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CONTRIBUTION OF THE LEGAL SERVICE¹

To:	the Representatives of the Governments of the Member States
Subject:	EU-Ukraine Association Agreement
	<ul style="list-style-type: none">• Corruption and respect for the rule of law• Suspension of rights and obligations

The Legal Service of the Council hereby confirms in writing its opinion orally given on 12 December 2016 that point F of the draft Decision of the Heads of State or Government on the EU-Ukraine Association Agreement does not extend the scope of the possibility to suspend rights and obligations provided for by the Agreement, as it is foreseen by Article 478.

¹ This document contains legal advice protected under Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, and not released by the Council of the European Union to the public. The Council reserves all its rights in law as regards any unauthorised publication.

It follows from the combined reading of the provisions of Article 478(2) and 478(3) that no exception to the scope of a possible suspension applies when one of the parties acts in violation of one of the essential elements of the Agreement, as defined by its Article 2. Respect for the principle of the rule of law is one of such essential elements. The failure to take effective action against corruption, a criminal activity intended to prevent the law from being applied equally to all, cannot be considered to be respectful of the principle of the rule of law. Therefore, acting against corruption is an essential element of the obligations undertaken by the parties to the Agreement.

In the light of the above, the indirect reference in F to corruption - mentioned in E under the heading of respect for the rule of law - as justifying suspension measures as a last resort is in accordance with the terms of the Agreement and does not constitute a broadening of the scope of its provisions on the suspension of rights and obligations (Article 478).
