent situations in Iran, Syria, Bahrain, and Yemen;

34. Recognises the role of the EU in promoting the worldwide ratification of the Rome Statute and of the Agreement on Privileges and Immunities of the Court (APIC) and welcomes the recent accessions to/ratifications of the Rome Statute by Tunisia, the Philippines, the Maldives, Grenada, Moldova, St Lucia and the Seychelles, which brought the total number of States Parties to 118; calls for more Asian, North African, Middle Eastern and Sub-Saharan countries to become parties to the Rome Statute;

35. Urges the EU, and particularly the EEAS, to continue to promote the universality of the Rome Statute and of the APIC and the fight against impunity, as well as respect for, cooperation with and assistance to the Court in the context of EU relations with third countries, including within the framework of the Cotonou Agreement and of dialogues between the EU and regional organisations, such as the African Union, the Arab League, the Organisation for Security and Cooperation in Europe (OSCE), and the Association of Southeast Asian Nations (ASEAN); emphasises the importance of promoting the ratification and application of the Rome Statute for the Court in the EU’s bilateral dialogues on human rights with third countries;

36. Calls on the Commission and the EEAS to pursue more systematically the inclusion of an ICC clause in negotiating mandates and agreements with third countries;

37. Calls on the EU leaders to motivate all States that have not yet become party to the Rome Statute to become States Parties; in so doing the emphasis should be particularly on the permanent members and the non-permanent members of the UN Security Council;

38. Welcomes the participation of the United States as an observer at the Assembly of States Parties of the ICC and expresses the hope that it will soon become a State Party;

39. Welcomes Tunisia’s recent accession to the Rome Statute and hopes that this will send a positive signal to other North African and Middle Eastern countries, so that they may follow suit; further welcomes the recent ratification of the Rome Statute by the Philippines, which increases the number of Asian States in the Court’s system and gives an important signal that Asian membership in the ICC is growing, as well as the recent ratification of the Rome Statute by the Maldives and the recent bill by the National Assembly of Cape Verde authorising ratification of the Rome Statute, and hopes that its government will proceed accordingly without delay; expresses its hope that all Latin American countries will join the ICC;

40. Calls on Turkey, the only official EU candidate that has not yet done so, to become a State Party to the Rome Statute and to the Agreement on Privileges and Immunities (APIC) as soon as possible, stressing the need for any future candidate countries and potential candidate countries, as well as the partner countries covered by the European Neighbourhood Policy (ENP), to do the same;

41. Calls on the EU and its Member States to support the capacity and the political willingness of third countries – in particular ICC situation countries and countries under preliminary analysis by the ICC – to undertake national proceedings on genocide, war crimes and crimes against humanity; in that framework, calls on the EU and its Member States to support reform processes and national capacity-building efforts aimed at strengthening the independent judiciary, the law-enforcement sector and the penitentiary system in all countries directly affected by the alleged commission of serious international crimes;
42. Stresses that the effectiveness of the principle of complementarity of the Court lies in the primary obligation of its States Parties to investigate and prosecute war crimes, genocide and crimes against humanity; expresses concern that not all of the EU Member States have legislation defining these crimes under national law over which their courts can exercise jurisdiction;

43. Urges those States that have not yet done so to enact full and effective implementing legislation in transparent consultation with civil society, and to endow their national judiciaries with the necessary tools to investigate and prosecute these crimes;

44. Reaffirms the need for the EU and its Member States to enhance their diplomatic efforts among non-parties to the Rome Statute and regional organisations (e.g. the AU, ASEAN, and the Arab League) to promote a better understanding of the mandate of the ICC, i.e. its pursuit of perpetrators of war crimes, crimes against humanity and genocide, including through the development of a special communication strategy on that issue, and to foster greater support for the Court and its mandate, in particular in UN fora such as the UN Security Council;

45. Affirms the crucial role of the EU Member States' diplomatic support for the ICC's mandate and for its activities in UN fora, including the UN General Assembly and the UN Security Council;

46. Stresses the need for continued diplomatic efforts to encourage UN Security Council members to ensure the timely referral of cases, as postulated in Article 13 (b) of the Rome Statute and as most recently illustrated by the unanimous referral of the situation in Libya to the ICC by the UN Security Council; also expresses its hope that the UN Security Council will refrain from deferring investigations or prosecutions of the Court as postulated in Article 16 of the Rome Statute;

47. Calls on the UN Security Council members and the UN General Assembly members to find appropriate ways and means for the UN to provide the Court with financial resources to cover the costs related to the opening of investigations and prosecutions into situations referred by the UN Security Council in accordance with Article 115 of the Rome Statute;

48. Calls on the EU Member States to ensure that coordination and cooperation with the ICC is included in the mandate of relevant regional EU Special Representatives (EUSRs); calls on the High Representative to appoint an EUSR on International Humanitarian Law and International Justice with the mandate to promote, mainstream and represent the EU’s commitment to the fight against impunity and the ICC across EU foreign policies;

49. Calls on the EEAS to ensure that the ICC is mainstreamed across the EU's foreign policy priorities, by systematically taking into account the fight against impunity and the principle of complementarity in the broader context of development and rule of law assistance, and in particular to encourage transition states in the Southern Mediterranean to sign and ratify the Rome Statute;

50. Affirms that the EU should ensure that the EEAS has the necessary expertise and high-level capacity to make the ICC a real priority; recommends that the EEAS ensure adequate staffing levels both in Brussels and within delegations of officials tasked with handling international justice issues, and that the EEAS and the European Commission further develop staff training on international justice and ICC issues, establishing a staff exchange programme with the ICC in order to promote mutual institutional knowledge and facilitate further cooperation;
51. Urges all the States Parties to the ICC, the EU and the ICC itself, including the Office of the Prosecutor, to make every effort to prosecute and punish the perpetrators of sex crimes against humanity, which are a specific category of the crimes against humanity falling within the jurisdiction of the ICC (Article 7 of the Rome Statute) and include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence of comparable gravity, along with persecution on gender grounds; notes that such sex crimes are particularly despicable insofar as they are often perpetrated on a large scale and constitute war crimes as well as crimes against humanity (Article 8 of the Rome Statute) targeting the most vulnerable groups – women, children and civilians – in countries already weakened by conflicts and/or food shortages or famine;

52. In the context of the upcoming election of six new Judges and a new Prosecutor, to take place at the December 2011 session of the Assembly of States Parties, urges EU Member States to elect the most highly qualified candidates through a fair, transparent and merit-based process, ensuring both geographic and gender balance, and to encourage States from regions that benefit from Minimum Voting Requirements (such as the Group of Latin America and Caribbean Countries (GRULAC)) to take advantage of this and nominate sufficient candidates, thus ensuring balanced regional representation on the bench; notes that the election of a new Prosecutor is of the utmost importance for the effectiveness and legitimacy of the Court, and expresses appreciation for the work of the Search Committee established by the Bureau of the Assembly of States Parties;

53. Welcomes proposals for establishing an advisory committee to receive and review all nominations of new judges as postulated in Art. 36(4c) of the Rome Statute as well as the establishment of a search committee for the ICC Prosecutor, and expresses its opinion that the work of the search committee should not be influenced by political considerations;

The need to ensure further financial and logistical assistance for the Court

54. Welcomes the EU's and individual Member States' financial and logistical support for the ICC thus far and recommends that current forms of support, either through the regular budget of the ICC funded by States Parties' contributions or through EU funding such as the European Instrument for Democracy and Human Rights (EIDHR), are continued, especially in the following fields: outreach activities aimed at helping victims and affected communities; legal representation; witness relocation; the participation and protection of victims/witnesses, with special consideration for the needs of women and juvenile/child victims; the provision of support enabling the Court to cover urgent operational needs stemming from new investigations; calls on the EU and its Member States to support the Court's efforts to enhance its field presence, recognising the importance of the ICC field presence for promoting understanding and support for its mandate, as well as involving and assisting communities victimised by crimes falling under the Court's jurisdiction; expresses its concern that the lack of resources remains an impediment to the optimal functioning of the Court;

55. Stresses the significant impact of the Rome Statute system on victims, individuals and communities affected by the crimes under the Court's jurisdiction; considers the Court's outreach efforts crucial to promoting understanding and support for its mandate of managing expectations and enabling victims and affected communities to follow and understand the international criminal justice process and the work of the Court;

56. Recommends that the EU Member States continue to provide adequate funding for the ICC Trust Fund for Victims (in order to complement potential upcoming reparation awards while continuing to carry out current assistance activities) and to contribute to the newly established ICC Special Fund for Relocations, to the Fund for family visits of detainees at the seat of the Court in The Hague, to the Legal Aid Programme and to the costs associated with maintaining and expanding the ICC field presence;

57. Strongly supports the ICC's efforts to expand and strengthen its field presence as this is key to improving its ability to carry out its functions, including investigations, outreach to victims and affected communities, witness protection and facilitating victims' rights to participation and reparations and which, in addition, is a crucial factor in enhancing the Court's impact and its ability to leave a strong and positive legacy;
58. Encourages the EU to secure adequate and stable funding for civil society actors working on ICC-related issues within the European Instrument for Democracy and Human Rights (EIDHR), and encourages the EU Member States and existing European foundations to continue their support for such actors;

59. Encourages the EU Member States and the EEAS to start discussions relating to the review of current EU financial instruments, in particular the European Development Fund (EDF) with a view to examining how they could further contribute to supporting complementarity activities in beneficiary countries in order to boost the fight against impunity within these countries;

60. Recognises the current efforts by the Commission to establish an 'EU Complementarity Toolkit' aimed at developing national capacities for the investigation and prosecution of alleged international crimes, and encourages the Commission to ensure its implementation, with a view to integrating complementarity-related activities into aid programmes and achieving better coherence among the various EU instruments;

61. Calls on all the ICC States Parties to promote joint efforts to improve trials at national level of the most serious crimes, such as war crimes, crimes against humanity, and genocide;

62. Welcomes the initiative of the Commission of organising a seminar for European and African civil society to discuss international justice in Pretoria in April 2011, takes notes of the recommendations from that meeting and calls on the Commission to continue to support such opportunities;

63. Recalls that the European Parliament was one of the earliest vocal supporters of the Court and notes its essential role in monitoring EU action in this matter; calls for the insertion of a section on the fight against impunity and the ICC in the EP Annual Report on Human Rights in the world and further suggests that the European Parliament play a more proactive role by promoting and mainstreaming the fight against impunity and the ICC in all EU policies and institutions, including in the work of all the committees, groups and delegations with third countries;

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

EU-US Summit of 28 November 2011

P7_TA(2011)0510

European Parliament resolution of 17 November 2011 on the EU-US Summit of 28 November 2011

(2013/C 153 E/14)

The European Parliament,

— having regard to its previous resolutions on transatlantic relations,

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

A. whereas, although many global challenges in the field of foreign policy, security, development and the environment call for joint action and transatlantic cooperation, the current economic crisis has leapt to the fore as the main challenge to be addressed today;
B. whereas together the EU and the US account for half the global economy, and whereas their USD4.28 trillion partnership is the largest, most integrated and longest lasting economic relationship in the world and a key driver of global economic prosperity;

C. whereas the ongoing financial and economic crises, both in Europe and in the United States, are threatening the stability and prosperity of our economies and the welfare of our citizens, and whereas the need for closer economic cooperation between Europe and the United States, in order to combat these crises, has never been more pressing;

D. whereas the imperative of safeguarding freedom and security at home should not be met at the cost of sacrificing core principles relating to civil liberties and the need to uphold common standards on human rights;

E. whereas the transatlantic partnership is founded on shared core values, such as freedom, democracy, human rights and the rule of law, and on common goals, such as social progress and inclusiveness, open and integrated economies, sustainable development and the peaceful resolution of conflicts, and is the cornerstone of security and stability in the Euro-Atlantic area;

**Jobs and growth**

1. Welcomes the conclusions of the G20 Summit held in Cannes on 3-4 November 2011, in particular as regards the Action Plan for Growth and Jobs, reform to strengthen the international monetary system, continued efforts to improve financial regulation and commitments to boost multilateral trade and avoid protectionism; regards it as essential that at the EU-US Summit both partners should pledge to take a leading role in implementing the G20 commitments; notes the G20’s discussion of a set of options for innovative financing and that the EU is continuing to develop the idea of a financial transaction tax;

2. Calls on the EU and the US Administration to develop and launch a joint transatlantic initiative for jobs and growth, including a roadmap for promoting trade and investment;

3. Calls for the EU and US to establish an early-warning mechanism to detect and deter protectionism in their bilateral relations; recalls the significance for transatlantic trade of open procurement markets that offer equal access to all suppliers, in particular to small and medium-sized businesses, and therefore calls on the USA to refrain from introducing any ‘Buy American’ requirements; stresses the importance of the WTO Government Procurement Agreement (GPA) in ensuring open and balanced access of this kind to both markets;

4. Emphasises the need to strengthen the Transatlantic Economic Council (TEC) process in order to achieve these objectives, in particular the development of common standards for new areas requiring regulation, such as nanotechnology, or emerging economic sectors, such as electric vehicle technology; urges the EU and the US to involve the representatives of the Transatlantic Legislators’ Dialogue (TLD) closely in the TEC, as legislators share with their respective executive branches responsibility for the implementation and oversight of many TEC decisions;

5. Encourages EU-US exchanges of experience and best practice concerning ways of encouraging entrepreneurship, including through support for start-ups and the handling of bankruptcies;
6. Emphasises the need to strengthen cooperation efforts in the framework of a research and innovation partnership;

7. Stresses the need to adopt and implement an EU-US Raw Materials Roadmap to 2020 with a particular focus on rare earths, which should promote cooperation on resource efficiency, innovation in extraction and recycling technologies for raw materials, and research into substitution; calls for a transatlantic strategy to foster global governance relating to raw materials through cooperative endeavours such as an International Raw Materials Forum akin to the International Energy Forum;

8. Emphasises the importance of cooperation in promoting energy efficiency, renewables and high nuclear safety standards worldwide, and welcomes the continued coordination of energy-efficient labelling programmes for office equipment and cooperation on the development of energy technologies;

9. Calls on the Commission to push forward the negotiations with the US in the area of product safety, and welcomes the introduction of a legal basis which will enable the US Consumer Product Safety Committee to negotiate with the EU on an agreement to improve the exchange of information on dangerous products, injuries and corrective action taken both in the EU Member States and the US;

Global governance, foreign policy and development

10. Recalls that free and open democracies promote peace and stability and are the best guarantee of global security, and calls on the EU and the US to further step up cooperation to promote peace, in particular in the Middle East, and to support emerging democracies in North Africa;

11. Urges the EU and US to push for a resumption of direct negotiations between Israel and the Palestinians in full compliance with international law, leading to a two-state solution on the basis of the 1967 borders and with Jerusalem as capital of both states, with a secure State of Israel and an independent, democratic and viable State of Palestine living side by side in peace and security; calls on the Member States and the US to address the legitimate demand of the Palestinians to be represented as a state at the United Nations as a result of negotiations within the UN framework;

12. Calls, in particular, for an EU-US common initiative in order to persuade the Israeli Government to reverse its decision to speed up the construction of 2 000 units in the West Bank and to withhold the customs receipts it owes to the Palestinian National Authority as a response to the admission of Palestine to UNESCO;

13. Strongly condemns the escalating use of force in Syria, and supports the efforts made by the US and the EU Member States in the UN Security Council to secure a resolution condemning and calling for an end to the use of lethal force by the Syrian regime and providing for sanctions should it fail to comply; welcomes the Arab League's suspension of Syria's membership, and welcomes the calls by King Abdullah of Jordan for President Bashar al-Assad to step down;

14. Calls on both the EU and the US to continue to support the Libyan transitional authorities in all endeavours to build an inclusive and democratic society; emphasises, at the same time, that this support must be conditional on respect for human rights and the rule of law and political participation for all citizens, in particular women;
15. Expresses deep concern at the allegations made in the latest report by the International Atomic Energy Agency (IAEA) about the progress made by Iran towards achieving the know-how necessary to design and construct a nuclear weapon; deplores the fact that Iran, despite repeatedly insisting that its nuclear programme is being conducted for peaceful, civilian energy-generation purposes only, has failed to cooperate fully with the IAEA; believes that the EU and the US should continue to work closely together and within the P5+1 to maintain strong pressure on Iran, using all political, diplomatic and economic means, including sanctions, in order to persuade it to meet its international non-proliferation obligations and to deter and contain the threats it poses to international security;

16. Emphasises that together the EU and the US manage 90 % of global development assistance in the area of health and 80 % of overall aid; welcomes the re-launch of the EU-US Development Dialogue in September 2011, because there are only five years left to achieve the Millennium Development Goals;

17. Calls on the EU and the US to push for action at the G20 to bring about greater global cooperation on tackling abusive food-price speculation and excessive fluctuations in global food prices; stresses that the G20 must involve non-G20 countries in order to ensure global convergence;

18. Emphasises that the Summit should also be used to exchange points of view and strengthen coordination vis-à-vis third countries, in particular the BRICs;

19. Emphasises that climate change is a global concern, and calls on the Commission to seek an ambitious US commitment to achieving progress at the forthcoming Durban Conference, with a view to ensuring that a detailed mandate is drawn up to conclude negotiations for a global comprehensive climate agreement by 2015; is concerned, in that connection, about Bill 2594, recently adopted by the US House of Representatives, which calls for a ban on US airlines taking part in the EU Emissions Trading Scheme; calls on the US Senate not to adopt this bill, and calls for a constructive dialogue on this topic;

20. Calls on the EU-US Summit to take into account issues such as climate protection, resource scarcity and efficiency, energy security, innovation and competitiveness in discussions on the economy; reiterates that internationally coordinated action helps to address the carbon-leakage concerns of relevant sectors, in particular energy-intensive sectors;

**Freedom and security**

21. Recognises that all flows of passengers and goods in the transatlantic area should be subject to proper and proportional security measures;

22. Calls, in that connection, on the US to move away from broad general restrictions, such as 100 % container scanning or the banning of liquids on-board aircraft, towards more targeted and risk-based approaches, such as secure operator schemes and the scanning of liquids;

23. Welcomes, in that connection, the opening in March 2011 of negotiations on the EU-US agreement on the protection of personal data; notes the Commission’s announcement of the conclusion of the negotiations of an EU-US Passenger Name Record (PNR) agreement, which will be scrutinised by Parliament in the light of the requirements set out in its resolutions of 5 May 2010 (*) and 11 November 2010 (†);

(*) OJ C 81 E, 15.3.2011, p. 70
The open internet and net neutrality in Europe

P7_TA(2011)0511

European Parliament resolution of 17 November 2011 on the open internet and net neutrality in Europe

(2013/C 153 E/15)

The European Parliament,

— having regard to the Commission Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions of 19 April 2011 on the open internet and net neutrality in Europe (COM(2011)0222),


— having regard to the Commission declaration of 18 December 2009 on net neutrality (1),


— having regard to Articles 20(1)(b), 21(3)(c) and (d) and 22(3) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services, as amended by Directive 2009/136/EC,

— having regard to Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office,

— having regard to its resolution of 6 July 2011 on European Broadband: investing in digitally driven growth (1),

— having regard to the Commission Communication of 19 May 2010 entitled ‘A Digital Agenda for Europe’ (COM(2010)0245),

— having regard to the Council Conclusions of 31 May 2010 on ‘Digital Agenda for Europe’,

— having regard to the Commission Communication of 13 April 2011 entitled ‘Single Market Act: twelve levers to boost growth and strengthen confidence – Working together to create new growth’ (COM(2011)0206),

— having regard to the summit on ‘The open internet and net neutrality in Europe’ co-organised by Parliament and the Commission in Brussels on 11 November 2010,

— having regard to the Committee on Internal Market and Consumer Protection study entitled ‘Network Neutrality: challenges and responses in the EU and in the US’ (IP/A/IMCO/ST/2011-02), of May 2011,

— having regard to the Opinion of the European Data Protection Supervisor (EDPS), of 7 October 2011, on net neutrality, traffic management and the protection of privacy and personal data,

— having regard to Rules 115(5) and 110(2) of its Rules of Procedure,

A. whereas the Council is planning to adopt conclusions on the open internet and net neutrality in Europe at the Transport, Telecommunications and Energy Council on 13 December 2011;

B. whereas Member States should have complied with the 2009 EU ‘Telecoms’ reform package by 25 May 2011, and the Commission has already taken necessary steps to ensure that the principles of the EU Treaty and the acquis communautaire are respected;

C. whereas Parliament has called on the Commission to safeguard the principles of the neutrality and openness of the internet and to promote end users’ ability to access and distribute information and run applications and services of their choice;

D. whereas the Commission has asked BEREC to investigate the barriers to switching operators, the blocking or throttling of internet traffic, and transparency and quality of service in Member States;

E. whereas the internet’s open character has been a key driver of competitiveness, economic growth, social development and innovation – which has led to spectacular levels of development in online applications, content and services – and thus of growth in the offer of, and demand for, content and services, and has made it a vitally important accelerator in the free circulation of knowledge, ideas and information, including in countries where access to independent media is limited;

F. whereas there are third countries that have prevented mobile broadband providers from blocking lawful websites and VoIP or video-telephony applications that compete with their own voice or video telephony services;

(1) Texts adopted, P7_TA(2011)0322.
G. whereas, internet services are offered on a cross-border scale, and the internet is at the very centre of the global economy;

H. whereas, in particular, as underlined in the Digital Agenda for Europe, broadband and internet are important drivers for economic growth, job creation and European competitiveness at global level;

I. whereas Europe will only be capable of fully exploiting the potential of a digital economy through stimulation of a properly functioning internal digital market;

1. Welcomes the Commission's communication and agrees with its analysis, in particular on the necessity of preserving the open and neutral character of the internet as a key driver of innovation and consumer demand, while ensuring that the internet can continue to provide high-quality services in a framework that promotes and respects fundamental rights;

2. Notes that the conclusions of the Commission's communication indicate there is, at this stage, no clear need for additional European-level regulatory intervention on net neutrality;

3. Points, however, to the potential for anti-competitive and discriminatory behaviour in traffic management, in particular by vertically integrated companies; welcomes the Commission's intention to publish the evidence emerging from BEREC's investigations into practices potentially affecting net neutrality in Member States;

4. Asks the Commission to ensure the consistent application and enforcement of the existing EU 'Telecoms' regulatory framework for communications and to assess, within six months of publication of the findings of BEREC's investigation, whether further regulatory measures are needed in order to ensure freedom of expression, freedom of access to information, freedom of choice for consumers, and media pluralism, to achieve effective competition and innovation, and to facilitate wide-ranging benefits in terms of citizens', businesses' and public administration uses of the internet; emphasises that any European regulatory proposal in the area of net neutrality should be subject to an impact assessment;

5. Welcomes BEREC's work in this area and calls on the Member States, and in particular the national regulatory authorities (NRAs), to work closely with BEREC;

6. Calls on the Commission, together with BEREC in cooperation with Member States, closely to monitor the development of traffic-management practices and interconnection agreements, in particular in relation to blocking and throttling of, or excessive pricing for, VoIP and file sharing, as well as anticompetitive behaviour and excessive degradation of quality, as required by the EU 'Telecoms' regulatory framework; calls further on the Commission to ensure that internet service providers do not block, discriminate against, impair or degrade the ability of any person to use a service to access, use, send, post, receive or offer any content, application or service of their choice, irrespective of source or target;

7. Asks the Commission to provide Parliament with information on current traffic-management practices, the interconnection market and network congestion, as well as any relationship to lack of investment; calls on the Commission to analyse further the issue of 'device neutrality';

8. Calls on the Commission, the Member States and BEREC to ensure consistency in the approach to net neutrality and effective implementation of the EU 'Telecoms' regulatory framework;
9. Emphasises that any solution proposed on the issue of net neutrality can be effective only through a consistent European approach; therefore asks the Commission to follow closely the adoption of any national regulations related to net neutrality, in terms of their effects on the respective national markets as well as the internal market; considers it would benefit all stakeholders if the Commission were to provide EU-wide guidelines, including with regard to the mobile market, to ensure that the provisions of the ‘Telecoms’ package on net neutrality are properly and consistently applied and enforced;

10. Underlines the importance of cooperation and coordination among the Member States, and in particular among the NRAs, together with the Commission, in order for the EU to benefit from the full potential of the internet;

11. Draws attention to the serious risks of departing from network neutrality – such as anticompetitive behaviour, the blocking of innovation, restrictions on freedom of expression and media pluralism, lack of consumer awareness and infringement of privacy – which will be detrimental to businesses, consumers and democratic society as a whole, and recalls the opinion of the EDPS on the impact of traffic-management practices on the confidentiality of communications;

12. Points out that the EU ‘Telecoms’ regulatory framework aims to promote freedom of expression, non-discriminatory access to content, applications and services, and effective competition, and therefore that any measure in the area of net neutrality should, alongside existing competition law, aim to tackle anti-competitive practices that may emerge, and should lead to investment and facilitate innovative business models for the online economy;

13. Considers the principle of net neutrality as a significant prerequisite for enabling an innovative internet ecosystem and for securing a level playing field at the service of European citizens and entrepreneurs;

14. Considers effective competition in electronic communication services, transparency in relation to traffic management and to quality of service, as well as ease of switching, to be among the minimum necessary conditions for net neutrality, assuring end users that they can enjoy freedom of choice and requests;

15. Recognises that reasonable traffic management is required to ensure that the end user’s connectivity is not disrupted by network congestion; notes that, in this context, operators may, subject to the scrutiny of the NRAs, use procedures to measure and shape internet traffic in order to maintain networks’ functional capacity and stability and to meet quality-of-service requirements; urges the competent national authorities to use their full powers under the Universal Services Directive to impose minimum quality-of-service standards, and believes that ensuring quality in time-critical service traffic shall not be an argument for abandoning the ‘best effort’ principle;

16. Urges the competent national authorities to ensure that traffic-management interventions do not involve anti-competitive or harmful discrimination; believes specialised (or managed) services should not be detrimental to the safeguarding of robust ‘best effort’ internet access, thus fostering innovation and freedom of expression, ensuring competition and avoiding a new digital divide;

**Consumer protection**

17. Calls for transparency in traffic management, including better information for end users, and stresses the need to enable consumers to make informed choices and to have the effective option of switching to a new provider that can best meet their needs and preferences, including in relation to the speed and volume of downloads and services; points out, in this regard, the importance of providing consumers with clear, effective, meaningful and comparable information on all relevant commercial practices with equivalent effect, and in particular on mobile internet;
18. Calls on the Commission to publish further guidance about the right to switch operators, so as to comply with transparency requirements and promote equal rights for consumers across the EU;

19. Notes consumers’ emerging concerns in relation to the discrepancy between advertised and actual delivery speeds from internet connections; calls on the Member States, in this regard, consistently to enforce the ban on misleading advertising;

20. Recognises the need to create ways of enhancing citizens’ trust and confidence in the online environment; calls on the Commission and the Member States, therefore, to pursue the development of educational programmes that aim to increase consumers’ ICT skills and reduce digital exclusion;

21. Calls on the Commission to invite consumer and civil society representatives to participate actively and equally with industry representatives in the discussions on the future of the internet in the EU;

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

Banning cluster munitions

P7_TA(2011)0512

European Parliament resolution of 17 November 2011 on banning cluster munitions

(2013/C 153 E/16)

The European Parliament,

— having regard to the Convention on Cluster Munitions, which entered into force on 1 August 2010 and which on 8 November 2011 had been endorsed by 111 states (108 signatories, including three EU Member States, 63 ratifications, including 19 EU Member States, and three accessions),

— having regard to Draft Protocol VI on Cluster Munitions, dated 26 August 2011, to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW),

— having regard to the resolution adopted by the United Nations General Assembly on 2 December 2008 on the Convention on Cluster Munitions,

— having regard to the message from the UN Secretary-General to the Second Meeting of States Parties to the Convention on Cluster Munitions, delivered by Sergio Duarte, High Representative for Disarmament Affairs, in Beirut on 13 September 2011,

— having regard to the declarations by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, in particular that of 1 August 2010 on the Convention on Cluster Munitions and that of 29 April 2011 on the reported use of cluster munitions in Libya,

— having regard to its resolution of 20 November 2008 on the Convention on Cluster Munitions (1),

— having regard to its resolution of 8 July 2010 on the entry of force of the Convention on Cluster Munitions (CCM) and the role of the EU (1),

— having regard to its resolution of 7 July 2011 on progress on mine action (2),

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

A. whereas cluster munitions pose serious risks to civilians, owing to their typically large lethal footprint, and whereas in post-conflict settings the use of these munitions has caused many tragic injuries to and deaths of civilians, as unexploded submunitions are often found by children and other unsuspecting innocents;

B. whereas the support of most EU Member States, parliamentary initiatives and the work of civil society organisations have been decisive in the successful conclusion of the 'Oslo Process' resulting in the entry into force of the Convention on Cluster Munitions (CCM); whereas 22 EU Member States are States Parties to the CCM, and five EU Member States have neither signed nor ratified the CCM;

C. whereas the CCM prohibits States Parties from using, developing, producing, otherwise acquiring, stockpiling, retaining or transferring cluster munitions to anyone, directly or indirectly, and from assisting, encouraging or inducing anyone to engage in any activity prohibited to a State Party under the Convention;

D. whereas the CCM establishes a new humanitarian standard for the assistance of victims, who include those persons directly affected by cluster munitions and their families and communities;

E. whereas the draft text of Protocol VI to the CCW to be discussed at the Fourth CCW Review Conference is neither legally compatible with nor complementary to the CCM; whereas, while States Parties to the CCM are legally bound to destroy all munitions, this draft protocol would only ban pre-1980 cluster munitions, provides for a lengthy transitional period that would enable compliance to be deferred for at least 12 years, would allow the use of cluster munitions with only one self-destruction mechanism, and would permit states to use cluster munitions with a so-called failure rate of 1% or less;

F. whereas since the signing of the CCM cluster munitions have reportedly been used recently against the civilian population in Cambodia, Thailand and Libya, and whereas urgent steps must now be taken to ensure that unexploded cluster submunitions are cleared in order to prevent further deaths or injuries;

1. Calls on the Member States not to adopt, endorse or subsequently ratify any protocol to the CCW allowing for the use of cluster munitions, which are prohibited under the CCM, and calls on the Council and the Member States to act accordingly at the Fourth CCW Review Conference to be held from 14 to 25 November 2011 in Geneva;

2. Deeply regrets the fact that the draft text of Protocol VI to be discussed at that conference threatens to undermine the clear and robust international humanitarian law standard established by the CCM, which comprehensively bans cluster munitions, and would also weaken the protection of civilians;

(2) Texts adopted, P7_TA(2011)0339.
Thursday 17 November 2011

3. Urges states to acknowledge the humanitarian consequences and high political cost of supporting this proposed draft protocol, which is full of exceptions and loopholes that would allow cluster munitions to be used;

4. Calls on the Member States and candidate countries which are not States Parties to the CCM to accede to it and on the States Signatories to the CCM to ratify it as soon as possible;

5. Considers that Protocol VI to the CCW is not compatible with the CCM and that the Member States which have signed the CCM have a legal obligation to strongly oppose and reject its introduction;

6. Strongly urges the VP/HR to remind the Member States of their legal obligations under the CCM: calls on the VP/HR to place specific emphasis on the thematic objective of reducing the cluster munitions threat and to bring about the accession of the European Union to the CCM, which is now possible following the entry into force of the Lisbon Treaty;

7. Welcomes the fact that 15 States Parties and signatories have completed stockpile destruction and a further 12 will do so by their deadline and that clearance operations are underway in 18 countries and three other areas;

8. Calls on the Member States which have not yet acceded to the CCM but wish to reduce the humanitarian impact of cluster munitions to take strong and transparent national measures pending accession, including the adoption of a moratorium on the use, production and transfer of cluster munitions, and to make a start on destroying cluster munitions stockpiles as a matter of urgency;

9. Calls on the Member States which have signed the CCM to pass legislation to implement it at national level; urges Member States to be transparent about the efforts they make in response to this resolution and to report regularly, for example to their parliaments, on their activities under the CCM;

10. Calls on the Council and Commission to include a reference to the ban on cluster munitions as a standard clause in agreements with third countries, alongside the standard clause on the non-proliferation of weapons of mass destruction, particularly in the context of the EU’s relations with its neighbours;

11. Calls on the Council and Commission to make the fight against cluster munitions an integral part of Community external assistance programmes in order to support third countries in destroying stockpiles and providing humanitarian assistance;

12. Calls on the Member States, the Council and the Commission to take steps to discourage states from providing cluster munitions to non-state actors;

13. 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 and candidate countries, the UN Secretary-General and the Cluster Munitions Coalition.
Modernisation of VAT legislation in order to boost the digital single market

P7_TA(2011)0513

European Parliament resolution of 17 November 2011 on the modernisation of VAT legislation in order to boost the digital single market

(2013/C 153 E/17)

The European Parliament,

— having regard to the question of 30 September 2011 to the Commission on the modernisation of VAT legislation in order to boost the digital single market (O-000226/2011 – B7-0648/2011),

— having regard to Articles 113 and 167 of the Treaty on the Functioning of the European Union (TFEU),


— having regard to the Commission communication entitled ‘A Digital Agenda for Europe’ (COM(2010)0245),

— having regard to the Commission’s Green Paper on the future of VAT (COM(2010)0695),

— having regard to its resolution of 12 May 2011 on unlocking the potential of cultural and creative industries (3),

— having regard to its resolution of 13 October 2011 on the future of VAT (4),

— having regard to the OECD Guidelines on the Neutrality of VAT,

— having regard to Rules 115(5) and 110(4) of its Rules of Procedure,

A. whereas one of the EU 2020 strategy’s flagship initiatives involves the creation of a digital single market;

B. whereas the EU digital single market remains fragmented;

C. whereas the economic crisis has severely damaged economic growth prospects, and whereas the digital economy has the potential to contribute significantly to the prosperity of Europe in the years to come;

D. whereas the US Internet Tax Freedom Act, which came into force in 1998 and has since been extended, and which prohibits the application by federal and local government of discriminatory sales tax rates on online sales, has had a significant impact on e-commerce and has contributed to the setting up of companies that now dominate global markets;

(3) Texts adopted, P7_TA(2011)0240.
E. whereas the EU needs to fulfil the potential of the single market by facilitating online and cross-border trade among Member States;

F. whereas the Commission is currently looking into the future of VAT, and whereas the EU 2020 strategy must be taken into account in this connection;

1. Points out that the current legal framework, with particular reference to Annex 3 to Directive 2006/112/EC, is a barrier to the development of new digital services and thus inconsistent with the goals set out in the digital agenda;

2. Considers that the VAT rates applicable to books illustrate the shortcomings of current legislation in that, while Member States may apply reduced VAT rates to the supply of books on all physical media, e-books are subject to a standard rate of no less than 15%; takes the view that this discrimination is untenable, given the potential growth of this segment of the market;

3. Stresses that the EU must be ambitious and go beyond merely remedying the inconsistencies of the current legal framework; takes the view that encouraging companies to develop and offer new pan-European online services should be a priority in the review of VAT rules;

4. Points out, however, that the EU should develop solutions tailored to its own needs; considers that, with a view to developing a genuine single market, EU law could allow Member States to apply, on a temporary basis, a reduced VAT rate to electronically supplied services with a cultural content;

5. Considers that this new category, which would be included in the current Annex 3 to Directive 2006/112/EC, could cover the provision of online services, such as TV, music, books or newspapers and magazines, by a supplier established within the EU to any consumer resident in the EU;

6. Points out that digital distribution of cultural, journalistic and creative content enables authors and content providers to reach new and larger audiences; takes the view that the EU needs to push ahead with the creation, production and distribution (on all platforms) of digital content and that the application of a reduced VAT rate to online cultural content could certainly boost growth;

7. Draws attention to the OECD principles on the taxation of e-commerce which were agreed at a conference in Ottawa in 1998 and which establish that rules governing consumption taxes, such as VAT, should result in taxation in the jurisdiction where consumption takes place; points out that, in accordance with Directive 2008/8/EC, the OECD principles will apply to the EU as from 1 January 2013;

8. Considers that a review of VAT legislation giving more flexibility to Member States on the application of reduced VAT rates should go hand in hand with the application of the principles laid down in Directive 2008/8/EC; points out, however, that in order to enable all Member States to benefit equally from the digital single market, the principle of taxation in the Member State where consumption takes place should apply as soon as possible; stresses that any review should lead to the simplification of the VAT system, with, for example, a one-stop shop for VAT and the elimination of double taxation;

9. Calls, therefore, on the Commission to look into the possibility of reviewing Directive 2008/8/EC with a view to requiring VAT to be paid in accordance with the destination principle by 1 January 2015;

10. Instructs its President to forward this resolution to the Council and the Commission, and the governments and parliaments of the Member States.
Negotiations of the EU-Georgia Association Agreement

P7_TA(2011)0514

European Parliament resolution of 17 November 2011 containing the European Parliament’s recommendations to the Council, the Commission and the EEAS on the negotiations of the EU-Georgia Association Agreement (2011/2133(INI))

(2013/C 153 E/18)

The European Parliament,

— having regard to the ongoing negotiations between the EU and Georgia on the conclusion of an association agreement,

— having regard to the conclusions of the Extraordinary European Council of 1 September 2008, and the conclusions of the European Union External Relations Council of 15 September 2008,

— having regard to the Council conclusions on Georgia of 10 May 2010 adopting the negotiating directives,

— having regard to the Partnership and Cooperation Agreement (PCA) between Georgia and the European Union, which entered into force on 1 July 1999,

— having regard to the ceasefire agreement of 12 August 2008, mediated by the EU and signed by Georgia and the Russian Federation, and the implementation agreement of 8 September 2008,

— having regard to the speech by Mikheil Saakashvili, the President of Georgia, to the European Parliament on 23 November 2010,

— having regard to the Joint Declaration of the Prague Eastern Partnership Summit of 7 May 2009,

— having regard to the Foreign Affairs Council conclusions on the Eastern Partnership of 25 October 2010,

— having regard to the Joint Communication on ‘A new response to a changing Neighbourhood’ of 25 May 2011,

— having regard to the joint EU-Georgia European Neighbourhood Policy (ENP) Action Plan, endorsed by the EU-Georgia Cooperation Council on 14 November 2006, laying out the strategic and specific objectives based on commitments to shared values and effective implementation of political, economic and institutional reforms,

— having regard to the European Commission Progress Report on Georgia adopted on 25 May 2011,

— having regard to the EU-Georgia visa facilitation and readmission agreements that entered into force on 1 March 2011,

— having regard to the Joint Declaration on a Mobility Partnership between the EU and Georgia of 30 November 2009,

— having regard to the European Commission’s key recommendations in relation to Georgia’s preparations for the opening of DCFTA negotiations with Georgia issued in 2009,

— having regard to the signature of the Agreement between the EU and Georgia on protection of geographical indications of agricultural products and foodstuffs of 14 July 2011,
Thursday 17 November 2011

— having regard to the signature of the Common Aviation Area Agreement between the EU and its Member States and Georgia of 2 December 2010,

— having regard to Special Report No 13/2010 by the European Court of Auditors concerning the results of the European Neighbourhood and Partnership Instrument (ENPI) in the Southern Caucasus,

— having regard to its resolutions on Georgia of 3 September 2008 (1), on the need for an EU Strategy for the South Caucasus of 20 May 2010 (2) and on the Review of the European Neighbourhood Policy - Eastern Dimension of 7 April 2011 (3),

— having regard to Rules 90(4) and 48 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs (A7-0374/2011),

A. whereas the Eastern Partnership has created a meaningful political framework for deepening relations, accelerating political association and furthering economic integration between the EU and Georgia, by supporting political and socioeconomic reforms and facilitating rapprochement with the EU;

B. whereas the Eastern Partnership provides for the strengthening of bilateral relations by means of new association agreements, taking into account the specific situation and ambition of each partner country and its ability to comply with the resulting commitments;

C. whereas the active engagement of Georgia and a commitment to shared values and principles, including democracy, the rule of law, good governance and respect for human rights, are essential to take the process forward and to make the negotiation and subsequent implementation of the association agreement a success and ensure that it has a sustainable impact on the development of the country;

D. whereas legal approximation is an important tool for fostering cooperation between the EU and Georgia;

E. whereas Georgia is one of the best-performing partners of the Eastern Partnership in adopting reforms, although problems still persist as regards their implementation; whereas further improvement is needed regarding reforms in the justice system, and labour rights, women's rights and integration of minorities;

F. whereas the unresolved Russia-Georgia conflict hampers the stability and development of Georgia; whereas Russia continues to occupy the Georgian regions of Abkhazia and the Tskhinvali region/South Ossetia, in violation of the fundamental norms and principles of international law; whereas ethnic cleansing and forcible demographic changes have taken place in the areas under the effective control of the occupying force, which bears the responsibility for human rights violations in these areas;

G. whereas, in its Joint Communication on ‘A new response to a changing Neighbourhood’, the EU stated its ambition to engage more proactively in conflict resolution; whereas the EU Monitoring Mission (EUMM) is carrying out an important role on the ground and the EU Special Representative for South Caucasus and the Crisis in Georgia is co-chairing the Geneva talks; whereas these talks have yielded little result to date;

(2) OJ C 161 E, 31.5.2011, p. 136.
H. whereas the EU stresses the right of Georgia to join any international organisation or alliance, while respecting international law, and reiterating its firm belief in the principle that no third country has a veto over the sovereign decision of another country to join any international organisation or alliance or the right to destabilise a democratically elected government;

I. whereas the negotiations with Georgia on the Association Agreement are progressing swiftly, but nevertheless negotiations on the Deep and Comprehensive Free Trade Area (DCFTA) have not yet begun;

1. Addresses, in the context of the ongoing negotiations on the Association Agreement, the following recommendations to the Council, the Commission and the EEAS:

(a) ensure that the negotiations with Georgia continue at a steady pace;

(b) ensure as well that the Association Agreement is a comprehensive and forward-looking framework for the further development of relations with Georgia in upcoming years;

**Political dialogue and cooperation**

(c) recognise Georgia as a European state and Georgian aspirations, including those founded on Article 49 of the Treaty on European Union, and base the EU’s commitment and ongoing negotiations with Georgia on a European perspective, considered as a valuable lever for implementation of reforms and a necessary catalyst for public support for these reforms which could further strengthen Georgia’s commitment to shared values and the principles of democracy, the rule of law, human rights and good governance;

(d) strengthen the EU’s support for the sovereignty and territorial integrity of Georgia and ensure the applicability of the agreement, once it has been concluded, to the whole territory of Georgia; to that end, continue actively engaging in conflict resolution, inter alia thanks to the EUMM, whose mandate has recently been extended until 15 September 2012;

(e) stress the need for the safe and dignified return of all internally-displaced persons and refugees to their places of permanent residence and the unacceptability of the forced demographic changes;

(f) emphasise the importance of inter-ethnic and religious tolerance; welcome recent law adopted by the Georgian Parliament on the registration of religious organisations and affirmative action measures adopted by the Georgian Government in the field of education, aiming at a better integration of national minorities;

(g) recognise Georgia’s regions of Abkhazia and the Tskhinvali region/South Ossetia as occupied territories;

(h) intensify talks with the Russian Federation to ensure that it fulfils unconditionally all the provisions of the cease-fire agreement of 12 August 2008 between Russia and Georgia, particularly the provision stating that Russia shall guarantee EUMM full unlimited access to the occupied territories of Abkhazia and the Tskhinvali region/South Ossetia; underscore the necessity of providing stability in the aforementioned regions of Georgia;

(i) call on Russia to reverse its recognition of the separation of the Georgian regions of Abkhazia and the Tskhinvali region/South Ossetia, to end the occupation of those Georgian territories and to fully respect the sovereignty and territorial integrity of Georgia as well as the inviolability of its internationally-recognised borders as provided for by international law, the UN Charter, the Final Act of the Helsinki Conference on Security and Cooperation in Europe and the relevant United Nations Security Council resolutions;
(j) welcome the unilateral commitment by Georgia not to use force to restore control over the regions of Abkhazia and South Ossetia, as declared by President Saakashvili to the European Parliament on 23 November 2010 and call upon Russia to reciprocate the commitment to the non-use of force against Georgia; welcome Georgia's Strategy on Occupied Territories and Action Plan for Engagement as an important tool for reconciliation and stress the need for enhanced dialogue and people-to-people contacts with the local populations of Abkhazia and South Ossetia in order to make reconciliation possible;

(k) welcome the agreement reached between the governments of Russia and Georgia on Russia's admission to the World Trade Organization (WTO), in the hope that this agreement treats Abkhazia and South Ossetia as integral parts of Georgia;

(l) call on Georgia and Russia to engage in direct talks, without preconditions, on a range of subjects, with mediation, if needed, by a mutually acceptable third party, which should complement, not replace, the existing Geneva process;

(m) express concern over the terrorist attacks in Georgia since last year and call on Georgia and Russia to cooperate in investigation of the above-mentioned terrorist attacks; urge Georgia and Russia to de-escalate rhetoric about bombings and support for terrorism in order to create a climate of trust in conducting these investigations;

(n) welcome the agreement reached between Georgia and Russia on Russia's accession to the WTO, which includes an arrangement for monitoring trade between the two countries;

**Justice, freedom and security**

(o) welcome the significant progress made by Georgia in the areas of democratic reforms, including strengthening democratic institutions, particularly the Ombudsman's Office, the fight against corruption and the reform of the judiciary, as well as of economic reforms and liberalisation; congratulate Georgia on reducing overall and especially serious crime rates in the country;

(p) call for the Georgian Government to enter more extensively into a constructive political dialogue with opposition forces and further develop a democratic environment for freedom of speech, especially the accessibility of public media for all political parties;

(q) call for the Georgian Government to further improve the physical conditions in prisons and detention centres, continue to provide its full support to the Public Defender of Georgia, responsible for monitoring human rights violations, and consider facilitating civil society and human rights non-governmental organisations in visiting persons in prisons and detention centres;

(r) assess the implementation of the visa facilitation and readmission agreements and of the EU-Georgia Mobility Partnership; consider then launching the EU-Georgia visa dialogue in due course, with the aim of visa liberalisation; to ensure that the Agreement reflects the progress towards visa liberalisation achieved at the time of finalisation of the Agreement's negotiation;

(s) incorporate in the Agreement clauses on the protection and promotion of human rights reflecting the highest international and European standards, taking full advantage of the Council of Europe and OSCE framework and insisting particularly on the rights of internally-displaced persons (IDPs) and persons belonging to national and other minorities;

(t) note the significant work done by Georgia in implementing the IDP Action Plan, with particular regard to access to housing;
(u) encourage the Georgian authorities to adopt and implement comprehensive and effective anti-discrimination legislation in accordance with both the letter and the spirit of EU legislation and the Charter of Fundamental Rights of the EU, inter alia including provisions against discrimination based on sexual orientation and gender identity;

(v) emphasise in the Agreement the importance of ensuring fundamental freedoms, the rule of law, good governance and the continued fight against corruption and continue to support the reform of the judiciary as one of the priorities, in order to increase public trust in the judiciary, and the need to develop a fully independent judiciary, including by taking steps to ensure that high-profile political, human rights and property usurpation cases are fairly reviewed;

(w) call on the Georgian Government to promote free media, freedom of expression and media pluralism; allow the media to report independently and objectively without political and economic pressure; ensure credible and efficient implementation of measures to protect journalists; ensure transparency of media ownership, with regard in particular to broadcast media, and free access to public information;

(x) include in the Agreement a section on the protection of the rights of the child, including harmonisation of the relevant Georgian legislation with the Convention on the Rights of the Child;

(y) stress the importance of achieving full gender equality with regard, in particular, to the huge gender pay gap;

The economy and sectoral cooperation

(z) launch as soon as possible the DCFTA negotiations, and in this context provide the relevant assistance to their Georgian counterparts to conduct negotiations and subsequently implement the DCFTA after an accurate and thorough evaluation of its social and environmental impact;

(aa) support the opening of negotiations on a DCFTA as soon as possible and as soon as the Key Recommendations made by the Commission and endorsed by the EU Member States have been met by Georgia, so that Georgia can be more closely integrated with its largest trading partner, this being necessary in order to sustain Georgia’s economic growth and to overcome the economic crisis and damage caused by the war with Russia in 2008;

(ab) encourage Georgia’s progress in perfecting its legislation, improving the efficiency of its institutions and ensuring high quality-control standards for its products in order to comply with the requirements set out by the European Commission;

(ac) provide EU financial and technical assistance to Georgia in order to ensure the continuation of the legislative and institutional reforms needed in order to adapt to the DCFTA and to accelerate the process of implementation of the Key Recommendations set out in the EU-Georgia Action Plan;

(ad) stress how important it is for the EU that Georgia guarantee the proper disposal of toxic and radioactive waste on its territory as a prerequisite for facilitating trade, especially with regard to agriculture in order to protect food safety;

(ae) include in the Agreement commitments to comply with the International Labour Organisation labour rights and standards, especially Conventions 87 and 98, and the EU Social Charter as well as to the development of a genuine, structured and non-discriminatory social dialogue in practice and to the facilitating effect that Georgian approximation to the EU’s social acquis would have on the country’s EU perspective;
(af) call on the Georgian authorities to give a firmer commitment to employment policies and social cohesion and to further create an environment conducive to EU standards of the social market economy;

(ag) take into account the substantial efforts made by the Georgian Government in recent years to open up the country's economy by setting very low industrial tariffs, adopting a legal and regulatory framework conducive to business and investment, and enforcing the rule of law;

(ah) include sequential commitments covering key trade-related chapters such as non-tariff barriers, trade facilitation, rules of origin, sanitary and phyto-sanitary measures, intellectual property rights and investment and competition policy, and to complete actions in areas covered by the Action Plan;

(ai) encourage Georgia to pursue reforms that improve the business climate, its tax collection capacity and its contractual dispute settlement mechanism, while promoting corporate social responsibility and sustainable development; encourage Georgia to invest in its infrastructure, especially with regard to public services, to fight existing inequalities, particularly in rural areas, to encourage cooperation between experts from the EU Member States and their counterparts in Georgia in order to foster the implementation of reforms in the country and to share on a daily basis the best practices of EU governance;

(aj) encourage broad sectoral cooperation; clarify particularly the benefits and promote regulatory convergence in this area;

(ak) include in the Agreement provisions regarding the possibility for Georgia to participate in Community programmes and agencies, a fundamental tool for promoting European standards at all levels;

(al) emphasise the need for sustainable development, including through the promotion of renewable energy sources and energy efficiency, taking into account EU climate change targets; stress the importance of Georgia in improving EU energy security by promoting priority projects and policy measures for the development of the Southern Corridor (NABUCCO, AGRI, Trans-Caspian Pipeline, White Stream, EAOTC);

(am) encourage and assist the Georgian authorities in their investment programme for construction of new generation capacity in hydropower plants in compliance with EU standards and norms, as a tool to diversify its energy needs;

Other issues

(an) consult the European Parliament regarding provisions for parliamentary cooperation;

(ao) include clear benchmarks for implementation of the Association Agreement and provide for monitoring mechanisms, including the provision of regular reports to the European Parliament;

(ap) provide targeted financial and technical assistance to Georgia to help ensure that it can meet the commitments stemming from the negotiations on the Association Agreement and its full implementation, by continuing to provide Comprehensive Institution-Building Programmes; make more resources available for developing the administrative capacity of local and regional authorities with the help of the Eastern Partnership measures, for partnership programmes, high-level consultations, training programmes and worker exchange programmes, as well as work placements and bursaries for vocational training purposes;
increase, in line with the Joint Communication on a Renewed Response to a Changing Neighbourhood, EU assistance to civil society organisations and the media in Georgia in order to enable them to perform internal monitoring of and greater accountability for the reforms and commitments the government has undertaken;

encourage the EU negotiating team to continue the good cooperation with the European Parliament, providing continuous information, supported by documentation, on the progress of the negotiations, in accordance with Article 218(10) TFEU, which states that Parliament shall be immediately and fully informed at all stages of the procedure;

2. Instructs its President to forward this resolution containing the European Parliament’s recommendations to the Council, the Commission and the European External Action Service and, for information, to Georgia.

Gender mainstreaming in the work of the European Parliament

P7_TA(2011)0515

European Parliament resolution of 17 November 2011 on gender mainstreaming in the work of the European Parliament (2011/2151(INI))

(2013/C 153 E/19)

The European Parliament,

— having regard to the Fourth World Conference on Women, held in Beijing in September 1995, the Declaration and Platform for Action adopted in Beijing and the subsequent outcome documents,

— having regard to Article 3 of the Treaty on European Union, which emphasises values common to the Member States, such as pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women,

— having regard to the Charter of Fundamental Rights of the European Union, particularly Articles 1, 2, 3, 4, 5, 21 and 23 thereof,

— having regard to the 1948 Universal Declaration of Human Rights,

— having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),

— having regard to the European Pact for Gender Equality (2011-2020) adopted by the European Council in March 2011 (1),

— having regard to the Commission communication entitled ‘Strategy for equality between women and men 2010-2015’ (COM(2010)0491),

— having regard to the comprehensive report prepared by the 2009 Swedish Presidency of the European Union entitled ‘Beijing +15: The Platform for Action and the European Union’, which pinpoints the obstacles currently preventing the full realisation of gender equality,

(1) Annex to Council conclusions of 7 March 2011.
— having regard to the Council conclusions of 2–3 June 2005, in which the Member States and the Commission are invited to strengthen institutional mechanisms for promoting gender equality and to create a framework to assess the implementation of the Beijing Platform for Action, in order to create more consistent and systematic monitoring of progress,


— having regard to its resolution of 13 March 2003 on gender mainstreaming in the European Parliament (4),

— having regard to its resolution of 18 January 2007 on gender mainstreaming in the work of the committees (5),

— having regard to its resolution of 22 April 2009 on gender mainstreaming in the work of its committees and delegations (6),

— having regard to its resolution of 7 May 2009 on gender mainstreaming in EU external relations (7),

— having regard to the Council of Europe’s pioneering work on gender mainstreaming and specifically to the ‘Declaration on Making Gender Equality a Reality’ issued following the 119th Session of the Committee of Ministers (8),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Women’s Rights and Gender Equality (A7-0351/2011),

A. whereas gender mainstreaming means more than simply promoting equality through the implementation of specific measures to help women, or the under-represented sex in some cases, but rather involves mobilising all general policies and measures for the specific purpose of achieving gender equality;

B. whereas the UN has established UN Women, which as of 1 January 2011 has strengthened the institutional arrangements of the UN system in support of gender equality and the empowerment of women, with the Beijing Declaration and Platform for Action as its framework (9);
C. whereas Article 8 of the Treaty on the Functioning of the European Union lays down the principle of gender mainstreaming, stating that the Union shall in all its activities aim to eliminate inequalities, and to promote equality, between men and women;

D. whereas Article 2 of the Treaty on European Union lays down the principle of gender equality, stating that the Union 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, and that 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;

E. whereas the inclusion of a gender perspective in Parliament’s legislative and policy work can, in some cases, be best achieved through focused amendments to draft reports, tabled in the lead committee in the form of gender-mainstreaming amendments – a strategy that has been actively pursued by the Committee on Women’s Rights and Gender Equality since 2009;

F. whereas this procedure has been successfully used to gender mainstream recent resolutions of 18 May 2010 on ‘key competences for a changing world: implementation of the Education and Training 2010 work programme’ (1) and of 8 June 2011 on the mid-term review of the Seventh Framework Programme of the European Union for research, technological development and demonstration activities (2);

G. whereas the Member States are parties to all major international frameworks on gender equality and women’s rights, and a number of policy documents exist at EU level; whereas, however, the practical commitment to furthering gender mainstreaming and women’s empowerment needs to be strengthened, because progress with the implementation of the existing policy documents is modest and the budgetary resources for gender issues are insufficient;

H. whereas the Commission has, in addition to its strategy for equality between women and men (2010-2015), identified key actions to be accomplished by each of its individual directorates-general – an indication that the EU is moving towards a more holistic and coherent approach to gender mainstreaming (3);

I. whereas the Commission has committed itself, within the framework of its Women’s Charter (4), to strengthening the gender perspective in all its policies throughout its term of office;

J. whereas the European Institute for Gender Equality (EIGE) is tasked with developing, analysing, evaluating and disseminating methodological tools in order to support the integration of gender equality into all Community policies and the resulting national policies and to support gender mainstreaming in all Community institutions and bodies (5);

K. whereas close cooperation is required with the EIGE in its role of disseminating accurate methodological tools and with a view to the more effective evaluation of gender mainstreaming in Parliament’s work;

(2) Texts adopted, P7_TA(2011)0256.
L. whereas the Commission aims to implement gender mainstreaming as an integral part of its policy-making, including through gender impact assessments and evaluation processes, and has developed a ‘Guide to gender impact assessment’ for this purpose (1);

M. whereas the policy of gender mainstreaming complements and is no substitute for specific equality policies and positive actions, as part of a dual approach to achieving the goal of gender equality;

N. whereas discrimination on the grounds of sex or gender adversely affects transgender people, and whereas the policies and activities of the European Parliament, the Commission and several Member States in the field of gender equality increasingly encompass gender identity;

O. whereas the majority of parliamentary committees generally attach importance to gender mainstreaming (for example in the context of their legislative work, their institutional relations with the Committee on Women's Rights and Gender Equality, the drawing-up of equality action programmes, etc.), although a minority of committees rarely or never take an interest in the matter;

1. Commits itself to regularly adopting and implementing a policy plan for gender mainstreaming in Parliament with the overall objective of promoting equality between women and men through the genuine and effective incorporation of the gender perspective into all policies and activities, so that the different impact of measures on women and on men is assessed, existing initiatives are coordinated, and objectives and priorities, as well as the means of achieving them, are specified;

2. Affirms that the main aim of its gender mainstreaming policy plan for the coming three-year period should be to achieve more consistent and effective implementation of gender mainstreaming in all Parliament’s work, on the basis of the following priorities:

(a) a continued commitment at the level of Parliament’s Bureau, through the work of the High-Level Group on Gender Equality and Diversity;

(b) a dual approach – mainstreaming gender in Parliament’s activities through, on the one hand, effective work by the committee responsible, and, on the other, integration of the gender perspective into the work of the other committees and delegations;

(c) awareness of the need for a gender balance in decision-making processes, to be achieved by increasing the representation of women on Parliament’s governing bodies, on the bureaux of political groups, on the bureaux of committees and delegations, in the composition of delegations and in other missions, such as election observation, and by increasing the representation of men in areas where they are under-represented;

(d) incorporation of gender analysis into all stages of the budgetary process to ensure that equal consideration is given to women’s and men’s needs and priorities and that the impact of the provision of EU resources on women and men is assessed;

(e) an effective press and information policy which systematically takes gender equality into account and avoids gender stereotypes;

(f) continued submission of regular reports to plenary on the progress achieved in gender mainstreaming in the work of Parliament’s committees and delegations;

(g) a focus on the need for adequate financial and human resources, so that Parliament’s bodies are provided with the necessary tools, including gender analysis and assessment tools, with appropriate gender expertise (research and documentation, trained staff, experts) and with gender-specific data and statistics; calls on the Secretariat to arrange regular exchanges of best practice and networking as well as gender mainstreaming and gender-budgeting training for Parliament staff;

(h) continued development of Parliament’s Gender Mainstreaming Network, to which each committee has appointed a member responsible for implementing gender mainstreaming in its work;

(i) attention to the importance of employing specific terminology and definitions which comply with international standards when terms are used in relation to gender mainstreaming;

(j) methodological and analytical support from the EIGE;

3. Calls for its committee responsible to examine how the procedure whereby the Committee on Women’s Rights and Gender Equality adopts amendments to a specific report which highlight the gender implications of a policy area, in accordance with the deadlines and procedures laid down by the committee concerned, can be best incorporated into the Rules of Procedure;

4. Calls on the Parliament committees responsible for the Multiannual Financial Framework (MFF) and the Structural Funds to assess the gender impact of the proposed spending priorities, sources of revenue and governance tools before the MFF is adopted, so as to ensure that the post-2013 MFF is gender-sensitive, and to guarantee that all EU financing programmes set gender-equality targets in their basic regulations and allocate specific funding for measures to achieve those targets;

5. Congratulates Parliament’s Gender Mainstreaming Network and the parliamentary committees which have put gender mainstreaming into practice in their work, and calls on the other committees to ensure that they are committed to the strategy of gender mainstreaming and put it into practice in their work;

6. Stresses the need for the parliamentary committees to be provided with appropriate tools which enable them to gain a sound understanding of gender mainstreaming, such as indicators, data and statistics broken down by gender, and for the budgetary resources to be allocated from a gender-equality viewpoint, in such a way as to encourage the committees to take advantage of in-house expertise (secretariat of the relevant committee, policy department, library, etc.) and external expertise in other local, regional, national and supranational institutions, be they public or private, in small, medium-sized and large companies and in universities working in the area of gender equality;

7. Welcomes the specific initiatives in this area taken by a number of parliamentary committees, including the own-initiative report on the role of women in agriculture and rural areas drawn up by the Committee on Agriculture and Rural Development and the public hearing on the role of women in the sustainable development of fisheries areas organised by the Committee on Fisheries;
8. Concludes, on the basis of the questionnaire submitted to the chairs and vice-chairs responsible for gender mainstreaming in the parliamentary committees, that the gender mainstreaming work of Parliament's committees is highly variable and voluntary, with an intense focus on gender in some areas and little or no apparent activity in others;

9. Welcomes the work of the interparliamentary delegations and election observation missions and their efforts, in their relations with third-country parliaments, to address issues related to gender equality and women's empowerment through more systematic monitoring and pursuit of issues such as female genital mutilation and maternal mortality and by working more closely with the Committee on Women's Rights and Gender Equality in arranging joint meetings and exchanging information in these areas;

10. Asks the Commission to address and prioritise gender inequalities in a more consistent and systematic manner when programming and implementing all policies, and insists that the mainstreaming of gender issues through all policies must be improved in order to achieve the goals of gender equality;

11. Reiterates the need to focus on gender relations between men and women that generate and perpetuate gender inequalities;

12. Takes the view that Parliament's gender mainstreaming work should also encompass gender identity and assess what impact policies and activities have on transgender people; calls on the Commission to consider gender identity in all activities and policies in the field of gender equality;

13. Instructs its President to forward this resolution to the Council, the Commission and the Council of Europe.

---

Combating illegal fishing at the global level

P7_TA(2011)0516

European Parliament resolution of 17 November 2011 on combating illegal fishing at the global level - the role of the EU (2010/2210(INI))

(2013/C 153 E/20)

The European Parliament,


— having regard to the Convention on Biological Diversity (CBD) and to the Rio Declaration on Environment and Development adopted at the United Nations Conference on Environment and Development in June 1992,

— having regard to the Food and Agriculture Organisation (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved at the 27th session of the FAO Conference in November 1993 (‘Compliance Agreement’),

— having regard to the FAO Code of Conduct for Responsible Fisheries, adopted in October 1995 by the FAO Conference,


— having regard to the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), endorsed by the FAO Council in June 2001,

— having regard to the Communication from the Commission on a Community action plan for the eradication of illegal, unreported and unregulated fishing of May 2002 (COM(2002)0180),

— having regard to the Declaration made at the World Summit on Sustainable Development held from 26 August to 4 September 2002 in Johannesburg,

— having regard to its resolution of 15 February 2007 on the implementation of the EU action plan against illegal, unreported and unregulated fishing (1),


— having regard to the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), approved at the 36th session of the FAO Conference, held in Rome in November 2009,

— having regard to the UN Office on Drugs and Crime (UNODC) 2011 report on Transnational Organised Crime in the Fishing Industry,

— having regard to the Commission’s Joint Research Centre (JRC) Reference Report ‘Deterring Illegal Activities in the Fisheries Sector – Genetics, Genomics, Chemistry and Forensics to Fight IUU Fishing and in Support of Fish Product Traceability’, published in 2011,

— having regard to the upcoming United Nations Conference on Sustainable Development (UNCSD), which will take place in Brazil in June 2012,

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Fisheries and the opinions of the Committee on Development and the Committee on the Environment, Public Health and Food Safety (A7-0362/2011),

A. whereas 71 % of planet Earth is covered by oceans, which store 16 times as much carbon dioxide as the terrestrial world and play a fundamental role in the climate and life support systems of the entire planet, as well as providing a substantial portion of the global population with food, livelihoods, energy and transport routes;

B. whereas Illegal, Unreported and Unregulated (IUU) fishing has been reported to account for between 11 and 26 million tonnes a year, equivalent to at least 15% of world catches, making the economically, socially and environmentally sustainable management of the exploitation of the world’s marine resources impossible;

C. whereas the agreement approved at the 10th Conference of the Parties to the Convention on Biological Diversity held in October 2010 in Nagoya established the international obligation to at least halve the loss of biodiversity by 2020;

D. whereas the world’s oceans constitute 90% of the habitat for life on earth;

E. whereas two thirds of the world’s oceans are beyond national jurisdiction, lacking comprehensive policies to govern international waters (the high seas), with current patchy laws mainly based on 17th century principles of freedom of the seas, ignoring many of the environmental principles that have long been applied for land and the atmosphere;

F. whereas one of the objectives of the FAO Agreement on port state measures to prevent, deter and eliminate illegal, unreported and unregulated fishing is to eliminate ‘ports of convenience’ that provide a safe haven for IUU vessels and serve as a port of entry for the trade in illegal catches;

G. whereas the new EU control package, consisting of the IUU Regulation, the Control Regulation and the Fishing Authorisations Regulation, constitutes a comprehensive set of instruments to combat this scourge of the oceans, since it specifies the flag, coastal, port and market State responsibilities of both the EU Member States and third countries;

H. whereas the EU is the world’s largest importer of fisheries products and one of the world’s major fishing powers, and it therefore has a major responsibility to play a key role in mobilising the international community in the fight against IUU fishing;

1. Believes that IUU fishing is one of the most serious threats facing the biodiversity of the world’s oceans;

2. Is convinced that IUU fishing is a major environmental and economic problem worldwide, in both marine and freshwater fisheries, undermining fisheries management efforts, threatening the sustainability of fish stocks and food security as well as distorting the market, with incalculable social and economic repercussions on society as a whole, including in developing countries;

3. Emphasises that IUU fishing and associated commercial activities constitute unfair competition for fishermen and others who operate in a law-abiding fashion, and creates economic difficulties for fishing communities, consumers and the entire sector;

4. Highlights the world leadership role assumed by the EU with the new control package, consisting of the IUU Regulation, the Control Regulation and the Fishing Authorisations Regulation; considers that it constitutes a wide-ranging and comprehensive set of instruments to combat this scourge of the oceans, since it specifies the flag, coastal, port and market State responsibilities of both the EU Member States and third countries, as well as obligations with respect to the activities of their nationals; urges the firm application of these instruments;
5. Stresses the need to increase coordination among the Commission, the Community Fisheries Control Agency and the Member States in order to improve information gathering and exchange and assist in the rigorous and transparent application of Union fisheries legislation;

6. Considers that the responsibility for ensuring compliance of vessels with the relevant management and other rules, for collecting and reporting catch and effort data, and for ensuring traceability, including through the validation of catch certificates, must remain with the flag State, as delegation to another State would undermine the fight against IUU fishing;

7. Insists that the Commission and the control authorities in the Member States be provided with sufficient resources (human, financial, technological) enabling them to fully implement these regulations;

8. Stresses the need, in the interest of the EU's credibility, for the Commission and the Member States to identify and sanction EU operators who violate EU legislation, and considers in this context that there is still some way to go before the EU is satisfactorily combating IUU fishing on its own territory and by EU operators elsewhere;

9. Calls on the Member States and the Commission to ensure that illegal fishing is combated at sea and in inland waters and underlines the need to review the sufficiency of control mechanisms and their implementation;

10. Calls for the review of the common fisheries policy to be used to create incentives for legal fishing in the interests of the fish, the environment, consumers and producers in the EU;

11. Calls on the Commission to investigate – before the end of 2012 – whether recreational fishing in the EU exists on such a scale that it can really be classed as IUU fishing;

12. Calls on the Commission and the Member States to cooperate with a view to the creation of a 'European coastguard' in order to boost common monitoring and inspection capacity and to effectively combat current or future dangers at sea such as terrorism, piracy, IUU fishing, trafficking or even marine pollution;

13. Urges the Commission to continue its efforts to promote the exchange of information in order to integrate maritime surveillance, in particular information aimed at harmonising coastguard services at European level;

14. Believes that the EU's objectives in the fight against IUU fishing must be backed up by the necessary resources, above all financial, to ensure their promotion, with Member States being allocated sufficient resources to allow them to implement the regulations in force; stresses, equally, that any future adoption of new methods (e.g. electronic tracking systems, etc.) must ensure the availability at the level of the EU budget of the financial resources needed for their implementation;

15. Calls on the Commission to publish annual assessments of the performance of each Member State in implementing the rules of the Common Fisheries Policy (CFP) that identify possible weak points needing improvement, and to use all possible means, including identifying Member States when they fail in their responsibilities, to ensure their full compliance, in order to create a reliable and transparent control regime;

16. Welcomes the Commission's decision to introduce a point-based fishing licence, an additional tool the Member States will be able to use to identify irregularities at each stage of the market chain and to impose strict penalties in case of infringement;
17. Considers that, given the high mobility of fish stocks, fishing fleets and the capital underlying the fleets, as well as the global nature of markets for fish, IUU fishing can only be effectively fought by international cooperation, both bilaterally and multilaterally, and extensive, accurate and timely information exchange regarding fishing vessels, their activities and catches and other relevant matters;

18. Calls on the EU to strongly insist that third countries effectively combat IUU fishing, including by promoting the signing, ratification and implementation of the FAO Port State Measures Agreement, the UN Fish Stocks Agreement, the FAO Compliance Agreement and the UN Law of the Sea as well as the various catch documentation schemes already adopted by Regional Fisheries Management Organisations (RFMOs) in the context of trade agreements, Fisheries Partnership Agreements and the EU’s development policy;

19. Stresses the need to ensure that all third countries with which the EU has signed a Fisheries Partnership Agreement apply the rules of the International Labour Organisation (ILO) on core labour rights, particularly those concerning social dumping caused by IUU fishing;

20. Emphasises that past limitations in monitoring, control and surveillance of fishing activities have been largely overcome by technological advances, including developments in space and satellite technologies, and that the key to combating IUU fishing today lies primarily with governments finding the political will to act effectively and responsibly;

21. Calls on Member States to pursue and prosecute vessels, owners, firms, companies or individuals involved in IUU fishing-related activities, including the mixing of IUU catches with legal catches, as they would other perpetrators of environmental or economic crime, with severe sanctions upon conviction including, where appropriate for serious or repeat offences, the permanent withdrawal of licences and denial of access to port facilities;

22. Deplores the fact that EU subsidies have been distributed to vessels that had previously been caught fishing illegally;

23. Calls on the Commission to amend the requirements for all kinds of financial assistance so as to apply financial sanctions and the denial of funding opportunities to the owners of vessels proven to have fished illegally;

24. Urges the Commission to withhold aid from the European Fisheries Fund to all those vessels involved in IUU activities;

25. Emphasises the need to ensure greater responsibility and accountability on the part of the fishing industry in order to achieve the sustainable use of marine resources; considers that improving transparency in all aspects of the fishing industry and its activities, including agreeing on international criteria to establish the real beneficial owners of vessels and the fishing rights they hold, and conditions for their publication, as well as the monitoring of fishing vessels in international waters, is crucial;

26. Believes that the European Union should set an example by adopting and promoting a policy of transparency in decision-making in fisheries management in international bodies and in third countries with which the EU has fisheries relations;
27. Takes the view that fishing that respects the measures adopted at international, regional and national level and that is based on the responsible and sustainable use of resources favours economic growth and job creation both within the EU and in developing countries, whereas illegal, unreported and unregulated (IUU) fishing has dramatic economic, social and environmental repercussions, and its consequences are especially damaging to developing countries in that it impedes the achievement of the Millennium Development Goals (MDGs), specifically MDGs 1, 7 and 8;

28. Underlines the cross-border nature of fishing activities and the need, in order to combat IUU fishing, to cooperate at both bilateral and multilateral level so that measures geared to combating IUU fishing are applied by everyone in a transparent, non-discriminatory and equitable manner, whilst taking account of the financial, technical and human capacities of developing countries, in particular those of small island states;

29. Calls on the Commission to ensure consistency among its policies so that development policy that combats poverty is an integral part of the EU’s policy to combat IUU fishing, alongside the environmental and commercial concerns;

30. Stresses the direct link between IUU fishing and a state's level of governance and calls for all external aid measures to be accompanied by a firm political resolve on the part of the beneficiary state to ban IUU fishing in its waters, and more generally to improve governance in the fisheries sector;

31. Encourages the Commission and the Member States to expand their programmes of financial, technological and technical support, including Official Development Aid and Fisheries Partnership Agreements, for monitoring, control and surveillance programmes in the waters of developing countries, giving priority to regional programmes rather than bilateral ones; further encourages greater coordination among all donors, European and others, in funding such programmes;

32. Considers, furthermore, that the EU should make active use of cooperation in Fisheries Partnership Agreements (FPAs) in order to combat IUU fishing more effectively;

33. Calls on the Commission to increase the financial envelope for the fisheries sector in the agreements that it signs with developing countries as far as is necessary, so that these countries can consolidate their institutional, human and technical capacities to combat IUU fishing and thereby improve their compliance with the measures adopted by world and regional fisheries management organisations and with European legislation;

34. Stresses the need to involve civil society and to hand responsibility to fisheries sector undertakings so that they will ensure that legal fishing methods are complied with and cooperate with the authorities in combating IUU fishing, within the framework of the social and environmental responsibility of undertakings;

35. Asks the Commission to examine the possibility of adding the FAO Port State Measures Agreement, the UN Fish Stocks Agreement and the FAO Compliance Agreement to the list of instruments to be implemented for countries to be eligible for the Generalised System of Preferences plus, which is currently being revised; calls for the withdrawal of export licences for all countries which market products obtained by IUU fishing; considers that the EU should work with such countries in order to ban the marketing of these products;

36. Recalls that the issue of IUU fishing is inseparable from that of Economic Partnership Agreements in the context of trade which is subject to the rules of the WTO; stresses the problem of derogation from the rules of origin for some processed fishery products and in particular the case of Papua New Guinea, which prevents the traceability of such products and opens the way for IUU fishing;
37. Considers that the EU should pursue the following objectives in Regional Fisheries Management Organisations (RFMOs) to which it belongs:

— establishment, for all fisheries under the remit of the RFMOs, of registers of fishing vessels, including support vessels, that are authorised to fish, as well as lists of vessels that are identified as IUU (black lists), to be updated frequently, published widely and coordinated among RFMOs;

— strengthening of RFMOs’ Compliance Committees to examine the performance of Contracting Parties and, where necessary, impose effective sanctions;

— extension of the list of specified measures to be taken by Contracting Parties (CPCs) as flag, coastal, port and market States, and States of beneficial ownership, within individual RFMOs;

— establishment of appropriate at-sea inspections and observer programmes;

— bans on transhipments at sea;

— development of catch documentation schemes, beginning with the major species in each RFMO;

— compulsory use of electronic tools including VMS, electronic logbooks and other tracking devices where relevant;

— compulsory and regular evaluations of the performance of individual RFMOs with a requirement that the recommendations be acted upon;

— declaration of financial interests with respect to fisheries for heads of delegations to RFMOs where they could lead to a conflict of interest;

38. Calls for an urgent expansion of the network of RFMOs to cover all high seas fisheries and areas, either by establishing new RFMOs or by expanding the mandate of existing ones; believes that vastly enhanced cooperation among RFMOs, in terms of information exchange, sanctions against vessels and CPCs, is necessary given the global nature of IUU fishing;

39. Believes that the right to fish on the high seas must, to the extent possible under international law, be made conditional upon a State’s adherence to the relevant international bodies and full implementation of all management measures that they adopt;

40. Notes that the FAO is the main source for scientific expertise and recommendations when examining global fisheries and aquaculture issues due to fisheries development and management being better amalgamated with the preservation of biodiversity and protection of the environment;

41. Fully supports the current FAO initiative to develop a Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels, which should be compulsory and include vessels above 10 GT as soon as possible;
42. Encourages the rapid development of a system for the evaluation of flag State performance currently underway at the FAO as a means of putting pressure on States that do not meet their international legal obligations; urges that some effective mechanism be found for sanctioning States that do not ensure that vessels flying their flag do not support or engage in IUU fishing and abide by all relevant legislation; calls on Member States to enforce fairly and transparently the market instruments to stop illegal fishing, without discriminating against other countries; supports the FAO’s decision to set up international consultations on the performance of flag States in regard to their obligations under international law;

43. Calls for the urgent adoption of measures to put an end to the use of ‘flags of convenience’, a practice which enables fishing vessels to operate illegally, with impunity, at a great cost to the marine ecosystem, fish stocks, coastal communities, food security, particularly in developing countries, and the legitimate, law-abiding fishing industry;

44. Emphasises the need to ensure that EU interests are not involved in such forms of fishing piracy and therefore calls on Member States to ensure that their nationals do not support or engage in IUU fishing;

45. Supports the efforts of the Commission to establish a public register listing the identities of ship owners that have been proven to have participated in IUU fishing; believes that the register should be in line with the one managed by the Community Fisheries Control Agency in Vigo;

46. Believes that independent evaluations of both flag States’ and RFMOs’ performance should be carried out by an organisation integrated into the United Nations system without further delay;

47. Recognises the lack of international cooperation in management of the negative impacts of human activities other than fishing that affect the marine environment and calls upon the Commission to advocate the creation of a global body to fill this void, possibly under the auspices of the UN;

48. Emphasises that the concept of market State responsibility must be more fully developed as a means of closing down the markets for the products of IUU fish; believes that the EU must urgently discuss with other major market States, including but not limited to the US, Japan and China, how to cooperate among themselves and, as rapidly as possible, to develop international legal instruments that could halt, prosecute and punish trade in IUU fish, in line with the World Trade Organisation (WTO) rules and within the framework of the United Nations system;

49. Underlines that maintaining and developing the European fisheries sector depends in part on strict IUU monitoring of fishery products traded on European and global markets; stresses the importance of this sector for regional planning, food safety and safeguarding jobs and resources in Community waters;

50. Takes the view that the European Union already has instruments with which to discourage illegal fishing and is convinced that, since it is one of the largest markets for fish in the world, the dissuasive effect would have undoubted practical consequences if it uses these instruments properly; calls, therefore, for European Union export certificates not to be granted to or to be withdrawn from those states or contracting parties which do not cooperate with RFMOs in establishing instruments such as catch documentation systems or port state measures;
51. Stresses that one of the best weapons in the fight against IUU fishing is the trade weapon; once again deplores, therefore, the lack of coordination between DG MARE and DG TRADE, since whilst the former is setting itself more and more objectives in order to combat IUU fishing, the latter's exclusive aim appears to be to make Community markets more and more open to imports, whatever their origin and whatever control guarantees are in place, granting tariff preferences and rules of origin derogations that are serving only to hand European markets over to fleets and countries that have been identified as at least tolerating IUU fishing;

52. Considers in this context that the market should increasingly be held to account for its actions, and particularly importers, since the market is perhaps the most significant cause of IUU fishing;

53. Stresses the importance of the consumer's right to always be certain that the product purchased has been legally fished;

54. Calls on both the Commission and the Member States to improve their information to consumers on various labelling schemes, e.g. the Marine Stewardship Council (MSC) scheme, which create transparency and provide consumers with a guarantee that they are purchasing sustainable, legally landed fish;

55. Expresses its full support for the new guidelines adopted at the FAO Committee on Fisheries (COFI) meeting in February 2011, with the objective of harmonising the system of fisheries product labelling in order to fight illegal fishing; believes that the characteristics of labelling should include clear indications concerning the commercial and scientific designation of the fish concerned, the type of fishery and, above all, the zone of origin;

56. Encourages the Commission to pursue the development of a global catch documentation scheme;

57. Calls on the Commission and the Member States to support the development and utilisation of techniques to ensure full, effective traceability of fish products throughout the supply chain, including satellite tracking of fishing and support vessels and electronic tags to track fish, as well as the establishment of global fish DNA and other genetic databases to identify the fish products and their geographical origin as described in the Commission's Joint Research Centre (JRC) report 'Deterring Illegal Activities in the Fisheries Sector – Genetics, Genomics, Chemistry and Forensics to Fight IUU Fishing and in Support of Fish Product Traceability';

58. Calls on the Commission and Council to increase the resources allocated to the fight against corruption and organised crime at all levels;

59. Welcomes the recent report from the UN Office on Drugs and Crime (UNODC) on the role of transnational organised crime in the fishing industry and its explanation of how organised criminal groups are extending their influence in the fishing industry, including in both upstream (vessel and crew supply, refuelling, etc.) and downstream (marketing, shipping) activities;

60. Is alarmed at the use of such criminal activities as human exploitation and trafficking, money laundering, corruption, handling of stolen goods, tax evasion and customs fraud by those engaged in IUU fishing, which should be viewed as a form of organised transnational crime; emphasises the need for a more comprehensive and integrated approach to combating IUU fishing, including controls on trade and imports;

61. Fully endorses the recommendations of the UNODC report, including expanding international cooperation in investigating criminal activities at sea, improving transparency of fishing vessel ownership and activities and discouraging both the sale and the operation of fishing vessels by companies with untraceable beneficial owners;
Notes that the UN Convention on Transnational Organised Crime is one of the most widely ratified treaties, which obliges its Contracting Parties to cooperate with each other, in terms of investigations, prosecutions and judicial proceedings, in transnational organised crime cases, thus creating important synergies in combating IUU fishing;

Believes that IUU fishing should be made one of the prioritised areas for Interpol, giving resources and investigative powers to the organisation to monitor and combat transnational criminal aspects of IUU fishing;

Requests the Commission to examine the US Lacey Act and to consider whether certain of its elements might be useful in the European context, particularly the responsibility it imposes on retailers for the legality of fish;

Calls upon the Commission to include the above principles, where relevant, in the provisions of its bilateral fisheries agreements;

Insists that the EU propose that the issue of international oceans governance be made a priority at the next World Summit on Sustainable Development in Brazil in 2012, on the 30th anniversary of the UN Law of the Seas;

Points out that the fight against illegal fishing at world level is vital for global sustainable development and must therefore represent an essential and explicit part of Fisheries Partnership Agreements, trade policy commitments, development cooperation policy objectives and the European Union's foreign policy priorities;

Instructs its President to forward this resolution to the Council, the Commission, the national parliaments of the Member States, the secretariats of the RFMOs to which the EU is a Contracting Party and the Committee on Fisheries of the FAO.

Iran - recent cases of human rights violations

European Parliament resolution of 17 November 2011 on Iran – recent cases of human rights violations

(2013/C 153 E/21)

The European Parliament,

— having regard to its previous resolutions on Iran, notably those concerning human rights, and in particular those of 7 September 2010 and 20 January 2011,

— having regard to UN Human Rights Council Resolution 16/9 establishing a mandate for a Special Rapporteur on the situation of human rights in Iran,

— having regard to the 123 recommendations made following the universal periodic review of the Human Rights Council of February 2010,

— having regard to the appointment by the President of the UN Human Rights Council on 17 June 2011 of Ahmed Shaheed as UN Special Rapporteur on the situation of human rights in Iran and to the interim report of 23 September 2011 submitted by the Special Rapporteur to the 66th session of the UN General Assembly on the situation of human rights in Iran,
having regard to the report of 15 September 2011 submitted by the UN Secretary-General to the 66th session of the UN General Assembly on the situation of human rights in the Islamic Republic of Iran,

having regard to the report by the Iran Human Rights Documentation Center of 10 June 2011 on the use of rape as a method of torture by Iranian prison authorities,

having regard to the statements by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy of 15 and 26 September 2011 on the detention of human rights lawyer Nasrin Sotoudeh and the arrest of six independent film-makers and of 18 October 2011 on the sentences imposed on filmmaker Jafar Panahi and actress Marzieh Vafamehr,

having regard to the stepping-up of the EU's restrictive measures on 10 October 2011 in response to serious human rights violations in Iran,

having regard to UN General Assembly Resolutions 62/149 of 18 December 2007 and 63/168 of 18 December 2008 on a moratorium on the use of the death penalty,

having regard to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child, to all of which Iran is a party,

having regard to the Constitution of the Islamic Republic of Iran, and in particular Articles 23 to 27 and 32 to 35 thereof, which provide for freedom of expression, assembly and association and the right to practise one's religion and basic rights for persons indicted and detained,

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

A. whereas the current human rights situation in Iran is characterised by an ongoing pattern of systematic violations of fundamental rights; whereas human rights defenders (in particular women's, children's and minority rights activists), journalists, bloggers, artists, student leaders, lawyers, trade unionists and environmentalists continue to live under severe pressure and the constant threat of arrest;

B. whereas the most urgent issues concern accumulated deficits in relation to the administration of justice, practices that amount to torture or the cruel or degrading treatment of detainees, including rape, the unequal treatment of women, the persecution of religious and ethnic minorities and a lack of civil and political rights, in particular the harassment and intimidation of human rights defenders, lawyers and civil-society actors;

C. whereas the rate of executions in Iran during the first half of 2011 make it the world's leading per capita user of the death penalty, in contrast to the worldwide trend towards the abolition of the death penalty;

D. whereas, in spite of being a signatory to the ICCPR and officially prohibiting the execution of persons under the age of 18, according to various reports Iran executes more juvenile offenders than any other country;

E. whereas the Iranian authorities have to date failed to meet their UN obligations and refused to cooperate with the Special Rapporteur; whereas the interim report describes a 'pattern of systemic violations' and an 'intensified' campaign of abuses, expresses alarm at the growing use of the death penalty for minor crimes, and without due process, and indicates that so far in 2011 there have been at least 200 official executions and 146 secret executions in the eastern Iranian city of Mashad; whereas in 2010 more than 300 people were executed in secret in Iran;
F. whereas the relatives of Iranians in prison or on trial are also being arrested, questioned and harassed, outside Iran and in the EU; whereas thousands of Iranians have fled the country and found refuge in neighbouring countries;

G. whereas the opposition leaders Mir Hossein Mousavi and Mehdi Karroubi have been held illegally under house arrest and arbitrarily confined since 14 February 2011; whereas these leaders, along with their politically active spouses, have for periods of time been forcibly disappeared to unknown locations and cut off from all contact with friends and family, periods during which they have been at severe risk of torture;

H. whereas in February and March 2011 hundreds were arrested and at least three people died when thousands of demonstrators took to the streets in support of the pro-democracy movements in neighbouring Arab countries and to protest against the detention of opposition leaders Mir Hossein Mousavi and Mehdi Karroubi;

I. whereas in April 2011 security forces killed several dozen protesters, mostly ethnic Arabs, and arrested dozens more in the south-western province of Khuzestan, and whereas dozens of people were arrested and injured in environmental protests in Western Azerbaijan Province against the drying-up of Lake Urmia;

J. whereas the pressure on religious minorities, most notably the Bahai’, converts and dissident Shia scholars, continues to increase; whereas the Bahai’, despite being the biggest non-Muslim religious minority, suffer heavy discrimination, including denial of access to education, and whereas legal proceedings against their seven imprisoned leaders are ongoing and over 100 community members remain under arrest; whereas there are reports that in the first half of 2011 at least 207 Christians were arrested; whereas Sunni Muslims continue to face discrimination in law and in practice, and are prevented from fully exercising their right to practise their religion; whereas a state-supported defamation campaign against (Shia) Nematullahi Sufis, depicting all forms of mysticism as satanic and persecuting Sufi worshippers, is continuing, the most glaring example being the armed attack in Kavar in September 2011, which killed one person and left others seriously injured;

K. whereas individuals who have converted from Islam have been arrested, and whereas Article 225 of the draft Penal Code seeks to make the death penalty mandatory for convicted male apostates; whereas the protestant pastor Yousef Nadarkhani is still under threat of execution for apostasy;

L. whereas the Iranian Revolutionary Guard, the secret services and the Basij militia are playing an active role in the severe and brutal repression in Iran;

M. whereas members of the lesbian, gay, bisexual and transgender community face harassment, persecution, cruel punishment and even the death penalty; whereas these persons face discrimination on the grounds of their sexual orientation, including as regards access to employment, housing, education and health care, and social exclusion;

N. whereas the prison sentences imposed on the prominent student activists Bahareh Hedayat, Mahdieh Golroo and Majid Tavakoli were each increased by six months after they were charged with ‘propaganda against the regime’; whereas on 15 September 2011 political activist and doctoral student Somayeh Tohidlou received 50 lashes after completing a one-year prison sentence at Evin Prison; whereas Ms Tohidlou had already completed a 70-day prison sentence; whereas both prison sentences and the 50 lashes were punishments imposed for blogging and other internet activities; whereas on 9 October 2011 student activist Payman Aref received 74 lashes before his release from prison, on a charge of insulting the Iranian President;
O. whereas a six-year prison sentence, confirmed on appeal, has been imposed on the prominent Iranian filmmaker Jafar Panahi; whereas the sentence of one year's imprisonment and 90 lashes was given to prominent actress Marzieh Vafamehr, following her involvement in a film depicting the difficult conditions in which artists operate in Iran; whereas on 17 September 2011 the Iranian authorities detained six independent documentary filmmakers, Mohsen Shahrnazdar, Hadi Afarideh, Katayoun Shahabi, Naser Safarian, Shahnaz Bazdar and Mojtaba Mir Tahmaseb, accusing them of working for the BBC's Persian Service and engaging in espionage on behalf of that news service;

P. whereas since 2009 dozens of lawyers have been arrested for exercising their profession, including Nasrin Sotoudeh, Mohammad Seifzadeh, Houtan Kian and Abdolfattah Soltani; whereas Nobel Peace Prize laureate Shirin Ebadi has effectively been forced into exile after the authorities shut down her Center for Defenders of Human Rights, and whereas lawyers taking on the defence of political detainees and prisoners of conscience face increasingly high personal risks;

Q. whereas the Iranian authorities have announced that they are working on an internet, parallel to and eventually designed to replace the open worldwide internet, that conforms to Islamic principles, describing it as a ‘halal’ network; whereas the ‘halal internet’ would effectively give the Iranian authorities 100% control over all internet traffic and content, seriously violating freedom of expression and restricting access to information and communication networks;

R. whereas it has been widely reported that EU(-based) companies have been providing the Iranian authorities with technical assistance and custom-made technologies, which have been used to track and trace (online) human rights defenders and activists and are instrumental in human rights violations;

1. Expresses grave concern over the steadily deteriorating human rights situation in Iran, the growing number of political prisoners, the continuously high number of executions, including of juveniles, the widespread torture, unfair trials and exorbitant sums demanded for bail, and the heavy restrictions on freedom of information, expression, assembly, belief, education and movement;

2. Pays tribute to the courage of all Iranians who are fighting in defence of fundamental freedoms, human rights and democratic principles and who wish to live in a society free from repression and intimidation;

3. Strongly condemns the use of the death penalty in Iran and calls on the Iranian authorities, in accordance with UN General Assembly Resolutions 62/149 and 63/138, to institute a moratorium on executions, pending the abolition of the death penalty;

4. Calls for the Iranian Criminal Code to be amended so as to prohibit the imposition of corporal punishment by judicial and administrative authorities; recalls that the use of corporal punishment – which amounts to torture – is incompatible with Article 7 of the ICCPR; strongly condemns the flogging of the student activists Somayeh Tohidlou and Payman Aref;

5. Stands ready to support additional sanctions for individuals responsible for human rights abuses; calls on the EU Member States which are permanent members of the UN Security Council to raise the issue of opening an investigation into whether the crimes committed by the Iranian authorities amount to crimes against humanity;
6. Calls on the Iranian authorities to release all political prisoners, including the political leaders Mir-Hussein Mousavi and Mehdi Karroubi, the human rights lawyers Nasrin Sotoudeh and Abdolfattah Soltani, the student activists Bahareh Hedayat, Abdullah Momeni, Mahdieh Golroo and Majid Tavakoli, the journalist Abdolreza Tajik, Pastor Yousef Nadarkhani, the filmmakers Jafar Panahi and Mohammad Rasoulof and all the other individuals listed in the report of the UN Special Rapporteur on the situation of human rights in Iran, Ahmed Shaheed;

7. Deeply deplores the lack of fairness and transparency of the judicial process and of appropriate professional training for those involved therein, and calls on the Iranian authorities to guarantee a fair and open procedure;

8. Urges the Iranian Government immediately to allow the UN-appointed Special Rapporteur Ahmed Shaheed to enter Iran to address the country's ongoing human rights crisis; notes that the government's complete lack of cooperation with the Special Rapporteur's mandate and its continued refusal to allow him access to the country are an indication that it has no intention of taking meaningful steps to improve the human rights situation;

9. Calls on the Iranian authorities to demonstrate that they are fully committed to cooperating with the international community in improving the human rights situation in Iran, and calls on the Iranian Government to fulfil all its obligations, both under international law and under the international conventions it has signed; emphasises the importance of free and fair elections;

10. Calls on the Iranian authorities immediately to release members of Iran's artistic community who are being held and to put an end to the persecution – by means of detention or other forms of harassment – of that community; notes that such treatment is incompatible with the international human rights principles which Iran has freely signed up to; points out that the right to freedom of expression through art and writing is enshrined in Article 19 of the ICCPR, which Iran has signed;

11. Calls on Iran to take steps to ensure that full respect is shown for the right to freedom of religion or belief, including by ensuring that legislation and practices fully conform to Article 18 of the ICCPR, and points out that this also requires the right of everyone to change his or her religion, if he or she so chooses, to be unconditionally and fully guaranteed;

12. Calls on Iran to take immediate steps to ensure that members of the Baha'i community are protected against discrimination in every field, that violations of their rights are immediately investigated, that those found responsible are prosecuted and that the members of that community are provided with effective remedies;

13. Condemns Iran for illegally jamming BBC Persian Service and Deutsche Welle TV signals from the Hotbird and the Eutelsat W3A satellites, and calls on Eutelsat to stop providing services to Iranian state TV stations as long as Iran continues to use Eutelsat services to block independent TV programmes;

14. Expresses its concern at the use of (European) censorship, filtering and surveillance technologies to control and censor information and communication flows and to track down citizens, notably human rights defenders, as in the recent case of Creativity Software; calls on European companies to live up to their corporate social responsibilities by not providing goods, technologies and services to Iran which could endanger the civil and political rights of Iranian citizens;

15. Stresses that free access to information and means of communication and uncensored access to the internet (internet freedom) are universal rights and are indispensable for democracy and freedom of expression, ensuring transparency and accountability, as stated by the UN Human Rights Council on 6 May 2011;
16. Calls on the Iranian authorities to repeal or amend all legislation that provides for, or could result in, discrimination against and prosecution and punishment of people on account of their sexual orientation or gender identity, and to ensure that anyone held solely on account of consensual sexual activities or sexual orientation is released immediately and unconditionally;

17. Calls on the Member States to provide safe haven for Iranian citizens who have fled their country, such as through the Shelter City initiative;

18. Calls on the Iranian authorities to accept peaceful protest and to address the numerous problems facing the Iranian people; expresses particular concern at the pending ecological catastrophe in the Lake Urmia region and calls for decisive government action to try to stabilise the regional ecology, on which millions of Iranians depend;

19. Calls on EU representatives and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy to encourage the Iranian authorities to re-engage in human rights dialogue;

20. Urges the European External Action Service (EEAS) to focus on EU citizens in Iranian prisons and to do everything possible to ensure their well-being and release;

21. 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 Secretary-General of the United Nations, the Office of the Supreme Leader, the President of the Iranian Supreme Court and the Government and Parliament of Iran.

---

Egypt, in particular the case of blogger Alaa Abdel Fatah

P7_TA(2011)0518

European Parliament resolution of 17 November 2011 on Egypt, in particular the case of blogger Alaa Abd El-Fattah

(2013/C 153 E/22)

The European Parliament,

— having regard to its previous resolutions, in particular those of 17 February 2011 (1) on the situation in Egypt and of 27 October 2011 (2) on the situation in Egypt and Syria, in particular of Christian communities,

— having regard to the EU-Egypt Association Agreement and in particular Article 2 thereof,

— having regard to Articles 10, 18 and 19 of the Universal Declaration of Human Rights of 1948,

— having regard to Articles 14(1) and 18 of the International Covenant on Civil and Political Rights of 1966, to which Egypt is a party,

— having regard to Articles 6 and 9 of the European Convention on Human Rights (ECHR) of 1950,

— having regard to the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief of 1981,

(1) Texts adopted, P7_TA(2011)0064.

(2) Texts adopted, P7_TA(2011)0471.
— having regard to the European Union Guidelines on Human Rights Defenders,

— having regard to the statement by the High Representative, Catherine Ashton, of 10 October 2011, on the violence in Egypt,

— having regard to the Foreign Affairs Council conclusions of 21 February 2011 in which High Representative Catherine Ashton was asked to report about the measures adopted and the concrete proposals to strengthen further the European Union actions concerning the promotion and the defence of religion and freedom of belief,

— having regard to the Foreign Affairs Council Conclusions of 10 October 2011 and the European Council Conclusions on Egypt of 23 October 2011,

— having regard to its annual reports on the situation of human rights in the world, and in particular to its resolution of 16 December 2010 on the Annual Report on Human Rights in the World 2009,

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

A. whereas on 30 October 2011, the Military Prosecutor called for interrogation the blogger Mr Alaa Abd El-Fattah, subsequently ordering his provisional detention for 15 days in the appeals prison of Bab El Khalq in Cairo, after charging him with 'inciting violence against the Armed Forces', 'assaulting military personnel and damaging military property' during the recent Maspero clashes, which started with a peaceful demonstration for the rights of Coptic Christians that took place on 9 October 2011 in Cairo, where at least 25 Egyptian citizens were killed and more than 300 injured; whereas 30 other civilians have been detained in the same court case;

B. whereas on 3 November 2011, the Military Appeal Court confirmed the detention of Mr Alaa Abd El-Fattah for a period of 15 days, after which he was transferred to Tora prison and on 13 November his detention was renewed for 15 days pending further investigation;

C. whereas Mr Alaa Abd El-Fattah refused to answer any questions from the Military Court relating to the events, stating that he would only answer to an impartial civil court and arguing that the Military Court did not have the legitimacy and jurisdiction to interrogate civilians;

D. whereas everyone must be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;

E. whereas Alaa Abd El-Fattah was previously detained under the Mubarak regime for 45 days in 2006 after participating in a protest in support of an independent judiciary;

F. whereas imprisoned blogger Maikel Nabil Sanad continues his hunger strike and is in a critical condition; whereas on 11 October 2011 the Military Appeal Court decided to annul his sentence of three years' imprisonment and ordered a retrial; whereas, at the second hearing of this new procedure on 1 November 2011, his trial was postponed until 13 November 2011 and then on that date further postponed until 27 November 2011 as he refused again to cooperate with the military tribunal on the basis of his opposition to civilians being tried before military courts;

G. whereas Egypt is going through a critical period of democratic transition and faces considerable challenges and difficulties in this process;

H. whereas the social media have played an important role in Arab Spring events, including in Egypt; whereas bloggers, journalists and human rights defenders continue to be targets of harassment and intimidation in Egypt;
Thursday 17 November 2011

1. whereas human rights organisations report that more than 12 000 civilians have been tried before military tribunals since March 2011 in Egypt; whereas civilians arrested under the emergency law continue to be tried before military courts, which fall short of minimum standards of fair trial and the right to defence, in the country; whereas the great majority of Egyptian human rights NGOs, lawyers’ associations and political figures from all political groups have insisted that civilians must be tried in civilian courts to ensure due process;

J. whereas the European Union has repeatedly expressed its commitment to freedom of expression, freedom of thought, freedom of conscience and freedom of religion and has stressed that governments have a duty to guarantee these freedoms all over the world;

1. Urges the Egyptian Authorities to immediately release Mr Alaa Abd El-Fattah, who is in prison for refusing to answer questions relating to the events of 9 October 2011 put by the Military Court, which he does not consider to be an impartial and legitimate court; calls on the Egyptian authorities to guarantee that no blogger, journalist or human rights defender is subject to direct or indirect harassment or intimidation in the country;

2. Strongly condemns the judicial harassment of Mr Alaa Abd El-Fattah by the military judicial authorities; repeats its call upon the SCAF to put an end without delay to the emergency law and to military trials of civilians, and to immediately release all prisoners of conscience and political prisoners held by military courts; stresses that civilians should not be prosecuted before military courts, which do not meet basic due process standards;

3. Calls on the Egyptian authorities to guarantee impartial tribunals as referred to in Article 10 of the Universal Declaration of Human Rights of 1948: ‘Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him’;

4. Reiterates its call for an independent, thorough and transparent investigation into the Maspero clashes which started with a peaceful demonstration for the rights of Coptic Christians on 9 October 2011 in Cairo, which should be conducted by an independent and impartial civil judiciary, in order to hold all those responsible to account, and again expresses its condolences to the victims and their relatives; urges the Egyptian authorities to guarantee the independence and impartiality of the various investigations by allowing proper oversight;

5. Reiterates its solidarity with the Egyptian people in this critical period of democratic transition in the country and continues to support their legitimate democratic aspirations; calls on the Egyptian authorities to ensure full respect of all fundamental rights, including freedom of thought, freedom of conscience and freedom of religion, freedom of expression and of internet, freedom of peaceful assembly and freedom of association;

6. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Governments and Parliaments of the Member States and the Government of the Arab Republic of Egypt.
The need for accessible 112 emergency services

P7_TA(2011)0519

Declaration of the European Parliament of 17 November 2011 on the need for accessible 112 emergency services

(2013/C 153 E/23)

The European Parliament,

— having regard to the 112 single European emergency phone number for the European Union, established by Council Decision of 29 July 1991 (91/396/EEC), reinforced by Directive 98/10/EC on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment,

— having regard to Directive 2009/136/EC, amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services,

— having regard to Rule 123 of its Rules of Procedure,

A. whereas most EU emergency services remain accessible only using voice, excluding millions of citizens from a life-saving service, such as deaf, hard-of-hearing and speech-disabled users and in situations where discretion is needed in relation to the call,

B. whereas the European Union has ratified the UN Convention on the Rights of Persons with Disabilities and adopted its Disability Strategy 2010-2020, as well as the Digital Agenda, promoting the principle of Universal Design,

1. Calls on the Commission to put forward legislative and standardisation proposals to make 112 services fully accessible to all citizens, giving priority to sign language services using video technologies and text-based services to ensure the inclusion of deaf, hard-of-hearing and speech-disabled users;

2. Calls on the Commission to promote the development of fully accessible and reliable Next Generation 112 services independent from devices and networks, using the Total Conversation concept;

3. Instructs its President to forward this declaration, together with the names of the signatories (1), to the Council, the Commission and the Governments of the Member States.

(1) The list of signatories is published in Annex 1 to the Minutes of 17 November 2011 (P7_PV(2011)11-17(ANN1)).
III

(Preparatory acts)

EUROPEAN PARLIAMENT

Coordination of safeguards required of companies (Article 54 TFEU) ***I

P7_TA(2011)0477

European Parliament legislative resolution of 15 November 2011 on the proposal for a directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (recast) (COM(2011)0029 – C7-0037/2011 – 2011/0011(COD))

(2013/C 153 E/24)

(Ordinary legislative procedure – recast)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0029),

— having regard to Article 294(2) and Article 50(2)(g) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0037/2011),

— having regard to Article 294(3) and Article 50(1) and (2)(g) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 15 March 2011 (1),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (2),

— having regard to Rules 87 and 55 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A7-0348/2011),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,

(1) OJ C 132, 3.5.2011, p. 113.
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the 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.

P7_TC1-COD(2011)0011

Position of the European Parliament adopted at first reading on 15 November 2011 with a view to the adoption of Directive 2012/.../EU of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (Recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive 2012/30/EU.)

P7_TA(2011)0478

European Parliament legislative resolution of 15 November 2011 on the draft Council decision concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof (08663/2011 – C7-0142/2011 – 2003/0132A(NLE))

(2013/C 153 E/25)

(Consent)

The European Parliament,

— having regard to the draft Council decision (08663/2011),

— having regard to the Protocol of 2002 to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 (08663/2011),

— having regard to the request for consent submitted by the Council in accordance with Article 100(2), Article 218(6) second subparagraph, point (a), and Article 218(8) first subparagraph, of the Treaty on the Functioning of the European Union (C7-0142/2011),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A7-0356/2011),
1. Consents to accession to the Protocol;

2. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States, and the International Maritime Organization.

---

Athens Convention on the carriage of passengers and their luggage by sea, as regards Articles 10 and 11 ***

P7_TA(2011)0479


(2013/C 153 E/26)

(Consent)

The European Parliament,

— having regard to the draft Council decision (08663/2011),

— having regard to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (08663/2011),

— having regard to the request for consent submitted by the Council in accordance with Article 81(1) and Article 81(2), points (a) and (c), in conjunction with Article 218(6), second subparagraph, point (a), and Article 218(8), first subparagraph, of the Treaty on the Functioning of the European Union (C7-0143/2011),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Legal Affairs (A7-0341/2011),

1. Consents to accession to the Protocol;

2. Instructs its President to forward its position to the Council, the Commission, the governments and parliaments of the Member States, and the International Maritime Organization.
European Parliament legislative resolution of 15 November 2011 on the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council, on the conclusion of the Euro Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part (09189/2011 – C7-0122/2011 – 2010/0180(NLE))

(2013/C 153 E/27)

(Consent)

The European Parliament,

— having regard to the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council (09189/2011),

— having regard to the Euro Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part (14366/2010),

— having regard to the request for consent submitted by the Council in accordance with Article 100(2), Article 218(6), second subparagraph, point (a)(v) and Article 218(8), first subparagraph, of the Treaty on the Functioning of the European Union (C7-0122/2011),

— having regard to Rule 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Transport and Tourism (A7-0347/2011),

1. Consents to the conclusion of the Agreement;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Hashemite Kingdom of Jordan.

EU-Georgia common aviation area agreement ***

European Parliament legislative resolution of 15 November 2011 on the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council, on the conclusion of the Common Aviation Area Agreement between the European Union and its Member States and Georgia (09185/2011 – C7-0124/2011 – 2010/0186(NLE))

(2013/C 153 E/28)

(Consent)

The European Parliament,

— having regard to the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council (09185/2011),
— having regard to the draft Common Aviation Area Agreement between the European Union and its Member States, of the one part, and Georgia, of the other part (14370/2010),

— having regard to the request for consent submitted by the Council in accordance with Article 100(2), Article 218(6), second subparagraph, point (a)(v), and Article 218(8), first subparagraph, of the Treaty on the Functioning of the European Union (C7-0124/2011),

— having regard to Rules 81 and 90(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Transport and Tourism (A7-0344/2011),

1. Consents to conclusion of the Agreement;

2. Instructs its President to forward its position to the Council and the Commission and to the governments and parliaments of the Member States and of the Republic of Georgia.

__________

Temporary suspension of autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands *

P7_TA(2011)0482


(2013/C 153 E/29)

(Special legislative procedure – consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2011)0259),

— having regard to Article 349 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0146/2011),

— having regard to Rules 55 and 46(1) of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development (A7-0357/2011),

1. Approves the Commission proposal;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

__________
Framework programme of the European Atomic Energy Community for nuclear research and training activities (indirect actions) *

P7_TA(2011)0483


(2013/C 153 E/30)

(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2011)0073),

— having regard to Article 7 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C7-0075/2011),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy (A7-0358/2011),

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 and Article 106a of the Euratom Treaty;

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.

TEXT PROPOSED BY THE COMMISSION

Amendment 1
Proposal for a decision
Recital 3 a (new)

(3a) The design and implementation of the Framework Programme (2012 - 2013) should be based on the principles of simplicity, stability, transparency, legal certainty, consistency, excellence and trust following the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes (1).

(8) Appropriate measures – proportionate to the Union’s financial interests – should be taken to monitor both the effectiveness of the financial support granted and the effectiveness of the utilisation of these funds in order to prevent irregularities and fraud. The necessary steps should also be taken to recover funds lost, wrongly paid or incorrectly used, in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities’ financial interests, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

(8) Appropriate measures – proportionate to the Union’s financial interests – should be taken to monitor both the effectiveness of the financial support granted and the effectiveness of the utilisation of these funds in order to prevent irregularities and fraud. Special attention should be paid to the development of contractual arrangements that reduce the risk of failure to perform as well as the reallocation of risks and costs over time. The necessary steps should also be taken to recover funds lost, wrongly paid or incorrectly used, in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities’ financial interests, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

Amendment 3
Proposal for a decision
Article 2 – paragraph 1 – point a

a) fusion energy research (including ITER);

a) fusion energy research (including mainly ITER);

Amendment 4
Proposal for a decision
Article 6 – paragraph 2

2. The work programme shall take account of relevant research activities carried out by the Member States, associated states and European and international organisations. It shall be updated where appropriate.

2. The work programme shall take account of relevant research activities carried out by the Member States, associated states and European and international organisations as well as industry. It shall be updated where appropriate.

Amendment 5
Proposal for a decision
Article 6 – paragraph 3

3. The work programme shall specify the criteria on which proposals for indirect actions under the funding schemes are to be evaluated and projects selected. The criteria shall be those of excellence, impact and implementation. Additional requirements, weightings and thresholds may be further specified or complemented in the work programme.

3. The work programme shall specify the criteria on which proposals for indirect actions under the funding schemes are to be evaluated and projects selected. The criteria shall be those of excellence, impact and implementation. Additional requirements, weightings and thresholds that are clearly justified may be further specified or complemented in the work programme.
Amendment 6
Proposal for a decision
Article 7 – paragraph 2 a (new)

2a. The composition of the committee referred to in paragraph 2 shall in each case be such as to ensure a reasonable balance between men and women and between Member States undertaking research and training activities in the nuclear field.

Amendment 7
Proposal for a decision
Annex – part I – section IA – point 1 – paragraph 3

The R&D activities in support of ITER construction will be carried out in the Fusion Associations and European industries. They will include the development and testing of components and systems.

Amendment 8
Proposal for a decision
Annex – part I – section IA – point 2 – indent 2 a (new)

— planning of a new satellite experiment under the 8th Framework Programme which can complement ITER experimentation, with a view to ensuring the facilities required while limiting risks and operational costs, and can also cover the study of key aspects of the DEMO technologies;

Amendment 9
Proposal for a decision
Annex – part I – section IA – point 4 – indent 3

— studies of the sociological aspects and economics of fusion power generation, and actions to promote public awareness and understanding of fusion.

Amendment 10
Proposal for a decision
Annex – part I – section IA – point 6

The realisation of ITER in Europe, within the international framework provided by the ITER Organisation, will add to the new research infrastructures with a strong European dimension.
The overall objective is to enhance in particular the safety, performance, resource efficiency and cost-effectiveness of nuclear fission and uses of radiation in industry and medicine. Indirect actions in nuclear fission and radiation protection will be undertaken in five principal areas of activity detailed below. There are important links with research in the Seventh Framework Programme of the Union adopted by Decision No 1982/2006/EC of the European Parliament and of the Council, in particular in the areas of energy, European standards, education and training, environmental protection, health, material science, governance, common infrastructures, security and safety culture. International collaboration will be a key feature of the activities in many of the activity areas, in particular advanced nuclear systems that are being investigated in the Generation IV International Forum.

There is a clear need to enhance the collaboration with IAEA on Safety Standards applicable to all nuclear facilities and activities. These standards should be broadly applied by designers, manufacturers, operators in power generation, medicine, industry, research and education.

1. Geological disposal

1. All storage including geological disposal
Amendment 14
Proposal for a decision
Annex – part I – section I.B – point 1 – paragraph 1

Through implementation-oriented research, to establish a sound scientific and technical basis for demonstrating the technologies and safety of disposal of spent fuel and long-lived radioactive wastes in geological formations, and to underpin the development of a common European view on the main issues related to the management and disposal of waste.

Amendment 15
Proposal for a decision
Annex – part I – section I.B – point 1 – paragraph 2

Geological disposal: Engineering studies and demonstration of repository designs, in situ characterisation of repository host rocks (in both generic and site-specific underground research laboratories), understanding of the repository environment, studies on relevant processes in the near field (waste form and engineered barriers) and far-field (bedrock and pathways to the biosphere), development of robust methodologies for performance and safety assessment and investigation of governance and societal issues related to public acceptance.

Amendment 16
Proposal for a decision
Annex – part I – section I.B – point 2 – paragraph 2

Nuclear installation safety: Operational safety of current and future nuclear installations, especially plant life assessment and management, safety culture (minimising the risk of human and organisational error), advanced safety assessment methodologies, numerical simulation tools, instrumentation and control, and prevention and mitigation of severe accidents, with associated activities to optimise knowledge management and maintain competences.
Advanced nuclear systems: Improved efficiency of present systems and fuels and the study of advanced reactor systems in order to assess their potential, proliferation resistance and impacts on long-term sustainability, including basic and key cross-cutting research activities (such as material science) and the study of the fuel cycle, innovative fuels and waste management aspects, including partitioning and transmutation the more efficient use of fissile material in existing reactors. The above activities should be geared to supporting the European Sustainable Nuclear Industrial Initiative (ESNII), launched at the Strategic Energy Technology Plan conference of the Belgian Presidency in November 2010, including the design of the key research demonstrators ASTRID, ALLEGRO, ALFRED and MYRRHA.

---

**Short selling and certain aspects of credit default swaps ***I**

P7_TA(2011)0486


(2013/C 153 E/31)

(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2010)0482),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0264/2010),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to opinion of the European Central Bank (¹),

— having regard to the opinion of the European Economic and Social Committee (²),

— having regard to the undertaking given by the Council representative by letter of 10 November 2011 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

(¹) OJ C 91, 23.3.2011, p. 1,
(²) OJ C 84, 17.3.2011, p. 34.
1. Adopts its position at first reading hereinafter set out (1);

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(1) This position replaces the amendments adopted on 5 July 2011 (Texts adopted P7_TA(2011)0312).

P7_TC1-COD(2010)0251


(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 236/2012.)

European statistics on permanent crops ***I

P7_TA(2011)0487


(2013/C 153 E/32)

(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to the Parliament and the Council (COM(2010)0249),

— 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 (C7-0129/2010),

— 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 3 October 2011 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Agriculture and Rural Development (A7-0188/2011),
Tuesday 15 November 2011

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the 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.

P7_TC1-COD(2010)0133


(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 1337/2011.)

Framework programme of the European Atomic Energy Community for nuclear research and training activities (direct actions) *

P7_TA(2011)0488

European Parliament legislative resolution of 15 November 2011 on the proposal for a Council decision concerning the specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) (COM(2011)0074 – C7-0078/2011 – 2011/0044(NLE))

(2013/C 153 E/33)

(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2011)0074),

— having regard to Article 7 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C7-0078/2011),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy (A7-0340/2011),

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 and Article 106a of the Euratom Treaty;

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.

TEXT PROPOSED BY THE COMMISSION

Amendment 1
Proposal for a decision
Recital 5

(5) In implementing this specific programme, emphasis should be given to promoting the mobility and training of researchers and promoting innovation, in the European Union. In particular, the JRC should provide appropriate training in nuclear safety and security.

AMENDMENT

Amendment 2
Proposal for a decision
Recital 5 a (new)

(5a) Increased attention and budget spending are needed for initiatives ancillary to core nuclear research, in particular as regards investment in human capital and actions aimed at addressing the risk of skills shortages in the coming years (e.g. grants to researchers in the nuclear field) and the consequent loss of leadership for the Union.

Amendment 3
Proposal for a decision
Recital 6 a (new)

(6a) The implementation of the Framework Programme (2012 - 2013) should be based on the principles of simplicity, stability, transparency, legal certainty, consistency, excellence and trust following the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes (1).

Amendment 4
Proposal for a decision
Recital 10 a (new)

(10a) The management of Union research funding should be more trust-based and risk-tolerant at all stages of the projects, while ensuring accountability, with flexible Union rules.

Amendment 5
Proposal for a decision
Recital 11

Appropriate measures - proportionate to the European Union's financial interests - should be taken to monitor both the effectiveness of the financial support granted and the effectiveness of the utilisation of these funds in order to prevent irregularities and fraud. The necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities’ financial interests, Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

Amendment 6
Proposal for a decision
Article 2 – paragraph 1 – point c a (new)

(ca) decommissioning

Amendment 7
Proposal for a decision
Article 6 – paragraph 1

1. The Commission shall draw up a multi-annual work programme for the implementation of the specific programme, setting out in greater detail the objectives and scientific and technological priorities set out in the Annex, and the timetable for implementation.

1. The Commission shall draw up a multi-annual work programme for the implementation of the specific programme, setting out in greater detail the objectives and scientific and technological priorities set out in the Annex, together with the necessary funds, and the timetable for implementation.
The management of spent fuel and nuclear high-level waste involves their processing, conditioning, transport, interim storage and geological disposal. The ultimate goal is to prevent the release of radio-nuclides into the biosphere during all these stages over their very long decay time scale. The design, assessment and functioning of engineered and natural containment barrier systems over the relevant time scales are key to achieving these objectives and depend among other things on fuel and/or waste behaviour in the geological environment. Such studies are covered by this specific programme.

**Amendment 9**

Proposal for a decision  
Annex – section 3 – point 3.1 – point 3.1.3

3.1.3. Basic actinide research

To maintain competence and a leading position in the field of civil nuclear technology, it is essential to foster interdisciplinary basic research on nuclear materials as a resource from which new technological innovations can emerge. In turn, this requires knowledge of the response of the so-called ‘5f electronic layer elements’ (i.e. the actinides) and compounds to (usually extreme) thermodynamic parameters. Because of the small experimental data base and the intrinsic complexity of modelling, our current knowledge of these mechanisms is limited. Basic research addressing these issues is crucial for understanding the behaviour of these elements and to remain at the forefront of contemporary condensed matter physics. Developments in advanced modelling and simulation will be leveraged to boost the impact of the experimental programmes.

The JRC’s basic actinide research programme will remain at the forefront of actinide physics and chemistry, the main goal being to provide world-class experimental facilities to scientists from universities and research centres. These will allow them to investigate the properties of actinide materials, in order to complete their education and to contribute to advances in nuclear sciences.
radiation. Articles 31 to 38 of the Treaty provides rules on the role of the Member States and the Commission with regard to the protection of human health, the control of levels of radioactivity in the environment, release into the environment, and nuclear waste management. Under Article 39 of the Treaty, the JRC provides assistance to the Commission in carrying out this task.

Amendment 11
Proposal for a decision
Annex – section 3 – point 3.1 – point 3.1.6 – paragraph 2

In view of the new limits for radio-nuclides in drinking water and food ingredients, the JRC will develop analytical techniques and produce corresponding reference materials. Inter-laboratory comparisons will be organised with the monitoring laboratories of the Member States to assess the comparability of the reported monitoring data under Articles 35 and 36 of the Treaty, and to support the harmonisation of the radioactivity monitoring systems with reference test materials.

Amendment 12
Proposal for a decision
Annex – section 3 – point 3.2 – point 3.2.1

Nuclear safety and the reliability of operating installations is permanently subject to optimisation in order to meet the new challenges posed by market liberalisation, extended plant operation, and the so-called nuclear industry ‘renaissance’. In order to maintain and improve the safety level of both Western and Russian-type nuclear power plants, advanced and refined safety assessment methodologies and corresponding analytical tools have to be extended and validated. Targeted experimental investigations are carried out at the JRC to improve the understanding of the underlying physical phenomena and processes in order to enable validation and verification of deterministic and probabilistic safety assessments, based on advanced modelling of plant processes (reactivity and thermal-hydraulic), of components under operational loads/ageing, and of human and organisational factors. The JRC will also continue to play a central role in the establishment and operation of the European Clearinghouse for Operational Experience Feedback for the benefit of all Member States. It will provide topical reports on specific plant issues and facilitate the efficient sharing and uptake of operational experience.
In view of the growing importance of the decommissioning of nuclear reactors and the associated expanding market and engineering aspects, the JRC will also enhance its scientific expertise in the field. It will include in its programme key aspects on research and training of experts on decommissioning of reactors (methodologies, on-the-job training, and scientific background).

**Participation of undertakings, research centres and universities in indirect actions under the framework programme of the European Atomic Energy Community**

P7_TA(2011)0489

European Parliament legislative resolution of 15 November 2011 on the proposal for a Council regulation (Euratom) laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013) (COM(2011)0071 – C7-0076/2011 – 2011/0045(NLE))

(2013/C 153 E/34)

(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2011)0071),

— having regard to Articles 7 and 10 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C7-0076/2011),

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy (A7-0345/2011),

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 and Article 106a of the Euratom Treaty;

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.
Tuesday 15 November 2011

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Amendment 1
Proposal for a regulation
Recital 1

(1) The Framework Programme of the European Atomic Energy Community for nuclear research and training activities for 2012-2013, hereinafter 'the Framework Programme (2012-2013)', was adopted by Council Decision No …/…/Euratom of … concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013). It is the responsibility of the Commission to ensure the implementation of the Framework Programme (2012-2013) and its specific programmes, including the related financial aspects.

Amendment 2
Proposal for a regulation
Recital 4 a (new)

(4a) The Framework Programme (2012-2013) should contribute to achieving the Innovation Union that is one of the flagship initiatives of the Europe 2020 strategy, by reinforcing competition with a view to scientific excellence and accelerating the implementation of key innovations in the field of nuclear energy, especially as regards nuclear fusion and safety, while also playing a part in meeting the challenges of the energy sector and climate change.

Amendment 3
Proposal for a regulation
Recital 4 b (new)

(4b) The design and implementation of the Framework Programme (2012-2013) should be based on the principles of simplicity, stability, transparency, legal certainty, consistency, excellence and trust following the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes (1).

Amendment 4
Proposal for a regulation
Recital 5 a (new)

(5a) Increased attention and budget spending are needed for initiatives ancillary to core nuclear research, in particular as regards investment in human capital and actions aimed at addressing the risk of skills shortages in the coming years (e.g. grants to researchers in the nuclear field) and the consequent loss of leadership for the Union.

Amendment 5
Proposal for a regulation
Recital 6 a (new)

(6a) Special attention should be paid to the development of contractual arrangements that reduce the risk of failure to perform as well as the reallocation of risks and costs over time.

Amendment 6
Proposal for a regulation
Recital 8

(8) The Framework Programme (2012-2013) should promote participation from the outermost regions of the Community, as well as from a wide range of undertakings, research centres and universities, whose research activities should be based on respect for fundamental ethical principles, especially those laid down in the Charter of Fundamental Rights of the European Union.

Amendment 7
Proposal for a regulation
Recital 23 a (new)

(23a) The implementation of ITER in Europe, pursuant to the agreement of 21 November 2006 on the establishment of the ITER International Fusion Energy Organisation in the context of the joint implementation of the ITER project, should constitute the central element of research activity in the area of fusion under the Framework Programme (2012-2013).
Amendment 8
Proposal for a regulation
Article 11 – paragraph 2

They may also lay down, according to the nature and objectives of the indirect action, additional conditions to be met as regards type of participant and, where appropriate, place of establishment.

Amendment 9
Proposal for a regulation
Article 12 – paragraph 3

3. Calls for proposals shall have clear objectives so as to ensure that applicants do not respond needlessly.

Amendment 10
Proposal for a regulation
Article 14 – paragraph 1 – subparagraph 2

The criteria shall be those of excellence, impact and implementation. Within these conditions, the work programme shall further specify the evaluation and selection criteria and may add additional requirements, weightings and thresholds, or set out further details on the application of the criteria.

Amendment 11
Proposal for a regulation
Article 14 – paragraph 3 a (new)

3a. All stages of the process should be optimised in order to avoid delay and encourage cost-effectiveness. That involves access to draft work programmes, publication of calls for proposals, drafting of proposals, the selection procedures and the time taken to approve and to pay grants.

Amendment 12
Proposal for a regulation
Article 16 – paragraph 2 – subparagraph 4

Appropriate measures shall be taken to ensure a reasonable gender balance when appointing groups of independent experts.
Amendment 13  
Proposal for a regulation  
Article 16 – paragraph 2 – subparagraph 4 a (new)

Appropriate measures shall be taken to ensure an adequate balance between industry (including SMEs) and academia when appointing groups of independent experts.

Amendment 14  
Proposal for a regulation  
Article 30 – paragraph 3 – subparagraph 1 – point e

(e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, cost related to return on capital, costs declared or incurred, or reimbursed in respect of another Union project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

Amendment 15  
Proposal for a regulation  
Article 52 – paragraph 2 – point a

(a) under the Contracts of Association at a rate not exceeding 40 %: expenditure of specific cooperative projects between the Associates which have been recommended for priority support by the consultative committee and approved by the Commission; priority support will concentrate on actions of relevance to the ITER/DEMO, except in the case of projects already awarded priority status in earlier framework programmes;

(a) under the Contracts of Association at a rate not exceeding 40 %: expenditure of specific cooperative projects between the Associates which have been recommended for priority support by the consultative committee and approved by the Commission; priority support will concentrate on experiments aimed at optimising the performance of ITER and contributing to the definition of the DEMO programme;
Mobilisation of the European Globalisation Adjustment Fund: application EGF/2010/019 IE/Construction 41 from Ireland

P7_TA(2011)0496


(2013/C 153 E/35)

The European Parliament,

— having regard to the Commission proposal to the Parliament and the Council (COM(2011)0617 – C7-0313/2011),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (1) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0375/2011),

— having regard to the report of the Committee on Budgets (A7-0375/2011),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a direct result of the global financial and economic crisis,

C. whereas the Union's financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF,

D. whereas Ireland has requested assistance in respect of a case concerning 4,866 redundancies, of which 3,205 have been targeted for assistance, in 1,482 enterprises operating in NACE Revision 2 Division 41 ('Construction of buildings') (3) in the NUTS II regions of Border, Midlands and Western (IE01) and Southern and Eastern (IE02) in Ireland. These two contiguous regions comprise the entire State of Ireland,

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation,

1. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates in this sense the improved procedure put in place by the Commission, following Parliament’s request for accelerating the release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency and visibility of the EGF will be achieved;

2. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared to helping workers who have been made redundant as a result of globalisation and the financial and economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market, in particular the most vulnerable and least qualified workers;

3. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual redundant workers into employment; further stresses that the EGF assistance can co-finance only active labour market measures which lead to long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors; deplores the fact that the EGF might provide an incentive for companies to replace their contractual workforce with a more flexible and short-term one;

4. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on the compatibility and complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports as well;

5. Welcomes the fact that following repeated requests from Parliament, for the first time the 2011 budget shows payment appropriations of EUR 47,608,950 on the EGF budget line 04 05 01; recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and that it therefore deserves a dedicated allocation, superseding transfers from other budget lines, as done in the past, which could be detrimental to the achievement of the various policies objectives; notes that the amount of payment appropriations initially entered on the budget line 04 05 01 will have been fully consumed after adoption by both arms of the budgetary authority of the proposals submitted to date for mobilising the EGF;

6. Welcomes the reinforcement of the EGF budget line 04 05 01 by EUR 50,000,000 through Amending budget No 3/2011; notes that appropriations from this budget line will be used to cover EUR 6,091,460 of the amount needed for the present application, and as payment appropriations are available in 2011 under the budget line 04 02 01, "Completion of the European Social Fund (ESF) – Objective 1 (2000 to 2006)", an additional amount of EUR 6,598,378 needed for the present application can therefore be made available for transfer;

7. Approves the decision annexed to this resolution;

8. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

9. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.
ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2010/019 IE/Construction 41 from Ireland)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/772/EU.)

Mobilisation of the European Globalisation Adjustment Fund: application EGF/2010/021 IE/Construction 71 from Ireland

P7_TA(2011)0497


(2013/C 153 E/36)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0619 – C7-0315/2011),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (1) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0377/2011),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a direct result of the global financial and economic crisis,

C. whereas the Union’s financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF,

D. whereas Ireland has requested assistance in respect of a case concerning 842 redundancies, of which 554 have been targeted for assistance, in 230 enterprises operating in the NACE Revision 2 Division 71 (‘Architectural and engineering activities; technical testing and analysis’) (1) in the NUTS II regions of Border, Midlands and Western (IE01) and Southern and Eastern (IE02) in Ireland. These two contiguous regions comprise the entire State of Ireland,

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation,

1. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates in this sense the improved procedure put in place by the Commission, following Parliament’s request for accelerating the release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency and visibility of the EGF will be achieved;

2. Recalls the institutions’commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared to helping workers who have been made redundant as a result of globalisation and the financial and economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market, in particular the most vulnerable and least qualified workers;

3. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual redundant workers into employment; further stresses that the EGF assistance can co-finance only active labour market measures which lead to long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors; deplores the fact that the EGF might provide an incentive for companies to replace their contractual workforce with a more flexible and short-term one;

4. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on the compatibility and complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports as well;

5. Welcomes the fact that following repeated requests from Parliament, for the first time the 2011 budget shows payment appropriations of EUR 47 608 950 on the EGF budget line 04 05 01; recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and that it therefore deserves a dedicated allocation, superseding transfers from other budget lines, as done in the past, which could be detrimental to the achievement of the various policies objectives;

6. Points out that the amount of payment appropriations initially entered on the budget line 04 05 01 will have been fully consumed with application EGF/2010/019 IE/Construction 41 from Ireland; considers that as payment appropriations are available in 2011 under the budget line 04 02 01 “Completion of the European Social Fund (ESF) – Objective 1 (2000 to 2006)”, an amount of EUR 1 387 819 needed for the present application can therefore be made available for transfer;

7. Approves the decision annexed to this resolution;

8. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

9. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2010/021 IE/Construction 71 from Ireland)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/774/EU.)

Mobilisation of the European Globalisation Adjustment Fund: application EGF/2010/020 IE/Construction 43 from Ireland

P7_TA(2011)0498


(2013/C 153 E/37)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0618 – C7-0314/2011),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (1) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0376/2011),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a direct result of the global financial and economic crisis,

C. whereas the Union’s financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF,

D. whereas Ireland has requested assistance in respect of a case concerning 3 382 redundancies, of which 2 228 have been targeted for assistance, in 1 560 enterprises operating in the NACE Revision 2 Division 43 (‘Specialised construction activities’) (1) in the NUTS II regions of Border, Midlands and Western (IE01) and Southern and Eastern (IE02) in Ireland,

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation,

1. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates in this sense the improved procedure put in place by the Commission, following Parliament’s request for accelerating the release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency and visibility of the EGF will be achieved;

2. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared to helping workers who have been made redundant as a result of globalisation and the financial and economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market, in particular the most vulnerable and least qualified workers;

3. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual redundant workers into employment; further stresses that the EGF assistance can co-finance only active labour market measures which lead to long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors; deplores the fact that the EGF might provide an incentive for companies to replace their contractual workforce with a more flexible and short-term one;

4. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on the compatibility and complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports as well;

5. Recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and that it therefore deserves a dedicated allocation, superseding transfers from other budget lines, as done in the past, which could be detrimental to the achievement of the various policies objectives; points out that the amount of payment appropriations initially entered on the EGF budget line 04 05 01 were fully consumed with application EGF/2010/019 IE/Construction 41 from Ireland.

6. Notes, however, that, in order to mobilise the EGF in this case, payments appropriations will be transferred from a budget line dedicated to the "Completion of the European Social Fund (ESF) – Objective 1 (2000 to 2006)".

7. Approves the decision annexed to this resolution;

8. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

9. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutinal Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2010/020 IE/Construction 43 from Ireland)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/773/EU.)

Mobilisation of the European Globalisation Adjustment Fund: application EGF/2011/001 AT/Niederösterreich-Oberösterreich from Austria

P7_TA(2011)0499


(2013/C 153 E/38)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0579 – C7-0254/2011),
— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (\(^1\)) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0379/2011),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a direct result of the global financial and economic crisis,

C. whereas the Union's financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF,

D. whereas Austria has requested assistance in respect of a case concerning 2 338 redundancies, of which 502 have been targeted for assistance, in 706 enterprises operating in the NACE Revision 2 Division 49 ('Land transport and transport via pipelines') in the NUTS II regions of Niederösterreich (AT12) and Oberösterreich (AT31) in Austria,

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation,

1. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates in this sense the improved procedure put in place by the Commission, following Parliament’s request for accelerating the release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency and visibility of the EGF will be achieved;

2. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared to helping workers who have been made redundant as a result of globalisation and the financial and economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market, in particular the most vulnerable and least qualified workers;

\(^1\) OJ C 139, 14.6.2006, p. 1.
3. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual redundant workers into employment; further stresses that the EGF assistance can co-finance only active labour market measures which lead to long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors; deplores the fact that the EGF might provide an incentive for companies to replace their contractual workforce with a more flexible and short-term one;

4. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on the compatibility and complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports as well;

5. Welcomes the fact that following repeated requests from Parliament, for the first time the 2011 budget shows payment appropriations of EUR 47 608 950 on the EGF budget line 04 05 01; recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and that it therefore deserves a dedicated allocation, which will avoid there being transfers from other budget lines, as happened in the past, which could be detrimental to the achievement of the various policies objectives;

6. Welcomes the foreseen reinforcement of the EGF budget line 04 05 01 by EUR 50 000 000 through Amending budget No 3/2011, which will be used to cover the amount needed for this application;

7. Approves the decision annexed to this resolution;

8. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

9. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2011/001 AT/Niederösterreich-Oberösterreich from Austria)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/770/EU.)
Mobilisation of the European Globalisation Adjustment Fund: application EGF/2011/004 EL/ALDI Hellas/Greece

P7_TA(2011)0500


(2013/C 153 E/39)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2011)0580 – C7-0255/2011),

— having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (1) (IIA of 17 May 2006), and in particular point 28 thereof,


— having regard to the trilogue procedure provided for in point 28 of the IIA of 17 May 2006,

— having regard to the letter of the Committee on Employment and Social Affairs,

— having regard to the report of the Committee on Budgets (A7-0378/2011),

A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who are suffering from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,

B. whereas the scope of the EGF was broadened for applications submitted from 1 May 2009 to include support for workers made redundant as a direct result of the global financial and economic crisis,

C. whereas the Union’s financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the IIA of 17 May 2006 in respect of the adoption of decisions to mobilise the EGF,

D. whereas Greece has requested assistance in respect of a case concerning 642 redundancies in two enterprises in the retail sector (‘supermarket and supplier’) operating in the regions of Central Macedonia and Attica where the greatest number of ALDI stores were located. Smaller numbers of ALDI redundancies also occurred in other Greek regions, such as Eastern Macedonia-Thrace, Western Macedonia, Epirus, Western Greece, Sterea Ellada and Peloponnese. Of the 642 redundancies, 534 occurred during the reference period, and 88 occurred before the reference period, but are eligible for assistance according to Article 3a(b) of Regulation (EC) No 1927/2006. All 642 redundant workers are targeted for EGF assistance,

E. whereas the application fulfils the eligibility criteria laid down by the EGF Regulation,

1. Requests the institutions involved to make the necessary efforts to improve procedural and budgetary arrangements in order to accelerate the mobilisation of the EGF; appreciates in this sense the improved procedure put in place by the Commission, following Parliament’s request for accelerating the release of grants, aimed at presenting to the budgetary authority the Commission’s assessment on the eligibility of an EGF application together with the proposal to mobilise the EGF; hopes that further improvements in the procedure will be made within the framework of the upcoming review of the EGF and that greater efficiency, transparency and visibility of the EGF will be achieved;

2. Recalls the institutions’ commitment to ensuring a smooth and rapid procedure for the adoption of the decisions on the mobilisation of the EGF, providing one-off, time-limited individual support geared to helping workers who have been made redundant as a result of globalisation and the financial and economic crisis; emphasises the role that the EGF can play in the reintegration of workers made redundant into the labour market, in particular the most vulnerable and least qualified workers;

3. Stresses that, in accordance with Article 6 of the EGF Regulation, it should be ensured that the EGF supports the reintegration of individual redundant workers into employment; further stresses that the EGF assistance can co-finance only active labour market measures which lead to long-term employment; reiterates that assistance from the EGF must not replace actions which are the responsibility of companies by virtue of national law or collective agreements, nor measures restructuring companies or sectors; deplores the fact that the EGF might provide an incentive for companies to replace their contractual workforce with a more flexible and short-term one;

4. Notes that the information provided on the coordinated package of personalised services to be funded from the EGF includes information on the compatibility and complementarity with actions funded by the Structural Funds; reiterates its call to the Commission to present a comparative evaluation of those data in its annual reports as well;

5. Welcomes the fact that following repeated requests from Parliament, for the first time the 2011 budget shows payment appropriations of EUR 47 608 950 on the EGF budget line 04 05 01; recalls that the EGF was created as a separate specific instrument with its own objectives and deadlines and that it therefore deserves a dedicated allocation, which will avoid there being transfers from other budget lines, as happened in the past, which could be detrimental to the achievement of the various policies objectives;

6. Welcomes the foreseen reinforcement of the EGF budget line 04 05 01 by EUR 50 000 000 through Amending budget No 3/2011, which will be used to cover the amount needed for this application;

7. Approves the decision annexed to this resolution;

8. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;

9. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.
ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (application EGF/2011/004 EL/ALDI Hellas from Greece)

(The text of this annex is not reproduced here since it corresponds to the final act, Decision 2011/771/EU.)

---

European Heritage Label ***II

P7_TA(2011)0502


(2013/C 153 E/40)

(Ordinary legislative procedure: second reading)

The European Parliament,

— having regard to the Council position at first reading (10303/1/2011 – C7-0236/2011),

— having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to its position at first reading (1) on the Commission proposal to Parliament and the Council (COM(2010)0076),

— having regard to Article 294(7) of the Treaty on the Functioning of the European Union,

— having regard to Rule 72 of its Rules of Procedure,

— having regard to the recommendation for second reading of the Committee on Culture and Education (A7-0331/2011),

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;

Wednesday 16 November 2011

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.

——

Single European railway area ***I

P7_TA(2011)0503


(2013/C 153 E/41)

(Ordinary legislative procedure – recast)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2010)0475),

— having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0268/2010),

— having regard to Article 14 of the Treaty on the Functioning of the European Union and Protocol No 26 thereto on Services of General Interest,

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to its resolution of 17 June 2010 on the implementation of the first railway package Directives (1),

— having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the Chambre des Députés of Luxembourg, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 16 March 2011 (2),

— having regard to the opinion of the Committee of the Regions of 28 January 2011 (3),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (4),

— having regard to the letter of 26 May 2011 from the Committee on Legal Affairs to the Committee on Transport and Tourism in accordance with Rule 87(3) of its Rules of Procedure,

— having regard to Rules 87 and 55 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A7-0367/2011),

(2) OJ C 132, 3.5.2011, p. 99.
(3) OJ C 104, 2.4.2011, p. 53.
A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. 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.

P7_TC1-COD(2010)0253


(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 91 thereof,

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the Committee of the Regions (2),

Acting in accordance with the ordinary legislative procedure,

Whereas:


(2) OJ C 104, 2.4.2011, p. 53.
Greater integration of the Union transport sector is an essential element of the completion of the internal market, and the railways are a vital part of the Union transport sector moving towards achieving sustainable mobility.


The numerous infringement procedures against Member States demonstrate that the current legislation gives rise to differences of interpretation and that the first railway package needs to be clarified and improved in order to ensure a genuine opening up of the European rail market. [Am. 2]

Investment in the development and upkeep of railway infrastructure remains insufficient to guarantee the sector's development and capacity to compete. [Am. 3]

The Directives which comprise the first railway package have not prevented a considerable variation in the structure and level of railway infrastructure charges and the form and duration of capacity allocation processes. [Am. 4]

Non-transparent market conditions are an obvious obstacle to competitive railway services. [Am. 5]

The efficiency of the railway system should be improved, in order to integrate it into a competitive market, whilst taking account of the special features of the railways.

The coexistence in the Member States of different social security schemes in the railway sector poses a risk of unfair competition between new railway operators and incumbent undertakings, and requires harmonisation while respecting the specific characteristics of the sector and of the Member States. [Am. 6]

Guarantees must be provided that the regulatory bodies will carry out their supervisory duties, in order to ensure non-discrimination between railway undertakings, the implementation of suitable charging policies and compliance with the principle of the separation of accounts. [Am. 7]

In order to complete the European railway area, complete interoperability of the rail system at European level is necessary. The European Railway Agency should be assigned the appropriate powers and resources to attain this objective more quickly, inter alia as regards the development of common standards for certification of rolling stock and safety and signalling systems. [Am. 8]

Regional, urban and suburban services as well as transport activities in the form of shuttle services through the Channel Tunnel should be excluded from the scope of this Directive. Heritage and museum railways running on their own track should also be exempt from the scope of the Directive. [Am. 9]

In order to render railway transport efficient and competitive with other modes of transport, Member States should ensure that railway undertakings have the status of independent operators behaving in a commercial manner and adapting to market needs.

In order to ensure the future development and efficient operation of the railway system, a distinction should be made between the provision of transport services and the operation of infrastructure. Given this situation, it is necessary for these two activities to be managed separately and to have separate accounts, guaranteeing transparency which ensures that no public funds are diverted to other commercial activities.

The strict separation of accounts between infrastructure manager and railway undertaking must be ensured. Public funds allocated to one of these fields of activity should not be transferred to another field of activity. This prohibition should be clearly displayed in the accounting rules of each field of activity. The Member State and the national regulatory body should ensure the effective application of this prohibition.

Whatever the type of undertaking, all rail operators must respect legislation on social protection and health so as to avoid the practice of social dumping and unfair competition.

In order to enable rail transport to compete with road transport, the differing sets of national rules, such as those on rail transport safety, on the use of accompanying documents, on the marshalling of trains and the relevant documentation related thereto, on the signals and marks used to guide trains, on the measures and checks implemented in connection with shipments of hazardous goods and on uniform procedures for registering and monitoring shipments of waste, should be standardised.

The principle of freedom to provide services should be applied to the railway sector, taking into account that sector's specific characteristics.

In order to boost competition in railway service management in terms of improved comfort and the services provided to users, Member States should retain general responsibility for the development of the appropriate railway infrastructure.

In the absence of common rules on allocation of infrastructure costs, Member States should, after consulting the infrastructure manager, lay down rules providing for railway undertakings to pay for the use of railway infrastructure. Such rules should not discriminate between railway undertakings.

Member States should ensure that infrastructure managers and existing publicly owned or controlled railway transport undertakings are given a sound financial structure having due regard to the Union rules on State aids.

The Union should explore alternative sources of funding European rail projects through innovative financial instruments, such as Union project bonds, to encourage private investment and to improve access to venture capital. By the same token, the railway market must be made attractive to alternative, private investors via clear, transparent legal frameworks.
(10b) **Member States and infrastructure managers should be able to fund infrastructure investment through means other than direct State funding such as private sector financing. [Am. 15]**

(11) An efficient **passenger and freight sector, especially across borders and in particular in instances where different track gauges still constitute a physical barrier to competition, requires urgent action to open up the markets in the individual Member States and generate competition. [Am. 16]**

(12) In order to ensure that access rights to railway infrastructure are applied throughout the Union on a uniform and non-discriminatory basis, it is appropriate to introduce a licence for railway undertakings.

(13) In the case of journeys with intermediate stops, new market entrants should be authorised to pick up and set down passengers along the route in order to ensure that such operations are economically viable and to avoid placing potential competitors at a disadvantage compared to existing operators.

(14) The introduction of new, open-access, international passenger services with intermediate stops should not be used to open up the market for domestic passenger services, but should merely be focused on stops that are ancillary to the international route. The principal purpose of the new services should be to carry passengers travelling on an international journey. When assessing whether that is the service's principal purpose, criteria such as the proportion of turnover, and of volume, derived from transport of domestic or international passengers, and the length of the service should be taken into account. The assessment of the service's principal purpose should be carried out by the respective national regulatory body at the request of an interested party. [Am. 17]

(15) Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road (1) authorises Member States and local authorities to award public service contracts which may contain exclusive rights to operate certain services. It is therefore necessary to ensure that the provisions of that Regulation are consistent with the principle of opening up international passenger services to competition.

(15a) **Regulation (EC) No 1370/2007 allows Member States to ensure that workers’ employment rights are maintained in the context of the separation of the provision of transport services from the management of the infrastructure, which could involve a transfer of an undertaking. [Am. 18]**

(16) Opening up international passenger services to competition may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States should have the option of limiting the right of access to the market where this right would compromise the economic equilibrium of these public service contracts and where approval is given by the relevant regulatory body referred to in Article 55 and where applicable the network of regulatory bodies as set out in Article 57, of this Directive on the basis of an objective economic analysis, following a request from the competent authorities that awarded the public service contract. [Am. 19]

The assessment of whether the economic equilibrium of the public service contract could be compromised should take into account predetermined criteria such as the impact on the profitability of any services which are included in a public service contract, including consequential impacts on the net cost to the competent public authority that awarded the contract, passenger demand, ticket pricing, ticketing arrangements, location and number of stops on both sides of the border and timing and frequency of the proposed new service. In accordance with such an assessment and the decision of the relevant regulatory body, Member States may authorise, modify or deny the right of access for the international passenger service sought, including the levying of a charge on the operator of a new international passenger service, in line with the economic analysis and in accordance with Union law and the principles of equality and non-discrimination.

In order to contribute to the operation of passenger services on lines fulfilling a public service obligation, Member States should be able to authorise the authorities responsible for those services to impose a levy on passenger services which fall within the jurisdiction of those authorities. That levy should contribute to the financing of public service obligations laid down in public service contracts.

Market developments have shown that a crucial concern is to strengthen the role of the regulatory bodies. If they are to play a key role in ensuring a fair environment with equitable access conditions, they need to receive the financial means as well as appropriate staffing and logistic equipment to fulfil this role. [Am. 20]

The national regulatory body must be an independent regulatory authority with the power to take up matters on its own initiative and to undertake investigations, and capable of issuing opinions and enforceable decisions with a view to ensuring an open market without barriers in which competition is exercised freely and without distortion. [Am. 21]

The national regulatory body should function in a way which avoids any conflict of interests and any possible involvement in the award of the public service contract under consideration, without prejudice to the option of this body being funded from the national budget or from levies on the rail sector and to the publication of the relevant information. The competence of the regulatory body should be extended to allow the assessment of the purpose of an international service and, where appropriate, the potential economic impact on existing public service contracts. [Am. 22]

The national regulatory body should be fully independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. The national regulatory body has to have the necessary administrative capacity in terms of staff and resources to ensure that the railway market is open and transparent. The required level of staff should be directly linked to the market needs and vary accordingly. It should be required to take a decision on any complaints, act on its own initiative, investigate in cases of dispute and monitor the development of the market. It should be supported by a regulatory department of the Commission. Furthermore the national regulatory body should maintain a database of their draft decisions accessible to the Commission. [Am. 23]

In order to invest in services using specialised infrastructure, such as high-speed railway lines, applicants need legal certainty given the substantial long-term investment involved.
(21) The national regulatory bodies should, under the auspices of the Commission, create a network to strengthen their cooperation through the development of common principles and the exchange of best practices and information. They should also, where relevant in individual cases, coordinate the principles and practice of assessing whether the economic equilibrium of a public service contract is compromised. They should progressively develop at European level common guidelines based on their experience. Based on the experience of that network of regulatory bodies the Commission should come forward with a legislative proposal for the setting up of a European regulatory body. [Ams 24 and 25]

(22) In order to ensure fair competition between railway undertakings, a distinction should be made between the provision of transport services and the operation of service facilities. Given this situation, it is necessary for these two types of activity to be managed independently in distinct legal entities. Such independence need not imply the establishment of separate in a transparent and non-discriminatory manner by the regulatory body or firm for each service facility in accordance with the procedures laid down in this Directive. [Am. 26]

(22a) Improved access to travel information and ticketing services in passenger stations should complement other regulatory initiatives aiming to facilitate the creation and development of telematic applications for passengers. [Am. 138]

(23) In order to ensure dependable and adequate services, it is necessary to ensure that, at all times, railway undertakings meet certain requirements in relation to good repute, financial fitness, social standards and professional competence. [Am. 27]

(24) For the protection of customers and third parties concerned it is important to ensure that railway undertakings are sufficiently insured against liability. Coverage of its liability in the event of accidents through guarantees provided by banks or other undertakings should also be allowed, provided that such coverage is offered under market conditions, does not result in State aid and does not contain elements of discrimination against other railway undertakings. [Am. 28]

(25) All railway undertakings should also be required to comply with both national and Union rules on the provision of railway services, applied in a non-discriminatory manner, which are intended to ensure that they can carry on their activities in complete safety and with due regard to health, existing obligations in relation to social conditions, health and the rights of workers and consumers on specific stretches of track. [Ams 29 and 30]

(26) The procedures for granting, maintaining and amending operating licences for railway undertakings should be transparent and in accordance with the principle of non-discrimination.

(26a) It is still the case that, too often, the granting of licences for railway undertakings’ rolling stock is unjustifiably impeded, which distorts market access. A strong remit for the European Railway Agency in this respect is therefore appropriate. The Commission is therefore called upon, as part of the review of Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (1), to investigate whether the European Railway Agency’s remit can be expanded in this regard. [Am. 31]

(27) To ensure transparency and non-discriminatory access to rail infrastructure and rail-related services for all railway undertakings, all the information required to use access rights is to be published in a network statement, including formats which are accessible for people with disabilities or reduced mobility. [Am. 32]

(28) Appropriate capacity-allocation schemes for rail infrastructure coupled with competitive operators will result in a better balance of transport between modes.

(29) Encouraging optimal use of the railway infrastructure will lead to a reduction in the cost of transport to society.

(30) Appropriate charging schemes for rail infrastructure coupled with appropriate charging schemes for other transport infrastructure and competitive operators should result in an optimal balance of different transport modes on a sustainable basis.

(31) The charging and capacity allocation schemes should permit equal and non-discriminatory access for all undertakings and attempt as far as possible to meet the needs of all users and traffic types in a fair and non-discriminatory manner. The charging and capacity allocation schemes should allow fair competition in the provision of railway services.

(33) Within the framework set out by Member States, charging and capacity-allocation schemes should encourage railway infrastructure managers to optimise the use of their infrastructure.

(34) Railway undertakings should receive clear and consistent indications from capacity allocation schemes which lead them to make rational decisions.

(35) Any charging scheme will send economic signals to users. It is important that those signals to railway undertakings should be consistent and clear, and lead them to make rational and sustainable decisions. [Am. 33]

(36) In order to take into account the needs of users, or potential users, of railway infrastructure capacity to plan their business, and the needs of customers and funders, it is important that the infrastructure manager ensures that infrastructure capacity is allocated in a way which reflects the need to maintain and improve service reliability levels.

(37) It is desirable for railway undertakings and the infrastructure manager to be provided with incentives to minimise disruption and improve performance of the network.

(38) Member States should have the option of allowing purchasers of railway services to enter the capacity-allocation process directly.

(39) It is important to have regard to the business requirements of both applicants and the infrastructure manager.
It is important to maximise the flexibility available to the infrastructure managers with regard to the allocation of infrastructure capacity, but this should be consistent with satisfying the applicant’s reasonable requirements.

 Applicants offering single-wagon-load services need to be encouraged in order to enlarge the potential market for new rail clients. It is therefore important that these applicants are being taken into account by the infrastructure manager when allocating capacity in order to allow them to fully benefit from this legal framework and enlarge the rail market share for new sectors. [Am. 34]

The capacity allocation process must prevent the imposition of undue constraints on the wishes of other undertakings holding, or intending to hold, rights to use the infrastructure to develop their business.

Capacity allocation and charging schemes may need to take account of the fact that different components of the rail infrastructure network may have been designed with different principal users in mind.

As different users and types of users will frequently have a different impact on infrastructure capacity, the needs of different services need to be properly balanced.

Services operated under contract to a public authority may require special rules to safeguard their attractiveness to users.

The charging and capacity allocation schemes must take account of the effects of increasing saturation of infrastructure capacity and ultimately the scarcity of capacity.

The different time-frames for planning traffic types should ensure that requests for infrastructure capacity which are made after the completion of the process for establishing the annual working timetable can be satisfied.

To ensure the optimum outcome for railway undertakings, it is desirable to require an examination of the use of infrastructure capacity when the coordination of requests for capacity is required to meet the needs of users.

In view of their monopolistic position, infrastructure managers, should be required to examine the available infrastructure capacity, and methods of enhancing it when the capacity allocation process is unable to meet the requirements of users.

A lack of information about other railway undertakings’ requests and about the constraints within the system may make it difficult for railway undertakings to seek to optimise their infrastructure capacity requests.

It is important to ensure better coordination of allocation schemes in order to improve the attractiveness of rail for traffic which uses the network of more than one infrastructure manager, in particular for international traffic. In that context, it would appear desirable ultimately to create a European regulatory body. [Am. 35]
(51) It is important to minimise the distortions of competition which may arise, either between railway infrastructures or between transport modes, from significant differences in charging principles.

(52) It is desirable to define those components of the infrastructure service which are essential to enable an operator to provide a service and which should be provided in return for minimum access charges.

(53) **Investment Increased investment** in railway infrastructure - in particular existing infrastructure - is necessary and infrastructure charging schemes should provide incentives for infrastructure managers to make appropriate investments economically attractive and environmentally sustainable. [Am. 36]

(54) To enable the establishment of appropriate and fair levels of infrastructure charges, infrastructure managers need to record and establish the value of their assets and develop a clear understanding of cost factors in the operation of the infrastructure.

(55) It is desirable to ensure that account is taken of external costs when making transport decisions and that rail infrastructure charging can contribute to the internalisation of external costs in a coherent and balanced way across all modes of transport.

(56) It is important to ensure that charges for domestic and international traffic are such as to permit rail to meet the needs of the market; consequently infrastructure charging should be set at the cost that is directly incurred as a result of operating the train service.

(57) The overall level of cost recovery through infrastructure charges affects the necessary level of government contribution: Member States may require different levels of overall cost recovery. However, any infrastructure charging scheme should allow traffic which can at least pay for the additional cost which it imposes to use the rail network.

(58) Railway infrastructure is a natural monopoly. It is therefore necessary to provide infrastructure managers with incentives to reduce costs and manage their infrastructure efficiently.

(58a) With the aim of increasing the proportion of goods and passenger traffic carried by rail in relation to other modes of transport, it is desirable that, when internalising external costs, Member States should ensure that the differentiated levies do not have any adverse impact on the financial equilibrium of the infrastructure manager. If the infrastructure manager were nonetheless to suffer a loss due to this differentiation, it is advisable that Member States should adjust this difference, with due regard to the rules on State aid. [Am. 37]

(59) The development of railway transport should be achieved by using inter alia the Union instruments available, without prejudice to priorities already established. [Am. 38]

(60) Discounts which are granted to railway undertakings must relate to actual administrative cost savings made, in particular transaction costs savings. Discounts may also be used to promote the efficient use of infrastructure.

(61) It is desirable for railway undertakings and the infrastructure manager to be provided with incentives to minimise disruption of the network. [Am. 39]
The allocation of capacity is associated with a cost to the infrastructure manager, payment for which should be required. [Am. 40]

The efficient management and fair and non-discriminatory use of rail infrastructure require the establishment of a national regulatory body that oversees the application of the rules set out in this Directive and acts as an appeal body, notwithstanding the possibility of judicial review. [Am. 41]

Specific measures are required to take account of the specific geopolitical and geographical situation of certain Member States and the particular organisation of the railway sector in various Member States while ensuring the integrity of the internal market.

The Commission should be empowered to adapt the Annexes to this Directive. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, they must be adopted as delegated acts in accordance with Article 290 of the Treaty. In order to ensure proper monitoring of the rail market and good regulation with regard to the levying of charges for the use of railway infrastructure and allocation of railway infrastructure capacity, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the criteria and procedure to be followed as the scope of market monitoring, certain elements of the network statement, certain principles of charging, the temporary reduction for European Train Control System (ETCS), certain elements of the performance scheme, the criteria to be followed for the requirements with regard to applicants for infrastructure, the schedule for the allocation process, the regulatory accounts and common principles and practices for making decisions developed by regulatory bodies. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. [Am. 42]

The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1). In order to ensure uniform conditions for the implementation of this Directive implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with 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 Member States of the Commission’s exercise of implementing powers (2). [Am. 43]

In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty on European Union, the objectives of this Directive, namely to foster the development of the Union railways, to set out broad principles for granting licences to railway undertakings and to coordinate arrangements in the Member States governing the allocation of railway infrastructure capacity and the charges made for the use thereof, cannot be sufficiently achieved by the Member States on account of the manifestly international dimensions of issuing such licences and operating significant elements of the railway networks, and in view of the need to ensure fair and non-discriminatory terms for access to the infrastructure and the objectives can therefore, by reason of their trans-national implications, be better achieved by the Union. This Directive does not go beyond what is necessary to achieve those objectives.

The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose the provisions which are substantively unchanged arises under the earlier Directives.

A Member State which has no railway system, and no immediate prospect of having one, would be subject to a disproportionate and pointless obligation if it had to transpose and implement this Directive. Therefore, such Member States should be exempted from that obligation.

In accordance with point 34 of the Interinstitutional Agreement on better law-making (1), Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

This Directive should be without prejudice to the time limits set out in Annex XI, Part B within which the Member States are to comply with the preceding Directives.

Further to the resolutions of the European Parliament of 12 July 2007 (2) and 17 June 2010 (3) on the implementation of the first railway package and further to the implementation of Directive 2001/12/EC, the Commission should present a legislative proposal on the separation of the infrastructure manager and the operator by the end of 2012. As the railway sector is not fully opened until now, the Commission should present a legislative proposal on the opening up of the market by that date. [Am. 44]

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I
GENERAL PROVISIONS

Article 1

Subject-matter and Scope

1. This Directive lays down:

(a) the rules applicable to the management of railway infrastructure and to rail transport activities of the railway undertakings established or to be established in a Member State as set out in Chapter II;

(b) the criteria applicable to the issuing, renewal or amendment of licences by a Member State intended for railway undertakings which are or will be established in the Union as set out in Chapter III;

(c) the principles and procedures applicable to the setting and collecting of railway infrastructure charges and the allocation of railway infrastructure capacity as set out in Chapter IV.

2. This Directive applies to the use of railway infrastructure for domestic and international rail services.

(2) OJ C 175 E, 10.7.2008, p. 551.
Article 2

Exclusions from the scope

1. Chapter II does not apply to railway undertakings which only operate urban, suburban or regional services.

2. Member States may exclude the following from the application of Chapter III:

(a) railway undertakings which only operate rail passenger services on local and regional stand-alone railway infrastructure;

(b) railway undertakings which only operate urban or suburban rail passenger services;

(c) railway undertakings which only operate regional rail freight services;

(d) railway undertakings which only operate freight services on privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations.

2a. Member States may exclude the following from the application of Articles 6, 7, 8 and 13 and Chapter IV:

railway undertakings which only operate rail-freight services on railway infrastructure managed by these undertakings before … (*) , and which has a gauge different from the main rail network within the Member State, and is connected to a railway infrastructure on the territory of a third country - as long as the managed infrastructure is not identified in Decision No 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network (1). [Ams 134 and 135]

3. Member States may exclude the following from the application of Chapter IV:

(a) local and regional stand-alone networks for passenger services on railway infrastructure;

(b) networks intended only for the operation of urban or suburban rail passenger services;

(c) regional networks which are used for regional freight services solely by a railway undertaking that is not covered under paragraph 1 until capacity on that network is requested by another applicant;

(d) privately owned railway infrastructure that exists solely for use by the infrastructure owner for its own freight operations;

(e) transport operations in the form of railway services which are carried out in transit through the Union.

Member States may decide time periods and deadlines for the schedule for capacity allocation different from those referred to in Article 43(2), Annex VIII point 4(b) and Annex IX points 3, 4 and 5, for international train paths to be established in cooperation with infrastructure managers from third countries on a network whose track gauge is different from the main rail network within the Union. [Am. 45]

(*) Date of entry into force of this Directive.
3a. Member States may exclude from the application of Article 31(5) vehicles operated or intended to be operated from and to third countries, running on a network whose track gauge is different from the main rail network within the Union. [Am. 46]

4. This Directive does not apply to undertakings the train operations of which are limited to providing solely shuttle services for road vehicles through the Channel Tunnel and transport operations in the form of shuttle services for road vehicles through the Channel Tunnel, except Articles 6(1), 10, 11, 12 and 28.

5. Member States may exclude from the application of Articles 10, 11, 12 and 28 any railway service carried out in transit through the Union and which begins and ends outside the Union territory.

Article 3
Definitions

For the purpose of this Directive, the following definitions apply:

(1) 'railway undertaking' means any public or private undertaking licensed according to this Directive, the principal business of which is to provide services for the transport of goods and/or passengers by rail with a requirement that the undertaking ensure traction; this also includes undertakings which provide traction only;

(2) 'infrastructure manager' means any body or firm responsible in particular for establishing, managing and maintaining railway infrastructure, including traffic management and control-command and signalling, in compliance with applicable safety rules; the essential functions of the infrastructure manager are: the decision making on a network or part of a network may be allocated to different bodies or firms; train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths and the decision making on infrastructure charging, including determination and collection of the charges, and investments in infrastructure; [Am. 47]

(2a) 'regulatory body' means a body which supervises the correct application of the relevant regulations in a Member State, is not in any way involved in policy making, and is completely separate from firms, particularly the firms referred to in points 1 and 2; [Am. 48]

(3) 'railway infrastructure' means all the items listed in Annex I.A to Commission Regulation (EEC) No 2598/70 of 18 December 1970 specifying the items to be included under the various headings in the forms of accounts shown in Annex I to Regulation (EEC) No 1108/70 of 4 June 1970, (which for reasons of clarity are included in Annex I to this Directive; [Am. 49]

(4) 'international freight service' means a transport service where the train crosses at least one border of a Member State; the train may be joined and/or split and the different sections may have different origins and destinations, provided that all wagons cross at least one border;

(5) 'international passenger service' means a passenger service where the train crosses at least one border of a Member State and where the principal purpose of the service is to carry passengers between stations located in different Member States; the train may be joined and/or split, and the different sections may have different origins and destinations, provided that all carriages cross at least one border;

(6) 'urban and suburban services' means transport services operated to meet the transport needs of an urban centre or conurbation, together with transport needs between such a centre or conurbation and surrounding areas;

(7) 'regional services' means transport services operated to meet the transport needs of a one region or of border regions; [Am. 50]

(8) 'transit' means crossing the territory of the Union without loading or unloading goods, and/or without picking up passengers or setting them down in the territory of the Union;

(9) 'licence' means an authorisation issued by a Member State to an undertaking, by which its capacity to provide rail transport services is recognised; that capacity may be limited to the provision of specific types of services;

(10) 'licensing authority' means the body responsible for granting licences within a Member State;

(11) 'allocation' means the allocation of railway infrastructure capacity by an infrastructure manager;

(12) 'applicant' means a railway undertaking and other persons or legal entities, such as competent authorities under Regulation (EC) No 1370/2007 and shippers, freight forwarders and combined transport operators, with a public-service or commercial interest in procuring infrastructure capacity;

(13) 'congested infrastructure' means an element of infrastructure for which demand for infrastructure capacity cannot be fully satisfied during certain periods even after coordination of the different requests for capacity;

(14) 'capacity enhancement plan' means a measure or series of measures with a calendar for their implementation which aim to alleviate the capacity constraints which led to the declaration of an element of infrastructure as 'congested infrastructure';

(15) 'coordination' means the process through which the infrastructure manager and applicants will attempt to resolve situations in which there are competing applications for infrastructure capacity;

(16) 'framework agreement' means a legally binding general agreement under public or private law, setting out the rights and obligations of an applicant and the infrastructure manager in relation to the infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period;

(17) 'infrastructure capacity' means the potential to schedule train paths requested for an element of infrastructure for a certain period;

(18) 'network' means the entire railway infrastructure managed by an infrastructure manager;

(19) 'network statement' means the statement which sets out in detail the general rules, deadlines, procedures and criteria for charging and capacity allocation schemes, including such other information as is required to enable applications for infrastructure capacity;
‘train path’ means the infrastructure capacity needed to run a train between two places over a given period;

‘working timetable’ means the data defining all planned train and rolling-stock movements which will take place on the relevant infrastructure during the period for which it is in force.

CHAPTER II
DEVELOPMENT OF THE UNION RAILWAYS

SECTION 1
Management independence

Article 4
Independence of railway undertakings and infrastructure managers

1. Member States shall ensure that as regards management, administration and internal control over administrative, economic and accounting matters railway undertakings directly or indirectly owned or controlled by the Member States have independent status in accordance with which they will hold, in particular, assets, budgets and accounts which are separate from those of the State.

2. While respecting the charging and allocation framework and the specific rules established by the Member States, the infrastructure manager shall be responsible for its own management, administration and internal control.

2a. The infrastructure manager shall manage its own IT services, to ensure that commercially sensitive information is adequately protected. [Am. 51]

2b. Member States shall also ensure that both railway undertakings and infrastructure managers which are not completely independent of one another are responsible for their own staff policies. [Am. 52]

Article 5
Management of the railway undertakings according to commercial principles

1. Member States shall enable railway undertakings to adjust their activities to the market and to manage those activities under the responsibility of their management bodies, in the interests of providing efficient and appropriate services at the lowest possible cost for the quality of service required.

Railway undertakings shall be managed according to the principles which apply to commercial companies, irrespective of their ownership. This shall also apply to the Public Service Obligations (PSOs) imposed on them by Member States and to public service contracts which they conclude with the competent authorities of the State.

2. Railway undertakings shall determine their business plans, including their investment and financing programmes. Such plans shall be designed to achieve the undertakings’ financial equilibrium and other technical, commercial and financial management objectives; they must also indicate the means of attaining these objectives.

3. With reference to the general policy guidelines issued by each Member State and taking into account national plans and contracts (which may be multi-annual) including investment and financing plans, railway undertakings shall, in particular, be free to:
(a) establish their internal organisation, without prejudice to the provisions of Articles 7, 29 and 39;

(b) control the supply and marketing of services and fix the pricing thereof, without prejudice to Regulation (EC) No 1370/2007;

(c) take decisions on staff, assets and own procurement;

(d) expand their market share, develop new technologies and new services and adopt any innovative management techniques;

(e) establish new activities in fields associated with the railway business.

4. If the Member State directly or indirectly owns or controls the railway undertaking, its controlling rights in relation to management shall not exceed the management-related rights that national company law grants to shareholders of private joint-stock companies. Policy guidelines, as mentioned in paragraph 3, which the State may set for companies in the context of the exercise of shareholder control, may only be of a general nature and shall not interfere with specific business decisions of the management.

SECTION 2

Separation of infrastructure management and transport operations and of different types of transport operations

Article 6

Transparent separation of accounts

1. Member States shall ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of transport services by railway undertakings and, on the other, for business relating to the management of railway infrastructure. Public funds paid to one of these two areas of activity shall not be transferred to the other.

2. Member States may also provide that this separation shall require the organisation of distinct divisions within a single undertaking or that the infrastructure and transport services shall be managed by separate entities in order to ensure the development of competition, continued investment and the cost-effectiveness of service provision of the railway sector.

3. Member States shall ensure that separate profit and loss accounts and balance sheets are kept and published, on the one hand, for business relating to the provision of rail freight transport services and, on the other, for activities relating to the provision of passenger transport services. Public funds paid for activities relating to the provision of transport services as public-service remits must be shown separately for each public service contract in the relevant accounts and shall not be transferred to activities relating to the provision of other transport services or any other business.

4. In order to ensure full transparency of infrastructure costs, the accounts for the different areas of activity referred to in paragraphs 1 and 3 shall be kept in a way that allows monitoring of the prohibition on transferring public funds paid to one area of activity to another compliance with those paragraphs and monitoring of the use of income from infrastructure charges, surpluses from other commercial activities of and public and private funding paid to the infrastructure manager. The revenues of the infrastructure manager shall in no way be used by a railway undertaking or a body or firm controlling a railway undertaking as this may strengthen its market position or enable it to gain economic advantages over other railway undertakings. This paragraph shall not prevent, under the supervision of the regulatory body as referred to in Article 55, reimbursement, including interest payment under market conditions, of the capital employed made available by the body or firm controlling the railway undertaking to the infrastructure manager. [Am. 53]
Article 7

Independence of essential functions of an infrastructure manager

1. Member States shall ensure that the functions determining equitable and non-discriminatory access to infrastructure, listed in Annex II, as defined by Article 3(3) are entrusted to bodies or firms that do not themselves provide any rail transport services. Regardless of organisational structure, this objective must be shown to have been achieved. However, in managing the traffic on the network, effective cooperation between railway undertakings and infrastructure managers is essential.

Annex II may be amended in the light of experience, in accordance with the procedure referred to in Article 60.

Member States may, however, assign to railway undertakings or any other body the responsibility for contributing to the development of the railway infrastructure, for example through investment, maintenance and funding.

2. Where the infrastructure manager, in its legal form, organisation or decision-making functions, is not independent of any railway undertaking, the functions described in Sections 3 and 4 of Chapter IV shall be performed respectively by a charging body and by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking.

3. When the provisions of Sections 2 and 3 of Chapter IV refer to essential functions of an infrastructure manager, they shall be understood as applying to the charging body or the allocation body for their respective competencies.

3a. The Commission shall no later than 31 December 2012 present a proposal for a Directive containing provisions relating to the separation of infrastructure management and transport operations as well as a proposal for opening up the domestic rail passenger market which does not detract from the quality of rail transport services and safeguards PSOs. [Ams 54 and 137]

SECTION 3

Improvement of the financial situation

Article 8

Sound financing of the infrastructure manager

1. Member States shall develop their national railway infrastructure by taking into account, where necessary, the general needs of the Union. For this purpose, they shall publish not later than … (*) and after consultation of interested parties and stakeholders, including local and regional authorities concerned, trade unions, sectoral unions and users’ representatives, a rail infrastructure development strategy with a view to meeting future mobility needs based on sound and sustainable financing of the railway system. The strategy shall cover a period of at least seven years and be renewable.

2. Whenever revenues are not sufficient to cover the financing needs of the infrastructure manager, without prejudice to the charging framework of Articles 31 and 32 of this Directive, and having due regard to Articles 93, 107 and 108 TFEU, Member States shall also provide the infrastructure manager with financing commensurate with its tasks, the size of the infrastructure and financial requirements, in particular in order to cover new investments.

(*) Two years after the entry into force of this Directive.
3. Within the framework of general policy determined by the State and taking into account the rail infrastructure development strategy referred to in paragraph 1, the infrastructure manager shall adopt a business plan including investment and financial programmes. The plan shall be designed to ensure optimal and efficient use, provision and development of the infrastructure while ensuring financial balance and providing means for these objectives to be achieved. The infrastructure manager shall ensure that applicants are consulted in a non-discriminatory manner before the business investment plan is approved as far as the conditions of access and use, and the nature, the provision and the development of the infrastructure are concerned. The regulatory body referred to in Article 55 shall issue a non-binding opinion on whether the business plan is appropriate to achieve these objectives discriminates between applicants.

4. Member States shall ensure that, under normal business conditions and over a period of no more than three years, the accounts of the infrastructure manager shall over a period of no more than two years at least balance income from infrastructure charges, surpluses from other commercial activities, non-refundable grants from private sources and State funding, including advance payments from the State where appropriate, on the one hand, and infrastructure expenditure on the other, including advance payments from the State sustainable financing of long-term asset renewals, where appropriate. [Am. 55]

Without prejudice to the possible long-term aim of user cover of infrastructure costs for all modes of transport on the basis of fair, non-discriminatory competition between the various modes, where rail transport is able to compete with other modes of transport, within the charging framework of Articles 31 and 32, a Member State may require the infrastructure manager to balance its accounts without State funding.

Article 9

Transparent debt relief

1. Without prejudice to the Union rules on State aids and in accordance with Articles 93, 107 and 108 TFEU, Member States shall set up appropriate mechanisms to help reduce the indebtedness of publicly owned or controlled railway undertakings to a level which does not impede sound financial management and to improve their financial situation.

2. For the purposes referred to in paragraph 1, Member States shall require a separate debt amortisation unit to be set up within the accounting departments of such undertakings.

The balance sheet of the unit may be charged, until they are extinguished, with all the loans raised by the undertaking both to finance investment and to cover excess operating expenditure resulting from the business of rail transport or from railway infrastructure management. Debts arising from subsidiaries' operations shall not be taken into account.

3. Paragraphs 1 and 2 shall not apply to debts or interest due on such debts incurred by undertakings after ... (*) 15 March 2001 or the date of accession to the Union for Member States which joined the Union after 15 March. [Am. 56]

SECTION 4

Access to railway infrastructure and services

Article 10

Conditions of access to railway infrastructure

1. Railway undertakings within the scope of this Directive shall be granted, on equitable, non-discriminatory and transparent conditions, access to the infrastructure in all Member States for the purpose of operating all types of rail freight services. This shall include track access to ports.

(*) Date of entry into force of this Directive.
2. Railway undertakings within the scope of this Directive shall be granted the right of access to the infrastructure in all Member States for the purpose of operating an international passenger service. Railway undertakings shall, in the course of an international passenger service, have the right to pick up passengers at any station located on the international route and set them down at another, including stations located in the same Member State.

The right of access to the infrastructure of the Member States for which the share of international carriage of passengers by train constitutes more than half of the passenger turnover of railway undertakings in that Member State shall be granted by 31 December 2011.

Following the request from the relevant competent authorities or interested railway undertakings, the relevant regulatory body or bodies referred to in Article 55 shall determine whether the principal purpose of the service is to carry passengers between stations located in different Member States.

In no event must the conditions of access to railway infrastructure result in it being impossible for passengers to obtain information on, or to purchase a ticket for, travel from one location to another, regardless of the number of railway transport operators providing, in whole or in part, passenger transport services between those two locations. [Am. 57]

The Commission shall adopt, on the basis of the experience gained by the regulatory bodies, by … (*) implementing measures setting out the details of the procedure and criteria to be followed for the application of this paragraph. Those measures, designed to ensure the implementation of this Directive under uniform conditions, shall be adopted as implementing acts in accordance with the examination procedure referred to in Article 64(3). [Am. 58]

Article 11

Limitation of the right of access and of the right to pick up and set down passengers

1. Member States may limit the right of access provided for in Article 10 on services between a place of departure and a destination which are covered by one or more public service contracts conforming to the Union law in force. Such limitation shall not have the effect of restricting the right to pick up passengers at any station located on the route of an international service and to set them down at another, including stations located in the same Member State, except where the exercise of this right would compromise the economic equilibrium of a public service contract.

2. Whether the economic equilibrium of a public service contract would be compromised shall be determined by the relevant regulatory body or bodies referred to in Article 55 on the basis of an objective economic analysis and based on pre-determined criteria, after a request from any of the following:

(a) the competent authority or competent authorities that awarded the public service contract;

(b) any other interested competent authority with the right to limit access under this Article;

(c) the infrastructure manager;

(d) the railway undertaking performing the public service contract.

(*) 18 months after the entry into force of this Directive.
The competent authorities and the railway undertakings providing the public services shall provide the relevant regulatory body or bodies with the information reasonably required to reach a decision. The regulatory body shall consider the information provided, consulting all the relevant parties as appropriate, and shall inform the relevant parties of its reasoned decision within a pre-determined, reasonable time, and in any case, within two months of one month from the receipt of all relevant information referred to in paragraph 2. [Am. 59]

3. The regulatory body shall give the grounds for its decision and specify the time period within which, and the conditions under which any of the following may request a reconsideration of the decision,

(a) the relevant competent authority or competent authorities;

(b) the infrastructure manager;

(c) the railway undertaking performing the public service contract;

(d) the railway undertaking seeking access.

4. The Commission shall adopt, on the basis of the experience gained by the regulatory bodies, by … (*)implementing measures setting out the details of the procedure and criteria to be followed for the application of paragraphs 1, 2 and 3 of this Article. Those measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with the examination procedure referred to in Article 64(3). [Am. 60]

5. Member States may also limit the right to pick up and set down passengers at stations within the same Member State on the route of an international passenger service where an exclusive right to convey passengers between those stations has been granted under a concession contract awarded before 4 December 2007 on the basis of a fair competitive tendering procedure and in accordance with the relevant principles of Union law. This limitation may continue for the original duration of the contract, or 15 years, whichever is shorter.

6. Member States shall ensure that the decisions referred to in paragraphs 1, 2, 3 and 5 are subject to judicial review.

**Article 12**

**Levy on railway undertakings providing passenger services**

1. Without prejudice to Article 11(2), Member States may, under the conditions laid down in this Article, authorise the authority responsible for rail passenger transport to impose a levy on railway undertakings providing passenger services for the operation of routes which fall within the jurisdiction of that authority and which are operated between two stations in that Member State.

In that case, railway undertakings providing domestic or international rail passenger transport services shall be subject to the same levy on the operation of routes which fall within the jurisdiction of that authority.

2. The levy is intended to compensate the authority for PSOs laid down in public service contracts awarded in accordance with Union law. The revenue raised from such a levy and paid as compensation shall not exceed what is necessary to cover all or part of the cost incurred in the relevant PSOs taking into account the relevant receipts and a reasonable profit for discharging those PSOs.

(*) 18 months after the entry into force of this Directive.
3. The levy shall be imposed in accordance with Union law, and shall respect in particular the principles of fairness, transparency, non-discrimination and proportionality, in particular between the average price of the service to the passenger and the level of the levy. The total levies imposed pursuant to this paragraph shall not endanger the economic viability of the rail passenger transport service on which they are imposed.

4. The relevant authorities shall keep the information necessary to ensure that the origin of the levies and their use can be traced. Member States shall provide the Commission with this information.

The Commission shall prepare a comparative analysis of the methods for the setting of the amounts of the levies in the Member States in order to establish a uniform method of calculation to determine the amount of the levies. [Am. 61]

Article 13

Conditions of access to services

1. Infrastructure managers shall supply to all railway undertakings, on a non-discriminatory basis, be entitled to the minimum access package laid down in point 1 of Annex III.

2. Operators of service facilities shall supply to all railway undertakings access, including track access, to the facilities referred to in point 2 of Annex III, shall be supplied by all operators of service and to the services supplied in these facilities in a non-discriminatory manner under the supervision of the regulatory body as provided under Article 56.

Where the operator of the service facility referred to in point 2 of Annex III belongs to a body or firm which is also active and holds a dominant position in at least one of the railway transport services markets for which the facility is used, the operator shall be organised in such a way that it is independent, in legal, organisational and decision-making terms, of this body or firm. The operator of a service facility and this body or firm shall have separate accounts, including separate balance sheets and profit and loss accounts.

Requests by railway undertakings for access to the service facility shall be answered within a fixed time limit set by the national regulatory body and may only be rejected if there are viable alternatives allowing them to operate the freight or passenger service concerned on the same route under economically acceptable conditions. The burden of proving for the existence of a viable alternative falls with the operator of the service facility and justify its refusal in writing. The refusal shall not oblige the operator of the service facility to make investments in resources or facilities in order to accommodate all requests from railway undertakings.

When the operator of the service facility encounters conflicts between different requests, it shall attempt the best possible matching of all requirements. If no viable alternative is available, and it is not possible to accommodate all requests for capacity for the relevant facility on the basis of demonstrated needs, the regulatory body referred to in Article 55 shall on its own initiative or on the basis of a complaint by an applicant take appropriate action, bearing in mind the needs of all stakeholders concerned, to ensure that an appropriate part of the capacity is devoted to railway undertakings other than the ones which are part of the body or firm to which the facility operator also belongs. However newly built maintenance and other technical facilities developed for specific new high-speed rolling stock, referred to in Commission Decision 2008/232/EC of 21 February 2008 concerning a technical specification for interoperability relating to the rolling stock sub-system of the trans-European high-speed rail system (1), may be reserved to the use of one railway undertaking for a period of five ten years from the start of their operation.

Where the service facility has not been in use for at least two consecutive years on the basis of demonstrated needs, its owner shall publicise the operation of the facility as being for lease or rent for use for activities related to the railway sector unless the operator of such facility demonstrates that an on-going process of reconversion prevents its use by a railway undertaking.

3. Where the infrastructure manager offers any of the range of services described in point 3 of Annex III as additional services, he shall supply them upon request to railway undertakings in a non-discriminatory manner.

4. Railway undertakings may request a further range of ancillary services, listed in point 4 of Annex III, from the infrastructure manager or from other suppliers. The infrastructure manager is not obliged to supply these services.

5. Annex III may be amended in the light of experience in accordance with the procedure referred to in Article 60. [Ams 62 and 162]

SECTION 5
Cross-border agreements

Article 14
General principles for cross-border agreements

1. Any provisions contained in cross-border agreements between Member States which discriminate between shall ensure that the cross-border agreements they conclude do not discriminate against certain railway undertakings, or which restrict constitute restrictions on the freedom of railway undertakings to operate cross-border services are hereby superseded. [Am. 63]

These agreements shall be notified to the Commission. The Commission shall examine the compliance of such agreements with this Directive and decide in accordance with the advisory procedure referred to in Article 64(2) whether the related agreements may continue to apply. The Commission shall communicate its decision to the European Parliament, the Council and the Member States.

2. Without prejudice to the division of competences between the Union and the Member States, in accordance with Union law, the negotiation and implementation of cross-border agreements between Member States and third countries shall be subject to a cooperation procedure between Member States and the Commission.

The Commission may adopt implementing measures setting out the details of the specifying the procedural modalities of the cooperation procedure to be followed for the application of this paragraph referred to in the first subparagraph. Those implementing measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3) the advisory procedure referred to in Article 64(2). [Am. 64]

SECTION 6
Monitoring tasks of the Commission

Article 15
Scope of market monitoring

1. The Commission shall make the necessary arrangements to monitor technical, social and economic conditions and market developments, including the evolution of employment, as well as compliance with relevant Union law on European rail transport.
2. In this context, the Commission shall closely involve representatives of the Member States, including representatives of the regulatory bodies referred to in Article 55, and of the sectors concerned in its work, including local and regional authorities concerned, the railways sector’s social partners and users, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission. The Commission shall also involve the European Railway Agency where appropriate.

3. The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, rail transport services covered by public service contracts, licensing, the degree of market opening, employment and social conditions and the degree of harmonisation, particularly in the field of social rights, between and within Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

4. The Commission shall report on a regular basis every two years to the European Parliament and the Council on:

(a) the evolution of the internal market in rail services and rail-related services including the degree of market opening;

(b) the framework conditions, including for public passenger transport services by rail;

(ba) the development of employment, working and social conditions in the sector;

(c) the state of the European railway network;

(d) the utilisation of access rights;

(e) barriers to more effective rail services;

(f) infrastructure limitations;

(g) the need for legislation.

5. For the purposes of the Commission’s market monitoring, Member States shall supply on an annual basis the following information and as indicated in Annex IV, as well as all other necessary data requested by the Commission:

(a) the evolution of rail transport performance and compensation for PSOs;

(b) the degree of market opening and fair competition in each Member State, and the modal share of railway undertakings in total transport performance;

(c) the resources and activities of regulatory bodies dedicated to their function as appeal bodies;

(d) the relevant developments as regards restructuring of the incumbent railway undertaking and adoption/implementation of national transport strategies over the previous year;
(e) the important training initiatives/measures in the field of railway transport taken in a Member State during the previous year;

(f) the employment and the social conditions of railway undertakings, infrastructure managers and of other companies active in the railway sector at the end of the previous year;

(g) the investments in the high-speed rail network during the previous year;

(h) the length of the railway network at the end of the previous year;

(i) the track access charges during the previous year;

(j) the existence of a performance scheme set up in accordance with Article 35 of this Directive;

(k) the number of active licences issued by the competent national authority;

(l) the status of European Rail Traffic Management System (ERTMS) deployment;

(m) the number of incidents, accidents and serious accidents as defined by Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (1) which occurred on the network during the previous year;

(n) other relevant developments;

(o) the development of the maintenance markets and the degree of opening of the market for maintenance services.

Annex IV may be amended in the light of experience in order to update the information needed for the rail market monitoring in accordance with the procedure referred to in Article 60 Article 60a. [Am. 65]

CHAPTER III
LICENSING OF RAILWAY UNDERTAKINGS

SECTION 1

Body responsible for issuing licence

Article 16

Body responsible for railway licensing

Each Member State shall designate the body responsible for issuing licences and for carrying out the obligations imposed under this Chapter.

The designated body shall not provide rail transport services itself and shall be independent of firms or entities that do so.

(1) OJ L 164, 30.4.2004, p. 44.
SECTION 2

Conditions for obtaining a licence

Article 17

General requirements

1. A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established, provided that Member States or nationals of Member States own in total more than 50% of this railway undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where an agreement with a third country to which the Union is a party provides otherwise.

2. Member States shall not issue licences or extend their validity where the requirements of this Chapter are not complied with.

3. A railway undertaking which fulfils the requirements imposed under this Chapter shall be authorised to receive a licence.

4. No railway undertaking shall be permitted to provide the rail transport services covered by this Chapter unless it has been granted the appropriate licence for the services to be provided.

However, such a licence shall not, in itself, entitle the holder to access the railway infrastructure.

5. The Commission shall adopt implementing measures setting out the details of the procedure specifying the procedural modalities to be followed for the application of this Article including the use of licences and setting up of a common template for the licence in accordance with the requirements set out in Section 2. Those implementing measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3) the advisory procedure referred to in Article 64(2). [Am. 66]

Article 18

Conditions for obtaining a licence

A railway undertaking must be able to demonstrate to the licensing authorities of the Member State concerned before the start of its activities that it will at any time be able to meet the requirements relating to good repute, financial fitness, professional competence and cover for its civil liability listed in Articles 19 to 22.

For these purposes, each applicant shall provide all relevant information.

Article 19

Requirements relating to good repute

Member States shall define the conditions under which the requirement of good repute is met to ensure that an applicant railway undertaking or the persons in charge of its management:

(a) have not been convicted of serious criminal offences, including offences of a commercial nature;

(b) have not been declared bankrupt;
(c) have not been convicted of serious offences against specific legislation applicable to transport;

(d) have not been convicted of serious or repeated any failure to fulfil social or employment law obligations, including obligations under safety, occupational safety and health legislation, and customs law obligations in the case of a company seeking to operate cross-border freight transport subject to customs procedures. [Am. 67]

Article 20
Requirements relating to financial fitness

1. The requirements relating to financial fitness shall be met when an applicant railway undertaking can demonstrate that it will be able to meet its actual and potential obligations, established under realistic assumptions, for a period of 12 months. The licensing authority shall verify financial fitness by means of the railway undertaking’s annual accounts or, in the case of applicant undertakings unable to present annual accounts, a balance sheet. [Am. 68]

2. For these purposes, each applicant shall give at least the provide detailed particulars listed in Annex V, on the following aspects:

(a) available funds, including the bank balance, pledged overdraft provisions and loans;

(b) funds and assets available as security;

(c) working capital;

(d) relevant costs, including purchase costs of payments to account for vehicles, land, buildings, installations and rolling stock;

(e) charges on an undertaking’s assets;

(f) taxes and social security contributions. [Am. 69]

3. The licensing authority shall not consider an applicant financially fit if considerable arrears of taxes or social security are owed as a result of the undertaking’s activity. [Am. 70]

4. The licensing authority may in particular require the submission of an audit report and suitable documents from a bank, public savings bank, accountant or auditor. Those documents must include information concerning the aspects referred to in points (a) to (f) of paragraph 2 of this Article. [Am. 71]

Annex V may be amended in the light of experience in accordance with the procedure referred to in Article 60. [Am. 72]

Article 21
Requirements relating to professional competence

The requirements relating to professional competence shall be met when an applicant railway undertaking can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence. The undertaking shall also demonstrate at the time of the application that it holds a safety certificate as defined in Article 10 of Directive 2004/49/EC. [Am. 73]
Article 22

Requirements relating to civil liability

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations (1), a railway undertaking shall be adequately insured, or have adequate guarantees under market conditions for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties. The level of coverage deemed adequate may be differentiated to take into account the specificities of services, in particular for railway operations for cultural or heritage purposes running on the rail network for the general public. [Am. 140]

SECTION 3

Validity of the licence

Article 23

Spatial and temporal validity

1. A licence shall be valid throughout the territory of the Union.

2. A licence shall be valid as long as the railway undertaking fulfils the obligations laid down in this Chapter. A licensing authority may, however, make provision for a regular review. If so, the review shall be made at least every five years.

3. Specific provisions governing the suspension or revocation of a licence may be incorporated in the licence itself.

Article 24

Temporary licence, suspension and approval

1. If there is serious doubt that a railway undertaking which it has licensed complies with the requirements of Sections 2 and 3 of this Chapter, and in particular those of Article 18, the licensing authority may, at any time, check whether that railway undertaking does in fact comply with those requirements.

Where a licensing authority is satisfied that a railway undertaking can no longer meet the requirements, it shall suspend or revoke the licence.

2. Where the licensing authority of a Member State is satisfied that there is serious doubt regarding compliance with the requirements laid down in this Chapter on the part of a railway undertaking to which a licence has been issued by the licensing authority of another Member State, it shall inform the latter authority without delay.

3. Notwithstanding paragraph 1, where a licence is suspended or revoked on grounds of non-compliance with the requirement for financial fitness, the licensing authority may grant a temporary licence pending the re-organisation of the railway undertaking, provided that safety is not jeopardised. A temporary licence shall not, however, be valid for more than six months after its date of issue.

4. When a railway undertaking has ceased operations for six months or has not started operations within six months of the grant of a licence, the licensing authority may decide that the licence shall be resubmitted for approval or be suspended.

As regards the start of activities, the railway undertaking may ask for a longer period to be fixed, taking account of the specific nature of the services to be provided.

5. In the event of a change affecting the legal situation of an undertaking and, in particular, in the event of a merger or takeover, the licensing authority may decide that the licence shall be resubmitted for approval. The railway undertaking in question may continue operations, unless the licensing authority decides that safety is jeopardised. In that event, the grounds for such a decision shall be given.

6. Where a railway undertaking intends significantly to change or extend its activities, its licence shall be resubmitted to the licensing authority for review.

7. A licensing authority shall not permit a railway undertaking against which bankruptcy or similar proceedings have commenced to retain its licence if that authority is convinced that there is no realistic prospect of satisfactory financial restructuring within a reasonable period of time.

8. When a licensing authority issues, suspends, revokes or amends a licence, the Member State concerned shall immediately inform the Commission thereof. The Commission shall inform the other Member States forthwith.

Article 25

Procedure for granting licences

1. The procedures for granting licences shall be made public by the licensing authority concerned, which shall inform the European Railway Agency thereof.

2. The licensing authority shall take a decision on an application as soon as possible, but not more than three months after all relevant information, notably the particulars referred to in Annex V, has been submitted. The licensing authority shall take into account all the available information. The decision shall be communicated to the applicant railway undertaking without delay. A refusal shall state the grounds on which it is based.

3. Member States shall ensure that the licensing authority’s decisions are subject to judicial review.

CHAPTER IV

LEVYING OF CHARGES FOR THE USE OF RAILWAY INFRASTRUCTURE AND ALLOCATION OF RAILWAY INFRASTRUCTURE CAPACITY

SECTION 1

General principles

Article 26

Effective use of infrastructure capacity

Member States shall ensure that charging and capacity allocation schemes for railway infrastructure follow the principles set down in this Directive and thus allow the infrastructure manager to market and make optimum effective use of the available infrastructure capacity.
Article 27

Network statement

1. The infrastructure manager shall, after consultation with the interested parties, including the regulatory body referred to in Article 55, develop and publish a network statement obtainable against payment of a fee which shall not exceed the cost of publication of that statement. The network statement shall be published in at least two official languages of the Union, one of which shall be English. The content of the network statement shall be made available free of charge in electronic format through the web portal of the European Railway Agency. [Am. 75]

2. The network statement shall set out the nature of the infrastructure which is available to railway undertakings. It shall contain the following information setting out the conditions for access to the relevant railway infrastructure and to service facilities. The content of the network statement is laid down in Annex VI:

(a) a section setting out the nature of the infrastructure which is available to railway undertakings and the conditions of access to it;

(b) a section on charging principles and tariffs;

(c) a section on the principles and criteria for capacity allocation. Operators of service facilities which are not controlled by the infrastructure manager shall supply information on charges for gaining access to the facility and for the provision of services, and information on technical access conditions for inclusion in the network statement;

(d) a section on information relating to the application for a licence referred to in Article 25 and rail safety certificates issued in accordance with Directive 2004/49/EC;

(e) a section on information about procedures for dispute resolution and appeal relating to matters of access to rail infrastructure and services and to the performance scheme referred to in Article 35;

(f) a section on information on access to and charging for service facilities referred to in Annex III;

(g) a model agreement for the conclusion of framework agreements between an infrastructure manager and an applicant in accordance with Article 42.

The information in the network statement shall be annually updated and consistent with or refer to the rail infrastructure registers to be published in accordance with Article 35 of Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (1). Infrastructure that is not appropriately maintained and its quality declining shall be reported in a timely manner to users;

The information in points (a) to (g) may be amended and specified by the Commission in accordance with Annex VI in the light of experience following the procedure referred to in Article 60a. [Am. 76]

Annex VI may be amended in the light of experience in accordance with the procedure referred to in Article 60a.

3. The network statement shall be kept up to date and amended as necessary.

4. The network statement shall be published no less than four months in advance of the deadline for requests for infrastructure capacity.

**Article 28**

Agreements between railway undertakings and infrastructure managers

Any railway undertaking engaged in rail transport services shall conclude the necessary agreements under public or private law with the infrastructure managers of the railway infrastructure used. The conditions governing such agreements shall be non-discriminatory and transparent, in accordance with the provisions of this Directive.

**SECTION 2**

Infrastructure and services charges

**Article 29**

Establishing, determining and collecting charges

1. Member States shall establish a charging framework while respecting the management independence laid down in Article 4.

Subject to the condition of management independence, Member States shall also establish specific charging rules or delegate such powers to the infrastructure manager.

Member States shall ensure that the charging framework and charging rules are published in the network statement.

*Without prejudice to the management independence laid down in Article 4 and provided that this right has been directly conferred by constitutional law at least two years before the date of entry into force of this Directive, the national parliament may have the right to scrutinise and, when appropriate, review the level of charges determined by the infrastructure manager. Such review, if any, shall ensure that charges comply with this Directive, the established charging framework and charging rules.* [Am. 141/rev]

The infrastructure manager shall determine and collect the charge for the use of infrastructure.

2. The Member States shall ensure that infrastructure managers cooperate to enable the application of efficient charging schemes for the operation of train services which cross more than one infrastructure network. Infrastructure managers shall, in particular, aim to guarantee the optimal competitiveness of international rail services and ensure the efficient use of the railway networks.

Member States shall ensure that representatives of infrastructure managers whose charging decisions have an impact on other infrastructures associate to *jointly* coordinate the charging or to charge for the use of relevant infrastructure at international level. [Am. 77]

3. Except where specific arrangements are made under Article 32(2), infrastructure managers shall ensure that the charging scheme in use is based on the same principles over the whole of their network.
4. Infrastructure managers shall ensure that the application of the charging scheme results in equivalent and non-discriminatory charges for different railway undertakings that perform services of an equivalent nature in a similar part of the market and that the charges actually applied comply with the rules laid down in the network statement.

5. An infrastructure manager shall respect the commercial confidentiality of information provided to it by applicants.

Article 30
Infrastructure cost and accounts

1. Infrastructure managers shall, with due regard to safety and to maintaining and improving the quality of the infrastructure service, be given incentives to reduce the costs of providing infrastructure and the level of access charges.

2. Member States shall ensure that paragraph 1 is implemented by means of a contractual agreement between the competent authority and the infrastructure manager covering a period of not less than five years which provides for State funding.

3. The terms of the contract and the structure of the payments agreed to provide funding to the infrastructure manager shall be agreed in advance to cover the whole of the contractual period.

Basic principles and parameters of such agreements are set out in Annex VII which may be amended in the light of experience in accordance with the procedure referred to in Article 60.

Member States shall consult interested parties at least one month before the agreement is signed and publish it within one month of its conclusion.

The infrastructure manager shall ensure that its business plan is consistent with the provisions of the contractual agreement.

The regulatory body referred to in Article 55 shall assess the appropriateness of the envisaged medium to long term income of the infrastructure manager for meeting the agreed performance targets and shall make relevant recommendations, at least one month before the agreement is signed.

The competent authority shall give justifications to the regulatory body if it intends to deviate from these recommendations. [Am. 78]

4. Infrastructure managers shall develop and maintain an inventory of assets that they manage, which shall contain their current valuation as well as details of expenditure on renewal and upgrading of the infrastructure.

5. The infrastructure manager and the operator of service facilities shall establish a methodology for apportioning costs to the different services offered in accordance with Annex III and to types of rail vehicles, based on the best available understanding of cost causation and the principles of charging referred to in Article 31. Member States may require prior approval. This method shall be updated from time to time to match best practice internationally.
Article 31

Principles of charging

1. Charges for the use of railway infrastructure and of service facilities shall be paid to the infrastructure manager and to the service facility operator respectively and used to fund their business.

2. Member States shall require the infrastructure manager and the service facility operator to provide the regulatory body with all necessary information on the charges imposed. The infrastructure manager and the service facility operator must, in this regard, be able to demonstrate to each railway undertaking that infrastructure and service charges actually invoiced to the railway undertaking pursuant to Articles 30 to 37, comply with the methodology, rules, and, where applicable, scales laid down in the network statement.

3. Without prejudice to paragraphs 4 or 5 of this article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to point 1 of Annex VIII.

Point 1 of Annex VIII may be amended in the light of experience in accordance with the procedure referred to in Article 60 Article 60a.

4. The infrastructure charges may include a charge which reflects the scarcity of capacity of the identifiable section of the infrastructure during periods of congestion.

5. When charging for the cost of noise effects is allowed by Union legislation for road freight transport, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with point 2 of Annex VIII. Such modification of infrastructure charges shall allow for compensation for investments in retrofitting rail vehicles with the most economically viable low-noise braking technology available. Member States shall ensure that the introduction of such differentiated charges shall not have any adverse effect on the financial equilibrium of the infrastructure manager. The rules for European co-funding shall be modified so as to allow for the co-funding for retrofitting rolling stock to reduce noise emissions as is already the case for ERTMS.

Point 2 of Annex VIII may be amended in the light of experience, in accordance with the procedure referred to in Article 60 Article 60a, in particular to specify the elements of differentiated infrastructure charges provided that this does not lead to a distortion of competition within the rail transport sector or with road transport to the detriment of rail transport.

The infrastructure charges may be modified to take account of the cost of other environmental effects caused by the operation of the train not referred to in point 2 of Annex VIII. Any such modification, which may bring about the internalisation of external costs of air pollutants emitted as a result of operating the train service, shall be differentiated according to the magnitude of the effect caused.

Charging of other environmental costs which results in an increase in the overall revenue accruing to the infrastructure manager shall however be allowed only if such charging is allowed applied by Union law on road freight transport. If the charging of these environmental costs for road freight transport is not allowed by Union law, such modification shall not result in any overall change in revenue to the infrastructure manager.
If charging for environmental costs generates additional revenue, it shall be for Member States to decide how the revenue is to be used for the benefit of transport systems. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a regular basis.  [Am. 79]

6. To avoid undesirable disproportionate fluctuations, the charges referred to in paragraphs 3, 4 and 5 may be averaged over a reasonable spread of train services and times. Nevertheless, the relative magnitudes of the infrastructure charge shall be related to the costs attributable to the services.

7. The supply of services referred to in point 2 of Annex III shall not be covered by this Article. In any event, the charge imposed for such services shall not exceed the cost of providing it, plus a reasonable profit.

8. Where services listed in points 3 and 4 of Annex III as additional and ancillary services are offered by only one supplier the charge imposed for such a service shall not exceed the cost of providing it, plus a reasonable profit.

9. Charges may be levied for capacity used for the purpose of infrastructure maintenance. Such charges shall not exceed the net revenue loss to the infrastructure manager caused by the maintenance.

10. The operator of the facility for supply of the services referred to in points 2, 3 and 4 of Annex III, shall provide the infrastructure manager with the information on charges to be included in the network statement in accordance with Article 27.

Article 32

Exceptions to charging principles

1. In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may authorise the infrastructure manager, if the market can bear this, to levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail freight of the railway sector. The charging system shall respect the productivity increases achieved by railway undertakings.

The level of charges must not, however, exclude the use of infrastructure by market segments which can pay at least the cost that is directly incurred as a result of operating the railway service, plus a rate of return which the market can bear.

Before approving the levy of such mark-ups, a Member State shall ensure that the infrastructure manager evaluates their relevance for specific market segments. The list of market segments defined by infrastructure managers shall contain at least the three following ones: freight services, passenger services within the framework of a public service contract and other passenger services. Infrastructure managers may further distinguish market segments.

Market segments in which railway undertakings are not currently operating but may provide services during the period of validity of the charging system shall also be defined. The infrastructure manager shall not include a mark-up in the charging system for these market segments.
The list of market segments shall be published in the network statement and shall be reviewed at least every five years.

These additional market segments shall be established in accordance with Annex VIII, point 3 subject to the prior approval of the regulatory body. For market segments for which there is no traffic, mark-ups shall not be included in the charging system.

Annex VIII, point 3 may be amended in the light of experience in accordance with the procedure referred to in Article 60.

1a. For the carriage of goods from and to third countries operated on a network whose track gauge is different from the main rail network within the Union, infrastructure managers may set higher charges in order to obtain full cost recovery of the costs incurred.

2. For specific future investment projects, or specific investment projects that have been completed after 1988, the infrastructure manager may set or continue to set higher charges on the basis of the long-term costs of such projects if they increase efficiency or cost-effectiveness or both and could not otherwise be or have been undertaken. Such a charging arrangement may also incorporate agreements on the sharing of the risk associated with new investments.

3. Trains equipped with the ETCS running on lines equipped with national command control and signalling systems shall enjoy a temporary reduction of the infrastructure charge in accordance with Annex VIII, point 5. The infrastructure manager shall be able to ensure that such a reduction does not result in a loss of revenue. This reduction shall be offset by higher charges on the same railway line for trains not equipped with ETCS.

Annex VIII, point 5 may be amended in the light of experience in accordance with the procedure referred to in Article 60 in order to further promote ERTMS.

4. To prevent discrimination, it shall be ensured that any given infrastructure manager’s average and marginal charges for equivalent uses of its infrastructure are comparable and that comparable services in the same market segment are subject to the same charges. The infrastructure manager shall show in the network statement that the charging system meets these requirements in so far as this can be done without disclosing confidential business information.

5. If an infrastructure manager intends to modify the essential elements of the charging system referred to in paragraph 1, it shall make them public at least three months in advance of the deadline for the publication of the network statement according to Article 27(4).

Member States may decide to publish the charging framework and charging rules applicable specifically to international freight services from and to third countries operated on a network whose track gauge is different from the main rail network within the Union with different instruments and deadlines than those provided under Article 29(1) when this is required to ensure fair competition. [Am. 80]

Article 33

Discounts

1. Without prejudice to Articles 101, 102, 106 and 107 of the TFEU and notwithstanding the direct cost principle laid down in Article 31(3) of this Directive, any discount on the charges levied on a railway undertaking by the infrastructure manager, for any service, shall comply with the criteria set out in this Article.
2. With the exception of paragraph 3, discounts shall be limited to the actual saving of the administrative cost to the infrastructure manager. In determining the level of discount, no account may be taken of cost savings already internalised in the charge levied.

3. Infrastructure managers may introduce schemes available to all users of the infrastructure, for specified traffic flows, granting time-limited discounts to encourage the development of new rail services, or discounts encouraging the use of considerably underutilised lines.

4. Discounts may relate only to charges levied for a specified infrastructure section.

5. Similar discount schemes shall apply for similar services. Discount schemes shall be applied in a non-discriminatory manner to any railway undertaking.

**Article 34**

Compensation schemes for unpaid environmental, accident and infrastructure costs

1. Member States may put in place a time-limited compensation scheme for the use of railway infrastructure for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail.

2. Where a railway undertaking receiving compensation enjoys an exclusive right, the compensation must be accompanied by comparable benefits to users.

3. The methodology used and calculations performed must be publicly available. It shall in particular be possible to demonstrate the specific uncharged costs of the competing transport infrastructure that are avoided and to ensure that the scheme is granted on non-discriminatory terms to undertakings.

4. Member States shall ensure that the scheme is compatible with Articles 93, 107 and 108 TFEU.

**Article 35**

Performance scheme

1. Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network through a performance scheme. This may include penalties for actions which disrupt the operation of the network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance.

2. The basic principles of the performance scheme as listed in Annex VIII, point 4 include the following elements which shall apply throughout the network:

   (a) In order to achieve an agreed level of service quality and not to endanger the economic viability of a service, the infrastructure manager shall agree with applicants, after approval by the regulatory body, the main parameters of the performance scheme, in particular the cost of delays and the thresholds for payments due under the performance scheme relative both to individual train runs and to all train runs of a railway undertaking in a given period of time;
(b) The infrastructure manager shall communicate to the railway undertakings the timetable, on the basis of which delays will be calculated, at least five days before the train run;

(c) Without prejudice to the existing appeal procedures and to the provisions of Article 50, in case of disputes relating to the performance scheme, a dispute resolution system shall be made available in order to settle such matters promptly. If this system is applied, a decision shall be reached within a time limit of 10 working days;

(d) Once a year, the infrastructure manager shall publish the annual average level of service quality achieved by the railway undertakings on the basis of the main parameters agreed in the performance scheme. [Am. 81]

Point 4 of Annex VIII containing further elements regarding the performance scheme may be amended in the light of experience in accordance with the procedure referred to in Article 60a. [Am. 82]

Article 36
Reservation charges

Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. This charge shall provide incentives for efficient use of capacity. If there is two or more than one applicant for a applicants request overlapping train path paths to be allocated under the annual timetable exercise, a reservation charge shall be levied on the applicant to which the entire train path or a part of it was allocated but not used. [Am. 83]

The infrastructure manager shall always be able to inform any interested party of the infrastructure capacity which has already been allocated to user railway undertakings.

Article 37
Cooperation in relation to charging systems on more than one network

Member States shall ensure that infrastructure managers cooperate to enable mark-ups as referred to in Article 32 and performance schemes as referred to in Article 35 to be efficiently applied, for traffic crossing more than one network. With a view to optimising the competitiveness of international rail services, infrastructure managers shall establish appropriate procedures, subject to the rules set out in this Directive.

SECTION 3
Allocation of infrastructure capacity

Article 38
Capacity rights

1. Infrastructure capacity shall be allocated by an infrastructure manager. Once allocated to an applicant, it shall not be transferred by the recipient to another undertaking or service.

Any trading in infrastructure capacity shall be prohibited and shall lead to exclusion from the further allocation of capacity.

The use of capacity by a railway undertaking when carrying out the business of an applicant which is not a railway undertaking shall not be considered a transfer.
2. The right to use specific infrastructure capacity in the form of a train path may be granted to applicants for a maximum duration of one working timetable period.

An infrastructure manager and an applicant may enter into a framework agreement as laid down in Article 42 for the use of capacity on the relevant railway infrastructure for a longer term than one working timetable period.

3. The respective rights and obligations of infrastructure managers and applicants in respect of any allocation of capacity shall be laid down in contracts or in Member States’ legislation.

4. When an applicant intends to request infrastructure capacity with a view to operating an international passenger service as defined in Article 2, it shall inform the infrastructure managers and the regulatory bodies concerned. In order to enable them to assess whether the purpose of the international service is to carry passengers between stations located in different Member States, and what the potential economic impact on existing public service contracts is, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with a right to limit access under Article 9(3) and any railway undertaking performing the public service contract on the route of that international passenger service is informed.

Article 39
Capacity allocation

1. Member States may lay down a framework for the allocation of infrastructure capacity subject to the condition of management independence laid down in Article 4. Specific capacity allocation rules shall be laid down. The infrastructure manager shall perform the capacity allocation processes. In particular, the infrastructure manager shall ensure that infrastructure capacity is allocated on a fair and non-discriminatory basis and in accordance with Union law.

2. Infrastructure managers shall respect the commercial confidentiality of information provided to them.

Article 40
Cooperation in the allocation of infrastructure capacity on more than one network

1. Member States shall ensure that infrastructure managers cooperate to enable the efficient creation and allocation of infrastructure capacity which crosses more than one network, including under framework agreements referred to in Article 42. Infrastructure managers shall establish appropriate procedures, subject to the rules set out in this Directive, and organise international train paths accordingly.

Member States shall ensure that representatives of infrastructure managers whose allocation decisions have an impact on other infrastructure managers associate in order to coordinate the allocation of or to allocate all relevant infrastructure capacity at an international level, without prejudice to the specific rules contained in Union law on rail freight oriented networks. Participants in this cooperation shall ensure that its membership, methods of operation and all relevant criteria which are used for assessing and allocating infrastructure capacity be made publicly available. Appropriate representatives of infrastructure managers from third countries may be associated with these procedures. [Am. 85]
2. The Commission and representatives of the regulatory bodies, which co-operate in accordance with Article 57, shall be informed of and invited to attend as observers all meetings at which common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56. [Am. 86]

3. At any meeting or other activity undertaken to permit the allocation of infrastructure capacity for trans-network train services, decisions shall only be taken by representatives of infrastructure managers.

4. The participants in the cooperation referred to paragraph 1 shall ensure that its membership, methods of operation and all relevant criteria which are used for assessing and allocating infrastructure capacity be made publicly available.

5. Working in cooperation as referred to in paragraph 1, infrastructure managers shall assess the need for, and may where necessary propose and organise international train paths to facilitate the operation of freight trains which are subject to an *ad hoc* request as referred to in Article 48.

Such prearranged international train paths shall be made available to applicants via any of the participating infrastructure managers.

Article 41

Applicants

1. Requests for infrastructure capacity may be made by applicants within the meaning of this Directive. *In order to use such infrastructure capacity applicants shall appoint a railway undertaking to conclude an agreement with the infrastructure manager in accordance with Article 28.* [Am. 84]

2. The infrastructure manager may set requirements with regard to applicants to ensure that its legitimate expectations about future revenues and utilisation of the infrastructure are safeguarded. Such requirements may only include the provision of a financial guarantee that must not exceed an appropriate level which shall be proportional to the contemplated level of activity of the applicant, and assurance of the capability to prepare compliant bids for infrastructure capacity.

3. The Commission may adopt implementing measures setting out *The details of the criteria to be followed for the application of paragraph 2. Those measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts may be amended in the light of experience in accordance with Article 63(3), the procedure referred to in Article 60a.* [Am. 87]

Article 42

Framework agreements

1. Without prejudice to Articles 101, 102 and 106 TFEU, a framework agreement may be concluded between an infrastructure manager and an applicant. Such a framework agreement shall specify the characteristics of the infrastructure capacity required by and offered to the applicant over a period of time exceeding one working timetable period. The framework agreement shall not specify a train path in detail, but shall be such as to meet the legitimate commercial needs of the applicant. A Member State may require prior approval of such a framework agreement by the regulatory body referred to in Article 55 of this Directive.
2. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services.

3. A framework agreement shall allow for the amendment or limitation of its terms to enable better use to be made of the railway infrastructure.

4. A framework agreement may contain penalties should it be necessary to modify or terminate the agreement.

5. Framework agreements shall in principle cover a period of five years, renewable for periods equal to their original duration. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than five years shall be justified by the existence of commercial contracts, specialised investments or risks.

6. For services using specialised infrastructure referred to in Article 49 which requires substantial and long-term investment, duly justified by the applicant, framework agreements may be for a period of 15 years. Any period longer than 15 years shall be permissible only in exceptional cases, in particular where there is large-scale, long-term investment, and particularly where such investment is covered by contractual commitments including a multi-annual amortisation plan.

   In such exceptional cases, the framework agreement may set out the detailed characteristics of the capacity which is to be provided to the applicant for the duration of the framework agreement. These characteristics may include the frequency, volume and quality of train paths. The infrastructure manager may reduce reserved capacity which, over a period of at least one month, has been used less than the threshold quota provided for in Article 52.

   As from 1 January 2010, an initial framework agreement may be drawn up for a period of five years, renewable once, on the basis of the capacity characteristics used by applicants operating services before 1 January 2010, in order to take account of specialised investments or the existence of commercial contracts. The regulatory body referred to in Article 55 shall be responsible for authorising the entry into force of such an agreement.

7. While respecting commercial confidentiality, the general nature of each framework agreement shall be made available to any interested party.

**Article 43**

Schedule for the allocation process

1. The infrastructure manager shall adhere to the schedule for capacity allocation set out in Annex IX.

   Annex IX may be amended in the light of experience in accordance with the procedure referred to in Article 60a.

2. Infrastructure managers shall agree with the other relevant infrastructure managers concerned which international train paths are to be included in the working timetable, before commencing consultation on the draft working timetable. Adjustments shall only be made if absolutely necessary and must be duly justified. [Am. 88]

**Article 44**

Application

1. Applicants may apply under public or private law to the infrastructure manager to request an agreement granting rights to use railway infrastructure against a charge as provided for in Section 2 of Chapter IV.
2. Requests relating to the regular working timetable shall comply with the deadlines set out in Annex IX.

3. An applicant who is a party to a framework agreement shall apply in accordance with that agreement.

4. Applicants shall request infrastructure capacity crossing more than one network by applying to one infrastructure manager. That infrastructure manager shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.

5. Infrastructure managers shall ensure that, for infrastructure capacity crossing more than one network, applicants may apply directly to any joint body which the infrastructure managers may establish, such as a one-stop-shop for rail corridors.

Article 45

Scheduling

1. The infrastructure manager shall as far as possible meet all requests for infrastructure capacity including requests for train paths crossing more than one network, and shall as far as possible take account of all constraints on applicants, including the economic effect on their business.

2. The infrastructure manager may give priority to specific services within the scheduling and coordination process but only as set out in Articles 47 and 49.

3. The infrastructure manager shall consult interested parties about the draft working timetable and allow them at least one month to present their views. Interested parties shall include all those who have requested infrastructure capacity and other parties who wish to have the opportunity to comment on how the working timetable may affect their ability to procure rail services during the working timetable period.

4. The infrastructure manager shall, upon request, within a reasonable time and in due time for the coordination process referred to in Article 46, make the following information available free of charge to applicants in written form for review:

   (a) train paths requested by all other applicants on the same routes;

   (b) train paths allocated to all other applicants and outstanding train path requests for all other applicants on the same routes;

   (c) train paths allocated to all other applicants on the same routes as in the previous working timetable;

   (d) remaining capacity available on the relevant routes;

   (e) full details of the criteria being used in the capacity allocation process.

5. The infrastructure manager shall take appropriate measures to deal with any concerns that are expressed.
Article 46

Coordination process

1. During the scheduling process referred to in Article 45, when the infrastructure manager encounters conflicts between different requests it shall attempt, through coordination of the requests, to ensure the best possible matching of all requirements.

2. When a situation requiring coordination arises, the infrastructure manager shall have the right, within reasonable limits, to propose infrastructure capacity that differs from that which was requested.

3. The infrastructure manager shall attempt, through consultation with the appropriate applicants, to resolve any conflicts.

4. The principles governing the coordination process shall be set out in the network statement. These shall in particular reflect the difficulty of arranging international train paths and the effect that modification may have on other infrastructure managers.

5. Where requests for infrastructure capacity cannot be satisfied without coordination, the infrastructure manager shall attempt to accommodate all requests through coordination.

6. Without prejudice to the existing appeal procedures and to Article 56, in the event of disputes relating to the allocation of infrastructure capacity, a dispute resolution system shall be made available in order to resolve such disputes promptly. This system shall be set out in the network statement. If this system is applied, a decision shall be reached within a time limit of 10 working days.

Article 47

Congested infrastructure

1. Where after coordination of the requested train paths and consultation with applicants it is not possible to satisfy requests for infrastructure capacity adequately then the infrastructure manager must immediately declare that section of infrastructure on which this has occurred to be congested. This shall also be done for infrastructure which can be expected to suffer from insufficient capacity in the near future.

2. When infrastructure has been declared to be congested, the infrastructure manager shall carry out a capacity analysis as provided for in Article 50, unless a capacity enhancement plan as provided for in Article 51 is already being implemented.

3. When charges in accordance with Article 31 (4) have not been levied or have not achieved a satisfactory result and the infrastructure has been declared to be congested, the infrastructure manager may in addition employ priority criteria to allocate infrastructure capacity.

4. The priority criteria shall take account of the importance of a service to society, relative to any other service which will consequently be excluded.

In order to guarantee the development of adequate transport services within this framework, in particular to comply with public-service requirements or promote the development of rail freight, particularly international freight, Member States may take any measures necessary, under non-discriminatory conditions, to ensure that such services are given priority when infrastructure capacity is allocated. [Am. 89]
Member States may, where appropriate, grant the infrastructure manager compensation corresponding to any loss of revenue related to the need to allocate a given capacity to certain services pursuant to the second subparagraph.

These measures and this compensation shall include taking account of the effect of this exclusion in other Member States.

5. The importance of freight services and in particular international freight services shall be given adequate consideration in determining priority. Priority criteria shall include freight services and in particular international freight services. [Am. 90]

6. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement.

Article 48

Ad hoc requests

1. The infrastructure manager shall respond to ad hoc requests for individual train paths as quickly as possible, and in any event, within five working days. Information supplied on available spare capacity shall be made available to all applicants who may wish to use this capacity.

2. Infrastructure managers shall where necessary undertake an evaluation of the need for reserve capacity to be kept available within the final scheduled working timetable to enable them to respond rapidly to foreseeable ad hoc requests for capacity. This shall also apply in cases of congested infrastructure.

Article 49

Specialised infrastructure

1. Without prejudice to paragraph 2, infrastructure capacity shall be considered to be available for the use of all types of service which conform to the characteristics necessary for operation on the train path.

2. Where there are suitable alternative routes, the infrastructure manager may, after consultation with interested parties, designate particular infrastructure for use by specified types of traffic. Without prejudice to Articles 101, 102 and 106 TFEU, where such designation has occurred, the infrastructure manager may give priority to this type of traffic when allocating infrastructure capacity.

Such designation shall not prevent the use of such infrastructure by other types of traffic when capacity is available.

3. Where infrastructure has been designated pursuant to paragraph 2, this shall be described in the network statement.

Article 50

Capacity analysis

1. The objective of capacity analysis is to determine the constraints on infrastructure capacity which prevent requests for capacity from being adequately met, and to propose methods of enabling additional requests to be satisfied. This analysis shall identify the reasons for the congestion and what measures might be taken in the short and medium term to ease the congestion.
2. The analysis shall consider the infrastructure, the operating procedures, the nature of the different services operating and the effect of all these factors on infrastructure capacity. Measures to be considered shall include in particular re-routing services, re-timing services, speed alterations and infrastructure improvements.

3. A capacity analysis shall be completed within six months of the identification of infrastructure as congested.

Article 51

Capacity enhancement plan

1. Within six months of the completion of a capacity analysis, the infrastructure manager shall produce a capacity enhancement plan.

2. A capacity enhancement plan shall be developed after consultation with users of the relevant congested infrastructure.

It shall identify:

(a) the reasons for the congestion;

(b) the likely future development of traffic;

(c) the constraints on infrastructure development;

(d) the options and costs for capacity enhancement, including likely changes to access charges.

On the basis of a cost benefit analysis of the possible measures identified, it shall also determine the action to be taken to enhance infrastructure capacity, including a timetable for implementing the measures.

The plan may be subject to prior approval by the Member State. The regulatory body referred to in Article 55 may issue an opinion on whether the actions identified in the plan are appropriate. [Am. 91]

Where a trans-European network or a train path having a significant impact on one or several trans-European networks is congested, the network of regulatory bodies set out in Article 57 may issue an opinion on whether the actions in the plan are appropriate. [Am. 92]

3. The infrastructure manager shall cease to levy any charges for the relevant infrastructure under Article 31(4) in cases where:

(a) it does not produce a capacity enhancement plan; or

(b) it does not make progress with the actions identified in the capacity enhancement plan.

However, the infrastructure manager may, subject to the approval of the regulatory body referred to in Article 55 continue to levy the charges if:

(a) the capacity enhancement plan cannot be realised for reasons beyond its control; or
(b) the options available are not economically or financially viable.

Article 52

Use of train paths

1. In the network statement, the infrastructure manager shall specify conditions whereby it will take account of previous levels of utilisation of train paths in determining priorities for the allocation process.

2. For congested infrastructure in particular, the infrastructure manager shall require the surrender of a train path which, over a period of at least one month, has been used less than a threshold quota to be laid down in the network statement, unless this was due to non-economic reasons beyond the operator's control.

Article 53

Infrastructure capacity for maintenance work

1. Requests for infrastructure capacity to enable maintenance work to be performed shall be submitted during the scheduling process.

2. Adequate account shall be taken by the infrastructure manager of the effect of infrastructure capacity reserved for scheduled track maintenance work on applicants.

3. The infrastructure manager shall inform interested parties about unscheduled maintenance work at least one week prior to it commencing. [Am. 93]

Article 54

Special measures to be taken in the event of disturbance

1. In the event of disturbance to train movements caused by technical failure or an accident the infrastructure manager must take all necessary steps to restore the situation to normal. To that end it shall draw up a contingency plan listing the various bodies to be informed in the event of serious incidents or serious disturbance to train movements.

1a. Infrastructure managers shall have action plans to deal with accidents or technical failures. [Am. 94]

2. In an emergency and where absolutely necessary on account of a breakdown making the infrastructure temporarily unusable, the train paths allocated may be withdrawn without warning for as long as is necessary to repair the system.

The infrastructure manager may, if it deems this necessary, require railway undertakings to make available to it the resources which it feels are the most appropriate to restore the situation to normal as soon as possible.

3. Member States may require railway undertakings to be involved in ensuring the enforcement and monitoring of their own compliance with the safety standards and rules. Save in the case of force majeure, including urgent safety-critical work, a train path allocated to a freight operation pursuant to this article may not be cancelled less than two months before its scheduled time in the working timetable if the applicant concerned does not give its approval for such cancellation. In such a case the infrastructure manager concerned shall make an effort to propose to the applicant a train path of an equivalent quality and reliability which the applicant has the right to accept or refuse. If the applicant refuses, he shall be entitled at least to reimbursement of the corresponding charge. [Am. 95]
SECTION 4

Regulatory body

Article 55

National regulatory bodies

1. Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract. The regulatory body shall have the necessary organisational capacity in terms of human and material resources, which shall be adequate for the level of activity of the rail sector of the Member State, such as the volume of traffic, and for the size of the network, in order to carry out the tasks assigned to it by Article 56.

2. Member States may set up regulatory bodies which are competent for several regulated sectors, if these integrated regulatory authorities fulfil the independence requirements set out in paragraph 1.

3. The president and governing board of the regulatory body for the railway sector shall be appointed by the national or other competent parliament for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have knowledge of and experience in the regulation of the railway sector, or knowledge of and experience in the regulation of other sectors, and preferably among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three at least two years or any longer period defined in accordance with the national law before their appointment, and during their term of office. They shall explicitly state this by an appropriate declaration of interests. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years or any longer period defined in accordance with the national law. They shall have full authority over the recruitment and management of the staff of the regulatory body. They must act entirely independently and may under no circumstances be influenced by instructions from a government or a private or public undertaking. [Am. 96]

Article 56

Functions of the national regulatory bodies

1. Without prejudice to Article 46(6), an applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against or is in any other way aggrieved, and in particular against decisions adopted by the infrastructure manager or where appropriate the railway undertaking or the operator of a service facility concerning:

(a) the network statement;

(b) the criteria set out in it;

(c) the allocation process and its result;

(d) the charging scheme;

(e) the level or structure of infrastructure charges which it is, or may be, required to pay;
(f) arrangements for access in accordance with Articles 10, 11 and 12;

(g) access to and charging for services in accordance with Article 13;

(ga) licensing decisions, in cases where the regulatory body is not also the body issuing licences in accordance with Article 16.

1a. The regulatory body may take action on its own initiative and shall be required to take a decision on any complaints to remedy the situation within a maximum period of one month from the receipt of the complaint. In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager’s decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.

The Commission shall on its own initiative examine the application and enforcement of the provisions of this Directive related to the mandate of the regulatory bodies and their decision-making deadlines in accordance with the advisory procedure referred to in Article 64(2).

2. The regulatory body shall also have the power to monitor competition, to stop discriminatory and market distortion developments in the rail services markets and to review points (a) to (g) of paragraph 1 on its own initiative and with a view to preventing discrimination between applicants, including through appropriate corrective measures. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary organisational capacity to carry out these tasks. To this end, the regulatory body shall also cooperate closely with the national safety authority responsible for assessing the conformity or suitability for use of interoperability constituents or for appraising the 'EC' procedure for verification of subsystems in accordance with Directive 2008/57/EC. At the request of applicants in procedures before the national safety authority which may have consequences for market access the national safety authority shall inform the regulatory body of the relevant aspects of the procedure. The regulatory body shall make recommendations. The national safety authority shall give justifications to the regulatory body if it intends to deviate from these recommendations.

3. The regulatory body shall ensure that charges set by the infrastructure manager comply with Section 2 of Chapter IV and are non-discriminatory. Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter.

3a. The regulatory body shall verify that railway undertakings’ and infrastructure managers’ accounting is in compliance with the accounting separation provisions laid down in Article 6.

3b. The regulatory body shall determine, if provided by national law, in accordance with Article 10(2) whether the principal purpose of a service is to carry passengers between stations located in different Member States and in accordance with Article 11(2) whether the economic equilibrium of a public service contract is compromised by services provided for in Article 10 between a place of departure and a destination which are covered by one or more public service contracts.

3c. The regulatory body shall communicate to the Commission any complaint related to a decision by a regulatory body pursuant to paragraphs 1 to 3b. Within two weeks after the receipt of the complaint the Commission shall, if necessary, request changes to the decision in question in order to ensure its compatibility with Union law. The regulatory body shall modify its decision, taking account of the changes requested by the Commission.
3d. The regulatory body shall consult, at least once a year, the representatives of the users of the rail freight and passenger transport services, to take into account their views on the rail market, including the service performance, the infrastructure charges, the amount and the transparency of the rail service prices. [Am. 97]

4. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned. Information requested must be supplied without undue delay. The regulatory body shall be enabled to enforce such requests with the appropriate sanctions, including fines. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes.

5. The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (ga) of paragraph 1.

A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative instance. The regulatory body must be able to enforce its decisions with the appropriate sanctions, including fines.

In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager’s decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.

6. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal may have suspensive effect on the decision of the regulatory body only when the court hearing the appeal establishes that the immediate effect of the regulatory body’s decision may cause irretrievable damages for the appellant.

7. Member States shall ensure that information about conflict resolution and appeal procedures related to decisions of infrastructure managers and providers of services listed in Annex III are published by the regulatory body.

8. The regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers and, when relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6.

Member States shall ensure that infrastructure managers and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in paragraphs 1 and 2 of Article 6 shall provide detailed regulatory accounts to the regulatory body so that it can carry out its different tasks. These regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from these accounts concerning State aid issues which it shall report to the authorities responsible for resolving these issues.

Annex X may be amended in the light of experience in accordance with the procedure referred to in Article 60a.
Article 56a

Powers of the national regulatory bodies

1. In order to carry out the tasks listed in Article 56 the regulatory body shall have the power to:

(a) enforce its decisions with appropriate sanctions, including fines. A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another national administrative instance.

(b) request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned and to enforce such requests with appropriate sanctions, including fines. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring competition in the rail services markets. This includes data which are necessary for statistical and market observation purposes. Information requested must be supplied without undue delay.

(c) carry out audits or initiate external audits with infrastructure managers and, when relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6.

2. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. The appeal shall not have a suspensive effect on the decision of the regulatory body.

3. In the event of conflicts concerning decisions by the regulatory bodies for cross-border transport services, the concerned parties may appeal to the Commission to obtain a binding decision on the compatibility of the decisions with Union law within one month after the receipt of the appeal.

4. Member States shall ensure that decisions taken by the regulatory body are published.

5. Member States shall ensure that infrastructure managers and all undertakings or other entities performing different types of rail transport or infrastructure management, including operators of the service facilities, as referred to in Article 6 shall provide detailed regulatory accounts to the regulatory body so that it can carry out its different tasks. These regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from these accounts concerning State aid issues which it shall report to the authorities responsible for resolving these issues.

Annex X may be amended in the light of experience in accordance with the procedure referred to in Article 60a. [Am. 98]

Article 57

Cooperation between national regulatory bodies and powers of the Commission

1. The national regulatory bodies shall exchange information about their work and decision-making principles and practice and otherwise cooperate for the purpose of coordinating their decision-making across the Union. For this purpose they shall work together in a working group formally established network that convenes at regular intervals. The Commission shall support the regulatory bodies in this task at the invitation of and chaired by the Commission. To this aim the Commission shall ensure active cooperation between the regulatory bodies and shall take action in the event that regulatory bodies fail to fulfil their mandate.
The Commission representatives shall comprise representatives from both the services in charge of transport and competition.

The Commission shall set up a database to which national regulatory bodies shall provide data on all complaint procedures, such as the dates of complaints, start of own-initiative procedures, all draft and final decisions, parties involved, main issues of the procedures and problems of interpretation of railway law and own-initiative investigations on issues of access or charging relating to international rail services.

2. The regulatory bodies shall cooperate closely, including through working arrangements, for the purposes of mutual assistance in their market monitoring tasks and handling complaints or investigations.

3. In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall notify the Commission and consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before taking its decision. The network of regulatory bodies shall also deliver an opinion.

4. The regulatory bodies consulted in accordance with paragraph 3 shall provide all the information that they themselves have the right to request under their national legislation. This information may only be used for the purpose of handling the complaint or investigation referred to in paragraph 3.

5. The regulatory body receiving the complaint or conducting an investigation on its own initiative shall transfer relevant information to the regulatory body responsible in order for that body to take measures regarding the parties concerned.

6. Member States shall ensure that any associated representatives of infrastructure managers as referred to in Article 40(1) provide, without delay, all the information necessary for the purpose of handling the complaint or investigation referred to in paragraph 3 of this article and requested by the regulatory body of the Member State in which the associated representative is located. This regulatory body shall be entitled to transfer such information regarding the international train path concerned to the regulatory bodies referred to in paragraph 3.

6a. The Commission may on its own initiative participate in the activities listed under paragraphs 2 to 6 on which it shall keep the network of regulatory bodies mentioned in paragraph 1 informed.

7. The network of regulatory bodies established pursuant to paragraph 1 shall develop common principles and practices for making decisions for which they are empowered under this Directive. The Commission may adopt implementing measures setting out and supplement such common principles and practices. These measures designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3) the procedure referred to in Article 60a.

The network of regulatory bodies shall also review decisions and practices of associations of infrastructure managers as referred to in Article 40(1) that implement provisions of this Directive or otherwise facilitate international rail transport. [Am. 99]
Article 57a

European regulatory body

In light of the experience acquired through the network of regulatory bodies, the Commission shall, no later than … (*), draw up a legislative proposal establishing a European regulatory body. This body shall have a supervisory and arbitration function to deal with cross-border and international problems and to hear appeals of decisions taken by national regulatory bodies. [Am. 100]

CHAPTER V

FINAL PROVISIONS

Article 58

The provisions of this Directive shall be without prejudice to Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (1).

Article 59

Derogations

1. Until 15 March 2013, Ireland, as an island Member State with a rail link to only one other Member State, and the United Kingdom, in respect of Northern Ireland, on the same basis

(a) do not need to entrust to an independent body the functions determining equitable and non-discriminatory access to infrastructure, as provided for in the first subparagraph of Article 7(1) in so far as that article obliges Member States to establish independent bodies performing the tasks referred to in Article 7(2);

(b) do not need to apply the requirements set out in Article 27, Article 29(2), Articles 38, 39 and 42, Article 46(4), Article 46(6), Article 47, Article 49(3), Articles 50 to 53, Article 55 and Article 56 on condition that decisions on the allocation of infrastructure capacity or the charging of fees are open to appeal, if so requested in writing by a railway undertaking, before an independent body which shall take its decision within two months of the submission of all relevant information and whose decision shall be subject to judicial review.

2. Where more than one railway undertaking licensed in accordance with Article 17, or, in the case of Ireland and Northern Ireland, a railway company so licensed elsewhere submits an official application to operate competing railway services in, to or from Ireland or Northern Ireland, the continued applicability of this derogation shall be decided upon in accordance with the advisory procedure referred to in Article 64(2).

The derogations referred to in paragraph 1 shall not apply where a railway undertaking operating railway services in Ireland or Northern Ireland submits an official application to operate railway services on, to or from the territory of another Member State, with the exceptions of Ireland for railway undertakings operating in Northern Ireland and the United Kingdom for railway undertakings operating in Ireland.

Within one year from the receipt of either the decision referred to in the first subparagraph of this paragraph or notification of the official application referred to in the second subparagraph of this paragraph, the Member State or States concerned (Ireland or the United Kingdom with respect to Northern Ireland) shall put in place legislation to implement the Articles referred to in paragraph 1.

(*) Two years after the publication of this Directive.
3. A derogation referred to in paragraph 1 may be renewed for periods not longer than five years. Not later than 12 months before the expiry date of the derogation a Member State availing itself of that derogation may address a request to the Commission for a renewed derogation. Any such request must be substantiated. The Commission shall examine such a request and adopt a decision in accordance with the advisory procedure referred to in Article 64(2). That procedure shall apply to any decision related to the request.

When adopting its decision the Commission shall take into account any development in the geopolitical situation and the development of the rail market in, from and to the Member State that requested the renewed derogation.

Article 59a

Article delegating power

The Commission shall be empowered to adopt delegated acts in accordance with Article 60a concerning the scope of market monitoring in accordance with Article 15(5), certain elements of the network statement in accordance with Article 27(2), certain principles of charging in accordance with Article 31(3) and (5), the temporary reduction of the infrastructure charges for ETCS in accordance with Article 32(3), certain elements of the performance scheme in accordance with Article 35(2), the criteria to be followed regarding the requirements with regard to applicants for infrastructure in accordance with Article 41(3), the schedule for the allocation process in accordance with Article 43(1), the regulatory accounts in accordance with Article 56a(5) and common principles and practices for making decision developed by regulatory bodies in accordance with Article 57(7). [Am. 101]

Article 60

Exercise of delegation

1. Powers to adopt the delegated acts referred to in Articles 7(1) second subparagraph, 13(5) second subparagraph, 15(5) second subparagraph, 20 third paragraph, 27(2), 30(3) second subparagraph, 31(5) second subparagraph, 32(1) third subparagraph, 32(3), 35(2), 43(1) and 56(8) third subparagraph shall be conferred on the Commission for an indeterminate period of time.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. Powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 61 and 62. [Am. 102]

Article 60a

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 Articles 15(5), 27(2), 31(3) and 31(5), 32(3), 35(2), 41(3), 43(1), 56a(6), 57(7) shall be conferred on the Commission for a period of five years from … (*) The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

(*) Date of entry into force of this Directive.
3. The delegation of power referred to in Articles 15(5), 27(2), 31(3) and 31(5), 32(3), 35(2), 41(3), 43(1), 56a(6), 57(7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation 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 Articles 15(5), 27(2), 31(3) and 31(5), 32(3), 35(2), 41(3), 43(1), 56a(6), 57(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 2 months at the initiative of the European Parliament or the Council. [Am. 103]

### Article 61

**Revocation of delegation**

1. The delegation of powers referred to in Article 60(1) may be revoked by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall inform the other legislator and the Commission at the latest one month before the final decision is taken, stating the delegated powers which could be subject to revocation and the reasons for such revocation.

3. The revocation decision shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or on a later date specified therein. It shall not affect the validity of delegated acts already in force. It shall be published in the **Official Journal of the European Union**. [Am. 104]

### Article 62

**Objections to delegated acts**

1. The European Parliament and the Council may object to a delegated act within a period of two months from the date of notification. On the initiative of the European Parliament or the Council this period shall be extended by one month.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, or if, before that date, the European Parliament and the Council have both informed the Commission that they have decided not to raise objections, the delegated act shall enter into force on the date stated in its provisions.

3. If the European Parliament or the Council objects to an adopted delegated act, it shall not enter into force. The institution concerned shall state the reasons for objecting to the delegated act. [Am. 105]

### Article 63

**Implementing measures**

1. Member States may bring any question concerning the implementation of this Directive to the attention of the Commission. Appropriate decisions shall be adopted in accordance with the advisory procedure referred to in Article 64(2).
2. At the request of a Member State national regulatory body and other competent national authorities or on its own initiative the Commission shall, in a specific case, examine the application and enforcement of the provisions of this Directive, and within The national regulatory bodies shall maintain a database accessible to the European Commission of their draft decisions. Within two months of receipt of such a request the European Commission shall decide in accordance with the advisory procedure referred to in Article 64(2) whether the related measure may continue to be applied. The Commission shall communicate its decision to the European Parliament, the Council and to the Member States. [Am. 106]

Without prejudice to Article 258 of the Treaty, any Member State may refer the Commission’s decision to the Council within a time limit of one month from the date of the decision. The Council, acting by a qualified majority, may in exceptional circumstances take a different decision within a period of one month from the date of the referral. At the request of a Member State or on its own initiative the Commission shall, in a specific case, examine the application and enforcement of the provisions of this Directive, and adopt a decision thereon in accordance with the examination procedure referred to in Article 64(3). [Am. 107]

3. Measures designed The Commission shall adopt implementing acts in accordance with Articles 10(2), 11(4), 14(2) and 17(5) to ensure the implementation of the Directive under uniform conditions. Those implementing acts shall be adopted by the Commission as implementing acts in accordance with the examination procedure referred to in Article 64(3). [Am. 108]

Article 64
Committee procedures

1. The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011. [Am. 109]

2. Where reference is made to this paragraph, Article 3 and 4 of Decision 1999/468/EC Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 8 thereof. [Am. 110]

3. Where reference is made to this paragraph, Article 5, and Article 7 of Decision 1999/468/EC Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 8 thereof. [Am. 111]

Article 65
Report

By 31 December 2012 at the latest, the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on the implementation of Chapter II.

This report shall also assess the development of the market, including the state of preparation of a further opening-up of the rail market. In its report the Commission shall also analyse the different models for organising this market and the impact of this Directive on public service contracts and their financing. In so doing, the Commission shall take into account the implementation of Regulation (EC) No 1370/2007 and the intrinsic differences between Member States (density of networks, number of passengers, average travel distance). In its report the Commission shall, if appropriate, propose complementary measures to facilitate any such opening, and shall assess the impact of any such measures.
Article 66

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles […] and Annexes […] by [...] (*). They shall forthwith communicate to the Commission the text of those provisions and a table showing the correlation between those provisions and this Directive. [Am. 112]

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

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

The obligations for transposition and implementation of this Directive shall not apply to Cyprus and Malta for as long as no railway system is established within their territory.

Article 67

Repeal

Directives 91/440/EEC, 95/18/EC and 2001/14/EC, as amended by the Directives listed in Annex XI, Part A, are repealed with effect from […], without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Part B of Annex XI.

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

Article 68

Entry into force

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

Articles […] and Annexes […] shall apply from […].

Article 69

Addressees

This Directive is addressed to the Member States.

Done at […]

For the European Parliament

The President

For the Council

The President

(* 12 months from the entry into force of this Directive.)
ANNEX I

List of railways infrastructure items

Railway infrastructure consists of the following items, provided they form part of the permanent way, including sidings, but excluding lines situated within railway repair workshops, depots or locomotive sheds, and private branch lines or sidings:

— Ground area;

— Track and track bed, in particular embankments, cuttings, drainage channels and trenches, masonry trenches, culverts, lining walls, planting for protecting side slopes etc.; passenger and goods platforms; four-foot way and walkways; enclosure walls, hedges, fencing; fire protection strips; apparatus for heating points; crossings, etc.; snow protection screens;

— Engineering structures: bridges, culverts and other overpasses, tunnels, covered cuttings and other underpasses; retaining walls, and structures for protection against avalanches, falling stones, etc.:

— Level crossings, including appliances to ensure the safety of road traffic;

— Superstructure, in particular: rails, grooved rails and check rails; sleepers and longitudinal ties, small fittings for the permanent way, ballast including stone chippings and sand; points, crossings, etc.; turntables and traversers (except those reserved exclusively for locomotives);

— Access way for passengers and goods, including access for pedestrians and by road; [Am. 113]

— Safety, signalling and telecommunications installations on the open track, in stations and in marshalling yards, including plant for generating, transforming and distributing electric current for signalling and telecommunications; buildings for such installations or plant; track brakes;

— Lighting installations for traffic and safety purposes;

— Plant for transforming and carrying electric power for train haulage: sub-stations, supply cables between sub-stations and contact wires, catenaries and supports; third rail with supports;

— Buildings used by the infrastructure department.

ANNEX II

Essential functions of an infrastructure manager

(referred to in Article 7)

List of essential functions referred to in Article 7:

decision making on train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths,

decision making on infrastructure charging, including determination and collection of the charges, [Am. 114]
ANNEX III

Services to be supplied to the railway undertakings
(referred to in Article 13)

1. The minimum access package shall comprise:

(a) handling of requests for railway infrastructure capacity;

(b) the right to utilise capacity which is granted;

(c) use of running track points and junctions;

(d) train control including signalling, regulation, dispatching and the communication and provision of information on train movement;

(e) use of electrical supply equipment for traction current, where available;

(f) refuelling facilities, where available;

(g) all other information required to implement or operate the service for which capacity has been granted.

2. Access shall also be given to the following services facilities and the supply of, when they exist, and to the services supplied in the following these facilities:

(a) passenger stations, their buildings and other facilities, including travel information services and a suitable common location for ticketing and travel information services;

(b) freight terminals;

(c) marshalling yards;

(d) train formation facilities;

(e) storage sidings;

(f) maintenance and other technical facilities;

(g) port facilities which are linked to rail activities;

(h) relief facilities, including towing;

(ha) refuelling facilities and supply of fuel in these facilities, charges for which shall be shown on the invoices separately from charges for using refuelling facilities.

3. Additional services may comprise:

(a) traction current, the supplier of which a railway undertaking shall be free to choose; where the supplier of traction current is identical to the operator of the facility charges for which traction current shall be shown on the invoices separately from charges for using the electrical supply equipment;
(aa) conditions and prices for the use of power supply and transmission lines which shall be equitable for all operators;

(b) pre-heating of passenger trains;

(c) pre-heating of passenger trains; [Ams 115 and 165]

(d) tailor-made contracts for:

— control of transport of dangerous goods,

— assistance in running abnormal trains.

4. Ancillary services may comprise:

(a) access to telecommunication networks;

(b) provision of supplementary information;

(c) technical inspection of rolling stock.

ANNEX IV

Information for Rail Market Monitoring
(referred to in Article 15)

1. Evolution of rail transport performance and compensation of Public Service Obligations (PSO):

<table>
<thead>
<tr>
<th></th>
<th>2007</th>
<th>%-variation compared to previous year</th>
<th>2008</th>
<th>%-variation compared to previous year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freight (in tkm (1))</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passengers (in pkm (2))</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>International</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transit</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of which under PSO:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid compensation for PSO (in euro):</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) Tonne-kilometre.
(2) Passenger-kilometre.
2. Shares of railway undertakings in total transport performance at the end of 2008 (listing railway undertakings with market shares in tkm/pkm ≥ 1 %):

<table>
<thead>
<tr>
<th>Railway undertakings (FREIGHT)</th>
<th>Share (% of tkm)</th>
<th>Total market share of non-incumbents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Railway undertakings (PASSENGERS)</th>
<th>Share (% of pkm)</th>
<th>Total market share of non-incumbents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Regulatory Bodies:

<table>
<thead>
<tr>
<th></th>
<th>Last year</th>
<th>Year before</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of staff dealing with regulatory issues related to rail market access:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of complaints dealt with:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of ex officio investigations dealt with:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of decisions taken</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— on complaints:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— on ex officio investigations:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. National legislation and regulatory acts relevant to railway transport issued last year.

5. Relevant developments as regards restructuring of the incumbent railway undertaking and adoption/implementation of national transport strategies over the past year.

6. Important training initiatives/measures in the field of railway transport taken in your country last year.

7. Employment of railway undertakings and infrastructure managers at the end of last year.

<table>
<thead>
<tr>
<th>Total staff of railway undertakings</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>— of which train drivers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>— of which other mobile staff working cross-border</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total staff of infrastructure managers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other staff including in rail related service companies (e.g. maintenance workshops, terminal operators, training, train driver leasing, energy supply)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
8. Status of the multi-annual infrastructure management contracts (MAC) in force last year:

<table>
<thead>
<tr>
<th>Infrastructure manager</th>
<th>Length of the network covered by the contract</th>
<th>Time span of the contract starting from [date]</th>
<th>Definition of performance indicators agreed (Y/N)? If yes, please specify.</th>
<th>Total compensation paid (in euro/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. Infrastructure expenditure (conventional network and high-speed network):

<table>
<thead>
<tr>
<th></th>
<th>Maintenance</th>
<th>Renewals</th>
<th>Enhancements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional lines last year:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forecast for this year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High-speed lines last year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forecast for this year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. Estimated infrastructure maintenance backlog at the end of last year.

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional lines last year:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km to be worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High-speed lines last year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in euro)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in km to be worked on)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. Investments in the high-speed rail network:

<table>
<thead>
<tr>
<th>Lines</th>
<th>Km of lines put into service last year</th>
<th>Km being put into service at a conventional planning horizon (in 10/20 years)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
12. Length of railway network at the end of last year:

<table>
<thead>
<tr>
<th>Train type</th>
<th>Length (in km)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional lines</td>
<td></td>
</tr>
<tr>
<td>High-speed lines</td>
<td></td>
</tr>
</tbody>
</table>

13. Track access charges last year:

<table>
<thead>
<tr>
<th>Train category</th>
<th>Average charge in EUR/train km, excluding cost of the use of electricity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 000 gross tonne freight train</td>
<td></td>
</tr>
<tr>
<td>500 gross tonne intercity passenger train</td>
<td></td>
</tr>
<tr>
<td>140 gross tonne suburban passenger train</td>
<td></td>
</tr>
</tbody>
</table>

14. Existence of a performance regime set up according to Article 35 of this Directive (if yes, its main features).

15. Number of active licences issued by competent national authority

<table>
<thead>
<tr>
<th>Period</th>
<th>Active licences on 31 December, last year</th>
<th>Licences withdrawn</th>
<th>New licences issued</th>
<th>Active licences on 31 December, one year before</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>thereof:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>— for freight transport</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>— for passenger transport</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


16a. Incidents, accidents and serious accidents in accordance with Directive 2004/49/EC which occurred during the previous year. [Am. 116]

17. Other relevant developments

ANNEX V

Financial fitness

(referred to in Article 20)

4. Financial fitness will be verified by means of a railway undertaking’s annual accounts or, in the case of applicant undertakings unable to present annual accounts, a balance sheet. Detailed particulars must be provided, in particular on the following aspects:

(a) available funds, including the bank balance, pledged overdraft provisions and loans;

(b) funds and assets available as security;

(c) working capital;
(d) relevant costs, including purchase costs of payments to account for vehicles, land, buildings, installations and rolling stock;

(e) charges on an undertaking’s assets.

2. In particular, an applicant is not financially fit if considerable arrears of taxes or social security are owed as a result of the undertaking’s activity.

3. The authority may in particular require the submission of an audit report and suitable documents from a bank, public savings bank, accountant or auditor. These documents must include information concerning the matters referred to in point 1. [Am. 117]

---

ANNEX VI

Contents of the network statement

(referred to in Article 27)

The sections of the network statement referred to in Article 27 shall contain the following information: [Am. 118]

1. A section setting out the nature of the infrastructure which is available to railway undertakings and the conditions of access to it. The information in this section shall be consistent with or refer to the rail infrastructure registers to be published in accordance with Article 35 of Directive 2008/57/EC. [Am. 119]

2. The section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years. [Am. 120]

3. The section on the principles and criteria for capacity allocation. This shall set out the general capacity characteristics of the infrastructure which is available to railway undertakings and any restrictions relating to its use, including likely capacity requirements for maintenance. It shall also specify the procedures and deadlines which relate to the capacity allocation process. It shall contain specific criteria which are employed during that process, in particular: [Am. 121]

(a) the procedures according to which applicants may request capacity from the infrastructure manager;

(b) the requirements governing applicants;

(c) the schedule for the application and allocation processes and the procedures which shall be followed to request information on the scheduling in accordance with Article 45(4);

(d) the principles governing the coordination process and the dispute resolution system made available as part of this process;

(e) the procedures which shall be followed and criteria used where infrastructure is congested;

(f) details of restrictions on the use of infrastructure;

(g) conditions by which account is taken of previous levels of utilisation of capacity in determining priorities for the allocation process.

---

It shall detail the measures taken to ensure adequate treatment of freight services, international services and requests subject to the ad hoc procedure. It shall contain a template form for capacity requests. The infrastructure manager shall also publish detailed information about the allocation procedures for international train paths.
4. A section on information relating to the application for a licence referred to in Article 25 and rail safety certificates issued in accordance with Directive 2004/49/EC.

5. A section on information about procedures for dispute resolution and appeal relating to matters of access to rail infrastructure and services and to the performance scheme referred to in Article 35. [Am. 122]

6. A section on information on access to and charging for service facilities referred to in Annex III. Operators of service facilities which are not controlled by the infrastructure manager shall supply information on charges for gaining access to the facility and for the provision of services, and information on technical access conditions for inclusion in the network statement. [Am. 123]

7. A model agreement for the conclusion of framework agreements between an infrastructure manager and an applicant in accordance with Article 42. [Am. 124]

(1) OJ L 164, 30.4.2004, p. 44.

ANNEX VII

Basic principles and parameters of contractual agreements between competent authorities and infrastructure managers (referred to in Article 30)

The contractual agreement shall specify the provisions of Article 30 including:

1. the scope of the agreement as regards infrastructure and service facilities, structured according to Annex III. It shall cover all aspects of infrastructure development, including maintenance and renewal of the infrastructure already in operation. Construction of new infrastructure may be included as a separate item;

2. the structure of agreed payments, including indicative forecasts of the expected level thereof, apportioned to the infrastructure services listed in Annex III, to maintenance, to construction of new infrastructure including renewal and upgrading, and to dealing with existing maintenance backlogs; payments to new infrastructure may be included as a separate item;

3. user-oriented performance targets, in the form of indicators and quality criteria covering:

(a) train performance and customer satisfaction, in particular the effect of infrastructure quality on train reliability,

(b) network capacity and the availability of infrastructure,

(c) asset management,

(d) activity volumes,

(e) safety levels,

(f) environmental protection;

4. the amount of possible maintenance backlog, the expenditure earmarked for dealing with it and the assets which will be phased out of use and therefore trigger different financial flows;

5. the incentives in accordance with Article 30(1);

6. minimum reporting obligations for the infrastructure manager in terms of content and frequency of reporting, including information to be published annually;
7. a mechanism that ensures that a significant share of cost reductions is passed on to users in the form of a reduced level of charges, in accordance with the requirements of Article 30(1), without compromising the balancing of the infrastructure manager’s accounts as required under Article 8(4);

8. the agreed duration of the agreement, which shall be synchronised and consistent with the duration of the infrastructure manager’s business plan, concession or licence, and the charging framework and rules set by the State;

9. rules for dealing with major disruptions of operations and emergency situations including a minimum service level in case of strikes, if any, and early termination of the contractual agreement, and timely information of users; [Am. 125]

10. remedial measures to be taken if either of the parties is in breach of its contractual obligations; this includes conditions and procedures for renegotiation and early termination, including the role of the regulatory body.

ANNEX VIII

Requirements for costs and charges related to railway infrastructure

(referred to in Articles 31(3) and (5); 32(1) and (3) and Article 35)

1. Direct costs of the train service referred to in Article 31(3), which are related to infrastructure wear and tear, shall exclude the following items:

(a) Network-wide overhead costs, including salaries and pensions;

(b) Interest payable on capital;

(c) More than one tenth of costs related to scheduling, train path allocation, traffic management, dispatching and signalling of a train run;

(d) Depreciation of information, communication or telecommunication equipment;

(e) Costs related to real estate management, in particular acquisition, selling, dismantling, decontamination, reclamation or renting of land or other fixed assets;

(f) Social services, Schools, kindergartens, restaurants; [Am. 126]

(g) Costs related to acts of God, accidents, service disruptions.

When direct costs exceed, on a network-wide average, 35 % of average costs of maintaining, managing and renewing the network calculated on the basis of a train kilometer run, the infrastructure manager shall justify this in detail to the regulatory body. The average costs calculated for this purpose shall exclude cost elements referred to in points (e), (f) or (g).

2. Noise-differentiated infrastructure charges referred to in Article 31(5) shall meet the following requirements:

(a) The charge shall be differentiated to reflect the composition of a train of vehicles respecting limit values for noise set by Commission Decision 2006/66/EC of 23 December 2005 concerning the technical specification for interoperability relating to the subsystem rolling stock — noise of the trans-European conventional rail system (1).

(b) Priority shall be given to freight wagons.

(c) Differentiation according to the noise emission levels of freight wagons shall allow the payback of investments within a reasonable period for retrofitting wagons with the most economically viable low-noise braking technology available.

(d) Further elements to differentiate charges may be considered such as:

(i) time of day, in particular night time for noise emissions;

(ii) train composition with an impact on the level of noise emissions;

(iii) sensitivity of the area affected by local emissions;

(iv) further classes for noise emissions significantly lower than the one referred to under point (a).

3. The infrastructure manager shall define homogeneous market segments and corresponding mark-ups in the sense of Article 32(1), on the basis of a market study and after consultation of the applicants. With the exception of carriages referred to in Article 32(1a), the infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), whereby each of the services listed under a single one of the following points shall belong to different market segments. In the event that the infrastructure manager levies mark-ups, it shall develop a list of market segments to which the regulatory body shall give its prior approval.

(a) Passenger vs freight services;

(b) Trains carrying dangerous goods vs other freight trains;

(c) Domestic vs international services;

(d) Combined transport vs direct trains;

(e) Urban or regional vs interurban passenger services;

(f) Block trains vs single wagon load trains;

(g) Regular vs occasional train services. [Am. 127]

4. The performance scheme as referred to in Article 35 shall be based on the following basic principles:

(a) In order to achieve an agreed level of service quality and not to endanger the economic viability of a service, the infrastructure manager shall agree with applicants, after approval by the regulatory body, the main parameters of the performance scheme, in particular the value of delays, the thresholds for payments due under the performance scheme relative both to individual train runs and to all train runs of a railway undertaking in a given period of time [Am. 128]

(b) The infrastructure manager shall communicate to the railway undertakings the timetable, on the basis of which delays will be calculated, at least five days before the train run. [Am. 129]

(c) All delays shall be attributable to one of the following delay classes and sub-classes:

1. Operation/planning management attributable to the infrastructure manager

1.1. Time-table compilation

1.2. Formation of train

1.3. Mistakes in operations procedure

1.4. Wrong application of priority rules

1.5. Staff

1.6. Other causes
2. Infrastructure installations attributable to the infrastructure manager

2.1. Signalling installations

2.2. Signalling installations at level crossings

2.3. Telecommunications installations

2.4. Power supply equipment

2.5. Track

2.6. Structures

2.7. Staff

2.8. Other causes

3. Civil engineering causes attributable to the infrastructure manager

3.1. Planned construction work

3.2. Irregularities in execution of construction work

3.3. Speed restriction due to defective track

3.4. Other causes

4. Causes attributable to other infrastructure managers

4.1. Caused by previous infrastructure manager

4.2. Caused by next infrastructure manager

5. Commercial causes attributable to the railway undertaking

5.1. Exceeding the stop time

5.2. Request of the railway undertaking

5.3. Loading operations

5.4. Loading irregularities

5.5. Commercial preparation of train

5.6. Staff

5.7. Other causes

6. Rolling stock attributable to the railway undertaking

6.1. Roster planning/ re-rostering

6.2. Formation of train by railway undertaking

6.3. Problems affecting coaches (passenger transport)
6.4. Problems affecting wagons (freight transport)

6.5. Problems affecting cars, locomotives and rail cars

6.6. Staff

6.7. Other causes

7. Causes attributable to other railway undertakings

7.1. Caused by next railway undertaking

7.2. Caused by previous railway undertaking

8. External causes attributable to neither infrastructure manager nor railway undertaking

8.1. Strike

8.2. Administrative formalities

8.3. Outside influence

8.4. Effects of weather and natural causes

8.5. Delay due to external reasons on the next network

8.6. Other causes

9. Secondary causes attributable to neither infrastructure manager nor railway undertaking

9.1. Dangerous incidents, accidents and hazards

9.2. Track occupation caused by the lateness of the same train

9.3. Track occupation caused by the lateness of another train

9.4. Turn-around

9.5. Connection

9.6. Further investigation needed

(d) Wherever possible, delays shall be attributed to a single organisation, considering both the responsibility for causing the disruption and the ability to re-establish normal traffic conditions.

(e) The calculation of payments shall take into account the average delay of train services of similar punctuality requirements.

(f) The infrastructure manager shall as soon as possible communicate to the railway undertakings a calculation of payments due under the performance scheme. This calculation shall encompass all delayed train runs within a period of at most one month.
(a) Without prejudice to the existing appeal procedures and to the provisions of Article 50, in case of disputes relating to the performance scheme, a dispute resolution system shall be made available in order to settle such matters promptly. If this system is applied, a decision shall be reached within a time limit of 10 working days. [Am. 130]

(b) Once a year, the infrastructure manager shall publish the annual average level of service quality achieved by the railway undertakings on the basis of the main parameters agreed in the performance scheme. [Am. 131]

5. The temporary reduction of the infrastructure charge for ETCS equipped trains, as referred to in Article 32(3) shall be established as follows:

For freight transport:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount</td>
<td>5%</td>
<td>20%</td>
<td>5%</td>
<td>20%</td>
<td>5%</td>
<td>15%</td>
<td>5%</td>
<td>10%</td>
<td>5%</td>
<td>20%</td>
</tr>
</tbody>
</table>

For passenger transport:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Discount</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>5%</td>
<td>8%</td>
<td>6%</td>
<td>4%</td>
<td>2%</td>
</tr>
</tbody>
</table>

[Am. 132]

ANNEX IX

Schedule for the allocation process
(referred to in Article 43)

1. The working timetable shall be established once per calendar year.

2. The change of working timetable shall take place at midnight on the second Saturday in December. Where a change or adjustment is carried out after the winter, in particular to take account, where appropriate, of changes in regional passenger traffic timetables, it shall take place at midnight on the second Saturday in June and at such other intervals between these dates as are required. Infrastructure managers may agree on different dates and in this case they shall inform the Commission if international traffic may be affected.

3. The final date for receipt of requests for capacity to be incorporated into the working timetable shall be no more than 12 months in advance of the entry into force of the working timetable.

4. No later than 11 months before the working timetable comes into force, the infrastructure managers shall ensure that provisional international train paths have been established in cooperation with other relevant infrastructure managers. Infrastructure managers shall ensure that as far as possible these are adhered to during the subsequent processes.

5. No later than four months after the deadline for submission of bids by applicants, the infrastructure manager shall prepare a draft timetable.
ANNEX X

Regulatory accounts to be supplied to the regulatory body

(referred to in Article 56(8))

The regulatory accounts to be provided to the regulatory body according to Article 56(8) shall contain at least the following elements:

1. Account separation

The regulatory accounts, to be supplied by infrastructure managers and all undertakings or other entities performing or integrating different categories of rail transport or receiving public funds, shall:

(a) include separate profit and loss accounts and balance sheets for freight, passenger and infrastructure management activities;

(b) give detailed information on individual sources and uses of public funds and other forms of compensation in a transparent and detailed manner, including a detailed review of the businesses’ cashflows in order to determine in what way these public funds and other forms of compensation have been used;

(c) include cost and profit categories making it possible to determine whether cross-subsidies between these different activities occurred, according to the requirements of Article 6 and as deemed necessary and proportionate by the regulatory body; [Am. 133]

(d) contain a sufficient level of detail as deemed necessary and proportionate by the regulatory body;

(e) be accompanied by a document which sets out the methodology used to allocate costs between different activities.

Where the regulated firm is part of a group structure, regulatory accounts shall be prepared for the group as a whole, and for each subsidiary. In addition, full details of inter-company payments shall be included in the regulatory accounts in order to ensure that public funds have been appropriately used.

2. Monitoring of track access charges

Regulatory accounts, to be supplied by infrastructure managers to the regulatory bodies, shall

(a) set out different cost categories, in particular providing sufficient information on marginal/direct costs of the different services or groups of services so that infrastructure charges can be monitored;

(b) provide sufficient information to allow monitoring of the individual charges paid for services (or groups of services); if required by the regulatory body, this information shall contain data on volumes of individual services, prices for individual services and total revenues for individual services paid by internal and external customers;

(c) state costs and revenues for individual services (or groups of services) using the relevant cost methodology, as required by the regulatory body, to identify potentially anti-competitive pricing (cross-subsidies, predatory pricing and excessive pricing).

3. Indication of financial performance

Regulatory accounts, to be supplied by infrastructure managers to the regulatory bodies, shall include:
(a) a statement of financial performance;
(b) a summary expenditure statement;
(c) a maintenance expenditure statement;
(d) an operating expenditure statement;
(e) an income statement;
(f) supporting notes that amplify and explain the statements where appropriate.

4. Other issues

In the case of infrastructure managers, the regulatory accounts shall be audited by an independent auditor. The auditor’s report shall be annexed to the regulatory accounts.

The regulatory accounts shall contain profit and loss accounts and balance sheets and shall be reconciled to the company’s statutory accounts and explanations shall be given for all reconciling items.

ANNEX XI

Part A

Repealed Directives with list of successive amendments
(referred to in Article 67)


(OJ L 75, 15.3.2001, p. 1)

(OJ L 164, 30.4.2004, p. 164)


only Point B of the Annex

only Article 1

Council Directive 95/18/EC
(OJ L 143, 27.6.1995, p. 70)

(OJ L 75, 15.3.2001, p. 26)

(OJ L 164, 30.4.2004, p. 44)

only Article 29

(OJ L 75, 15.3.2001, p. 29)

Commission Decision 2002/844/EC

(OJ L 164, 30.4.2004, p. 44)


only Article 30

only Article 2
### Part B

List of time-limits for transposition into national law

(referred to in Article 67)

<table>
<thead>
<tr>
<th>Directive</th>
<th>Time-limit for transposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>91/440/EEC</td>
<td>1 January 1993</td>
</tr>
<tr>
<td>95/18/EC</td>
<td>27 June 1997</td>
</tr>
<tr>
<td>2001/12/EC</td>
<td>15 March 2003</td>
</tr>
<tr>
<td>2001/13/EC</td>
<td>15 March 2003</td>
</tr>
<tr>
<td>2001/14/EC</td>
<td>15 March 2003</td>
</tr>
<tr>
<td>2004/49/EC</td>
<td>30 April 2006</td>
</tr>
<tr>
<td>2004/51/EC</td>
<td>31 December 2005</td>
</tr>
<tr>
<td>2006/103/EC</td>
<td>1 January 2007</td>
</tr>
<tr>
<td>2007/58/EC</td>
<td>4 June 2009</td>
</tr>
</tbody>
</table>

### ANNEX XII

Correlation Table

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 2(1)</td>
<td>Article 1(1)</td>
<td>Article 1(1) subpara.</td>
<td>Article 1(1)</td>
</tr>
<tr>
<td>Article 2(2)</td>
<td>Article 1(2)</td>
<td>Article 1(2)</td>
<td>Article 1(2)</td>
</tr>
<tr>
<td>Article 2(3)</td>
<td>Article 1(3)</td>
<td>Article 1(3)</td>
<td>Article 2(3)</td>
</tr>
<tr>
<td>Article 2(4)</td>
<td>Article 1(4)</td>
<td>Article 1(4)</td>
<td>Article 2(4)</td>
</tr>
<tr>
<td>Article 3</td>
<td>Article 2(5)</td>
<td>Article 3(1) to (8)</td>
<td>Article 3(1) to (21)</td>
</tr>
<tr>
<td>Article 2(b) and (c)</td>
<td>Article 2</td>
<td>Article 3(9) and (10)</td>
<td>Article 3(1) to (21)</td>
</tr>
<tr>
<td>Article 4</td>
<td>Article 4</td>
<td>Article 4</td>
<td>Article 4</td>
</tr>
<tr>
<td>Article 5</td>
<td>Article 5</td>
<td>Article 5</td>
<td>Article 5</td>
</tr>
<tr>
<td>Article 6(1) and (2)</td>
<td>Article 6(1), (2)</td>
<td>Article 6(1), (2)</td>
<td>Article 6(1), (2)</td>
</tr>
<tr>
<td>Article 9(4)</td>
<td>Article 6(3)</td>
<td>Article 6(3)</td>
<td>Article 6(3)</td>
</tr>
<tr>
<td>Article 6 (1) second subpara.</td>
<td>Article 6(4)</td>
<td>Article 6(1) second subpara.</td>
<td>Article 6(4)</td>
</tr>
<tr>
<td>Article 6(3)</td>
<td>Article 7(1)</td>
<td>Article 7(1)</td>
<td>Article 7(1)</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------</td>
<td>----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Article 7(1), (3) and (4)</td>
<td>Articles 4(2) and 14(2)</td>
<td>Article 7(2)</td>
<td></td>
</tr>
<tr>
<td>Article 9(1) and (2)</td>
<td>Article 6(1)</td>
<td>Article 8(4)</td>
<td></td>
</tr>
<tr>
<td>Article 10(3) and (3a)</td>
<td>Article 10(1) and (2), first, second and third subpara-graph</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10(3b)</td>
<td>Article 11(1), (2) and (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10(3c) and (3e)</td>
<td>Article 11(5) and (6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10(3f)</td>
<td>Article 12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10b</td>
<td>Article 5</td>
<td>Article 13</td>
<td></td>
</tr>
<tr>
<td>Article 3</td>
<td>Article 14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 4(1) to (4)</td>
<td>Article 15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 5</td>
<td>Article 16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 6</td>
<td>Article 17(1) to (4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 7</td>
<td>Article 18</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 8</td>
<td>Article 19</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 9</td>
<td>Article 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10</td>
<td>Article 21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 15</td>
<td>Article 22</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 4(5)</td>
<td>Article 23(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10(5)</td>
<td>Article 23(2) and (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 11</td>
<td>Article 24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 15</td>
<td>Article 25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 1(1) subparagraph 2</td>
<td>Article 1(1) subpara-graph 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 3</td>
<td>Article 26</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10(5)</td>
<td>Article 27</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 4(1) and (3) to (6)</td>
<td>Article 28</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 6(2) to (5)</td>
<td>Article 29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 7</td>
<td>Article 30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 8</td>
<td>Article 31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 4(1) to (4)</td>
<td>Article 32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>---------------------</td>
<td>----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Article 9</td>
<td>Article 33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 10</td>
<td>Article 34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 11</td>
<td>Article 35</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 12</td>
<td>Article 36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 13</td>
<td>Article 38</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 14(1) and (3)</td>
<td>Article 39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 15</td>
<td>Article 40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 16</td>
<td>Article 41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 17</td>
<td>Article 42</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 18</td>
<td>Article 43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 19</td>
<td>Article 44</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 20(1), (2) and (3)</td>
<td>Article 45(1), (2) and (3)</td>
<td>Article 45(4)</td>
<td></td>
</tr>
<tr>
<td>Article 20(4)</td>
<td>Article 45(5)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 21</td>
<td>Article 46</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 22</td>
<td>Article 47</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 23</td>
<td>Article 48</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 24</td>
<td>Article 49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 25</td>
<td>Article 50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 26</td>
<td>Article 51</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 27</td>
<td>Article 52</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 28</td>
<td>Article 53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 29</td>
<td>Article 54</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 30(1)</td>
<td>Article 55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 30(2)</td>
<td>Article 56(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 31</td>
<td>Article 57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 12</td>
<td>Article 58</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 14a</td>
<td>Article 33(1),(2) and (3)</td>
<td>Article 59</td>
<td></td>
</tr>
<tr>
<td>Article 11</td>
<td>Article 34</td>
<td></td>
<td>Article 63</td>
</tr>
<tr>
<td>Article 11a</td>
<td>Article 35(1),(2) and (3)</td>
<td>Article 64</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------</td>
<td>----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Article 10(9)</td>
<td></td>
<td>Article 65</td>
<td>Article 65</td>
</tr>
<tr>
<td>Article 17</td>
<td>Article 38</td>
<td>Article 66</td>
<td>Article 66</td>
</tr>
<tr>
<td>Article 39</td>
<td>Article 67</td>
<td>Article 67</td>
<td>Article 67</td>
</tr>
<tr>
<td>Article 16</td>
<td>Article 39</td>
<td>Article 68</td>
<td>Article 68</td>
</tr>
<tr>
<td>Article 18</td>
<td>Article 40</td>
<td>Article 69</td>
<td>Article 69</td>
</tr>
<tr>
<td>Annex II</td>
<td></td>
<td>Annex I</td>
<td>Annex I</td>
</tr>
<tr>
<td>Annex II</td>
<td>Annex II</td>
<td>Annex II</td>
<td>Annex II</td>
</tr>
<tr>
<td>Annex II</td>
<td>Annex IV</td>
<td>Annex IV</td>
<td>Annex IV</td>
</tr>
<tr>
<td>Annex II</td>
<td>Annex V</td>
<td>Annex V</td>
<td>Annex V</td>
</tr>
<tr>
<td>Annex I</td>
<td>Annex VI</td>
<td>Annex VI</td>
<td>Annex VI</td>
</tr>
<tr>
<td>Annex III</td>
<td></td>
<td>Annex X</td>
<td>Annex X</td>
</tr>
</tbody>
</table>
Further development of an integrated maritime policy ***I


(2013/C 153 E/42)

(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2010)0494),

— having regard to Article 294(2) and Article 43(2), Articles 74 and 77(2), Article 173(3), Article 175, Article 188, Article 192(1), Article 194(2) and Article 195(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0292/2010),

— having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 16 February 2011 (1),

— having regard to the opinion of the Committee of the Regions of 27 January 2011 (2),

— having regard to the undertaking given by the Council representative by letter of 6 October 2011 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union;

— having regard to Rules 55 and 37 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on Fisheries, the Committee on Budgets, the Committee on the Environment, Public Health and Food Safety and the Committee on Regional Development (A7-0163/2011),

1. Adopts its position at first reading hereinafter set out;

2. Approves the joint statement by Parliament, the Council and the Commission annexed to this resolution;

3. Approves the joint statement by Parliament and the Council annexed to this resolution;

4. 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;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(1) OJ C 107, 6.4.2011, p. 64.
(2) OJ C 104, 2.4.2011, p. 47.
P7_TC1-COD(2010)0257


(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) No 1255/2011).

ANNEX TO THE LEGISLATIVE RESOLUTION

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

Pursuant to Article 9 the financial envelope for the implementation of the Programme to support the further development of the IMP for 2011-13 is EUR 40 000 000. This envelope is to be composed of EUR 23 140 000 drawn from the 2011 budget without calling on the available margin of heading 2 of the multi annual financial framework, an amount of EUR 16 660 000, including an allocation for technical assistance, entered in the draft budget and accepted by Council during its reading of the 2012 budget and a further amount of EUR 200 000 for technical assistance to be entered in the 2013 budget.

Towards this end, the 2011 budget would need to be amended to create the necessary nomenclature and enter the appropriations in the reserve. The adopted budgets for 2012 and 2013 would need to include the relevant amounts for those years.

Joint Statement by the European Parliament and the Council

The European Parliament and the Council do not exclude the possibility of providing for delegated acts in future Programmes beyond 2013 on the basis of relevant Commission proposals.

Framework Programme of the European Atomic Energy Community for nuclear research and training activities *

P7_TA(2011)0509


(2013/C 153 E/43)

(Consultation)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2011)0072),

— having regard to Article 7 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C7-0077/2011),

— having regard to Rule 55 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 Budgets (A7-0360/2011),
Thursday 17 November 2011

1. Approves the Commission proposal as amended;

2. Considers that the prime reference amount set in the legislative proposal is not compatible with the ceiling of Heading 1a of the current Multiannual Financial Framework 2007-2013 (MFF); takes note of the Commission proposal (1) to revise the current MFF on the basis of points 21 to 23 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management (2) (IIA) in order to accommodate the additional unforeseen funding for ITER for the years 2012-2013; is willing to enter into negotiations with the other arm of the budgetary authority, on the basis of all the means provided in the IIA, with a view to reaching a swift agreement on the financing of the Euratom research programme by the end of 2011; recalls its opposition to any form of redeployment from the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (3) as proposed in the above-mentioned Commission proposal;

3. 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 and Article 106a of the Euratom Treaty;

4. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

5. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

6. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED BY THE COMMISSION

Amendment 1
Proposal for a decision
Recital 4 a (new)

(4a) The design and implementation of the Framework Programme (2012 - 2013) should be based on the principles of simplicity, stability, transparency, legal certainty, consistency, excellence and trust following the recommendations of the European Parliament in its resolution of 11 November 2010 on simplifying the implementation of the Research Framework Programmes (4).


Amendment 2
Proposal for a decision
Recital 5 a (new)

(5a) The improvement of nuclear safety and, where relevant, security aspects, should be prioritised given the possible cross-border impact of nuclear incidents.

(1) COM(2011)0226.
Amendment 3
Proposal for a decision
Recital 6 a (new)

(6a) The European Sustainable Nuclear Industrial Initiative (ESNII) has as its aim the deployment of Gen-IV Fast Neutron Reactors with closed fuel cycle between 2035 and 2040. It follows three lines of technological development and includes four major projects: the ASTRID prototype (sodium cooled), the ALLEGRO experimental model (gas cooled), the ALFRED demonstrator (lead cooled) and, as support infrastructure for the latter technology, the MYRRHA fast neutron irradiation facility (lead-bismuth cooled).

Amendment 4
Proposal for a decision
Recital 6 b (new)

(6b) Three major European cooperative initiatives in nuclear science and technology were launched under the Seventh Euratom Framework Programme (2007 to 2011). They are the Sustainable Nuclear Energy Technology Platform (SNETP), the Implementing Geological Disposal Technology Platform (IGDTP) and the Multidisciplinary European Low Dose Initiative (MELODI). Both SNETP and IGDTP correspond with SET-Plan objectives.

Amendment 5
Proposal for a decision
Recital 6 c (new)

(6c) In view of the accident at the Fukushima nuclear power plant in Japan resulting from the earthquake and tsunami of 11 March 2011, additional research work in the field of nuclear fission safety is necessary in order to reassure Union citizens that the safety of nuclear facilities based in the Union continues to meet the highest international standards. Such additional work requires an increase in the budget allocation for nuclear fission.

Amendment 6
Proposal for a decision
Recital 9 a (new)

(9a) An agreement on additional funding of ITER solely through transfers of unused 2011 margins of the Multiannual Financial Framework (MFF) and without redeployments from the Seventh EU Framework Programme (2007-2013) to the Framework Programme (2012-2013) would allow for swift adoption of the programme in 2011.
(11) The Council Conclusions on the need for skills in the nuclear field, adopted at its meeting held on 1 and 2 December 2008, recognise that it is essential to maintain within the Community a high level of training in the nuclear field.

(11) The Council Conclusions on the need for skills in the nuclear field, adopted at its meeting held on 1 and 2 December 2008, recognise that it is essential to maintain within the Community a high level of training, and proper working conditions, in the nuclear field.

(14a) The Commission, the European Council, the Council and the Member States are to start a process to amend the Euratom Treaty, strengthening its provisions on the information and co-legislation rights of the European Parliament on Euratom research and environmental protection issues in order to facilitate, inter alia, future budgetary procedures.

(16) This Decision should establish, for the entire duration of the Framework Programme (2012-2013), a financial envelope that constitutes the prime reference, within the meaning of point 37 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management, for the budgetary authority during the annual budgetary procedure.

(16) This Decision should establish, for the entire duration of the Framework Programme (2012-2013), a financial envelope that constitutes the prime reference, within the meaning of point 37 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management (IIA), for the budgetary authority during the annual budgetary procedure. To accommodate the Framework Programme (2012-2013) in the MFF for the years 2012 and 2013, it will be necessary to amend the MFF by increasing the ceiling of Heading 1a. If no other 2011 MFF margins are available to be transferred in 2012 and 2013, the Flexibility Instrument, as provided for in point 27 of the IIA, should be mobilised.

(16a) For the 2014-2020 MFF, the financial resources dedicated to the ITER project should be fixed for the whole programming period so that any over-running of the costs beyond the EU share of EUR 6 600 000 000 for the ITER construction period, currently planned to be finalised in 2020, should be financed outside the MFF ceilings (‘ring fencing’).
Amendment 11
Proposal for a decision
Recital 18

(18) The international and global dimension of European research activities is important with a view to obtain mutual benefits. The Framework Programme (2012-2013) should be open to the participation of countries that have concluded the necessary agreements to this effect, and should also be open, at project level and on the basis of mutual benefit, to the participation of entities from third countries and of international organisations for scientific cooperation.

Amendment 12
Proposal for a decision
Article 2 – paragraph 1

1. The Framework Programme (2012-2013) shall pursue the general objectives set out in Article 1 and Article 2(a) of the Treaty, while contributing towards the creation of the Innovation Union and building on the European Research Area.

Amendment 13
Proposal for a decision
Article 2 – paragraph 2 a (new)

2a. The Framework Programme (2012-2013) shall contribute to implementing the SET-plan. Its actions should take into account the Strategic Research Agenda of the three existing European technology platforms on nuclear energy: SNETP, IGDTP and MELODI.

Amendment 14
Proposal for a decision
Article 3 – paragraph 1 – introductory part

The maximum amount for the implementation of the Framework Programme (2012-2013) shall be EUR 2 560 270 000. This amount shall be distributed as follows (in EUR):

— fusion energy research 2 208 809 000;

Amendment 30
Proposal for a decision
Article 3 – paragraph 1 – indent 1

— fusion energy research 1 748 809 000: this figure include the necessary funds for the continuation of the JET programme in Culham:
Amendment 16
Proposal for a decision
Article 3 – paragraph 1 – point a – indent 2

— nuclear fission and radiation protection 118 245 000;

— nuclear fission, especially safety, improving the management of nuclear waste and radiation protection 118 245 000;

Amendment 17
Proposal for a decision
Article 3 – paragraph 1 – point b – indent 1

— nuclear activities of the JRC 233 216 000.

— nuclear activities of the JRC relating to nuclear safety, environmental protection and decommissioning 233 216 000

Amendment 18
Proposal for a decision
Article 4 – paragraph 1 a (new)

Special attention shall be paid to the development of contractual arrangements that reduce the risk of failure to perform as well as the reallocation of risks and costs over time.

Amendment 19
Proposal for a decision
Article 6 – paragraph 1 a (new)

1a. Special attention shall be paid to initiatives ancillary to core nuclear research, in particular as regards investment in human capital and adequate working conditions and actions aimed at addressing the risk of skills shortages in the coming years.

Amendment 20
Proposal for a decision
Article 6 – paragraph 2 a (new)

2a. The Member States and the Commission shall establish a review of professional qualifications, training and skills in the nuclear field in the Union, which gives an overall picture of the current situation and enable appropriate solutions to be identified and implemented.
Amendment 21
Proposal for a decision
Annex I – part I.A – section 3 – point 2

A focused physics and technology programme will exploit the Joint European Torus (JET) and other ITER-relevant magnetic confinement devices. It will assess specific key ITER technologies, consolidate ITER project choices, and prepare for ITER operation.

Amendment 22
Proposal for a decision
Annex I – part I.B – section 1 – Objective

Establishing a sound scientific and technical basis in order to accelerate practical developments for the safer management of long-lived radioactive waste, enhancing in particular the safety, resource efficiency and cost-effectiveness of nuclear energy and ensuring a robust and socially acceptable system of protection of man and the environment against the effects of ionising radiation.

Amendment 23
Proposal for a decision
Annex I – part I.B – section 3 - point 5

Support for the retention and further development of scientific competence and human capacity in order to guarantee the availability of suitably qualified researchers, engineers and employees in the nuclear sector over the longer term.

Amendment 24
Proposal for a decision
Annex I – part II – section 2 - paragraph 2

To fulfil this goal, there is a clear need for developing knowledge, skills and competence to provide the required scientific state of the art independent and reliable expertise in support to the Union's policies in the domains of nuclear reactor and fuel cycles safety, nuclear safeguards and security. The customer driven support to the Union's policy underlined in the JRC's mission will be complemented with a proactive role within the European Research Area in undertaking high quality research activities in close contact with industry and other bodies and developing networks with public and private institutions in the Member States.
3. Nuclear security, will further support the accomplishment of Community commitments, in particular development of methods for the control of the fuel cycle facilities, the implementation of the additional protocol including environmental sampling and integrated safeguards, and the prevention of the diversion of nuclear and radioactive materials associated with illicit trafficking of such materials including the nuclear forensics.

It is necessary to make use of optimal monitoring instruments of all civilian nuclear activities, including transportation operations or storage location of any radioactive materials.

The management of European research funding should be more trust-based and risk-tolerant towards participants at all stages of the projects, while ensuring accountability, with flexible Union rules to improve alignment, where possible, with existing different national regulations and recognised accounting practices.

It is necessary to strike a balance between trust and control – between risk taking and the dangers that risk involves – in ensuring the sound financial management of Union research funds.

Support for research projects carried out by consortia with participants from different countries, aiming to develop new knowledge, new technology, products or common resources for research. The size, scope and internal organisation of projects can vary from field to field and from topic to topic. Projects can range from small or medium-scale focused research actions to larger integrating projects that mobilise a significant volume of resources for achieving a defined objective. Support for the training and career development of researchers will be included in project work plans.

Standardisation activities will be included in project work programme.
Amendment 27
Proposal for a decision
Annex II – point 2– point a – point 3

Support for activities to coordinate coordinating or supporting research (networking, exchanges, trans-national access to research infrastructures, studies, conferences, contributions during construction of new infrastructure, etc.) or to promote the development of human resources (e.g. networking and setting up training schemes). These actions may also be implemented by means other than calls for proposals.

Support for activities to coordinate coordinating or supporting research (networking, exchanges, trans-national access to research infrastructures, studies, conferences, **participation in standardisation bodies**, contributions during construction of new infrastructure, etc.) or to promote the development of human resources (e.g. networking and setting up training schemes). These actions may also be implemented by means other than calls for proposals.
Notice No | Contents (continued) | Page
---|---|---
2013/C 153 E/19 | Gender mainstreaming in the work of the European Parliament | 143
| European Parliament resolution of 17 November 2011 on gender mainstreaming in the work of the European Parliament (2011/2151(INI)) | 143

2013/C 153 E/20 | Combating illegal fishing at the global level | 148
| European Parliament resolution of 17 November 2011 on combating illegal fishing at the global level - the role of the EU (2010/2210(INI)) | 148

2013/C 153 E/21 | Iran - recent cases of human rights violations | 157
| European Parliament resolution of 17 November 2011 on Iran – recent cases of human rights violations | 157

2013/C 153 E/22 | Egypt, in particular the case of blogger Alaa Abdel Fatah | 162
| European Parliament resolution of 17 November 2011 on Egypt, in particular the case of blogger Alaa Abd El-Fattah | 162

2013/C 153 E/23 | The need for accessible 112 emergency services | 165
| Declaration of the European Parliament of 17 November 2011 on the need for accessible 112 emergency services | 165

III  Preparatory acts

EUROPEAN PARLIAMENT

Tuesday 15 November 2011

2013/C 153 E/24 | Coordination of safeguards required of companies (Article 54 TFEU) ***I | 166
| European Parliament legislative resolution of 15 November 2011 on the proposal for a directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (recast) (COM(2011)0029 – C7-0037/2011 – 2011/0011(COD)) | 166

P7_TC1-COD(2011)0011
| Position of the European Parliament adopted at first reading on 15 November 2011 with a view to the adoption of Directive 2012/…/EU of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (recast) | 167

2013/C 153 E/25 | Athens Convention on carriage of passengers and their luggage by sea – excluding Articles 10 and 11 *** | 167
| European Parliament legislative resolution of 15 November 2011 on the draft Council decision concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof (08663/2011 – C7-0142/2011 – 2003/0132A(NLE)) | 167

2013/C 153 E/26 | Athens Convention on the carriage of passengers and their luggage by sea, as regards Articles 10 and 11 *** | 168

(Continued overleaf)
2013/C 153 E/27  EU-Jordan Euro-Mediterranean aviation agreement ***

European Parliament legislative resolution of 15 November 2011 on the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council, on the conclusion of the Euro Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part (09189/2011 – C-0122/2011 – 2010/0180(NLE)) …… 169

2013/C 153 E/28  EU-Georgia common aviation area agreement ***

European Parliament legislative resolution of 15 November 2011 on the draft decision of the Council and the representatives of the governments of the Member States, meeting within the Council, on the conclusion of the Common Aviation Area Agreement between the European Union and its Member States and Georgia (09185/2011 – C-0124/2011 – 2010/0186(NLE)) …………………………………………. 169

2013/C 153 E/29  Temporary suspension of autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands *


2013/C 153 E/30  Framework programme of the European Atomic Energy Community for nuclear research and training activities (indirect actions) *


2013/C 153 E/31  Short selling and certain aspects of credit default swaps ***


P7_TC1-COD(2010)0251


2013/C 153 E/32  European statistics on permanent crops ***


P7_TC1-COD(2010)0133


2013/C 153 E/33  Framework programme of the European Atomic Energy Community for nuclear research and training activities (direct actions) *

European Parliament legislative resolution of 15 November 2011 on the proposal for a Council decision concerning the specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) (COM(2011)0074 – C-0078/2011 – 2011/0044(NLE)) …………………………………………. 178

2013/C 153 E/34  Participation of undertakings, research centres and universities in indirect actions under the framework programme of the European Atomic Energy Community *

European Parliament legislative resolution of 15 November 2011 on the proposal for a Council regulation (Euratom) laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013) (COM(2011)0071 – C-0076/2011 – 2011/0045(NLE)) ……… 183
Wednesday 16 November 2011


ANNEX ........................................................................................................................................ 190


ANNEX ........................................................................................................................................ 192


ANNEX ........................................................................................................................................ 194

2013/C 153 E/38 Mobilisation of the European Globalisation Adjustment Fund: application EGF/2011/001 AT/Niederösterreich-Oberösterreich from Austria


ANNEX ........................................................................................................................................ 196


ANNEX ........................................................................................................................................ 199

2013/C 153 E/40 European Heritage Label ***II


P7_TC1-COD(2010)0253

ANNEX I ................................................................. 255

ANNEX II ............................................................... 255

ANNEX III ............................................................. 256

ANNEX IV ............................................................. 257

ANNEX V ............................................................... 260

ANNEX VI ............................................................. 261

ANNEX VII ............................................................ 262

ANNEX VIII ........................................................... 263

ANNEX IX .............................................................. 267

ANNEX X ............................................................... 268

ANNEX XI ............................................................. 269

ANNEX XII ............................................................. 270

Thursday 17 November 2011


P7_TC1-COD(2010)0257

ANNEX TO THE LEGISLATIVE RESOLUTION ........................................... 275


(1) Text with EEA relevance
<table>
<thead>
<tr>
<th>Key to symbols used</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Consultation procedure</td>
</tr>
<tr>
<td>**I Cooperation procedure: first reading</td>
</tr>
<tr>
<td>**II Cooperation procedure: second reading</td>
</tr>
<tr>
<td>*** Assent procedure</td>
</tr>
<tr>
<td>****I Codecision procedure: first reading</td>
</tr>
<tr>
<td>****II Codecision procedure: second reading</td>
</tr>
<tr>
<td>****III Codecision procedure: third reading</td>
</tr>
</tbody>
</table>

(The type of procedure is determined by the legal basis proposed by the Commission.)

Political amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■.

Technical corrections and adaptations by the services: new or replacement text is highlighted in italics and deletions are indicated by the symbol ||.
**2013 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)**

<table>
<thead>
<tr>
<th>Subscription</th>
<th>Languages</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU Official Journal, L + C series, paper edition only</td>
<td>22 official EU languages</td>
<td>EUR 1 300 per year</td>
</tr>
<tr>
<td>EU Official Journal, L + C series, paper + annual DVD</td>
<td>22 official EU languages</td>
<td>EUR 1 420 per year</td>
</tr>
<tr>
<td>EU Official Journal, L series, paper edition only</td>
<td>22 official EU languages</td>
<td>EUR 910 per year</td>
</tr>
<tr>
<td>EU Official Journal, L + C series, monthly DVD (cumulative)</td>
<td>22 official EU languages</td>
<td>EUR 100 per year</td>
</tr>
<tr>
<td>Supplement to the Official Journal (S series), tendering procedures for public contracts, DVD, one edition per week</td>
<td>multilingual: 23 official EU languages</td>
<td>EUR 200 per year</td>
</tr>
<tr>
<td>EU Official Journal, C series — recruitment competitions</td>
<td>Language(s) according to competition(s)</td>
<td>EUR 50 per year</td>
</tr>
</tbody>
</table>

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual DVD.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

### Sales and subscriptions

Subscriptions to various priced periodicals, such as the subscription to the *Official Journal of the European Union*, are available from our sales agents. The list of sales agents is available at:


EUR-Lex (http://eur-lex.europa.eu) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

For further information on the European Union, see: http://europa.eu