



House of Commons
European Scrutiny Committee

**Sixty-fifth Report of
Session 2017–19**

Documents considered by the Committee on 8 May 2019

Report, together with formal minutes

*Ordered by the House of Commons
to be printed 8 May 2019*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

Staff

The staff of the Committee are Jessica Mulley (Clerk), Kilian Bourke, Alistair Dillon, Leigh Gibson, Foeke Noppert, Sibel Taner and George Wilson (Clerk Advisers), Joanne Dee and Emily Unwin (Deputy Counsels for European Legislation), Jeanne Delebarre (Second Clerk), Daniel Moeller (Senior Committee Assistant), Nat Ireton and Beatrice Woods (Committee Assistants), Ravi Abhayaratne and Paula Saunderson (Office Support Assistants).

Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is (020) 7219 3292/5467. The Committee's email address is escom@parliament.uk.

Contents

Meeting Summary	3
Documents not cleared	
1 HO EU Fund for Aid to the Most Deprived	6
2 MOJ FCO Rule of law in the EU	10
Documents cleared	
3 DEFRA Brexit-preparedness: Fisheries	16
4 HO Cross-border police cooperation: Third country participation in the Prüm framework for exchanging DNA, fingerprint and vehicle registration data	18
Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House	23
Formal Minutes	25
Standing Order and membership	26

Meeting Summary

The Committee looks at the significance of EU proposals and decides whether to clear the document from scrutiny or withhold clearance and ask questions of the Government. The Committee also has the power to recommend documents for debate.

Brexit-related issues

The Committee is now looking at documents in the light of the UK's decision to withdraw from the EU. Issues are explored in greater detail in report chapters and, where appropriate, in the summaries below.

Summary

Rule of Law in the EU: Proposed Council Decisions relating to the Article 7 TEU process against Poland and Hungary and a Commission Communication

These three documents are linked by EU action on the Rule of Law. The two Council Decisions concern the activation by the Commission of the Article 7 TEU process against Poland in December 2017 and then separately by the EP against Hungary in September 2018. The Communication addresses how the EU could improve the operation of the established Rule of Law mechanisms within the EU. Separately the Committee also has a proposed Regulation on the Rule of Law and the EU budget under scrutiny.

Even if either of the proposed Decisions against Poland and Hungary were forced to a vote, voting thresholds in both the Council/EP and political sensitivities and alliances make it very uncertain that there would be a negative outcome for either country. In any event, further steps would need to be taken for Hungary or Poland to be sanctioned, for instance by losing voting rights in the Council. This would involve the separate triggering of a two stage “sanctions mechanism” set out in Articles 7(2) and (3) TEU.

The Government has consistently adopted a neutral approach to the Rule of Law processes. It considers that Member States should respect the Rule of Law, but that constitutional arrangements are a matter for national governments. It intends simply to voice any UK concerns about Rule of Law to Poland and Hungary on a bilateral basis.

The Government provides a good update relating to both the Hungary and Poland situations. These include developments in the CJEU. In particular, in April the Advocate General (AG) has opined in related infringement proceedings against Poland. This concerns the Polish law lowering the retirement age of its Supreme Court judges which would force about a third of existing judges to retire and open the way for Government-friendly appointments. The AG has found that the law breaches the principle of the irremovability of judges and judicial independence under Article 19(1) TEU and Article 47 of the Charter (right to an effective remedy and fair trial).

We ask the Government to give its view on the increased activity of the CJEU in this area, how this might affect UK policy and the UK's decision not to engage on the proposed intergovernmental dialogue initiative mentioned in the Communication because of UK

exit. This latter question prompts our wider concern about when the Government will be choosing to exercise its discretion during the extension of the Article 50 process not to exercise EU treaty rights as a “withdrawing Member State and in the light of the duty of sincere cooperation”.

Not cleared from scrutiny; further information requested; drawn to the attention of the Justice Committee, the Foreign Affairs Committee and the Joint Committee on Human Rights

EU Fund for Aid to the Most Deprived

The European Commission and European Court of Auditors have both published reports on the implementation of the EU Fund for Aid to the Most Deprived. Agreed in 2014, the Fund targets those who are furthest from the labour market and at risk of material deprivation and/or social exclusion. It provides for the delivery of aid (such as food, clothing and basic consumer goods) and social inclusion projects. Both reports note that the UK is the only EU Member State in which implementation of the Fund has yet to start. The delay in developing a national programme to utilise the UK’s allocation of funding means that the UK has lost £600,000 out of a total of €3.96 million for the period 2014–20. The latest information provided by the Government indicates that there has been some slippage in the timetable for securing Commission approval of the UK programme which may, once again, put funding for the UK at risk. The European Scrutiny Committee says it will continue to hold the European Commission report under scrutiny until the Government is able to provide a clear assurance that the UK’s operational programme for the remaining €2.9 million has been approved and is on track to begin before the end of the year. The Committee anticipates that the Government will by then be better placed to explain how the UK’s exit from the EU—with or without a deal—will affect the UK’s eligibility for the Fund which runs until the end of 2020. The Committee is clearing from scrutiny the Court of Auditors Report as the recommendations it makes to strengthen the impact of the Fund once it is merged into a revamped European Social Fund (“ESF+”) during the next EU budgetary period from 2021–27 have largely been accepted by the European Commission.

European Court of Auditors report cleared from scrutiny; Commission report not cleared from scrutiny; further information requested; drawn to the attention of the Education Committee, Home Affairs Committee and Work and Pensions Committee

Cross-border police cooperation: Third country participation in the Prüm framework for exchanging DNA, fingerprint and vehicle registration data

These proposals for four Council Decisions would authorise the EU to sign and conclude Agreements with Liechtenstein and Switzerland enabling them to take part in EU measures providing for the automated exchange of DNA profiles, fingerprints and vehicle registration data (“the Prüm package”) to assist in the investigation of cross-border crime. The Government informed the Committee in March that it had decided to opt into the proposals and reiterated its commitment to implement the Prüm measures fully and to continue the international exchange of biometric data with the EU post-exit as part of a future security agreement. The European Scrutiny Committee notes that extending participation in Prüm is likely to have operational benefits for the UK (increasing the pool

of data its law enforcement authorities will be able to access) and may also strengthen the UK's case for a continuing relationship with Prüm and other EU data sharing instruments after leaving the EU. The Committee clears the proposed Council Decisions from scrutiny but makes clear that it expects the Government to provide regular updates on any progress made in fleshing out arrangements for a new (post-exit) EU/UK security treaty.

Cleared from scrutiny; further information requested; drawn to the attention of the Home Affairs Committee and Justice Committee

Documents drawn to the attention of select committees:

(‘NC’ indicates document is ‘not cleared’ from scrutiny; ‘C’ indicates document is ‘cleared’)

Education Committee: EU Fund for Aid to the Most Deprived [(a) Commission Report (NC); (b) European Court of Auditors Special Report (C)]

Environment, Food and Rural Affairs Committee: Brexit-preparedness: Fisheries [Proposed Regulations (C)]

Foreign Affairs Committee: Rule of law in the EU [(a)(b) Proposed Decisions; (c) Commission Communication (NC)]

Home Affairs Committee: EU Fund for Aid to the Most Deprived [(a) Commission Report (NC); (b) European Court of Auditors Special Report (C)]; Cross-border police cooperation: Third country participation in the Prüm framework for exchanging DNA, fingerprint and vehicle registration data [Proposed Decisions (C)]

Joint Committee on Human Rights: Rule of law in the EU [(a)(b) Proposed Decisions; (c) Commission Communication (NC)]

Justice Committee: Rule of law in the EU [(a)(b) Proposed Decisions; (c) Commission Communication (NC)]; Cross-border police cooperation: Third country participation in the Prüm framework for exchanging DNA, fingerprint and vehicle registration data [Proposed Decisions (C)]

Work and Pensions Committee: EU Fund for Aid to the Most Deprived [(a) Commission Report (NC); (b) European Court of Auditors Special Report (C)]

1 EU Fund for Aid to the Most Deprived

Committee's assessment	Politically important
Committee's decision	(a) Not cleared from scrutiny; further information requested (b) Cleared from scrutiny (a) and (b) drawn to the attention of the Education Committee, the Home Affairs Committee and the Work and Pensions Committee
Document details	(a) Commission report: <i>Summary of the annual implementation reports for the operational programmes co-financed by the Fund for European Aid to the Most Deprived in 2016</i> (b) European Court of Auditors Special Report: <i>FEAD—Fund for European Aid to the Most Deprived: Valuable support but its contribution to reducing poverty is not yet established</i>
Legal base	(a)— (b)—
Department	Home Office
Document Numbers	(a) (40204), 14699/18 + ADD 1, COM(18) 742; (b) (40501), Special Report No. 5,—

Summary and Committee's conclusions

1.1 In January 2019, we examined a [European Commission report](#) on the implementation of the [Fund for European Aid to the Most Deprived](#) (“the Fund”) in 2016.¹ Established in 2014, the purpose of the Fund is to support Member States in meeting the poverty reduction target agreed by EU leaders in June 2010 which aims to “lift at least 20 million people out of the risk of poverty and social exclusion” by the end of 2020.² The Fund has a total budget of €3.4 billion for the period 2014–20, with each Member State receiving a *minimum* amount of €3.5 million to be distributed in annual instalments. The Commission saw a need for a specific, ring-fenced fund, as those most likely to qualify for assistance were too far from the labour market to benefit from the social inclusion and active labour market measures supported by the European Social Fund. The Fund is intended to complement Member States’ national poverty eradication and social inclusion policies by providing an additional source of targeted funding to alleviate “forms of extreme poverty with the greatest social exclusion impact, such as homelessness, child poverty and food distribution”.³ In its report—document (a)—the Commission explained that around 16 million people had benefited from the Fund in 2016, with most (96%)

1 See [Regulation \(EU\) No 223/2014](#) on the Fund for European Aid to the Most Deprived.

2 See the [Conclusions](#) agreed by the European Council on 17 June 2010.

3 See recital (7) and Article 3 of [Regulation \(EU\) No 223/2014](#).

receiving food support, bringing the total beneficiaries between 2014 and 2016 to around 38 million. None of these beneficiaries were in the UK as the Commission noted that “implementation of the Fund in the UK has not started yet”.⁴

1.2 In her [Explanatory Memorandum of 23 January 2019](#), the Minister for Crime, Safeguarding and Vulnerability (Victoria Atkins MP) told us that the Government had changed its original plan to use the Fund to support breakfast clubs in schools with particularly high rates of social disadvantage. It had decided instead to use the Fund to support vulnerable 16–24-year olds who have entered the UK through a resettlement scheme, been granted refugee status through the in-country asylum process, or identified as potential victims of modern slavery, but had been unable to set up the necessary governance infrastructure and secure the agreement of the European Commission in time. As a result, the UK had failed to claim the initial tranche—£600,000—of the UK’s allocation under the Fund by the end of 2018 (as required under the EU’s “de-commitment rules”). This sum had therefore been deducted from the UK’s total share, leaving £2.9 million to support social inclusion activities for the most deprived rather than the £3.5 million originally ring-fenced for the UK. Further details are set out in our [Report](#) agreed on 30 January 2019. The Minister anticipated that a new operational programme would be ready to submit to the European Commission “provisionally by the end of March 2019, with the programme of works scheduled to begin in July 2019 “ and the programme and Fund becoming operational in the UK “by the end of the year”.

1.3 Noting that the Home Office’s bid to take over the administration of the Fund from the lead Department (Work and Pensions) was only confirmed in September 2018, we acknowledged the difficulty in setting up the necessary governance infrastructure and securing Commission approval in the short time remaining until the end of 2018. Whilst not in a position to attribute responsibility for the evident lapse in cross-Government planning and coordination to ensure effective delivery of the Fund, we made two observations. First, all Member States bar the UK were able to deliver aid supported by the Fund by the end of 2017, and most were able to do so in 2016. The eligibility requirements and administrative burdens which the Minister cited as an obstacle to delivery in the UK did not appear to have presented an insurmountable hurdle elsewhere in the EU. Second, the Government rightly insists on sound financial management when administering EU funding programmes and has extensive experience of administering the European Social Fund (the nearest equivalent). We questioned whether the eligibility and administrative requirements for the Fund for European Aid to the Most Deprived were any more onerous than those which the Government routinely manages in other areas of EU funding. We were unwilling to clear the Commission report—document (a)—from scrutiny until the Minister was able to confirm that the UK’s operational programme for the remaining €2.9 million had been completed and approval obtained from the European Commission. We also asked the Minister to explain how the UK’s exit from the EU—whether with or without a deal—would affect the UK’s eligibility for the Fund which runs until the end of 2020.

1.4 Since we last reported on the Fund, the European Court of Auditors (“the Court”) has published a [Special Report](#) which is intended to inform discussions on a successor funding instrument for the next EU budgetary period from 2021–27. This instrument

4 See p.1 of the Commission report.

envisages merging the Fund into a revamped European Social Fund ('ESF+'). The Court considers whether the Fund has proved to be an effective tool for alleviating poverty and contributing towards the social inclusion of the most deprived. It concludes that:

- despite its wider social inclusion objectives, the Fund operates essentially as a food support scheme (83% of its budget serves this end);
- stakeholders value the contribution that the Fund has made to alleviating poverty through food aid; but
- limitations in the data available to the European Commission mean that the relative importance of the Fund in supporting the most deprived, reducing poverty and promoting social inclusion cannot be measured.

1.5 The Court makes three recommendations which seek to ensure that basic food and material assistance provided under the successor ESF+ programme from 2021 onwards are targeted towards those most in need in each Member State, are accompanied by effective social inclusion measures and include mechanisms for assessing their impact.

1.6 The Minister's [Explanatory Memorandum of 26 April 2019](#) on document (b) confirms that the Government was unable to provide data to inform the Court of Auditors Report as the Fund has yet to be implemented in the UK. She says that the Home Office is "in the final stage of designing the specifications" for the UK's operational programme and expects to submit it to the European Commission "provisionally by the end of May 2019, with the programme of works scheduled to begin in the autumn". EU de-commitment rules continue to apply, meaning that:

[...] if the UK does not spend the allocation that has been committed for FEAD [the Fund for European Aid to the Most Deprived] in the EU budget by the end of the 2019 calendar year, this funding will again be removed from the UK's total share.

1.7 The Minister indicates that the implementation of the Fund in the UK will be contingent on wider developments in the UK's exit negotiations, in particular whether the UK's exit is based on a negotiated withdrawal agreement.

Our Conclusions

1.8 We note that the timetable for completing and submitting a new operational programme to secure the next instalment from the Fund has already slipped by two months since the Minister submitted her first Explanatory Memorandum on document (a) in January. Any further slippage may mean that the UK again falls foul of the EU's de-commitment rules, putting at risk a source of funding and material assistance for some of the most vulnerable. We intend to keep a close eye on developments and therefore continue to hold the Commission report under scrutiny until the Minister is able to confirm that the UK's operational programme for the outstanding €2.9 million has been completed and approved by the European Commission and preparations are well underway to implement the Fund in the UK. We trust that the Minister will also, by then, be better placed to explain how the UK's exit from the EU—whether with or without a deal—will affect the UK's eligibility for the Fund which runs until the end of 2020.

1.9 The European Court of Auditors report—document (b)—concerns changes to a successor funding instrument which will form an integral part of the revamped European Social Fund (ESF+) during the next EU budgetary period from 2021–27. As the European Commission has accepted the bulk of the Recommendations made by the Court, we are content to clear the report from scrutiny. We draw this chapter to the attention of the Education Committee, the Home Affairs Committee and the Work and Pensions Committee.

Full details of the documents

(a) Commission Report: *Summary of the annual implementation reports for the operational programmes co-financed by the Fund for European Aid to the Most Deprived in 2016*: (40204), [14699/18](#) + [ADD 1](#), COM(18) 742; (b) European Court of Auditors Special Report No 05: *FEAD—Fund for European Aid to the Most Deprived: Valuable support but its contribution to reducing poverty is not yet established*: (40501), [Special Report No. 5/19](#),—.

Previous Committee Reports

Fifty-third Report HC 301–lii (2017–19), [chapter 9](#) (30 January 2019). See also our earlier Reports on the Regulation establishing the Fund for European Aid to the Most Deprived: Twenty-second Report HC 86–xxii (2012–13), [chapter 3](#) (5 December 2012), Fourteenth Report HC 83–xiv (2013–14), [chapter 10](#) (11 September 2013), Twentieth Report HC 83–xix (2013–14), [chapter 3](#) (30 October 2013), Twenty-ninth Report HC 83–xxvi (2013–14), [chapter 8](#) (8 January 2014), Ninth Report HC 219–ix (2014–15), [chapter 12](#) (3 September 2014) and Thirty-fourth Report HC 219–xxxiii (2014–15), [chapter 3](#) (25 February 2015).

2 Rule of law in the EU

Committee’s assessment	Legally and politically important
Committee’s decision	Not cleared from scrutiny; further information requested; drawn to the attention of the Justice Committee, the Foreign Affairs Committee and the Joint Committee on Human Rights
Document details	Proposed Council Decisions pursuant to Article 7(1) TEU on the determination of a clear risk of a serious breach of (a) Union values in the case of Hungary and (b) the Rule of Law in the case of Poland; (c) Commission Communication—Further strengthening the Rule of Law within the Union State of play and possible next steps
Legal base	(a) and (b) Article 7(1) TEU; majority (four fifths); EP consent; (b)—
Department	Ministry of Justice AND Foreign and Commonwealth Office
Document Numbers	(a) (40077), 12266/18 + ADD 1; (b) (39401), 16007/17, COM(17) 835; (c) (40503), 8312/19, COM(19) 163

Summary and Committee’s conclusions

2.1 The Rule of Law is one of the EU’s founding values as well as a common constitutional tradition in Member States. At an EU level, it is enshrined in Article 2 TEU.⁵ The [Communication](#) (document (c)) explains that “the rule of law includes amongst others, principles such as legality, implying a transparent, accountable, democratic pluralistic process for enacting laws, legal certainty, prohibiting the arbitrary exercise of executive power, effective judicial protection by independent and impartial courts, effective judicial review, including respect for fundamental rights, separation powers and equality before the law”.⁶

2.2 The Communication also considers the EU’s current mechanisms for resolving Rule of Law breaches including Article 7 TEU and the Commission’s 2014 [Rule of Law Framework](#).⁷ It is helpfully summarised in this Commission [Press Release](#). The Framework enables a dialogue with Member States with the aim of preventing a systemic threat to the Rule of Law which would require an Article 7 TEU intervention. The Framework, to date, has only been used once and unsuccessfully to start a dialogue with Poland in January 2016. This led to the Commission initiating the Article 7 TEU procedure against Poland

5 Article 2 TEU provides 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. 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”.

6 This is compatible with the widely accepted view in the UK of the Rule of Law as encapsulated by Lord Bingham in his book on the Rule of Law. See for example this [lecture](#) by him, setting out his eight principles of the Rule of Law.

7 See the previous Committee’s Reports on the Framework: (35878), 7632/14: Thirty-fifth Report, HC 71–xxxiii (2016–17), [chapter 13](#) (15 March 2017); Thirty-ninth Report HC 219–xxxvii (2014–15), [chapter 3](#) (24 March 2015); Thirty-sixth Report HC 219–xxxv (2014–15), [chapter 1](#) (11 March 2015); Forty-eighth Report HC 83–xliv (2013–14), [chapter 1](#) (7 May 2014).

in December 2017 in relation to concerns about judicial independence (see [document \(b\)](#)). That process was subsequently initiated by the EP against Hungary in September 2018 (see [document \(a\)](#)) due to numerous concerns relating to the constitution, electoral system, courts, freedom of expression and association, and minority rights.

2.3 Our previous Reports (as listed at the end of this Report chapter) on documents (a) and (b) and the Article 7 processes concerning Poland and Hungary set out the background to and developments to those documents. This chapter focuses on the Communication (document (c)).

2.4 Before turning to the Communication, we draw to the attention of the House that we have under separate scrutiny a proposed Regulation on the Rule of Law and the EU budget.⁸ As we explained in our [Report](#) on that document, this proposes that where the Commission believes that there is a threat to the rule of law in an EU country which poses a risk to the “sound financial management or the protection of the financial interests of the Union”, it would be able to suspend or even terminate an agreement for EU funding where a ‘government entity’ in the Member State in question is the recipient. Risks to the EU budget could, for example, relate to fraudulent use of EU money; improper public procurement exercises; or a lack of effective and independent judicial oversight of the government entities that manage EU budgetary allocations. We understand that negotiations of that proposal may have partly been delayed by an [Opinion](#)⁹ of the Council Legal Service questioning its legality (a redacted version is only available publicly).

2.5 The Communication considers:

- How recent Court of Justice (CJEU) case law has defined in further detail the concept of the Rule of Law, including the necessity of judicial independence and impartiality.
- The variety of tools and measures which could be used to address Rule of Law concerns as a preventative measure before it is necessary to implement Article 7 TEU. These could be implemented either at national level by addressing early warnings of risks to Rule of Law or through structural reform at an EU level to strengthen Member States own ability to tackle potential problems.

2.6 Also in discussion between Member States is a new Rule of Law Mechanism which has been proposed by the German and Belgium Foreign Ministries as an intergovernmental, voluntary approach to reflecting on rule of law standards across the EU.¹⁰

2.7 Member States are invited to consider future avenues of promotion, prevention, and common response to improve the current process. There will be a meeting in June 2019 where these issues will be addressed further where is it always possible that legislative proposals could be brought forward.

8 Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union’s budget in case of generalised deficiencies as regards the rule of law in the Member States: (39685), 8356/18, COM(18) 324.

9 Commented on by the [Verfassungsblog](#) of 12 November 2018 which appears to have had access to the Opinion. See “Never Missing an Opportunity to Miss an Opportunity: The Council Legal Service Opinion on the Commission’s EU budget-related rule of law mechanism” by Kim Lane Scheppelle, Laurent Pech, R. Daniel Kelemen.

10 Described in this article in [EURACTIV](#) OF 19 March 2019.

2.8 In his [Explanatory Memorandum](#) of 18 April, the Parliamentary Under-Secretary of State at the Ministry of Justice (Edward Argar MP) reiterates and adds to the previous position of the Government, taking into account any new considerations highlighted in the Communication. He says:

- The UK has a history of upholding the Rule of Law and international values.
- All Member States have a responsibility to uphold a set of common values and should respect the Rule of Law and cultivate a society where it thrives.
- In the context of Article 7 TEU proceedings, the best solution to be mutually agreed by Member States and the Commission is to “be found in substantive, sustained and constructive dialogue, to resolve the issue in a way which aligns with international norms”.

2.9 Turning to the intergovernmental Rule of Law Mechanism, the Minister tells us that the aim is to promote and strengthen the respect for the Rule of Law through discussions among peers. As a voluntary mechanism, it would run parallel to existing EU Rule of Law mechanisms. However, current timescales and processes are unclear. The initiative was discussed at the General Affairs Council of 19 March 2019. While the UK supports the mechanism in principle, the Minister says that it would not be appropriate for the UK to participate in discussions at this time. This is because of uncertainty over the dates for the UK’s exit from the EU and the application of the mechanism.

2.10 Further developments in the Article 7(1) process against Poland and Hungary are addressed in the Supplementary section of the Government’s Explanatory Memorandum and summarised at paragraph 16 below.

Our Conclusions

2.11 We thank the Minister for his Explanatory Memorandum on the Commission Communication and his supplementary updates on the state of play in the Article 7 TEU process relating to Poland and Hungary (documents (a) and (b)). We ask him to continue to keep us informed of further developments. We would be particularly interested to learn whether the Government has intervened or is considering intervention in any of the ongoing proceedings in the CJEU against Poland¹¹ and Hungary.¹²

2.12 We note that the Government continues to maintain its neutral approach to the Article 7 TEU process against Poland and Hungary in its all Explanatory Memoranda on that process and now the Commission Communication. This seems to draw from

11 There are two sets of infringement proceedings against Poland on which the CJEU has yet to fully adjudicate. [Commission v Poland C619/18](#) (concerning the Polish Supreme Court) and [Commission v Poland C192/18](#) (concerning the Polish Ordinary Courts). The CJEU issued interim measures concerning the lowering of the retirement age for judges in the former case and the AG has issued an opinion. The hearing on the latter case took place on 8 April 2018. The Commission also announced on 3 April the commencement of [new infringement proceedings](#) concerning the new Polish disciplinary regime for judges.

12 There have been several infringements proceedings and, in some cases, CJEU rulings against Hungary which arguably engage Rule of Law issues. For example, in relation to early retirement for the judiciary ([C286/12](#)), the Higher Education law and restrictions on academic freedom ([C66/18](#)), restrictions on civil organisations receiving foreign grants ([C78/18](#)) and effective judicial remedies and asylum (see [Commission Press Release July 2018](#)).

a belief that each Member State's respect for the Rule of Law is a primarily matter of national sovereignty. We also note the preference amongst other Member State for intergovernmental dialogue on Rule of Law issues.

2.13 But non-compliance with the Rule of Law lies firmly within the EU's supranational remit based on both Article 2 and 7 TEU. Likewise, for the Court of Justice, certainly so far as effective judicial protection and independence are concerned.¹³ The Court's jurisdiction over these matters seems clear: national courts act as EU courts, for example when enforcing EU rights directly in direct effect or state liability cases or when both requesting and apply CJEU rulings as part of the preliminary reference process. Every ruling from the CJEU becomes part of the EU acquis which the UK and other Member States must follow. In the face of the reluctance of the Council to take action against non-compliant Member States as seen in the Article 7 processes and the proposed Regulation on the Rule of Law and EU budget,¹⁴ we would ask the Minister whether:

- he expects the CJEU to increasingly fill the Rule of Law vacuum created by that reluctance;
- he anticipates that increased CJEU activity could cause a culture change in the Council whereby Rule of Law issues in Member States are seen firmly as matters of EU law not questions of national sovereignty; and
- he can confirm that the Government's approach of treading carefully in the Article 7 process with respect to Hungary and Poland is influenced by needing to keep them onside in the UK's withdrawal and future relationship negotiations.

2.14 The Government is clear that it is not participating in discussions concerning the proposed intergovernmental initiative mentioned in the Communication. This, it explains, it is due to uncertainty over the UK's exit day and the date of application of a new mechanism. We ask the Minister to confirm whether this abstinence is a direct example of the UK acting as indicated Recital 10 of the second European Council [Decision](#) of 11 April to extend the Article 50 process. In other words, although the UK retains its full membership rights during the extension, it is expected to exercise them in accordance with the principle of sincere cooperation given that it is a "withdrawing Member State". This strikes us as a potentially important and serious area of discretion for the Government. We therefore request that as on this dossier, the Government is clear about when it is holding back from exercising its full membership rights under the EU Treaties because it judges it to be inappropriate to do so as an exiting Member State. To hold the Government to account for such discretionary self-denial of exercise of Treaty rights falls squarely within the remit of this Committee. We also note that such an approach would put the Government in contradiction with the standard paragraph in all of its Explanatory Memoranda, which states that "Until exit negotiations are

13 For an assessment of recent developments in the CJEU concerning judicial independence and "effective judicial protection", see EU Law Analysis, 15 April 2019, "[Does Poland infringe the principle of effective judicial protection](#)", Femke Gremmelprez, Ghent European Law Institute. This includes consideration of the 2018 CJEU judgment in the [Associação Sindical dos Juizes Portugueses](#) case (C64/16)/.

14 Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States: (39685), 8356/18, COM(18) 324.

concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period, the Government will also continue to negotiate, implement and apply EU legislation”.

2.15 Pending the Minister’s response, we will keep the documents under scrutiny but draw them to the attention of the Justice Committee, the Foreign Affairs Committee and the Joint Committee on Human Rights.

Update on the Article 7 TEU processes relating to Poland and Hungary

2.16 The Government summarises developments in the Article 7 TEU processes against Poland and Hungary as follows:

- On 3 April the European Commission launched an infringement procedure against Poland regarding the new disciplinary regime for judges, stating that the new system undermines judicial independence by not protecting them adequately from political control, and creates a chilling effect. The Polish Government has two months to reply. If it refuses to amend the law, the EC could again refer the case to the CJEU, as it did with the law on the Supreme Court.
- On 11 April, Advocate General Tanchev issued his [opinion](#)¹⁵ that Poland’s reforms to its Supreme Court threaten Poland’s judicial independence and violate EU law.¹⁶ The reforms lowered the retirement age for judges, forcing more than 20 judges into early retirement. The final ruling is due in May; if in line with the AG’s opinion, Poland will need to fully comply (it has already reinstated some of the judges) or face financial penalties.
- In its [Explanatory Memorandum](#) of 2 October 2018, the Government had already informed us of the ongoing infringement proceedings against Hungary, including for the Higher Education Act (with the CJEU ruling expected on 24 June) and legislation on NGO transparency (no date fixed for the CJEU ruling).
- On 24 January the Commission sent a reasoned opinion to Hungary concerning legislation (referred to as the “Stop Soros Laws”), which criminalises activities that support asylum and restricts the right to request asylum. The Commission is now examining the Hungarian response and may refer the case to the CJEU.
- On 18 March, the Venice Commission issued its opinion on Hungary’s new Public Administrative Courts legislation, which from 2020 would handle court cases on government business, such as public procurement and elections. It notes that individually the powers should not adversely affect the independence of the judiciary, but collectively the new powers ‘raise questions’, such as the “very extensive powers” concentrated in just a few hands (including the Justice Minister), and “no effective checks and balances to counteract those powers”. The Hungarian government has already passed amendments to address some of the Venice Commission’s recommendations, but not all of them.

15 Case C-619/18, European Commission v Republic of Poland.

16 He found that the law breaches the principle of the irremovability of judges (security of tenure) and judicial independence under the second subparagraph of Article 19(1) TEU and [Article 47](#) of the Charter of Fundamental Rights (right to an effective remedy and fair trial).

- The European Commission has held a series of hearings and state of play updates at the General Affairs Council (GAC) on Poland, and exchanges of views and state of play updates on Hungary. Most recently, there were state of play updates on both Poland and Hungary at the April GAC. Hearings are likely in June.

Full details of the documents

(a) Proposed for a Council Decision determining pursuant to Article 7 of the Treaty on the European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded: (40077), [12266/18](#) + ADD 1; (b) Proposal for a Council Decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law: (39401), [16007/17](#), COM(17) 835; (c) Communication from the Commission to the European Parliament, the European Council and the Council—Further strengthening the Rule of Law within the Union State of play and possible next steps: (40503), [8312/19](#), COM(19) 163.

Previous Committee Reports

(a) and (b): Fortieth Report HC 301–xxxix (2017–19), [chapter 5](#) (17 October 2018); (b) Fourteenth Report HC 301–xiv (2017–19), [chapter 5](#) (21 February 2018); Also see: (35878), 7632/14: Thirty-fifth Report HC 71–xxxiii (2016–17), [chapter 13](#) (15 March 2017); Thirty-ninth Report HC 219–xxxvii (2014–15), [chapter 3](#) (24 March 2015); Thirty-sixth Report HC 219–xxxv (2014–15), [chapter 1](#) (11 March 2015); Forty-eighth Report HC 83–xliii (2013–14), [chapter 1](#) (7 May 2014).

3 Brexit-preparedness: Fisheries

Committee’s assessment	Politically important
Committee’s decision	Cleared from scrutiny; drawn to the attention of the Environment, Food and Rural Affairs Committee
Document details	(a) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters; (b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union
Legal base	(a) Article 43(2) TFEU, ordinary legislative procedure, QMV (b) Articles 42 and 43(2) TFEU, ordinary legislative procedure, QMV
Department	Environment, Food and Rural Affairs
Document Numbers	(a) (40337), 5678/19, COM(19) 49; (b) (40338), 5668/19, COM(19) 48

Summary and Committee’s conclusions

3.1 To mitigate the impact on the EU fisheries sector of a “no deal” Brexit scenario, the European Commission published two proposals. The first proposal (document (a)) aimed to ensure that the EU was in a position to grant UK vessels access to EU waters until the end of 2019, on the condition that EU vessels were also granted reciprocal access to UK waters. The second proposal (document (b)) would allow fishermen and operators from EU Member States to receive compensation under the European Maritime and Fisheries Fund (EMFF) for the temporary cessation of fishing activities. This would help off-set some of the impact of a sudden closure of UK waters to EU fishing vessels in a no-deal scenario.

3.2 We last considered the proposal at our meeting of 13 March 2019, since when the European Council and the UK have agreed to delay the UK’s withdrawal from the EU until 31 October 2019 at the latest.

3.3 We had asked the Government to clarify the European Parliament’s involvement in ratification of any post-Brexit agreement on fishing opportunities and to respond to our earlier queries about arrangements in the event that the UK withdrew from the EU without a deal on 29 March 2019.

3.4 The Minister for Agriculture, Fisheries and Food (Rt Hon. Robert Goodwill MP) [responded](#) on 26 March. He explained that the European Parliament would—in accordance with Article 218(6) TFEU—be consulted on any legally-binding agreement

covering the fixing and allocation of fishing opportunities. The Minister confirmed that the UK abstained on both proposals at Council on 19 March and all other Member States voted in favour. The Regulations were therefore adopted and will apply until 31 December 2019.

3.5 While the UK’s withdrawal from the EU has been delayed, the UK could still leave the EU without a deal before the end of 2019. In that instance, the provisions of these Regulations would apply for the remainder of 2019. We reiterate our position that disruption to business should be minimised in the event of a no-deal Brexit and that the best way of delivering that objective in the fisheries sector would be to apply the already-negotiated quotas for the whole of 2019.

3.6 While the question of needing to ratify an agreement before the European Parliament sits again after its election is most likely now redundant, we note that the European Parliament would need to give its consent—rather than only being consulted—should any agreement go beyond matters covered in Article 43(3) TFEU (i.e. beyond the fixing and allocation of fishing opportunities).

3.7 We clear the proposals from scrutiny and require no further information. We shall continue to monitor the Government’s Brexit preparations in the fisheries sector through our scrutiny of relevant documents. This chapter is drawn to the attention of the Environment, Food and Rural Affairs Committee.

Full details of the documents

(a) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters: (40337), [5678/19](#), COM(19) 49; (b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union: (40338), [5668/19](#), COM(19) 48.

Previous Committee Reports

Fifty-ninth Report HC 301–lvii (2017–19), [chapter 2](#) (13 March 2019); Fifty-seventh Report HC 301–lvi (2017–19), [chapter 5](#) (6 March 2019); Fifty-fifth Report HC 301–liv (2017–19), [chapter 3](#) (13 February 2019).

4 Cross-border police cooperation: Third country participation in the Prüm framework for exchanging DNA, fingerprint and vehicle registration data

Committee's assessment	Politically important
Committee's decision	Cleared from scrutiny; drawn to the attention of the Home Affairs Committee and the Justice Committee
Document details	<p>(a) Proposal for a Council Decision on the signing and provisional application of certain provisions of the Agreement between the EU and Liechtenstein on the application of the Prüm Decisions on cross-border police cooperation and on the accreditation of forensic service providers</p> <p>(b) Proposal for a Council Decision on the conclusion of the Agreement between the EU and Liechtenstein on the application of the Prüm Decisions on cross-border police cooperation and on the accreditation of forensic service providers</p> <p>(c) Proposal for a Council Decision on the signing and provisional application of certain provisions of the Agreement between the EU and Switzerland on the application of the Prüm Decisions on cross-border police cooperation and on the accreditation of forensic service providers</p> <p>(d) Proposal for a Council Decision on the conclusion of the Agreement between the EU and Switzerland on the application of the Prüm Decisions on cross-border police cooperation and on the accreditation of forensic service providers</p>
Legal base	<p>(a) and (c) Articles 82(1)(d), 87(2)(a) and 218(5) TFEU, QMV</p> <p>(b) and (d) Articles 82(1)(d), 87(2)(a) and 218(6)(a) TFEU, QMV, EP consent</p>
Department	Home Office
Document Numbers	<p>(a) (40373), 6253/19 + ADD 1, COM(19) 35</p> <p>(b) (40374), 6248/19, COM(19) 24</p> <p>(c) (40375), 6251/19 + ADD 1, COM(19) 27</p> <p>(d) (40376), 6249/19, COM(19) 26</p>

Summary and Committee’s conclusions

4.1 The proposed Council Decisions would authorise the EU to sign and conclude Agreements with Liechtenstein and Switzerland enabling them to apply the provisions on cross-border police cooperation contained in three EU measures which together form the “Prüm package”.¹⁷ The EU concluded a similar [Agreement with Iceland and Norway](#) in 2010 which is not yet in force.

4.2 The Prüm Decisions—[Council Decision 2008/615 JHA](#) and [Council Decision 2008/616/JHA](#)—establish a framework for the exchange of information between law enforcement authorities responsible for the prevention and investigation of criminal offences. They contain specific rules and procedures regulating the automated searching and comparison of DNA profiles, fingerprint and vehicle registration data. A further [Council Framework Decision 2009/905/JHA](#) requires forensic laboratories carrying out analysis of DNA and fingerprints to be accredited so that there is mutual trust in the quality and reliability of the systems underpinning the cross-border exchange of information.

4.3 Despite opting out of the Prüm package in December 2014, the Government concluded shortly afterwards “that there would be undoubted operational and public protection benefits” in rejoining Prüm and is currently in the process of implementing the measures in the UK.¹⁸ If adopted by the Council, the latest proposed Decisions would extend participation in the key data-sharing elements of Prüm to Liechtenstein and Switzerland. As they all cite a Title V (justice and home affairs) legal base, the Decisions and the Agreements themselves will only apply to and bind the UK if the Government decides to opt in. The UK [opted into](#) the earlier Agreement with Iceland and Norway.

4.4 In his [letter of 28 March 2019](#), the Minister for Policing and the Fire Service (Rt Hon. Nick Hurd MP) reiterated the Government’s commitment to full implementation of Prüm in the UK and informed us that it had decided to opt into the proposed Council Decisions.¹⁹ He acknowledged that “the Agreements would fall away” once the UK had left the EU and any post-exit transition/implementation period had ended, meaning that any rights derived from the Agreements would cease to exist in UK law, but considered that there were no legal impediments to prevent the EU from concluding an agreement with the UK on its continued participation in Prüm post-exit/transition. Were the EU and UK to do so, the Government would also seek to conclude similar agreements with the Schengen states.²⁰ The Minister noted also that:

[...] the EU Withdrawal Act, as amended by the Withdrawal Agreement Bill, would retain in domestic law any directly effective rights derived from the Agreements which were concluded by the EU before and during the Implementation Period. However, it would be inappropriate to retain such

17 The measures concerned are [Council Decision 2008/615 JHA](#) on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, [Council Decision 2008/616/JHA](#) on the implementation of Council Decision 2008/615/JHA and [Council Framework Decision 2009/905/JHA](#) on accreditation of forensic service providers carrying out laboratory activities.

18 See [Command Paper 9149](#) published in November 2015.

19 See the Minister’s [Written Ministerial Statement of 25 April 2019](#), Hansard, HCWS1524.

20 The Minister confirmed that the UK does not currently have a biometrics data sharing agreement with Liechtenstein or Switzerland.

rights once the UK has ceased to be treated as a Member State during the Implementation Period for the purposes of the Agreements, and they would therefore be revoked.

4.5 We saw no reason to object to the proposed Council Decisions, given that extending participation in Prüm might have operational benefits for the UK (by increasing the pool of data its law enforcement authorities would be able to access) and strengthen the UK's case for a continuing relationship with Prüm and other EU data sharing instruments after leaving the EU. We granted a scrutiny waiver at our meeting on 3 April 2019 to enable the Government to support the adoption of the proposed Decisions but asked the Minister to clarify what he had meant by “directly effective rights derived from the Agreements” and what status these rights would have in domestic law once the UK had left the EU. We requested some indication of the nature of the “directly effective rights” that might accrue under the proposed Agreements with Liechtenstein and Switzerland and how they would be affected by the UK's exit from the EU.

4.6 The Minister's [letter of 30 April 2019](#) largely confirms our understanding that:

- directly effective rights derived from agreements concluded by the EU with third countries until exit day (if the UK leaves without a deal) or until the end of a post-exit transition/implementation period (if the UK leaves with a deal) would be preserved in domestic law;
- these directly effective rights would cease to accrue as a matter of EU law from exit day (if the UK leaves without a deal) or from the end of a post-exit transition/implementation period (if the UK leaves with a deal); and
- the Government would expect to revoke any directly effective rights forming part of retained EU law under the European Union (Withdrawal) Act 2018 post-exit/transition if there is a “deficiency” which needs to be addressed under the powers conferred by section 8 of the 2018 Act.

4.7 Whilst the Government does not consider that the proposed Agreements would confer directly effective rights, their effect would be to extend to Liechtenstein and Switzerland any such rights conferred by the Prüm measures themselves. These are most likely to relate to the mechanisms and conditions governing the exchange of personal data between the parties participating in Prüm.

Our Conclusions

4.8 We thank the Minister for clarifying the nature of the “directly effective rights” that may be conferred by the Prüm measures and how they may be revoked using the powers contained in section 8 of the European Union (Withdrawal) Act 2018 if the UK is unable to reach an agreement with the EU on maintaining the exchange of biometric and other personal data as part of the future EU/UK security partnership.²¹

21 The power to deal with deficiencies in retained EU law under section 8 of the 2018 Act expires two years from exit day.

4.9 We are content to clear the proposed Council Decisions from scrutiny but remind the Minister of our expectation that he will inform us, in due course, of any progress made in fleshing out the “arrangements for timely, effective and efficient exchanges” of [...] “DNA, fingerprints and vehicle registration data (Prüm)” envisaged in the [draft Political Declaration setting out the framework for the future relationship between the EU and the UK](#). We draw this chapter to the attention of the Home Affairs Committee and the Justice Committee.

Full details of the documents

(a) Proposal for a Council Decision on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the EU and Liechtenstein on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Council Decision 2008/615/JHA and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities: (40373), [6253/19](#) + [ADD 1](#), COM(19) 35; (b) Proposal for a Council Decision on the conclusion of the Agreement between the EU and Liechtenstein on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Council Decision 2008/615/JHA and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities: (40374), [6248/19](#), COM(19) 24; (c) Proposal for a Council Decision on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the EU and Switzerland on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Council Decision 2008/615/JHA and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities: (40375), [6251/19](#) + [ADD 1](#), COM(19) 27; (d) Proposal for a Council Decision on the conclusion of the Agreement between the EU and Switzerland on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Council Decision 2008/615/JHA and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities: (40376), [6249/19](#), COM(19) 26.

Background

4.10 A [Report](#) published by our predecessors in December 2015, entitled *Cross-border law enforcement cooperation—UK participation in Prüm*, provides a detailed overview of the EU measures which form part of the Prüm package and the case advanced by the then Government for the UK to participate.

Previous Committee Reports

Sixty-second Report HC 301–lx (2017–19), [chapter 6](#) (3 April 2019) and Fifty-seventh Report HC 301–lvi (2017–19), [chapter 9](#) (6 March 2019). See also our earlier Report on *Cross-border law enforcement cooperation—UK participation in Prüm*: [Twelfth Report](#) HC 342–xii (2015–16), published on 4 December 2015.

5 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

Department for Environment, Food and Rural Affairs

- (40514) Proposal for a Council Decision on the signing, on behalf of the Union, and provisional application of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019–2024)
8408/19
COM(19)172
- (40515) Proposal for a Council Decision on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019–2024)
8408/19
COM(19)171
- (40516) Proposal for a Council Regulation on the allocation of fishing opportunities under the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019–24)
8303/19
COM(19)173

Department for International Development

- (40315) Annual Report on the European Union’s humanitarian aid policies and their implementation in 2017.
—
—
- (40518) Communication from the Commission to the European Parliament and the Council Third Annual Report on the Facility for Refugees in Turkey.
8560/19
COM(19) 174

Foreign and Commonwealth Office

- (40480) Joint Report to the European Parliament and the Council Improving International Ocean Governance—Two years of progress.
7876/19
+ ADD 1
JOIN(19) 4
- (40536) Council Decision extending Decision 2014/486/CFSP on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine).
—
—

(40547) Council Decision amending Decision 2014/219/CFSP on the European Union CSDP Mission in Mali (EUCAP Sahel Mali).

—

—

Home Office

(40496) Report from the Commission to the European Parliament and the Council on the implementation of Directive 2003/86/EC on the right to family reunification.

8093/19

COM(19) 162

Office for National Statistics

(40484) Report from the Commission on the quality of fiscal data reported by Member States in 2018

7880/19

COM(19)155

Formal Minutes

Wednesday 8 May 2019

Members present:

Sir William Cash, in the Chair

Martyn Day	Mr David Jones
Richard Drax	Andrew Lewer
Marcus Fysh	Michael Tomlinson
Kelvin Hopkins	

Scrutiny Report

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 5 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Sixty-fifth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 15 May at 1.45pm]

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers—

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)

[Geraint Davies MP](#) (*Labour/Cooperative, Swansea West*)

[Martyn Day MP](#) (*Scottish National Party, Linlithgow and East Falkirk*)

[Steve Double MP](#) (*Conservative, St Austell and Newquay*)

[Richard Drax MP](#) (*Conservative, South Dorset*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Kate Green MP](#) (*Labour, Stretford and Urmston*)

[Kate Hoey MP](#) (*Labour, Vauxhall*)

[Kelvin Hopkins MP](#) (*Independent, Luton North*)

[Darren Jones MP](#) (*Labour, Bristol North West*)

[Mr David Jones MP](#) (*Conservative, Clwyd West*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Andrew Lewer MP](#) (*Conservative, Northampton South*)

[Michael Tomlinson MP](#) (*Conservative, Mid Dorset and North Poole*)

[David Warburton MP](#) (*Conservative, Somerton and Frome*)

[Dr Philippa Whitford MP](#) (*Scottish National Party, Central Ayrshire*)