Brussels, 17 May 2023

**SP(2023) 260**

Replies of the Commission to positions and resolutions adopted by the European Parliament – April 2023 part-session

**THE FIRST PART OF THIS DOCUMENT INFORMS PARLIAMENT OF THE POSITION OF THE COMMISSION ON AMENDMENTS ADOPTED BY THE PARLIAMENT RELATING TO PROPOSED LEGISLATION DURING THE APRIL 2023 PART-SESSION.**

**IN THE SECOND PART THE COMMISSION LISTS A NUMBER OF NON-LEGISLATIVE RESOLUTIONS ADOPTED BY THE PARLIAMENT DURING SAME PART-SESSION, WITH EXPLANATIONS AS TO WHY IT WILL NOT BE RESPONDING FORMALLY.**

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**Part One**
**Legislative opinions**

**ORDINARY LEGISLATIVE procedure – Second reading**

**Follow up to the European Parliament legislative resolution on the regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1806 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Kosovo\*)**

**1. Rapporteur:** Thijs REUTEN (S&D / NL)

**2. Reference numbers:** 2016/0139 (COD) / A9-0076/2023 / P9\_TA(2023)0096

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 77(2) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Civil Liberties, Justice and Home Affairs (LIBE)

**6. Commission's position:** accepts all amendments.

\*This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on Machinery products**

**1. Rapporteur:** Ivan ŠTEFANEC (EPP / SK)

**2. Reference numbers:** 2021/0105 (COD) / A9-0141/2022 / P9\_TA(2023)0097

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 114 of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Internal Market and Consumer Protection (IMCO)

**6. Commission's position:** accepts all amendments. The Commission presented the following statement:

"Commission statement on the occasion of the adoption of Regulation (EU) 2023/...\*+: When assessing the criteria in Article 5(4) of Regulation (EU) 2023/..., the Commission will pay particular attention to categories of products for which a significant number of accidents and fatalities occurs”.

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757**

**1. Rapporteur:** Peter LIESE (EPP / DE)

**2. Reference numbers:** 2021/0211A (COD) / A9-0162/2022 / P9\_TA(2023)0098

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 192(1) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**6. Commission's position:** accepts all amendments. The Commission presented the following statements:

**First statement:**

“The dedicated topics for maritime in calls for proposal referred to in Article 10a(8) should deploy 20 million allowances up to 2030 in these areas, following the applicable rules thereunder”

**Second statement:**

“In order to further enhance the integrity and transparency of the European carbon market, the Commission will introduce changes in the delegated acts which govern the auctioning of emission allowances and functioning of the Union Registry, to improve regulatory reporting and market monitoring in the market of emission allowances and derivatives thereof, promote the prevention and detection of market abuse and help in maintaining orderly markets for emission allowances and related derivatives.

Article 36 of Commission Regulation (EU) No 1031/2010 (Auctioning Regulation) establishes an obligation for the auction platform to report the complete and accurate details of every auctioning transaction to their competent national authority designated under Directive 2014/65/EU (MiFID 2). In the upcoming revision of the Auctioning Regulation, the Commission will provide for data on auctions to also be reported directly to the European Securities and Markets Authority (ESMA). This will enhance the efficient monitoring of auctions in emission allowances and relevant linkages with the secondary market.

Article 55(4) of Commission Regulation (EU) No 2019/1122 (Registry Regulation) provides that purely bilateral OTC transactions have to be marked upon the initiation of a transfer of emission allowances in the Union Registry. However, this marking is not done systematically by market participants. The Commission will amend the requirement of marking of purely bilateral OTC transaction, in order to better inform account holders and to ensure a better implementation of this provision. In addition, the Commission will implement technical adjustments in the system of the Union Registry to make this marking a mandatory requirement for the execution of transactions.

In order to improve the quality of data available to market regulators for the so-called spot market of emission allowances, the Commission will also amend the Registry Regulation to allow the market regulators to request regular access to data from the Union Registry. This will allow regulators to receive timely information which can be cross-checked with regulatory data received on derivatives markets and to intervene if appropriate in order to uphold the proper functioning of the European carbon market.

Finally, the Commission would like to remind that, as from January 2018, emission allowances are classified as financial instruments by the Directive on Markets in Financial Instruments (MiFID2). Previously, only the derivative contracts of emission allowances were in the scope of financial market rules. In practice, this classification creates very specific obligations for entities trading in the European carbon market.

According to Article 58 of Directive 2014/65/EU (MiFID2), all market participants must report on a daily basis the number of positions they are holding in the carbon market (position reporting). These position reports are submitted to relevant national competent authorities and are published on a weekly basis by ESMA.

According to Article 26 of Regulation (EU) No 600/2014 (MiFIR), market participants must also report details of all their financial transactions in emission allowances and derivatives thereof, including over-the-counter transactions, to national authorities (obligation to report transactions). According to Article 16 of Regulation (EU) No 596/2014 (Market Abuse Regulation), all market participants are subject to strict rules on preventing market abuse, including legal obligation to notify any suspicious trading behaviour to the relevant financial authorities.

Market participants must report their transactions in allowances and derivatives thereof to the relevant national competent authorities, which are responsible for the oversight of the carbon market. At European level, their actions are coordinated by the ESMA, as is the case for other financial instruments.”

**Third statement:**

“The Commission considers that Articles 3d(4), 10(3) and 30d(6) of Directive 2003/87/EC do not oblige Member States to set aside any funds at national level. That Directive establishes both the source of the revenue and sets general purposes for the Member States to choose from for the use of that revenue.

The Commission confirms that Member States are not required to earmark the revenues from the auctioning of ETS allowances, but may use ‘the equivalent in financial value’ of these revenues.”

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757**

**1. Rapporteur:** Peter LIESE (EPP / DE)

**2. Reference numbers:** 2021/0211B (COD) / A9-0134/2023 / P9\_TA(2023)0099

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 192(1) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**6. Commission's position:** accepts all amendments.

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing a Social Climate Fund**

**1. Rapporteur:** David CASA (EPP / MT), Esther de LANGE (EPP / NL)

**2. Reference numbers:** 2021/0206 (COD) / A9-0157/2022 / P9\_TA(2023)0101

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 91(1), point (d), Article 192(1) and Article 194(1), point (c) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI), Committee on Employment and Social Affairs (EMPL)

**6. Commission's position:** accepts all amendments. The Commission presented the following statements:

**First statement**

“As part of the negotiations under the recast of the Energy Efficiency Directive (EED recast), the Commission's intention is to present a targeted amendment to the Regulation establishing a Social Climate Fund to update the definition of energy poverty in line with the agreement reached on the definition of energy poverty in the EED recast.”

**Second statement**

“In the Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources, points 30 to 33 require the Commission to make available an integrated and interoperable information and monitoring system including a single data-mining and risk-scoring tool to access and analyse the required data with a view to a generalised application by Member States. In addition, the three institutions agreed to sincerely cooperate, in the course of the legislative procedure relating to the relevant basic acts, to ensure the follow up to the European Council conclusions of July 2020 regarding this element.

The Commission considers that the agreement reached by the co-legislators on the use of a single data-mining tool and the collection and analysis of data on the beneficial owners of the recipients of funding is not sufficient to enhance the protection of the Union budget against fraud and irregularities and to ensure efficient checks on conflicts of interests, irregularities, issues of double funding, and criminal misuse of the funds. Therefore, the approach agreed by the co-legislators in the Regulation establishing a Social Climate Fund does not appropriately reflect the desired ambition and spirit of the Inter-institutional Agreement.”

**Third statement**

“The Commission considers that the agreement reached by the co-legislators under “Annex III - Key requirements for the Member State’s control system” of the Regulation establishing a Social Climate Fund concerning Member States’ possibility to designate more than one authority that can be entrusted with the responsibility to sign the management declaration accompanying the payment requests could lead to inefficiencies and a dilution of responsibilities as well as create confusion about the roles of the authorities.”

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC as regards aviation’s contribution to the Union’s economy-wide emission reduction target and appropriately implementing a global market-based measure**

**1. Rapporteur:** Sunčana GLAVAK (EPP / HR)

**2. Reference numbers:** 2021/0207 (COD) / A9-0155/2022 / P9\_TA(2023)0102

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 192(1) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**6. Commission's position:** accepts all amendments. The Commission presented the following statement:

“The Commission will publish data referred to in Article 14(6) of Directive 2003/87/EC from 2023 onwards in a user-friendly manner, including data at a higher level of aggregation where appropriate as set out in that paragraph.”

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism**

**1. Rapporteur:** Mohammed CHAHIM (S&D / NL)

**2. Reference numbers:** 2021/0214 (COD) / A9-0160/2022 / P9\_TA(2023)0100

**3. Date of adoption of the resolution:** 18 April 2023

**4. Legal basis:** Article 192(1) of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**6. Commission's position:** accepts all amendments. The Commission presented the following statement:

“The Commission recalls that the final agreement reached by the co-legislators on the establishment of the carbon border adjustment mechanism (CBAM) has evolved significantly in terms of the human resources required for its implementation within the Commission, compared to the legislative financial statement which accompanied the original proposal (COM(2021) 564 final of 14.07.2021), which was based on a decentralised model of implementation.

The additional Commission human resources required by the final agreement endorsed by the co-legislators will not allow the Commission to respect the principle of stable staffing and will require additional resources, to be authorised by the European Parliament and the Council during the annual budget procedure along with the related budgetary appropriations.

Without any additional means, such as the external assigned revenue accruing from the ETS, the options to finance the necessary administrative costs (staff and IT) of CBAM cannot be easily found. Heading 7 European Public Administration of the multiannual financial framework 2021-2027 was built on the principle of stable staffing, and there is no margin to finance additional officials.

The margin in Heading 3 Natural resources and Environment may in principle accommodate IT-related expenditure, subject to its limits. The reduced availabilities under the heading will limit the capacity of the EU budget to finance new political priorities.”

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010**

**1. Rapporteur:** Christophe HANSEN (EPP / LU)

**2. Reference numbers:** 2021/0366 (COD) / A9-0219/2022 / P9\_TA(2023)0109

**3. Date of adoption of the resolution:** 19 April 2023

**4. Legal basis:** Article 192 of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**6. Commission's position:** accepts all amendments.

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on markets in crypto-assets and amending Directive (EU) 2019/1937**

**1. Rapporteur:** Stefan BERGER (EPP / DE)

**2. Reference numbers:** 2020/0265 (COD) / A9-0052/2022 / P9\_TA(2023)0117

**3. Date of adoption of the resolution:** 20 April 2023

**4. Legal basis:** Article 114 of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)

**6. Commission's position:** accepts all amendments.

**ORDINARY LEGISLATIVE procedure – First reading**

**Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets (recast)**

**1. Rapporteur:** Ernest URTASUN (Greens/EFA / ES), Assita KANKO (ECR / BE)

**2. Reference numbers:** 2021/0241 (COD) / A9-0081/2022 / P9\_TA(2023)0118

**3. Date of adoption of the resolution:** 20 April 2023

**4. Legal basis:** Article 114 of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)

**6. Commission's position:** accepts all amendments.

**Part Two**
**Non-legislative resolutions**

**THE COMMISSION DOES NOT INTEND TO RESPOND FORMALLY TO THE FOLLOWING NON-LEGISLATIVE RESOLUTIONS, ADOPTED BY THE EUROPEAN PARLIAMENT DURING THE APRIL 2023 PART-SESSION**

* eGovernment accelerating digital public services that support the functioning of the single market (2022/2036 (INI))

EP: A9-0065/2023

Rapporteur: Tomislav SOKOL

Date: 18-04-2023

Competence: Thierry BRETON, Margrethe VESTAGER

Reason: The Commission will not be responding formally to the requests addressed in the resolution. The points raised in the report were comprehensively addressed in plenary by Vice-President Šuica, on behalf of Commission Breton.

* Institutional relations between the EU and the Council of Europe (2022/2137 (INI))

EP: A9-0056/2023

Rapporteur: Loránt VINCZE

Date: 18-04-2023

Competence: Josep BORRELL FONTELLES

# Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Vice-President Šuica, on behalf of the High Representative/Vice-President Borrell

* Challenges facing the Republic of Moldova (2023/2595 (RSP))

EP: RC9-0198/2023

Date: 19-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Várhelyi, on behalf of the High Representative/Vice-President Borrell

* EU Rapid Deployment Capacity, EU Battlegroups and Article 44 TEU: the way forward (2022/2145 (INI))

EP: A9- 0077/2023

Rapporteur: Javi LÓPEZ

Date: 19-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Hahn, on behalf of the High Representative/Vice-President Borrell.

* Implementation of civilian CSDP and other EU civilian security assistance (2022/2196 (INI))

EP: A9-0091/2023

Rapporteur: Alviina ALAMETSÄ

Date: 19-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Vice-President Šuica, on behalf of the High Representative/Vice-President Borrell.

* The crackdown on the right to education and education rights activists in Afghanistan, including the case of Matiullah Wesa (2023/2648 (RSP))

EP: RC9-0205/2023

Date: 20-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Kyriakides, on behalf of the High Representative/Vice-President Borrell.

* Repression in Russia, in particular the cases of Vladimir Kara-Murza and Aleksei Navalny (2023/2657 (RSP))

EP: RC9-0225/2023

Date: 20-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Kyriakides, on behalf of the High Representative/Vice-President Borrell.

* The risk of death penalty and execution of singer Yahaya Sharif Aminu for blasphemy in Nigeria (2023/2650 (RSP))

EP: RC9-0212/2023

Date: 20-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Kyriakides, on behalf of the High Representative/Vice-President Borrell

* Universal decriminalisation of homosexuality in light of recent developments in Uganda (2023/2643 (RSP))

EP: RC9-0219/2023

Date: 20-04-2023

Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Kyriakides, on behalf of the High Representative/Vice-President Borrell