



*L'Ambasciatore  
Rappresentante Permanente d'Italia  
presso l'Unione Europea*

Bruxelles, 24 Luglio 2017  
Prot. 6853

Signor Commissario,

con la presente, desidero informarLa che il Governo italiano ha avviato le procedure di nomina del dottor Giovanni Kessler, attuale Direttore Generale dell'OLAF, quale nuovo Direttore dell'Agenzia delle Dogane e dei Monopoli della Repubblica Italiana. L'incarico avrà una durata di tre anni, a partire dal 14 agosto 2017.

Per lo svolgimento dell'incarico sarà corrisposto un trattamento economico, determinato mediante sottoscrizione di contratto individuale di lavoro, i cui oneri saranno a carico dell'amministrazione italiana.

Tanto Le comunico, con l'auspicio che la Commissione Europea possa consentire al dottor Kessler lo svolgimento di questo nuovo incarico.

Con molti cordiali saluti,

Maurizio Massari

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Günther H. Oettinger  
Commissario per il bilancio e le risorse umane  
Commissione Europea  
Bruxelles

e per conoscenza  
Irene Souka  
Direttore Generale per le Risorse Umane  
Commissione Europea  
Bruxelles

Brussels, 24 July 2017  
Prot. 6853

Dear Commissioner,

I would like to inform you that the Italian Government has launched the appointment procedure of Mr. Giovanni Kessler, currently Director-General of OLAF, as the new Director of the Customs Agency of the Italian Republic. The duration of the tenure will be three years, starting from 14 August 2017.

A salary will be given for the carrying out of this function, which will be determined upon signing of an individual work contract. The salary will be covered by the Italian administration.

I am sending you this letter, while conveying the wish that the European Commission will allow Mr. Kessler to take up his new function.

Yours sincerely,

Maurizio Massari

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Günther H. Oettinger  
Commissioner for Budget and Human Resources  
European Commission  
Brussels

c.c.  
Irene Souka  
Director-General for Human Resources  
European Commission  
Brussels

GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

Ref. Ares(2017)3759649 - 26/07/2017

H. E. Ambassador Maurizio Massari  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representation of Italy to the EU  
Rue du Marteau 7-15  
1000 Brussels

Brussels, 26. 07. 2017  
MH/ab Ares(2017)s4261956

Dear Ambassador, *verehrter Herr Massari!*

I would like to thank you for your letter of 24 July 2017 concerning the launch of the procedure to appoint Mr Giovanni Kessler, currently Director-General of OLAF, as the new Director of the Customs Agency of the Italian Republic.

I understand that this is a key role, also in view of Article 33 of the Treaty on the Functioning of the European Union which highlights the importance of strengthening customs cooperation between Member States and the Commission. In this context the appointment of Mr Kessler would notably reinforce the exchange of best practices and contribute to a better mutual understanding between the Commission and the Italian Customs Agency. I would therefore be willing to make a recommendation to the College for a decision to facilitate this appointment.

However, I am bound to recall the independence OLAF enjoys in the discharge of its duties and of the importance of the function of Director-General of the Office to the European Parliament and to the Council, which are both explicitly mentioned in Regulation (EU, Euratom) 883/2013. For that reason it is necessary that, once Mr Kessler has confirmed that he wants to voluntarily step down as Director-General of OLAF, the Commission informs the other Institutions, as well as the OLAF Supervisory Committee, before proceeding to any decision.

As a result, I regret that I will not be in a position to recommend a decision to the Commission within a timeframe which matches the appointment date indicated in your letter. I would anticipate being able to revert to you on this matter in the autumn.

Yours faithfully,

Günther H. Oettinger

**From:** Massari Maurizio <[maurizio.massari@esteri.it](mailto:maurizio.massari@esteri.it)>  
**Date:** 7 September 2017 at 20:34:50 GMT+2  
**To:** "[alexander.italianer@ec.europa.eu](mailto:alexander.italianer@ec.europa.eu)" <[alexander.italianer@ec.europa.eu](mailto:alexander.italianer@ec.europa.eu)>  
**Subject:** DG Giovanni Kessler

Dear Alexander,

I am writing you concerning the situation of DG Giovanni Kessler. As you know, the Italian Government has appointed Mr. Kessler as the new Director-General of the Italian Customs Agency on the 28th July.

I have written, in advance of the formal appointment, to Commissioner Oettinger asking him to initiate the procedures within the Commission, so that Mr. Kessler could take up his new duties at the earliest.

At the same time, Mr. Kessler has been in contact with DG HR in order to agree on how to proceed. As you know, he intends to apply for a secondment in the interests of the service (art. 38 of the Staff Regulations), which must be approved by the College.

Commissioner Oettinger was kind enough to send me an immediate reply informing me of his support to Kessler's application and reminding me of the need to start a interinstitutional consultation process, given the special nature of his current position (DG OLAF), which I fully understand.

This was before the summer break. Now, my authorities in Rome have indicated that they wish to have Mr. Kessler back to Rome on October 1st at the latest. The Italian Customs Agency has been headed by an acting Director-General since mid-August and the Government would like to have a fully empowered DG very soon.

I am therefore contacting you to ask for your support in putting Mr. Kessler secondment on the agenda of the College at the earliest possible moment (which, I understand, would be at the meeting scheduled for 20 September), so that he could take office on 1 October. A prompt decision by the Commission would be highly appreciated by my Government. Rome is convinced, and I personally share this view, that having a Commission senior official at the helm of a Member State agency which applies EU law and defends the EU financial interests on a daily basis would be an asset both for the Commission and for the Member State concerned, in this case Italy. It would also be in both parties' interest that such an appointment could take effect as soon as possible.  
Thank you very much for the consideration you are giving to this issue.

Best regards, Maurizio

Brussels, 15 September 2017

**Note for the attention of Mr Michael HAGER**

**Head of Cabinet OETTINGER**

**Subject: Request for a transfer in the interest of the service**

*Dear Michael,*

I turn to you in a personal capacity. As you are aware, the Italian Government has launched a procedure to appoint me as Head of the Customs Agency of the Italian Republic. To this end, the Italian Permanent Representative to the EU wrote to Commissioner Oettinger conveying the Government's wish that the Commission allows me to take up this function. I would like this permission to be granted in the form of a secondment in the interest of the service (under Article 7 of the Staff Regulations).

Considering that I cannot remain assigned to the post of Director-General of OLAF and exercise the new function, I hand over the attached resignation from the function of Director-General of OLAF and I am ready to be transferred in the interest of the service to another function within the Commission in order to be seconded.

Thank you for your support in this matter.

Giovanni KESSLER



**The Director-General**

**To the European Commission**

**Brussels, 15 September 2017**

**RESIGNATION LETTER**

I resign herewith from my position of Director-General of OLAF, which I took up on 14 February 2011, in order to take office as Head of the Italian Customs Agency.

My resignation takes effect on the day when my transfer occurs.

**Giovanni KESSLER**

GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

Ref. Ares(2017)4554468 - 18/09/2017

Dr Ingeborg Gräßle  
Chair of the Committee for Budgetary Control  
European Parliament  
Rue Wiertz 60  
1047 BRUSSELS

Brussels, 18. 09. 2017  
MH/ab Ares(2017)s5091673

**Subject: Resignation of Mr Giovanni Kessler as Director-General of OLAF**

Dear Dr Gräßle, *best type!*

On 15 September 2017 Mr Giovanni Kessler tendered his resignation from his function as Director-General of the European Anti-Fraud Office (OLAF) in order to be in a position to accept an appointment as Director of the Customs Agency of the Italian Republic.

It is my intention to propose to the College as Appointing Authority to accept Mr Kessler's request to be relieved of his current function and to transfer him to a function elsewhere in the Commission.

I would be grateful to receive any comments you may have on this matter by Friday 29 September 2017.

Yours faithfully,

Günther H. Oettinger

GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

Ref. Ares(2017)4554468 - 18/09/2017

H.E. Ambassador Ms Kaja Tael  
Chair of the Committee of Permanent Representatives  
Council of the European Union  
Rue de la Loi 175  
1048 BRUSSELS

Brussels, 18 09. 2017  
MH/ab Ares(2017)s5091673

**Subject: Resignation of Mr Giovanni Kessler as Director-General of OLAF**

Dear Ambassador,

On 15 September 2017 Mr Giovanni Kessler tendered his resignation from his function as Director-General of the European Anti-Fraud Office (OLAF) in order to be in a position to accept an appointment as Director of the Customs Agency of the Italian Republic.

It is my intention to propose to the College as Appointing Authority to accept Mr Kessler's request to be relieved of his current function and to transfer him to a function elsewhere in the Commission.

I would be grateful to receive any comments you may have on this matter by Friday 29 September 2017.

Yours faithfully,

Günther H. Oettinger



GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

Ref. Ares(2017)4636449 - 22/09/2017

Mr Jan Mulder  
Chair of the Supervisory Committee  
of the European Anti-Fraud Office  
c/o Secretariat of the Supervisory Committee of OLAF  
Office: J-30 02/55

Brussels, 18. 09. 2017  
MH/ab Ares(2017)s5091673

**Subject: Resignation of Mr Giovanni Kessler as Director-General of OLAF**

Dear Mr Mulder, *veelw Het Voorzitters!*

On 15 September 2017 Mr Giovanni Kessler tendered his resignation from his function as Director-General of the European Anti-Fraud Office (OLAF) in order to be in a position to accept an appointment as Director of the Customs Agency of the Italian Republic.

It is my intention to propose to the College as Appointing Authority to accept Mr Kessler's request to be relieved of his current function and to transfer him to a function elsewhere in the Commission.

I would be grateful to receive any comments you may have on this matter by Friday 29 September 2017.

Yours faithfully,

Gunther H. Oettinger



Brussels, 27 September 2017

**NOTE FOR THE ATTENTION OF MR GÜNTHER H. OETTINGER,  
COMMISSIONER FOR BUDGET AND HUMAN RESOURCES**

Dear Mr Oettinger, *Sehr geehrter Herr. Commissar,*

Thank you for the letter of 18 September 2017, Ares(2017)4636449, concerning the resignation of the OLAF Director-General, Mr Giovanni Kessler.

The OLAF Supervisory Committee is of the opinion that an interim replacement for Mr. Kessler should be appointed as soon as possible.

It is inappropriate for OLAF to be involved in any arrangements regarding Mr. Kessler's employment as Director of the Custom Service in Italy. His departure from OLAF must be final. Any entitlements to a posting at the level of Director-General, secondment payments or other arrangements between the Commission and the Custom Service in Italy must not involve OLAF, given its role in respect of customs.

Given the powers and sensitivity of the function of the OLAF Director-General, areas of potential conflict of interest with Mr Kessler's new function should be thoroughly examined and only then the Commission can consider granting its agreement, under the necessary conditions, to his taking up the new post.

With best regards,

Jan MULDER  
Chairman of the OLAF Supervisory  
Committee

**From:** Kaur Siruli [<mailto:Kaur.Siruli@fin.ee>]  
**Sent:** Friday, September 29, 2017 4:01 PM  
**To:** GROSS Kilian (CAB-OETTINGER);  
**Cc:** 'kaja.tael@mfa.ee'; VEIVO Eva (COUNCIL); GOMES PIRES Rita Sofia (COUNCIL); [katri.seier@mfa.ee](mailto:katri.seier@mfa.ee);  
Virve Teppart  
**Subject:** Resignation of Mr Giovanni Kessler as Director-General of OLAF

Dear Colleagues,

Following up the letter of Commissioner Oettinger from the 18<sup>th</sup> of September on the subject I can inform you, that letter was presented to the members of the Council Working Party on Combating Fraud and none of the Member States have presented any comments regarding the resignation of Mr Kessler. So therefore there will be no official reply with comments as there are none.

Kind regards,

Kaur Siruli | Head of the Financial Control Department  
Ministry of Finance of Estonia | Suur-Ameerika 1. 10122 Tallinn

EU2017.EE

Estonian Presidency  
of the Council of the  
European Union



Säästa loodust ja ära prindi seda e-kirja!

Käesolev e-kiri võib sisaldada asutusesiseseks kasutamiseks tunnistatud teavet.  
This e-mail may contain information which is classified for official use.



Committee on Budgetary Control  
The Chair

D 314731 29.09.2017

IPOL-COM-CONT D(2017)392/2  
Mr Günther Oettinger  
Commissioner  
Budget & Human Resources  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels

**Subject: Resignation of Mr Giovanni Kessler as Director-General of OLAF**

Dear Commissioner Oettinger,

By letter of 18 September 2017 you notified Mr Kessler's request to accept an appointment as Director of the Customs Agency of the Italian Republic. At the same time, you informed me of your intention to propose to the College of Commissioners to relieve the OLAF Director-General of his current function and to transfer him to a different function in the Commission.

In reply to your request to comment on this matter before 29 September, I would like to state the following observations:

First of all, it appeared in the press, that Mr Kessler was already appointed as head of the Italian Customs and Monopoly Agency at the end of July<sup>1</sup>. I would therefore ask you to inform us that Mr. Kessler has not been appointed yet to another function at a time when he is supposed to carry out his duties as Director General and EU civil servant.

Secondly, if Mr. Kessler intends to take up a new function, the Commission would have to verify if a conflict of interest might arise and if a cooling-off period would need to be respected.

Thirdly, and from a budgetary control aspect, allow me to state my surprise that you consider a transfer to another function within the Commission. If Mr. Kessler intends to take up a professional activity at national level, it would seem appropriate that he either resigns if he wishes to leave the service of the institution definitively or that he asks to take unpaid leave on personal grounds. I fail to see how a transfer to another function in the Commission could be indicated if Mr Kessler wishes to take up a function at national level.

Finally, given the fact that the OLAF Director General is appointed after consultation with the European Parliament and the Council (Article 17(2)), I feel that Parliament and Council should also be consulted before the Commission nominates a temporary replacement of the outgoing OLAF Director General, while we are awaiting the completion of the ongoing recruitment procedure.

I am looking forward to receiving your further explanations in this matter!

Yours sincerely,

Dr Inge Gräßle

<sup>1</sup> <http://www.politico.eu/article/giovanni-kessler-italian-customs-agency/>



# COMMISSION EUROPÉENNE

SECRÉTARIAT GÉNÉRAL

Bruxelles, le 11 octobre 2017

SEC(2017) 431

OJ 2228 – point 7

## **Liste des questions administratives et budgétaires diverses**

### **QUESTIONS ADMINISTRATIVES**

PERS(2017) 109

1. BUDG – Modification of the Organisation Chart; transfer of an AD16 official under Article 7 of the Staff Regulations and secondment in the interests of the service under Articles 37 and 38 of the Staff Regulations



COMMISSION EUROPÉENNE

SECRÉTARIAT GÉNÉRAL

**PERS(2017) 109**

Bruxelles, le 11 octobre 2017

**COMMISSION INTERNE**

**OJ 2228 – point 7**

QUESTIONS ADMINISTRATIVES

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Communication de M. OETTINGER

Cette question est inscrite à l'ordre du jour de la 2228<sup>ème</sup> réunion de la Commission le mercredi 11 octobre 2017.

Destinataires : Membres de la Commission  
M. ITALIANER, M. ROMERO REQUENA, M. SCHINAS, Mme SOUKA

## EUROPEAN COMMISSION



SECRÉTARIAT GÉNÉRAL

Agenda 2228 – Point 7

**ADMINISTRATIVE AND BUDGETARY MATTERS****1. BUDG – Modification of the Organisation Chart; transfer of an AD16 official under Article 7 of the Staff Regulations and secondment in the interests of the service under Articles 37 and 38 of the Staff Regulations**

- This point concerns the request for the secondment in the interests of the service under Articles 37 and 38 of the Staff Regulations of Mr Giovanni KESSLER, currently Director-General of the European Anti-Fraud Office.
- In agreement with the PRESIDENT, it is proposed to the College to :
  - accept Mr Giovanni KESSLER's request of 15 September 2017 to be relieved of his function as Director-General of the European Anti-Fraud Office.
  - create a temporary Hors Classe Adviser function in Directorate-General Budget;
  - transfer Mr Giovanni KESSLER in the interests of the service, under Article 7 of the Staff Regulations, to this newly created temporary Hors Classe Adviser function, which will be suppressed upon his departure;
  - second Mr Giovanni KESSLER in the interests of the service for a duration of 3 years, under Article 37(a) of the Staff Regulations, to the Customs and Monopoly Agency of the Italian Republic.
- During this secondment, Article 38(d) of the Staff Regulations will apply. The Customs and Monopoly Agency of the Italian Republic has agreed to pay the salary carried by the post he will occupy in the organisation for the duration of the secondment.
- These decisions take effect on 16 October 2017.

Bruxelles, le 11 octobre 2017

**DECISIONS ADMINISTRATIVES ET BUDGETAIRES PRISES PAR LA COMMISSION  
LORS DE SA 2228<sup>EME</sup> REUNION DU 11 OCTOBRE 2017<sup>1</sup>**

**DG BUDG – MODIFICATION D'ORGANIGRAMME – MUTATION AU TITRE DE  
L'ARTICLE 7 DU STATUT ET DÉTACHEMENT DANS L'INTÉRÊT DU SERVICE, AU  
TITRE DES ARTICLES 37 ET 38 DU STATUT, D'UN FONCTIONNAIRE DE GRADE  
AD16**

La Commission a décidé :

- d'accepter la demande que lui a adressée M. Giovanni KESSLER le 15 septembre 2017 d'être relevé de sa fonction de directeur général de l'Office européen de lutte antifraude (OLAF) ;
- de créer une fonction temporaire de conseiller hors classe à la direction générale du budget ;
- de muter dans l'intérêt du service, au titre de l'article 7 du statut, M. Giovanni KESSLER à cette nouvelle fonction temporaire de conseiller hors classe, qui sera supprimée à son départ ;
- de détacher M. Giovanni KESSLER dans l'intérêt du service, pour une durée de trois ans, au titre de l'article 37 (a) du statut, à l'Agence des douanes et monopoles de la République italienne.

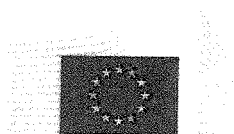
Durant ce détachement, l'article 38 (d) du statut s'appliquera. L'Agence des douanes et monopoles de la République italienne a accepté de verser le salaire afférent au poste que M. Giovanni KESSLER occupera en son sein pour la durée du détachement.

Ces décisions prennent effet le 16 octobre 2017.

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<sup>1</sup> Seule la version finale du procès-verbal en langue française fait foi.





EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2017) 2228 final**

**- English language version of the French text which is authentic -**

Brussels, 22 November 2017

# TEXTE EN

## MINUTES

of the 2228<sup>th</sup> meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 11 October 2017

(morning)

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**PV(2017) 2228 final**

**- English language version of the French text which is authentic -**

**EN**

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**Single sitting: Wednesday 11 October 2017 (morning)**

The sitting opened at 10.12 with Mr JUNCKER, President, in the chair.

**Present:**

Mr JUNCKER	President	
Mr TIMMERMANS	First Vice-President	
Ms MOGHERINI	High Representative / Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr DOMBROVSKIS	Vice-President	
Mr KATAINEN	Vice-President	
Mr OETTINGER	Member	
Mr HAHN	Member	
Ms MALMSTRÖM	Member	
Mr MIMICA	Member	
Mr ARIAS CAÑETE	Member	
Mr VELLA	Member	
Mr ANDRIUKAITIS	Member	
Mr AVRAMOPOULOS	Member	
Mr STYLIANIDES	Member	
Mr HOGAN	Member	
Ms BULC	Member	
Ms JOUROVÁ	Member	
Mr NAVRACSICS	Member	
Ms CREȚU	Member	
Ms VESTAGER	Member	
Mr MOEDAS	Member	Items 6 (in part) to 11
Sir Julian KING	Member	
Ms GABRIEL	Member	

Absent:

Mr ANSIP	Vice-President
Ms THYSSEN	Member
Mr MOSCOVICI	Member
Ms BIENKOWSKA	Member

(11 October 2017)

The following sat in to represent absent Members of the Commission:

Ms KLOC	Deputy Chef de cabinet to Mr ANSIP
Ms BERNARTS	Chef de cabinet to Ms THYSEN
Mr BAILLY	Chef de cabinet to Mr MOSCOVICI
Mr HEDBERG	Deputy Chef de cabinet to Ms BIENKOWSKA

The following also sat in:

Mr SELMAYR	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PESONEN	Director-General, DG Communication	
Mr SCHINAS	Head of the Spokesperson's Service and Chief Spokesperson of the Commission	
Ms METTLER	Head of the European Political Strategy Centre	
Ms MARTÍNEZ ALBEROLA	Deputy Chef de cabinet to the PRESIDENT	
Ms DEJMEK-HACK	Adviser in the PRESIDENT's Office	Items 8 to 10
Ms SILLAVEE	PRESIDENT's Office	Items 1 to 11 (in part)
Mr WYNANDS	Chef de cabinet to Mr DOMBROVSKIS	Items 1 to 10
Mr HAGER	Chef de cabinet to Mr OETTINGER	Items 1 to 6
Ms COUSIN	A member of Ms VESTAGER's staff	Item 10
Ms ANDREEVA	Commission Spokesperson's Service	

Secretary: Mr ITALIANER, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General (with the exception of item 7) and by Ms ALLOUIS-LE LOSTEC, Head of Unit in the Secretariat-General (for item 7).

**1. AGENDAS**

**(OJ(2017) 2228/FINAL; SEC(2017) 426/FINAL)**

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

**2. WEEKLY MEETING OF CHEFS DE CABINET**

**(RCC(2017) 2228)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 9 October.

**3. APPROVAL OF THE MINUTES OF THE 2222<sup>ND</sup>, 2223<sup>RD</sup>, 2225<sup>TH</sup>, 2226<sup>TH</sup> AND 2227<sup>TH</sup> MEETINGS OF THE COMMISSION (26 JULY, 6, 20, 27 SEPTEMBER AND 3 OCTOBER)**

The Commission held over approval of the minutes of its 2222<sup>nd</sup>, 2223<sup>rd</sup>, 2225<sup>th</sup>, 2226<sup>th</sup> and 2227<sup>th</sup> meetings for a later meeting.

**4. INTERINSTITUTIONAL RELATIONS**

**(RCC(2017) 127)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 6 October (RCC(2017) 127).

It paid particular attention to the following points.

#### **4.1. HORIZONTAL ITEM**

- i) Negotiations on an agreement with the United Kingdom setting out the arrangements for its withdrawal from the European Union pursuant to Article 50 of the Treaty on European Union – EU-UK Joint Letter to the World Trade Organisation (WTO) membership**

The Commission noted that the revised version of the joint letter in SI(2017) 446/2 had been transmitted to the Member States at the start of the Coreper meeting on Friday 6 October.

#### **4.2. LEGISLATIVE MATTERS**

- ii) Trilogues**

(point 3.1 of the IRG record)

- Financial rules applicable to the general budget of the European Union and amendment of Regulation (EC) 2012/2002, Regulations (EU) 1296/2013, (EU) 1301/2013, (EU) 1303/2013, (EU) 1304/2013, (EU) 1305/2013, (EU) 1306/2013, (EU) 1307/2013, (EU) 1308/2013, (EU) 1309/2013, (EU) 1316/2013, (EU) 223/2014, (EU) 283/2014 and (EU) 652/2014 of the European Parliament and of the Council, and Decision 541/2014/EU of the European Parliament and of the Council (Regulation) – GRÄSSLE / ASHWORTH report – 2016/0282 (COD)

The Commission approved the line set out in SI(2017) 459 and /2.

- Amendment of Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments (Directive) – GIRLING report – 2015/0148 (COD)

The Commission approved the line set out in SI(2017) 448.



- Amendment of Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (Regulation) – GIRLING report – 2017/0017 (COD)

The Commission approved the line set out in SI(2017) 455.

- Amendment of Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (Regulation) – CICU report – 2016/0351 (COD)

The Commission approved the line set out in SI(2017) 458.

**iii) Council dossiers**

(point 3.3 of the IRG record)

- Amendment of Regulation (EC) 883/2004 on the coordination of social security systems and Regulation (EC) 987/2009 laying down the procedure for implementing Regulation (EC) 883/2004 (Regulation) – BALAS report – 2016/0397 (COD)

The Commission approved the line set out in SI(2017) 450 and /3.

- Amendment of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (Directive) – MORIN-CHARTIER & JONGERIUS report – 2016/0070 (COD)

The Commission approved the line set out in SI(2017) 451/3.

- Contracts for the online and other distance sales of goods (Directive) – ARIMONT report – 2015/0288 (COD)

The Commission approved the line set out in SI(2017) 454.

#### **4.3. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL**

##### **iv) Programming of Council business**

(SI(2017) 457)

The Commission took note of the information in SI(2017) 457 on the Council meetings between 12 and 25 October.

##### **v) Non-legislative dossier**

(point 4.1 of the IRG record)

- European Union Advisory Mission in support of Security Sector Reform in Iraq (EUAM IRAQ) (Council Decision (CFSP)) – Commission's position – HR(2017) 117

The Commission approved the line set out in SI(2017) 453.

#### **4.4. RELATIONS WITH PARLIAMENT**

##### **vi) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its September part-session**

(point 5.6.1 of the IRG record)

The Commission approved, for transmission to Parliament, document SP(2017) 633 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its September part-session.

##### **vii) Action to be taken on Parliament's legislative resolutions and other resolutions of a legal nature**

(SP(2017) 615)

(11 October 2017)

The Commission decided to empower the Members of the Commission responsible for the sectors in question, in agreement with the PRESIDENT and Mr TIMMERMANS and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2017) 615, drawn up following the October I part-session of Parliament, the contents of which were noted.

**viii) Results of Parliament's October I part-session**

(SP(2017) 602; SP(2017) 603)

The Commission took note of the information in SP(2017) 602 and SP(2017) 603 on the proceedings of the part-session of Parliament held in Strasbourg from 2 to 5 October.

**5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS**

**5.1. WRITTEN PROCEDURES APPROVED**

*(SEC(2017) 427 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 2 and 6 October

**5.2. EMPOWERMENT**

*(SEC(2017) 428 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 2 and 6 October.

**5.3. DELEGATION / SUBDELEGATION OF POWERS**

*(SEC(2017) 429 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 2 and 6 October, as archived in Decide.

**5.4. SENSITIVE WRITTEN PROCEDURES**  
**(SEC(2017) 430 AND /2)**

The Commission took note of the sensitive written procedures for which the time limit expired between 9 and 13 October 2017.

**6. ADMINISTRATIVE AND BUDGETARY MATTERS**  
**(SEC(2017) 431)**

**ADMINISTRATIVE MATTERS**  
**(PERS(2017) 109)**

**DG BUDGET – AMENDMENT OF ORGANISATION CHART – TRANSFER  
AND SECONDMENT OF AD16 OFFICIAL**

On a proposal from Mr OETTINGER, in agreement with the PRESIDENT, the Commission:

- discussed the request addressed to it by the Italian authorities concerning the secondment of Mr Giovanni KESSLER as director, for a period of three years, to the Italian Customs and Monopolies Agency;
- noted the request addressed by Mr Giovanni KESSLER on 15 September 2017 to be seconded in the interest of the service, under Article 37(a) of the Staff Regulations, for a period of three years, to the Italian Customs and Monopolies Agency;
- examined the interest for the Commission and for the Italian authorities of being able to benefit from the recognised experience of a high-level European official

(11 October 2017)

in order to assist a national agency which collects customs duties on behalf of the EU budget and which has to operate effectively and cooperate with the European Anti-Fraud Office (OLAF);

- decided to agree to Mr Giovanni KESSLER's request and to:
  - i) create a temporary post of adviser hors classe in DG Budget;
  - ii) transfer in the interest of the service, under Article 7 of the Staff Regulations, Mr Giovanni KESSLER to this new temporary post of adviser hors classe, which would be abolished after his departure;
  - iii) second Mr Giovanni KESSLER, in the interest of the service, under Article 37(a) of the Staff Regulations, for a period of three years, to the Italian Customs and Monopolies Agency.

During the period of the secondment, Article 38(d) of the Staff Regulations would apply. The Italian Customs and Monopolies Agency had agreed to pay the salary for the post to be filled by Mr Giovanni KESSLER at the Agency for the duration of the secondment.

These decisions would take effect on 16 October 2017.

## **7. OTHER BUSINESS**

### ***LATEST POLITICAL DEVELOPMENTS IN SPAIN***

The Commission discussed the latest political developments in Spain.

**8. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN CENTRAL BANK, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ON COMPLETING THE BANKING UNION**

**(COM(2017) 592 TO /3; RCC(2017) 128)**

**9. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE SINGLE SUPERVISORY MECHANISM ESTABLISHED PURSUANT TO REGULATION (EU) 1024/2013**

**(COM(2017) 591 AND /2; SWD(2017) 336; RCC(2017) 128)**

Mr DOMBROVSKIS presented the Communication on completing the Banking Union and the report on the Single Supervisory Mechanism, which were submitted for the Commission's approval that day.

As an introduction he explained that there was broad agreement that a stable Economic and Monetary Union needed a complete Banking Union. However, the co-legislators had not made any real progress with the proposals presented by the Commission over the last two years. For that reason he felt it was the Commission's responsibility, given the institutional timetable, to launch a political appeal to the European Parliament and to the Council inviting them to speed up the process, otherwise the Banking Union could remain incomplete for several years.

The documents presented that day introduced significant new elements that would help the Commission to achieve its objective of completing the Banking Union before the end of its mandate. He pointed out that two pillars of the Banking Union were already operational and were working well, the Single Supervisory Mechanism and the Single Resolution Mechanism, thanks to which the EU's banking sector was now safer and more resilient.

Among the new elements in the Communication, Mr DOMBROVSKIS mentioned in particular its call for a common backstop for the Single Resolution Fund, which

could act as a final safety net once private debtors had borne the losses. He highlighted the broad consensus that had been established on this point at the Eurogroup meeting on 9 October and indicated that the set of proposals the Commission would present in December on the Economic and Monetary Union would give details of this mechanism.

He also mentioned the proposal concerning the European Deposit Insurance Scheme – EDIS – that the Commission had presented in November 2015 with the aim of protecting deposits regardless of the location of the banks. He noted that progress since then had been very slow. He explained that this legislative proposal remained on the table and that its objective remained unchanged, but that the Commission had considered it appropriate to make suggestions to the co-legislators in order to facilitate the adoption of this scheme by the European Parliament and the Council before the end of the current mandate. To this end, he placed particular emphasis on the proposal presented to the College for a progressive approach to both the reinsurance phase and the coinsurance phase as well as the introduction of an asset quality review to be carried out between these two phases in order to avoid the risks incurred at the banks concerned prior to the coinsurance phase.

Mr DOMBROVSKIS also mentioned the work currently being carried out in the framework of the Action Plan on retail financial services presented by the Commission in March, with the aim of enabling consumers and businesses in the European Union to benefit fully from a genuine single market for financial services. He added that the Commission was currently working on a proposal to reduce charges on cross-border banking transactions in accordance with the action plan for non-performing loans introduced by the Council in July. Lastly he pointed out the need to effectively communicate the tangible advantages of financial integration to citizens.

He closed by highlighting the positive assessment in the report on the Single Supervisory Mechanism.

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During the brief exchange of views which ensued, the Commission raised the following main points:

- the importance of finding the right balance between reducing and sharing the risks in order to achieve a broad consensus among the Member States;
- at the same time, the belief that the discussion points presented by the Commission that day, which introduced a more progressive approach, particularly as regards the European Deposit Insurance Scheme, while at the same time strengthening the clarity and effectiveness of the future instruments of the Banking Union, would bring with them a positive dynamic that could speed up the process of adoption of legislative proposals by the co-legislators;
- the desirability of addressing the question of sovereign bonds and their risk level in order to help reduce the dependence between States and banks.

The PRESIDENT thanked Mr DOMBROVSKIS for his excellent work and closed the discussion by highlighting the importance of finalising the Banking Union in order to achieve a deeper and fairer Economic and Monetary Union. He noted the agreement of the Members of the Commission on the documents presented at the meeting.

Following this presentation and the discussion that ensued, the Commission:

- approved the Communication in COM(2017) 592/3 for transmission to Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments;
- approved the report in COM(2017) 591/2 for transmission to Parliament and the Council and, for information, to the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the staff working document distributed as SWD(2017) 336, the contents of which were noted.



## **10. MONITORING THE APPLICATION OF EUROPEAN UNION LAW**

### **10.1. STATE AID – URGENT INDIVIDUAL CASE**

*(C(2017) 6896 TO /3)*

*State Aid SA.49275 (2017/N) – PORTUGAL – Sale of Novo Banco with additional aid in the context of the 2014 resolution of Banco Espírito Santo, SA*

**Decision:** not to raise objections

Following the presentation of the case by Ms VESTAGER, the Commission adopted in the authentic language version (English) the decision in C(2017) 6896/3 and decided to notify it to the Portuguese authorities.

### **10.2. STATE AID AND OTHER COMPETITION RULES**

The Commission's decisions on this item is recorded in the special minutes.

## **11. OTHER BUSINESS (CONTINUED)**

### ***IMPLEMENTATION AT 30 SEPTEMBER OF THE 2017 GENERAL BUDGET (INFO(2017) 83 TO /3)***

Mr OETTINGER presented to the College the implementation at 30 September of the 2017 budget, half-way through the Commission's term and in the fourth of the seven years of the EU's 2014-2020 multiannual financial framework. He reminded the College that the Commission published a report on the Active Monitoring and Forecast of Budget Implementation (AMFBI) in March, July and October. The main features of the October report concerned the level of implementation of payments at 30 September 2017, the deviations from the forecasts and a comparison with the

budget implementation for the same period in 2016.

The Commission took note of this information and of the information note distributed in INFO(2017) 83/3.

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The Commission's other discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 11.00.

GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

H. E. Ambassador Maurizio Massari  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representation of Italy to the EU  
Rue du Marteau 7-15  
1000 Brussels

Brussels, 11 10. 2017  
MH/ab Ares(2017)s5630021

Dear Ambassador, *benvenuto New Kollege!*

I refer to our previous correspondence concerning the launch of the procedure to appoint Mr Giovanni Kessler as the new Director of the Customs and Monopoly Agency of the Italian Republic.

Following the completion of the consultative process triggered by Mr Kessler's request to be relieved of his current function as Director-General of OLAF, I am pleased to be able to confirm that the Commission has now taken a decision to second Mr Kessler in the interests of the service to the Customs and Monopoly Agency of the Italian Republic for three years starting on 16 October 2017.

As agreed, Mr Kessler will receive from the Italian administration the salary carried by the post he will occupy in the Agency.

Yours faithfully,

GÜNTHER H. OETTINGER  
MEMBER OF THE EUROPEAN COMMISSION

Ref. Ares(2017)4964667 - 11/10/2017

Dr Ingeborg Gräßle  
Chair of the Committee for Budgetary Control  
European Parliament  
Rue Wiertz 60  
1047 BRUSSELS

Brussels, 11 10. 2017  
MH/ab Ares(2017)s5602494

Dear Dr Gräßle, *rocha type!*

Thank you for your letter.

Let me first reassure you that Mr Kessler will continue to fulfil his duties as Director-General of OLAF until 16 October 2017. The Italian Council of Ministers' decision of 2 October to appoint Mr Kessler as Director of the Customs and Monopoly Agency will take effect after the College decisions to relieve him of his current function and to second him in the interest of the service from a Hors Classe Adviser function in DG Budget to the Agency.

Mr Kessler was appointed as an official to the function of Director-General of DG OLAF in 2010 following consultation of the European Parliament and the Council, and took up his mandate on 14 February 2011. This implies that at the end of his mandate of seven years, he remains in active service as an official. The Commission is, therefore, obliged to reassign him to another function in the Commission at his current grade when he ceases to be Director-General of OLAF

With regard to your concern of a possible conflict of interest, I should state that until he is relieved of his duties as Director-General of OLAF on 16 October 2017, he continues to carry them out in full independence. Moreover, I also see no conflict of interest between his current function and the function to which he will be seconded. On the contrary, it is clearly in the interest of the Commission to second an experienced Commission official to an important national agency like the Italian Customs and Monopoly Agency.

In its communications with the Commission concerning Mr Kessler's appointment to the Customs and Monopoly Agency, the Italian government has confirmed that they will cover his salary at the Agency during the secondment. This secondment will therefore also lead to savings, and it was in the budgetary interest of the Union to consider whether this would be a cost-effective option in comparison to reassigning Mr Kessler to other tasks within the Commission. The fact that the post in the Customs and Monopoly Agency carries a salary formed part of the Commission's decision.

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- VU le Statut des fonctionnaires de l'Union européenne et notamment ses articles 1, 2, 7.1, 37 a) 1<sup>er</sup> tiret et 38;
- VU la décision C(2013) 3288 de la Commission du 4 juin 2013 relative à l'exercice des pouvoirs dévolus par le Statut à l'Autorité Investie du Pouvoir de Nomination (AIPN) et par le Régime Applicable aux Autres Agents de l'Union européenne (RAA) à l'Autorité Habilitée à Conclure les Contrats d'engagement (AHCC) et ses modifications ultérieures, ainsi que les décisions par lesquelles certains de ces pouvoirs ont été subdélégués;

CONSIDERANT la décision de la Commission du 11 octobre 2017 (PV (2017) 2228);

IL EST NOTIFIE QUE :

**Article 1**

Dans l'intérêt du service, l'affectation de Monsieur Giovanni KESSLER (n° pers. 170266), fonctionnaire de grade AD16, est modifiée comme suit :

**ANCIENNE AFFECTATION :** Directeur général de "l'Office européen de lutte antifraude" (OLAF), à Bruxelles;

**NOUVELLE AFFECTATION :** Conseiller hors classe auprès de la Direction générale "Budget", à Bruxelles.

**Article 2**

Monsieur Giovanni KESSLER, Conseiller hors classe auprès de la Direction générale "Budget", est détaché dans l'intérêt du service auprès de l'Agence des douanes et monopoles de la République italienne, pour une durée de trois ans, à partir du 16 octobre 2017 et ce jusqu'au 15 octobre 2020.

**Article 3**

Son classement en grade et échelon reste inchangé.

**Article 4**

Pendant la période de son détachement, son salaire, y compris les allocations et indemnités, sera pris en charge par l'Agence des douanes et monopoles de la République italienne, sans préjudice de l'application éventuelle de l'article 38, point d) du Statut.

**Article 5**

A l'expiration du détachement, Monsieur Giovanni KESSLER réintégrera immédiatement sa DG d'origine, la Direction générale "Budget".

**Article 6**

Le lieu d'affectation, pendant la durée de son détachement, sera Rome.

**Article 7**

Ces décisions prennent effet le 16 octobre 2017.

Le Directeur général  
Direction générale "Ressources humaines et sécurité"

Bruxelles, le 13/10/17

Irène SOUKA

In line with the College Decision of 13 July 2005, Mr Nicholas Ilett will deputise as Director-General of OLAF from 16 October 2017 and until a new Director-General is appointed as a result of the ongoing selection procedure, as he did already when the post was vacant in 2010.

Yours sincerely,

Günther H. Oettinger