Official Journal of the European Union

L 132

English edition

Legislation

Volume 66

17 May 2023

Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

[1] Text with EEA relevance.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2023/969 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

establishing a collaboration platform to support the functioning of joint investigation teams and amending Regulation (EU) 2018/1726

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1), second subparagraph, point (d), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ([1]),

Whereas:

(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured. At the same time, the Union should ensure that that area remains a safe place. That objective can only be achieved by more effective, coordinated cooperation of the national and international law enforcement and judicial authorities and by means of appropriate measures to prevent and combat crime, including organised crime and terrorism.

(2) Achieving that objective is especially challenging where crime takes a cross-border dimension on the territory of two or more Member States and/or third countries. In such situations, Member States need to be able to join their forces and operations to allow for effective and efficient cross-border investigations and prosecutions, for which the exchange of information and evidence is crucial. One of the most successful tools for such cross-border cooperation is joint investigation teams ('JITs') that allow for direct cooperation and communication between the judicial and law enforcement authorities of two or more Member States and possibly third countries so that they can organise their actions and investigations in the most efficient manner. JITs are set up for a specific purpose and a limited period by the competent authorities of two or more Member States and possibly third countries, to carry out criminal investigations with a cross-border impact jointly.

(3) JITs have proven instrumental in improving judicial cooperation in relation to the investigation and prosecution of cross-border crimes, such as cybercrime, terrorism, and serious and organised crime, by reducing time-consuming procedures and formalities between JIT members. The increased use of JITs has also enhanced the culture of cross-border cooperation in criminal matters between judicial authorities in the Union.

([1]) Position of the European Parliament of 30 March 2023 (not yet published in the Official Journal) and decision of the Council of 24 April 2023.

(4) The Union *acquis* provides for two legal frameworks to set up JITs with the participation of at least two Member States: Article 13 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union ([2]) and Council Framework Decision 2002/465/JHA ([3]). Third countries can be involved in JITs as Parties where there is a legal basis for such involvement, such as Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, signed in Strasbourg on 8 November 2001 ([4]) and Article 5 of the Agreement on mutual legal assistance between the European Union and the United States of America ([5]).

(5) International judicial authorities play a crucial role in the investigation and prosecution of international crimes. Their representatives may participate in a particular JIT on invitation of the JIT members based on the relevant agreement setting up a JIT ('JIT agreement'). Therefore, the exchange of information and evidence between national competent authorities and any other court, tribunal or mechanism that aims to address serious crimes of concern to the international community as a whole, in particular the International Criminal Court (ICC), should be facilitated as well. This Regulation should therefore provide access to the Information Technology (IT) platform ('JITs collaboration platform') for representatives of such international judicial authorities in order to enhance international cooperation in relation to the investigation and prosecution of international crimes.

(6) There is a pressing need for a collaboration platform for JITs to communicate efficiently and to exchange information and evidence in a secure manner in order to ensure that those responsible for the gravest crimes can be swiftly held responsible. That need is underlined by the mandate of the European Union Agency for Criminal Justice Cooperation (Eurojust) established by Regulation (EU) 2018/1727 of the European Parliament and of the Council ([6]), which was amended by Regulation (EU) 2022/838 of the European Parliament and of the Council ([7]), enabling Eurojust to preserve, analyse and store evidence relating to genocide, crimes against humanity, war crimes and related criminal offences and enabling the exchange of related evidence with competent national authorities and international judicial authorities, in particular the ICC.

(7) The existing legal frameworks at Union level do not set out how the entities that participate in a JIT are to exchange information and communicate. Those entities reach an agreement on such exchange and communication on the basis of needs and available means. To fight increasingly complex and fast-evolving cross-border crime, speed, cooperation and efficiency are crucial. However, there is currently no system to support the management of JITs, to allow for more efficient evidence searching and recording, and to secure the data exchanged between those involved in a JIT. There is an evident lack of dedicated secure and effective channels to which all those involved in a JIT could have recourse and through which they could promptly exchange large volumes of information and evidence or allow for secure and effective communication. Furthermore, there is no system to support either the management of JITs, including the traceability of evidence exchanged among those involved in a JIT in a manner that is compliant with legal requirements before national courts, or the planning and coordination of operations of a JIT.

(8) In light of the increasing possibilities of crime infiltrating IT systems, the current state of play could hamper the effectiveness and efficiency of cross-border investigations, as well as jeopardise and slow down such investigations and prosecutions due to the insecure and non-digital exchange of information and evidence, thereby making them more costly. The judicial and law enforcement authorities in particular need to ensure that their systems are as modern and as safe as possible and that all JIT members can connect and interact easily, independently of their national systems.

([2]) OJ C 197, 12.7.2000, p. 3.
([3]) Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).
([4]) ETS No 182.
([5]) OJ L 181, 19.7.2003, p. 34.
([6]) Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).
([7]) Regulation (EU) 2022/838 of the European Parliament and of the Council of 30 May 2022 amending Regulation (EU) 2018/1727 as regards the preservation, analysis and storage at Eurojust of evidence relating to genocide, crimes against humanity, war crimes and related criminal offences (OJ L 148, 31.5.2022, p. 1).

(9) It is important for JIT cooperation to be improved and supported by modern IT tools. The speed and efficiency of the exchanges between those involved in a JIT could be considerably enhanced by creating a dedicated IT platform to support the functioning of JITs. Therefore, it is necessary to lay down rules establishing a JITs collaboration platform at Union level in order to help those involved in a JIT to collaborate, securely communicate and share information and evidence.

(10) The JITs collaboration platform should only be used where there is, inter alia, a Union legal basis for the setting up of a JIT. For all JITs set up solely on international legal bases, the JITs collaboration platform should not be used, since it is financed by the Union budget and developed on the basis of Union legislation. However, where the competent authorities of a third country are a Party to a JIT agreement that has a Union legal basis as well as an international one, the representatives of the competent authorities of that third country should be considered to be JIT members.

(11) The use of the JITs collaboration platform should be on a voluntary basis. However, in view of its added value for cross-border investigations, its use is strongly encouraged. The use or non-use of the JITs collaboration platform should not prejudice or affect the legality of other forms of communication or exchange of information, nor should it change the way in which the JITs are set up, are organised or function. The establishment of the JITs collaboration platform should not have an impact on the underlying legal bases for the setting up of JITs, nor should it affect the applicable national procedural legislation regarding the collection and use of the obtained evidence. Officials from other national competent authorities, such as customs, where they are members of JITs set up pursuant to Framework Decision 2002/465/JHA, should be able to have access to the JIT collaboration spaces. The JITs collaboration platform should only provide a secure IT tool to improve cooperation, accelerate the flow of information between its users and increase the security of the data exchanged and the effectiveness of the JITs.

(12) The JITs collaboration platform should cover the operational and post-operational phases of a JIT from the moment that the relevant JIT agreement is signed until the JIT evaluation has been completed. Due to the fact that the actors participating in the JIT set-up process are different from the actors who are members of a JIT once it is established, the process of setting up a JIT, especially the negotiation of the content and the signature of the JIT agreement, should not be managed through the JITs collaboration platform. However, given the need for an electronic tool to support the process of signing a JIT agreement, it is important for the Commission to consider covering that process by the e-Evidence Digital Exchange System (eEDES), which is a secure online portal for electronic requests and responses developed by the Commission.

(13) For each JIT that uses the JITs collaboration platform, the JIT members should be encouraged to conduct an evaluation of the JIT, either during the operational phase of the JIT or following its closure, using the tools provided for by the JITs collaboration platform.

(14) A JIT agreement, including any appendices, should be a prerequisite for the use of the JITs collaboration platform. The content of all future JIT agreements should be adapted to take into account the relevant provisions of this Regulation.

(15) The network of national experts on JITs, which was formed in 2005 ('JITs Network'), developed a model agreement which includes appendices, in order to facilitate the setting up of JITs. The content of the model agreement and its appendices should be adapted to take into account the decision to use the JITs collaboration platform and the rules for access to the JITs collaboration platform.

(16) From an operational perspective, the JITs collaboration platform should be composed of isolated JIT collaboration spaces created for each individual JIT hosted by the JITs collaboration platform.

(17) From a technical perspective, the JITs collaboration platform should be accessible via a secure connection over the internet and should be composed of a centralised information system, accessible through a secure web portal, communication software for mobile and desktop devices, including an advanced logging and tracking mechanism, and a connection between the centralised information system and the relevant IT tools that support the functioning of JITs and that are managed by the JITs Network Secretariat.

(18) The purpose of the JITs collaboration platform should be to facilitate the coordination and management of a JIT. The JITs collaboration platform should ensure the exchange and temporary storage of operational information and evidence, provide secure communication, provide for evidence traceability and support the process of the evaluation of a JIT. All those involved in a JIT should be encouraged to use all functionalities of the JITs collaboration platform and to replace insofar as possible the communication and data exchange channels which are currently used with those of the JITs collaboration platform.

(19) The coordination and exchange of data between Union agencies and bodies in the area of freedom, security and justice that are involved in judicial cooperation and JIT members is key in ensuring a coordinated Union response to criminal activities and in providing crucial support to Member States in tackling crime. The JITs collaboration platform should complement existing tools that allow for the secure exchange of data among judicial and law enforcement authorities, such as the Secure Information Exchange Network Application (SIENA) managed by the European Union Agency for Law Enforcement Cooperation (Europol) established by Regulation (EU) 2016/794 of the European Parliament and of the Council ([8]).

(20) Communication-related functionalities of the JITs collaboration platform should be provided by state-of-the-art software that allows for non-traceable communication to be stored locally on the devices of the JITs collaboration platform users.

(21) A proper functionality that allows the exchange of operational information and evidence, including large files, should be ensured through an upload/download mechanism designed to store the data centrally only for the limited period of time necessary for the technical transfer of the data. As soon as the data are downloaded by all addressees, they should be automatically and permanently erased from the JITs collaboration platform.

(22) Given its experience with managing large-scale systems in the area of justice and home affairs, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) established by Regulation (EU) 2018/1726 of the European Parliament and of the Council ([9]) should be entrusted with the task of designing, developing and operating the JITs collaboration platform, making use of the existing functionalities of SIENA and other functionalities at Europol to ensure complementarity and, where appropriate, connectivity. Therefore, eu-LISA's mandate should be amended to reflect those new tasks and eu-LISA should be provided with the appropriate funding and staffing to meet its responsibilities under this Regulation. In that regard, rules should be established on the responsibilities of eu-LISA, as the agency entrusted with the development, technical operation and maintenance of the JITs collaboration platform.

(23) eu-LISA should ensure that data held by law enforcement authorities could, where necessary, easily be transmitted from SIENA to the JITs collaboration platform. To that end, a report should be submitted by the Commission to the European Parliament and to the Council assessing the necessity, feasibility and suitability of a connection of the JITs collaboration platform with SIENA. That report should contain the conditions, technical specifications and procedures that ensure a secure and efficient connection and data exchange. The assessment should take into account the high level of data protection needed for such a connection, based on the existing Union and national data protection legal framework, such as Directive (EU) 2016/680 of the European Parliament and of the Council ([10]), Regulation (EU) 2018/1725 of the European Parliament and of the Council ([11]) and the rules applicable

([8]) Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

([9]) Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

([10]) Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

([11]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

to relevant Union bodies, offices or agencies in the legal acts establishing them. The protection level of data that will be exchanged through the JITs collaboration platform, namely sensitive and non-classified data, should be taken into account. In accordance with Regulation (EU) 2018/1725, the Commission should also consult the European Data Protection Supervisor prior to submitting that report to the European Parliament and Council with regard to the impact on the protection of individuals' rights and freedoms stemming from the envisaged processing of personal data.

(24) Since the formation of the JITs Network in 2005, the JITs Network Secretariat supports the work of the JITs Network by organising annual meetings and training activities, by collecting and analysing evaluations of the individual JITs and by managing Eurojust's JIT funding programme. Since 2011, the JITs Network Secretariat has been hosted by Eurojust as a separate unit. Eurojust should be provided with appropriate staff allocated to the JITs Network Secretariat in order to allow the JITs Network Secretariat to support JITs collaboration platform users in the practical application of the JITs collaboration platform, to provide day-to-day guidance and assistance, to design and provide training courses and to raise awareness and promote the use of the JITs collaboration platform.

(25) Given the currently existing IT tools supporting operations of JITs, which are hosted at Eurojust and managed by the JITs Network Secretariat, it is necessary to connect the JITs collaboration platform with those IT tools, in order to facilitate the management of JITs. To that end, Eurojust should ensure the necessary technical adaptation of its systems in order to establish such a connection. Eurojust should also be provided with the appropriate funding and staffing to meet its responsibilities in that regard.

(26) During the operational phase of a JIT, Eurojust and Europol provide valuable operational support to JIT members by offering a wide range of supporting tools, including mobile offices, cross-match and analytical analyses, coordination and operational centres, the coordination of prosecution, expertise and funding.

(27) In order to ensure a clear division of rights and tasks, rules should be established on the responsibilities of Member States, Eurojust, Europol, the European Public Prosecutor's Office ('the EPPO') established by Council Regulation (EU) 2017/1939 ([12]), the European Anti-Fraud Office (OLAF) established by Commission Decision 1999/352/EC, ECSC, Euratom ([13]) and other competent Union bodies, offices and agencies, including the conditions under which they may use the JITs collaboration platform for operative purposes.

(28) This Regulation sets out the details regarding the mandate, composition and organisational aspects of a Programme Management Board which should be established by the Management Board of eu-LISA. The Programme Management Board should ensure adequate management of the design and development phase of the JITs collaboration platform. It is also necessary to set out the details of the mandate, composition and organisational aspects of an Advisory Group to be established by eu-LISA in order to obtain expertise related to the JITs collaboration platform, in particular in the context of the preparation of eu-LISA's annual work programme and annual activity report.

(29) This Regulation establishes rules on access to the JITs collaboration platform and the necessary safeguards. The JIT space administrator or administrators should be entrusted with the management of access rights to the individual JIT collaboration spaces. They should be in charge of managing access, during the operational and post-operational phases of the JIT, for JITs collaboration platform users, on the basis of the relevant JIT agreement. JIT space administrators should be able to delegate their technical and administrative tasks to the JITs Network Secretariat, except for verification of the data uploaded by third countries or representatives of international judicial authorities.

(30) Bearing in mind the sensitivity of the operational data exchanged among the JITs collaboration platform users, the JITs collaboration platform should ensure a high level of security. eu-LISA should take all necessary technical and organisational measures in order to ensure the security of the exchange of data by using strong end-to-end encryption algorithms to encrypt data in transit or at rest.

([12]) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

([13]) Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20).

(31) This Regulation establishes rules on the liability of Member States, eu-LISA, Eurojust, Europol, the EPPO, OLAF and other competent Union bodies, offices and agencies, in respect of material or non-material damage occurring as a result of any act incompatible with this Regulation. Concerning third countries and international judicial authorities, liability clauses in respect of material or non-material damage should be contained in the relevant JIT agreements.

(32) This Regulation lays down specific data protection provisions that concern both operational data and non-operational data. Those data protection provisions are required in order to supplement the existing data protection arrangements and to provide for an adequate overall level of data protection, data security and protection of the fundamental rights of the persons concerned.

(33) The processing of personal data under this Regulation should comply with the Union's legal framework on the protection of personal data. Directive (EU) 2016/680 applies to the processing of personal data by competent national authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including safeguarding against and preventing threats to public security. As regards the processing of data by Union institutions, bodies, offices and agencies, Regulation (EU) 2018/1725 applies in the context of this Regulation. To that end, appropriate data protection safeguards should be ensured.

(34) Each competent national authority of a Member State and, where appropriate, Eurojust, Europol, the EPPO, OLAF or any other competent Union body, office or agency, should be individually responsible for the processing of operational personal data when using the JITs collaboration platform. JITs collaboration platform users should be considered joint controllers, within the meaning of Regulation (EU) 2018/1725, for the processing of non-operational personal data.

(35) In accordance with the relevant JIT agreement, it should be possible for JIT space administrators to grant access to a JIT collaboration space to representatives of competent authorities of third countries which are Parties to a JIT agreement or to representatives of international judicial authorities who participate in a JIT. In the context of a JIT agreement, any transfer of personal data to third countries or international judicial authorities, those authorities being considered international organisations for that purpose, is subject to compliance with the provisions set out in Chapter V of Directive (EU) 2016/680. Exchanges of operational data with third countries or international judicial authorities should be limited to those strictly required to fulfil the purposes of the relevant JIT agreement.

(36) Where a JIT has multiple JIT space administrators, one of them should be designated in the relevant JIT agreement as controller of the data uploaded by third countries or representatives of international judicial authorities, before the JIT collaboration space in which third countries or representatives of international judicial authorities are involved is created.

(37) eu-LISA should ensure that accessing the centralised information system and all data processing operations in the centralised information system are logged for the purposes of monitoring data integrity and security and the lawfulness of the data processing, as well as for the purposes of self-monitoring. eu-LISA should not have access to operational and non-operational data stored in the JIT collaboration spaces.

(38) This Regulation imposes reporting obligations on eu-LISA regarding the development and functioning of the JITs collaboration platform in light of objectives relating to the planning, technical output, cost-effectiveness, security and quality of service. Furthermore, the Commission should conduct an overall evaluation of the JITs collaboration platform that takes into account the objectives of this Regulation, as well as the aggregated results of the evaluations of the individual JITs, not later than two years after the start of operations of the JITs collaboration platform and every four years thereafter.

(39) While the cost of setting up and maintenance of the JITs collaboration platform and the supporting role of Eurojust after the start of operations of the JITs collaboration platform should be borne by the Union budget, each Member State, as well as Eurojust, Europol, the EPPO, OLAF and any other competent Union body, office and agency, should bear its own costs that arise from its use of the JITs collaboration platform.

(40) In order to establish uniform conditions for the technical development and implementation of the JITs collaboration platform, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council ([14]).

(41) The Commission should adopt the relevant implementing acts necessary for the technical development of the JITs collaboration platform as soon as possible after the date of entry into force of this Regulation.

(42) The Commission should determine the date of the start of operations of the JITs collaboration platform once the relevant implementing acts necessary for the technical development of the JITs collaboration platform have been adopted and eu-LISA has carried out a comprehensive test of the JITs collaboration platform, with the involvement of the Member States.

(43) Since the objective of this Regulation, namely to enable the effective and efficient cooperation, communication and exchange of information and evidence among JIT members, representatives of international judicial authorities, Eurojust, Europol, OLAF and other competent Union bodies, offices and agencies, cannot be sufficiently achieved by the Member States, but can rather, by setting out common rules, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

(44) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union (TFEU), Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(45) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified, by letter of 7 April 2022, its wish to take part in the adoption and application of this Regulation.

(46) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered formal comments on 25 January 2022,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation:

(a) establishes an IT platform (the 'JITs collaboration platform'), to be used on a voluntary basis, to facilitate the cooperation of competent authorities participating in joint investigation teams ('JITs') set up on the basis of Article 13 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union or of Framework Decision 2002/465/JHA;

([14]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(b) lays down rules on the division of responsibilities between the JITs collaboration platform users and the agency responsible for the development and maintenance of the JITs collaboration platform;

(c) sets out conditions under which the JITs collaboration platform users may be granted access to the JITs collaboration platform;

(d) lays down specific data protection provisions needed to supplement the existing data protection arrangements and to provide for an adequate overall level of data protection, data security and protection of the fundamental rights of the persons concerned.

Article 2

Scope

1. This Regulation applies to the processing of information, including personal data, within the context of a JIT. That includes the exchange and storage of operational data, as well as of non-operational data.

2. This Regulation applies to the operational and post-operational phases of a JIT, starting from the moment the relevant JIT agreement is signed until all operational and non-operational data of that JIT have been removed from the centralised information system.

3. This Regulation does not amend or otherwise affect the existing legal provisions on the establishment, conduct or evaluation of JITs.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'centralised information system' means a central IT system where the storage and processing of JITs-related data takes place;

(2) 'communication software' means software that facilitates the exchange of files and messages in text, audio, image or video formats between JITs collaboration platform users;

(3) 'competent authorities' means the authorities of the Member States that are competent to be part of a JIT that was set up in accordance with Article 13 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union on Mutual Assistance in Criminal Matters between the Member States of the European Union and Article 1 of Framework Decision 2002/465/JHA, the EPPO when acting pursuant to its competences as provided for in Articles 22, 23 and 25 of Regulation (EU) 2017/1939, as well as the competent authorities of a third country where they are Party to a JIT agreement under an additional legal basis;

(4) 'JIT members' means representatives of the competent authorities;

(5) 'JITs collaboration platform users' means JIT members, Eurojust, Europol, OLAF and other competent Union bodies, offices and agencies or representatives of an international judicial authority that participates in a JIT;

(6) 'international judicial authority' means an international body, court, tribunal, or mechanism established to investigate and prosecute serious crimes of concern to the international community as a whole, namely crimes of genocide, crimes against humanity, war crimes and related criminal offences that affect international peace and security;

(7) 'JIT collaboration space' means an individual isolated space for each JIT hosted on the JITs collaboration platform;

(8) 'JIT space administrator' means a Member State's JIT member, or an EPPO JIT member, designated in a JIT agreement, in charge of a JIT collaboration space;

(9) 'operational data' means information and evidence processed by the JITs collaboration platform during the operational phase of a JIT to support cross-border investigations and to support prosecutions;

(10) 'non-operational data' means administrative data processed by the JITs collaboration platform, in particular to facilitate the management of a JIT and cooperation between JITs collaboration platform users.

Article 4

Technical architecture of the JITs collaboration platform

The JITs collaboration platform shall be composed of the following:

(a) a centralised information system which allows for temporary central data storage;

(b) communication software which allows for the secure local storage of communication data on the devices of the JITs collaboration platform users;

(c) a connection between the centralised information system and relevant IT tools that support the functioning of JITs and that are managed by the JITs Network Secretariat.

The centralised information system shall be hosted by eu-LISA at its technical sites.

Article 5

Purpose of the JITs collaboration platform

The purpose of the JITs collaboration platform shall be to facilitate:

(a) the coordination and management of a JIT, through a set of functionalities that support the administrative and financial processes within the JIT;

(b) the rapid and secure exchange and temporary storage of operational data, including large files, through an upload and download functionality;

(c) secure communications through a functionality that covers instant messaging, chats, audio-conferencing and video-conferencing;

(d) the traceability of exchanges of evidence through an advanced logging and tracking mechanism which allows all evidence exchanged, including its access and processing, through the JITs collaboration platform to be kept track of;

(e) the evaluation of a JIT through a dedicated collaborative evaluation process.

CHAPTER II

DEVELOPMENT AND OPERATIONAL MANAGEMENT

Article 6

Adoption of implementing acts by the Commission

The Commission shall adopt the implementing acts necessary for the technical development of the JITs collaboration platform as soon as possible after 7 June 2023, and in particular implementing acts concerning:

(a) the list of functionalities required for the coordination and management of a JIT, including machine translation of non-operational data;

(b) the list of functionalities required for secure communications;

(c) business specifications of the connection referred to in Article 4, first paragraph, point (c);

(d) security as referred to in Article 19;

(e) technical logs as referred to in Article 25;

(f) statistics and information as referred to in Article 26;

(g) performance and availability requirements of the JITs collaboration platform.

The implementing acts referred to in the first paragraph of this Article shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 7

Responsibilities of eu-LISA

1. eu-LISA shall establish the design of the physical architecture of the JITs collaboration platform, including its technical specifications and evolution, on the basis of the implementing acts referred to in Article 6. That design shall be approved by its Management Board, subject to a favourable opinion of the Commission.

2. eu-LISA shall be responsible for the development of the JITs collaboration platform in accordance with the principle of data protection by design and by default. Such development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.

3. eu-LISA shall make the communication software available to the JITs collaboration platform users.

4. eu-LISA shall develop and implement the JITs collaboration platform as soon as possible after 7 June 2023 and following the adoption of the implementing acts referred to in Article 6.

5. eu-LISA shall ensure that the JITs collaboration platform is operated in accordance with this Regulation and with the implementing acts referred to in Article 6 of this Regulation, as well as in accordance with Regulation (EU) 2018/1725.

6. eu-LISA shall be responsible for the operational management of the JITs collaboration platform. The operational management of the JITs collaboration platform shall consist of all the tasks necessary to keep the JITs collaboration platform operational in accordance with this Regulation, and in particular the maintenance work and technical developments necessary to ensure that the JITs collaboration platform functions at a satisfactory level in accordance with the technical specifications.

7. eu-LISA shall ensure the provision of training on the technical use of the JITs collaboration platform to the JITs Network Secretariat, including by providing training materials.

8. eu-LISA shall set up a support service for mitigating, in a timely manner, technical incidents reported to it.

9. eu-LISA shall continuously carry out improvements and add new functionalities to the JITs collaboration platform, based on the input it receives from the Advisory Group referred to in Article 12 and on the annual report of the JITs Network Secretariat referred to in Article 10, point (e).

10. eu-LISA shall not have access to operational and non-operational data stored in the JIT collaboration spaces.

11. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ([15]), eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to all members of its staff that are required to work with data registered in the centralised information system. That obligation shall also apply after such staff leave office or employment or after the termination of their activities.

Article 8

Responsibilities of the Member States

1. Each Member State shall make the technical arrangements necessary for access of its competent authorities to the JITs collaboration platform in accordance with this Regulation.

2. Member States shall ensure that the JITs collaboration platform users have access to the training courses provided by the JITs Network Secretariat pursuant to Article 10, point (c), or to equivalent training courses provided at the national level. Member States shall also ensure that the JITs collaboration platform users are fully aware of data protection requirements under Union law.

Article 9

Responsibilities of competent Union bodies, offices and agencies

1. Eurojust, Europol, the EPPO, OLAF and other competent Union bodies, offices and agencies shall make the necessary technical arrangements to enable them to access the JITs collaboration platform.

2. Eurojust shall be responsible for the necessary technical adaptation of its systems, required to establish the connection referred to in Article 4, first paragraph, point (c).

Article 10

Responsibilities of the JITs Network Secretariat

The JITs Network Secretariat shall support the functioning of the JITs collaboration platform by:

(a) providing, at the request of the JIT space administrator or administrators, administrative, legal and technical support in the context of the creation and access rights management of individual JIT collaboration spaces, pursuant to Article 14(3);

(b) providing day-to-day guidance, functional support and assistance to practitioners on the use of the JITs collaboration platform and its functionalities;

(c) designing and providing training courses for the JITs collaboration platform users, thereby aiming to facilitate the use of the JITs collaboration platform;

(d) enhancing a culture of cooperation within the Union in relation to cross-border cooperation in criminal matters by raising awareness and promoting the use of the JITs collaboration platform among practitioners;

(e) keeping, after the start of operations of the JITs collaboration platform, eu-LISA informed of additional functional requirements by submitting an annual report on potential improvements and new functionalities of the JITs collaboration platform based on the feedback on the practical use of the JITs collaboration platform that it collects from the JITs collaboration platform users.

([15]) OJ L 56, 4.3.1968, p. 1.

Article 11

Programme Management Board

1. Prior to the design and development phase of the JITs collaboration platform, the Management Board of eu-LISA shall establish a Programme Management Board for the duration of the design and development phase.

2. The Programme Management Board shall be composed of ten members, as follows:

(a) eight members appointed by the Management Board of eu-LISA;

(b) the Chair of the Advisory Group referred to in Article 12;

(c) one member appointed by the Commission.

3. The Management Board of eu-LISA shall ensure that the members that it appoints to the Programme Management Board have the necessary experience and expertise in the development and management of IT systems which support judicial authorities.

4. eu-LISA shall participate in the work of the Programme Management Board. To that end, representatives of eu-LISA shall attend the meetings of the Programme Management Board in order to report on work regarding the design and development of the JITs collaboration platform and on any other related work and activities.

5. The Programme Management Board shall meet at least once every three months, and more often where necessary. It shall ensure the adequate management of the design and development phase of the JITs collaboration platform. The Programme Management Board shall submit written reports regularly, and where possible every month, to the Management Board of eu-LISA, on the progress of the JITs collaboration platform. The Programme Management Board shall have no decision-making power nor any mandate to represent the members of the Management Board of eu-LISA.

6. The Programme Management Board, in consultation with the Management Board of eu-LISA, shall establish its rules of procedure, which shall include in particular rules on chairmanship, meeting venues, preparation of meetings, admission of experts to meetings and communication plans that ensure that members of the Management Board of eu-LISA who are not members of the Programme Management Board are fully informed.

7. The chairmanship of the Programme Management Board shall be held by a Member State.

8. The Programme Management Board's secretariat shall be provided by eu-LISA.

Article 12

Advisory Group

1. eu-LISA shall establish an Advisory Group in order to obtain expertise related to the JITs collaboration platform, in particular in the context of the preparation of eu-LISA`s annual work programme and annual activity report, and to identify potential improvements and new functionalities to be implemented in the JITs collaboration platform.

2. The Advisory Group shall be composed of the representatives of the Member States, the Commission and the JITs Network Secretariat. It shall be chaired by eu-LISA. It shall:

(a) meet at least once a month until the start of operations of the JITs collaboration platform where possible, and meet regularly thereafter;

(b) during the design and development phase of the JITs collaboration platform, report to the Programme Management Board after each meeting;

(c) during the design and development phase of the JITs collaboration platform, provide technical expertise to support the tasks of the Programme Management Board.

CHAPTER III

CREATION OF AND ACCESS TO THE JIT COLLABORATION SPACES

Article 13

Creation of the JIT collaboration spaces

1. Where a JIT agreement provides for the use of the JITs collaboration platform in accordance with this Regulation, a JIT collaboration space shall be created within the JITs collaboration platform for each JIT.

2. The relevant JIT agreement shall provide for the competent authorities of Member States and the EPPO to be granted access to the relevant JIT collaboration space and may provide for competent Union bodies, offices and agencies, competent authorities of third countries which have signed the agreement and representatives of international judicial authorities to be granted access to that JIT collaboration space. The relevant JIT agreement shall provide for the rules for such access.

3. The relevant JIT collaboration space shall be created by the JIT space administrator or administrators, with the technical support of eu-LISA.

4. If JIT members decide not to use the JITs collaboration platform upon signing the JIT agreement, but agree to start using the JITs collaboration platform over the course of the relevant JIT, that JIT agreement, where it does not provide for that possibility, shall be amended and paragraphs 1, 2 and 3 shall apply. In the event that JIT members agree to stop using the JITs collaboration platform over the course of the JIT, the relevant JIT agreement shall be amended if that possibility was not already included in that JIT agreement.

Article 14

Designation and role of the JIT space administrator

1. If the use of the JITs collaboration platform is provided for in the JIT agreement, one or more JIT space administrators from among the Member States' JIT members or an EPPO JIT member shall be designated in that JIT agreement.

2. The JIT space administrator or administrators shall manage the access rights of the JITs collaboration platform users to the relevant JIT collaboration space, in accordance with the relevant JIT agreement.

3. A JIT agreement may provide for the JITs Network Secretariat to have access to a JIT collaboration space for the purpose of technical and administrative support, as well as for the purpose of technical, legal and administrative support for the management of access rights. In such situations, as agreed by the JIT members, the JIT space administrator or administrators shall grant the JITs Network Secretariat access to that JIT collaboration space.

Article 15

Access to the JIT collaboration spaces by Member States' competent authorities and the European Public Prosecutor's Office

In accordance with the relevant JIT agreement, the JIT space administrator or administrators shall grant access to a JIT collaboration space to the Member States' competent authorities which are designated in that JIT agreement and to the EPPO where it is designated in that JIT agreement.

Article 16

Access to the JIT collaboration spaces by competent Union bodies, offices and agencies

In accordance with the relevant JIT agreement, the JIT space administrator or administrators shall grant access, to the extent necessary, to a JIT collaboration space to:

(a) Eurojust, for the purpose of fulfilling its tasks set out in Regulation (EU) 2018/1727;

(b) Europol, for the purpose of fulfilling its tasks set out in Regulation (EU) 2016/794;

(c) OLAF, for the purpose of fulfilling its tasks set out in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([16]); and

(d) other competent Union bodies, offices and agencies, for the purpose of fulfilling tasks set out in the relevant legal acts establishing them.

Article 17

Access to the JIT collaboration spaces by the competent authorities of third countries

1. In accordance with the relevant JIT agreement, and for the purposes listed in Article 5, the JIT space administrator or administrators shall grant access to a JIT collaboration space to the competent authorities of third countries which have signed that JIT agreement.

2. Whenever Member States' JIT members and the EPPO JIT member, when it participates in the relevant JIT, upload operational data to a JIT collaboration space for it to be downloaded by a third country, the relevant Member States' JIT member or the EPPO JIT member shall verify that the data they have respectively uploaded are limited to what is required for the purposes of the relevant JIT agreement and that those data comply with the conditions laid down therein.

3. Whenever a third country uploads operational data to a JIT collaboration space, the JIT space administrator or administrators shall verify that such data are limited to what is required for the purposes of the relevant JIT agreement and that those data comply with the conditions laid down therein, before it can be downloaded by other users of the JIT collaboration space.

4. Member States' competent authorities shall ensure that their transfers of personal data to third countries that have been granted access to a JIT collaboration space only take place where the conditions laid down in Chapter V of Directive (EU) 2016/680 are met.

5. Union bodies, offices and agencies shall ensure that their transfers of personal data to third countries that have been granted access to a JIT collaboration space take place only where the conditions laid down in Chapter IX of Regulation (EU) 2018/1725 are met, without prejudice to data protection rules applicable to such Union bodies, offices or agencies in the relevant legal acts establishing them, where such rules impose specific conditions for data transfers.

6. The EPPO, when acting in accordance with its competences as provided for in Articles 22, 23 and 25 of Regulation (EU) 2017/1939, shall ensure that its transfers of personal data to third countries that have been granted access to a JIT collaboration space take place only when the conditions laid down in Articles 80 to 84 of that Regulation are met.

([16]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

Article 18

Access to the JIT collaboration spaces by representatives of international judicial authorities who participate in a JIT

1. For the purposes listed in Article 5, the JIT space administrator or administrators shall, where provided for in the JIT agreement, grant access to a JIT collaboration space to the representatives of international judicial authorities who participate in the relevant JIT.

2. The JIT space administrator or administrators shall verify and ensure that the exchanges of operational data with representatives of international judicial authorities that have been granted access to a JIT collaboration space are limited to what is required for the purposes of the relevant JIT agreement and that those data comply with the conditions laid down therein.

3. Member States shall ensure that their transfers of personal data to representatives of international judicial authorities that have been granted access to a JIT collaboration space only take place where the conditions laid down in Chapter V of Directive (EU) 2016/680 are met.

4. Union bodies, offices and agencies shall ensure that their transfers of personal data to representatives of international judicial authorities that have been granted access to a JIT collaboration space take place only where the conditions laid down in Chapter IX of Regulation (EU) 2018/1725 are met, without prejudice to data protection rules applicable to such Union bodies, offices or agencies in the relevant legal acts establishing them, where such rules impose specific conditions for data transfers.

CHAPTER IV

SECURITY AND LIABILITY

Article 19

Security

1. eu-LISA shall take the necessary technical and organisational measures to ensure a high level of cybersecurity of the JITs collaboration platform and the information security of data within the JITs collaboration platform, in particular in order to ensure the confidentiality and integrity of operational and non-operational data stored in the centralised information system.

2. eu-LISA shall prevent unauthorised access to the JITs collaboration platform and shall ensure that persons authorised to access the JITs collaboration platform have access only to the data covered by their access authorisation.

3. For the purposes of paragraphs 1 and 2 of this Article, eu-LISA shall adopt a security plan and a business continuity and disaster recovery plan, in order to ensure that the centralised information system can be restored in the event of interruption. eu-LISA shall provide for a working arrangement with the computer emergency response team for the Union's institutions, bodies and agencies established by the Arrangement between the European Parliament, the European Council, the Council of the European Union, the European Commission, the Court of Justice of the European Union, the European Central Bank, the European Court of Auditors, the European External Action Service, the European Economic and Social Committee, the European Committee of the Regions and the European Investment Bank on the organisation and operation of a computer emergency response team for the Union's institutions, bodies and agencies (CERT-EU) ([17]). When adopting that security plan, eu-LISA shall take into account the possible recommendations of the security experts present in the Advisory Group referred to in Article 12 of this Regulation.

4. eu-LISA shall monitor the effectiveness of all the measures described in this Article and shall take the necessary organisational measures related to self-monitoring and supervision to ensure compliance with this Regulation.

([17]) OJ C 12, 13.1.2018, p. 1.

Article 20

Liability

1. Where a Member State, Eurojust, Europol, the EPPO, OLAF or any other competent Union body, office or agency, as a consequence of a failure on their part to comply with their obligations under this Regulation, cause damage to the JITs collaboration platform, that Member State, Eurojust, Europol, the EPPO, OLAF or other competent Union body, office or agency, respectively, shall be held liable for such damage, unless and insofar as eu-LISA fails to take reasonable measures to prevent the damage from occurring or to minimise its impact.

2. Claims for compensation against a Member State for the damage referred to in paragraph 1 shall be governed by the law of that Member State. Claims for compensation against Eurojust, Europol, the EPPO, OLAF or any other competent Union body, office or agency for such damage shall be governed by the relevant legal acts establishing them.

CHAPTER V

DATA PROTECTION

Article 21

Retention period for storage of operational data

1. Operational data pertaining to each JIT collaboration space shall be stored in the centralised information system for as long as required for all JITs collaboration platform users concerned to complete the process of its downloading. The retention period shall not exceed four weeks from the date of the upload of such data to the JITs collaboration platform.

2. As soon as the process of downloading has been completed by all intended JITs collaboration platform users or, at the latest, upon expiry of the retention period referred to in paragraph 1, the data shall be automatically and permanently erased from the centralised information system.

Article 22

Retention period for storage of non-operational data

1. Where an evaluation of a JIT is envisaged, non-operational data pertaining to each JIT collaboration space shall be stored in the centralised information system until the relevant JIT evaluation has been completed. The retention period shall not exceed five years from the date of entry of such data in the JITs collaboration platform.

2. If it is decided not to conduct an evaluation upon the closure of a JIT or, at the latest, upon expiry of the retention period referred to in paragraph 1, the data shall be automatically erased from the centralised information system.

Article 23

Data controller and data processor

1. Each competent national authority of a Member State and, where appropriate, Eurojust, Europol, the EPPO, OLAF or any other competent Union body, office or agency shall be considered to be data controllers in accordance with applicable Union data protection rules, for the processing of operational personal data under this Regulation.

2. With regard to data uploaded to the JITs collaboration platform by the competent authorities of third countries or representatives of international judicial authorities, one of the JIT space administrators shall be designated in the relevant JIT agreement as data controller as regards the personal data exchanged through, and stored in, the JITs collaboration platform.

No data from third countries or international judicial authorities shall be uploaded prior to the designation of the data controller.

3. eu-LISA shall be considered to be a data processor in accordance with Regulation (EU) 2018/1725 as regards the personal data exchanged through, and stored in, the JITs collaboration platform.

4. The JITs collaboration platform users shall be joint controllers, within the meaning of Article 28 of Regulation (EU) 2018/1725, for the processing of non-operational personal data in the JITs collaboration platform.

Article 24

Purpose of the processing of personal data

1. The data entered into the JITs collaboration platform shall only be processed for the purposes of:

(a) the exchange of operational data between the JITs collaboration platform users for the purpose for which the relevant JIT has been set up;

(b) the exchange of non-operational data between the JITs collaboration platform users, for the purposes of managing the relevant JIT.

2. Access to the JITs collaboration platform shall be limited to duly authorised staff of the competent authorities of Member States and of third countries, Eurojust, Europol, the EPPO, OLAF and other competent Union bodies, offices or agencies, or representatives of international judicial authorities, to the extent necessary for the performance of their tasks in accordance with the purposes referred to in paragraph 1, and to what is strictly necessary and proportionate to the objectives pursued.

Article 25

Technical logs

1. eu-LISA shall ensure that a technical log is kept of all access to the centralised information system and all data processing operations in the centralised information system, in accordance with paragraph 2.

2. The technical logs shall show:

(a) the date, time zone and exact time of accessing the centralised information system;

(b) the identifying mark of each individual JITs collaboration platform user who accessed the centralised information system;

(c) the date, time zone and access time of each operation carried out by each individual JITs collaboration platform user;

(d) the operation carried out by each individual JITs collaboration platform user.

The technical logs shall be protected by appropriate technical measures against modification and unauthorised access. The technical logs shall be kept for three years or for such longer period as required for the termination of ongoing monitoring procedures.

3. On request, eu-LISA shall make the technical logs available to the competent authorities of the Member States which participated in a particular JIT without undue delay.

4. Within the limits of their competences and for the purpose of fulfilling their duties, the national supervisory authorities responsible for monitoring the lawfulness of data processing shall have access to the technical logs upon request.

5. Within the limits of its competences and for the purpose of fulfilling its supervisory duties in accordance with Regulation (EU) 2018/1725, the European Data Protection Supervisor shall have access to the technical logs upon request.

CHAPTER VI

FINAL PROVISIONS

Article 26

Monitoring and evaluation

1. eu-LISA shall establish procedures to monitor the development of the JITs collaboration platform as regards the objectives relating to planning and costs and to monitor the functioning of the JITs collaboration platform as regards the objectives relating to the technical output, cost-effectiveness, usability, security and quality of service.

2. The procedures referred to in paragraph 1 shall provide for the possibility to produce regular technical statistics for monitoring purposes and shall contribute to the overall evaluation of the JITs collaboration platform.

3. If there is a risk of substantial delays in the development process, eu-LISA shall inform the European Parliament and the Council as soon as possible of the reasons for the delays, their impact in terms of timeframes and finances, and the steps that it intends to take in order to remedy the situation.

4. Once the development of the JITs collaboration platform is finalised, eu-LISA shall submit a report to the European Parliament and to the Council explaining how the objectives, in particular relating to planning and costs, were achieved and justifying any discrepancies.

5. In the event of a technical upgrade of the JITs collaboration platform, which could result in substantial costs, eu-LISA shall inform the European Parliament and the Council before making the upgrade.

6. Not later than two years after the start of operations of the JITs collaboration platform:

(a) eu-LISA shall submit to the Commission a report on the technical functioning of the JITs collaboration platform, including its non-sensitive security aspects, and shall make that report publicly available;

(b) on the basis of the report referred to in point (a), the Commission shall conduct an overall evaluation of the JITs collaboration platform and shall transmit an overall evaluation report to the European Parliament and the Council.

Every year after the submission of the report referred to in point (a) of the first subparagraph, eu-LISA shall submit to the Commission a report on the technical functioning of the JITs collaboration platform, including its non-sensitive security aspects, and shall make that report publicly available.

Every four years after the transmission of the overall evaluation report referred to in point (b) of the first subparagraph and on the basis of the reports submitted by eu-LISA in accordance with the second subparagraph, the Commission shall conduct an overall evaluation of the JITs collaboration platform and shall transmit an overall evaluation report to the European Parliament and the Council.

7. Within 18 months after the date of the start of operations of the JITs collaboration platform, the Commission, following consultation with Europol and the Advisory Group referred to in Article 12, shall submit a report to the European Parliament and to the Council assessing the necessity, feasibility, suitability and cost-effectiveness of a potential connection between the JITs collaboration platform and SIENA. That report shall also include conditions, technical specifications and procedures for ensuring a secure and efficient connection. Where appropriate, that report shall be accompanied by the necessary legislative proposals, which may include empowering the Commission to adopt the technical specifications of such a connection.

8. The Member States' competent authorities, Eurojust, Europol, the EPPO, OLAF and other competent Union bodies, offices and agencies shall provide eu-LISA and the Commission with the information necessary to draft the report referred to in paragraph 4 of this Article and the overall evaluation report of the Commission referred to in paragraph 6 of this Article. They shall also provide the JITs Network Secretariat with the information necessary to draft the annual report referred to in Article 10, point (e). The information referred to in the first and second sentence of this paragraph shall not jeopardise working methods nor include information that reveals sources, names of staff members or investigations.

9. eu-LISA shall provide the Commission with the information necessary to conduct the overall evaluation referred to in paragraph 6.

Article 27

Costs

The costs incurred in connection with the establishment and operation of the JITs collaboration platform shall be borne by the general budget of the Union.

Article 28

Start of operations

1. The Commission shall determine the date of the start of operations of the JITs collaboration platform, once it is satisfied that the following conditions are met:

(a) the implementing acts referred to in Article 6, points (a) to (g), have been adopted;

(b) eu-LISA has successfully carried out a comprehensive test of the JITs collaboration platform, with the involvement of Member States, using anonymous test data.

In any event, that date shall not be later than 7 December 2025.

2. Where the Commission has determined the date of the start of operations of the JITs collaboration platform in accordance with paragraph 1, it shall communicate that date to the Member States, Eurojust, Europol, the EPPO and OLAF. It shall also inform the European Parliament.

3. The decision of the Commission in determining the date of the start of operations of the JITs collaboration platform, as referred to in paragraph 1, shall be published in the *Official Journal of the European Union*.

4. The JITs collaboration platform users shall commence use of the JITs collaboration platform from the date of the start of operations determined by the Commission in accordance with paragraph 1.

Article 29

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Article 30

Amendments to Regulation (EU) 2018/1726

Regulation (EU) 2018/1726 is amended as follows:

(1) in Article 1, the following paragraph is inserted:

‘4b. The Agency shall be responsible for the development and operational management, including technical evolutions, of the joint investigation teams collaboration platform (“JITs collaboration platform”)’;

(2) the following Article is inserted:

'*Article 8c*

Tasks related to the JITs collaboration platform

In relation to the JITs collaboration platform, the Agency shall perform:

(a) the tasks conferred on it by Regulation (EU) 2023/969 of the European Parliament and of the Council (*);

(b) tasks relating to training on the technical use of the JITs collaboration platform provided to the JITs Network Secretariat, including the provision of training materials.

_____

(*) Regulation (EU) 2023/969 of the European Parliament and of the Council of 10 May 2023 establishing a collaboration platform to support the functioning of joint investigation teams and amending Regulation (EU) 2018/1726 (OJ L 132, 17.5.2023, p. 1).';

(3) in Article 14, paragraph 1 is replaced by the following:

'1. The Agency shall monitor developments in research relevant for the operational management of SIS II, VIS, Eurodac, the EES, ETIAS, DubliNet, ECRIS-TCN, the e-CODEX system, the JITs collaboration platform and other large-scale IT systems as referred to in Article 1(5).';

(4) in Article 19(1), point (ff), the following point is added:

'(viii) the JITs collaboration platform pursuant to Article 26(6) of Regulation (EU) 2023/969;';

(5) in Article 27(1), the following point is inserted:

'(dd) the JITs collaboration platform Advisory Group;'.

Article 31

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

DIRECTIVES

DIRECTIVE (EU) 2023/970 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 157(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(1) Article 11 of the United Nations Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women, which all Member States have ratified, provides that States Parties are to take all appropriate measures to ensure, *inter alia*, the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.

(2) Article 2 and Article 3(3) of the Treaty on European Union enshrine the right to equality between women and men as one of the essential values of the Union.

(3) Articles 8 and 10 of the Treaty on the Functioning of the European Union (TFEU) require the Union to aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex in all its policies and activities.

(4) Article 157(1) TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. Article 157(3) TFEU provides for the adoption by the Union of measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value (the 'principle of equal pay').

(5) The Court of Justice of the European Union (the 'Court of Justice') has held that the scope of the principle of equal treatment of men and women cannot be confined to discrimination based on the fact that a person is of one or other sex ([3]). In view of its purpose and the nature of the rights which it seeks to safeguard, that principle also applies to discrimination arising from gender reassignment.

([1]) OJ C 341, 24.8.2021, p. 84.

([2]) Position of the European Parliament of 30 March 2023 (not yet published in the Official Journal) and decision of the Council of 24 April 2023.

([3]) Judgment of the Court of Justice of 30 April 1996, P v S, C-13/94, ECLI:EU:C:1996:170; Judgment of the Court of Justice of 7 January 2004, K.B., C-117/01, ECLI:EU:C:2004:7; Judgment of the Court of Justice of 27 April 2006, Richards, C-423/04, ECLI:EU:C:2006:256; Judgment of the Court of Justice of 26 June 2018, M.B., C-451/16, ECLI:EU:C:2018:492.

(6) In some Member States, it is currently possible for persons to legally register as having a third, often a neutral, gender. This Directive does not affect relevant national rules giving effect to such recognition as regards matters of employment and pay.

(7) Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter') prohibits any discrimination, *inter alia*, on the grounds of sex. Article 23 of the Charter provides that equality between women and men must be ensured in all areas, including employment, work and pay.

(8) Article 23 of the Universal Declaration of Human Rights states, *inter alia*, that everyone, without any discrimination, has the right to equal pay for equal work, to free choice of employment, to just and favourable conditions of work and to just remuneration ensuring an existence worthy of human dignity.

(9) The European Pillar of Social Rights, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates among its principles equality of treatment and opportunities between women and men, and the right to equal pay for work of equal value.

(10) Directive 2006/54/EC of the European Parliament and of the Council ([4]) provides that for the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it is to be based on the same gender-neutral criteria and should be drawn up so as to exclude any discrimination on grounds of sex.

(11) The 2020 evaluation of the relevant provisions of Directive 2006/54/EC found that the application of the principle of equal pay is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of work of equal value, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and, in particular, information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and the social partners to take appropriate action to ensure the application of the right to equal pay for equal work and work of equal value (the 'right to equal pay').

(12) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value and a wide-ranging and inclusive consultation process, the Communication of the Commission of 5 March 2020 on 'A Union of Equality: Gender Equality Strategy 2020-2025' announced that the Commission would propose binding measures on pay transparency.

(13) The economic and social consequences of the COVID-19 pandemic have had a disproportionately negative impact on women and gender equality, and job losses have often been concentrated in low-paid, female-dominated sectors. The COVID-19 pandemic has highlighted the continued, structural undervaluation of work predominantly carried out by women and has demonstrated the high socio-economic value of women's work in front-line services, such as health care, cleaning, childcare, social care and residential care for older people and other adult dependents, which stands in strong contrast to its low visibility and recognition.

([4]) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

(14) The effects of the COVID-19 pandemic will therefore further widen gender inequalities and the gender pay gap unless the recovery response is gender sensitive. Those consequences have made it even more pressing to tackle the issue of equal pay for equal work or work of equal value. Strengthening the implementation of the principle of equal pay through further measures is particularly important to ensure that the progress which has been made in addressing disparities in pay is not compromised.

(15) The Union gender pay gap persists: it stood at 13 % in 2020, with significant variations across Member States, and has decreased only minimally over the last ten years. The gender pay gap is caused by various factors, such as gender stereotypes, the perpetuation of the 'glass ceiling' and the 'sticky floor', horizontal segregation, including the overrepresentation of women in low-paid service jobs, and unequal sharing of care responsibilities. In addition, the gender pay gap is partly caused by direct and indirect gender-based pay discrimination. All those elements constitute structural obstacles that form complex challenges to achieving good quality jobs and equal pay for equal work or work of equal value and have long-term consequences such as a pension gap and the feminisation of poverty.

(16) A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Binding measures are therefore needed to improve pay transparency, encourage organisations to review their pay structures to ensure equal pay for women and men performing the same work or work of equal value, and to enable victims of discrimination to exercise their right to equal pay. Such binding measures need to be complemented by provisions clarifying existing legal concepts, such as the concepts of pay and work of equal value, and measures improving enforcement mechanisms and access to justice.

(17) The application of the principle of equal pay should be enhanced by eliminating direct and indirect pay discrimination. This does not preclude employers from paying workers performing the same work or work of equal value differently on the basis of objective, gender-neutral and bias-free criteria, such as performance and competence.

(18) This Directive should apply to all workers, including part-time workers, workers on a fixed-term contract and persons with a contract of employment or employment relationship with a temporary agency, as well as workers in management positions, who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court of Justice ([5]). Provided that they fulfil relevant criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, workers in sheltered employment, trainees and apprentices fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

(19) An important element of eliminating pay discrimination is pay transparency prior to employment. This Directive should therefore also apply to applicants for employment.

(20) In order to remove obstacles for victims of gender-based pay discrimination to exercise their right to equal pay, and to guide employers in ensuring respect of that right, the core concepts related to equal pay for equal work or work of equal value, such as pay and work of equal value, should be clarified in accordance with the case-law of the Court of Justice. This should facilitate the application of those concepts, especially for micro, small and medium-sized enterprises.

([5]) Judgment of the Court of Justice of 3 July 1986, Lawrie-Blum, 66/85, ECLI:EU:C:1986:284; judgment of the Court of Justice of 14 October 2010, Union Syndicale Solidaires Isère, C-428/09, ECLI:EU:C:2010:612; judgment of the Court of Justice of 4 December 2014, FNV Kunsten Informatie en Media, C-413/13, ECLI:EU:C:2014:2411; judgment of the Court of Justice of 9 July 2015, Balkaya, C-229/14, ECLI:EU:C:2015:455; judgment of the Court of Justice of 17 November 2016, Betriebsrat der Ruhrlandklinik, C-216/15, ECLI:EU:C:2016:883; judgment of the Court of Justice of 16 July 2020, Governo della Repubblica italiana (Status of Italian magistrates), C-658/18, ECLI:EU:C:2020:572.

(21) The principle of equal pay should be observed with regard to wages, salaries or any other consideration, whether in cash or in kind, which workers receive directly or indirectly, in respect of their employment from their employer. In accordance with the case-law of the Court of Justice ([6]), the concept of pay should comprise not only salary, but also complementary or variable components of the pay. Under complementary or variable components, any benefits in addition to the ordinary basic or minimum wage or salary, which the worker receives directly or indirectly, whether in cash or in kind, should be taken into account. Such complementary or variable components may include, but are not limited to, bonuses, overtime compensation, travel facilities, housing and food allowances, compensation for attending training, payments in the case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. The concept of pay should include all elements of remuneration due under law, collective agreements and/or practice in each Member State.

(22) In order to ensure a uniform presentation of the information required by this Directive, pay levels should be expressed as gross annual pay and the corresponding gross hourly pay. It should be possible to base the calculation of pay levels on the actual pay specified in regard to the worker, regardless of whether it is set annually, monthly, hourly or otherwise.

(23) Member States should not be obliged to set up new bodies for the purpose of this Directive. It should be possible for them to confer tasks deriving from it upon established bodies, including the social partners, in accordance with national law and/or practice, provided that the Member States comply with the obligations set out in this Directive.

(24) In order to protect workers and to address their fear of victimisation in the application of the principle of equal pay, they should be able to be represented by a representative. This could be trade unions or other workers' representatives. If there are no workers' representatives, workers should be able to be represented by a representative of their choice. Member States should have a possibility to take into account their national circumstances and different roles concerning workers' representation.

(25) Article 10 TFEU provides that, in defining and implementing its policies and activities, the Union is to aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there is to be no direct or indirect discrimination on grounds of sex in relation to pay. Gender-based pay discrimination where a victim's sex plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex, on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation, as protected under Council Directive 2000/43/EC ([7]) or 2000/78/EC ([8]), on the other. Women with disabilities, women of diverse racial and ethnic origin including Roma women, and young or elderly women are among groups which may face intersectional discrimination. This Directive should therefore clarify that, in the context of gender-based pay discrimination, it should be possible to take such a combination into account, thus removing any doubt that may exist in this regard under the existing legal framework and enabling national courts, equality bodies and other competent authorities to take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed.

([6]) For example, judgment of the Court of Justice of 9 February 1982, Garland, C-12/81, ECLI:EU:C:1982:44; judgment of the Court of Justice of 9 June 1982, Commission of the European Communities v Grand Duchy of Luxembourg, C-58/81, ECLI:EU:C:1982:215; judgment of the Court of Justice of 13 July 1989, Rinner-Kulhn, C-171/88, ECLI:EU:C:1989:328; judgment of the Court of Justice of 27 June 1990, Kowalska, C-33/89, ECLI: EU:C:1990:265; judgment of the Court of Justice of 4 June 1992, Bötel, C-360/90, ECLI:EU:C:1992:246; judgment of the Court of Justice of 13 February 1996, Gillespie and Others, C-342/93, ECLI:EU:C:1996:46; judgment of the Court of Justice of 7 March 1996, Freers and Speckmann, C-278/93, ECLI:EU:C:1996:83; judgment of the Court of Justice of 30 March 2004, Alabaster, C-147/02, ECLI:EU:C:2004:192.

([7]) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

([8]) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).

An intersectional approach is important for understanding and addressing the gender pay gap. This clarification should not change the scope of employers' obligations in regard to the pay transparency measures under this Directive. In particular, employers should not be required to gather data related to protected grounds other than sex.

(26) In order to respect the right to equal pay, employers must have pay structures in place ensuring that there are no gender-based pay differences between workers performing the same work or work of equal value that are not justified on the basis of objective, gender-neutral criteria. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. It should be possible to base such pay structures on existing Union guidelines related to gender-neutral job evaluation and classification systems, or on indicators or gender-neutral models. In accordance with the case law of the Court of Justice, the value of work should be assessed and compared on the basis of objective criteria, including educational, professional and training requirements, skills, effort, responsibility and working conditions, irrespective of differences in working patterns. To facilitate the application of the concept of work of equal value, especially for micro, small and medium-sized enterprises, the objective criteria to be used should include four factors: skills, effort, responsibility and working conditions. Those factors have been identified by the existing Union guidelines as being essential and sufficient for evaluating the tasks performed in an organisation regardless of to which economic sector the organisation belongs.

As not all factors are equally relevant for a specific position, each of the four factors should be weighed by the employer depending on the relevance of those criteria for the specific job or position concerned. Additional criteria may also be taken into account, where they are relevant and justified. Where appropriate, the Commission should be able to update existing Union guidelines, in consultation with the European Institute for Gender Equality (EIGE).

(27) National systems for wage-setting vary and can be based on collective agreements and/or elements decided by the employer. This Directive does not affect the various national systems for wage setting.

(28) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables workers to show that they were treated less favourably than a comparator of a different sex performing equal work or work of equal value. Building on the developments brought by the definition of direct and indirect discrimination in Directive 2006/54/EC, in situations where no real-life comparator exists, the use of a hypothetical comparator should be allowed, to enable workers to show that they have not been treated in the same way as a hypothetical comparator of another sex would have been treated. This would lift an important obstacle for potential victims of gender-based pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of the opposite sex makes it almost impossible to bring an equal pay claim.

In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions, especially in female-dominated ones such as the care sector.

(29) The Court of Justice has clarified that in order to assess whether workers are in a comparable situation, the comparison is not necessarily limited to situations in which men and women work for the same employer ([9]). Workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source establishing those conditions and where those conditions are equal and comparable. This may be the case when the relevant pay conditions are regulated by statutory provisions or agreements relating to pay applicable to several employers, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court of Justice has clarified that the comparison is not limited to workers employed at the same time as the claimant ([10]). Additionally, when performing the actual assessment, it should be recognised that a difference in pay may be explained by factors unrelated to sex.

([9]) Judgment of the Court of Justice of 17 September 2002, Lawrence and others, C-320/00, ECLI:EU:C:2002:498.
([10]) Judgment of the Court of Justice of 27 March 1980, Macarthys Ltd, C-129/79, ECLI:EU:C:1980:103.

(30) Member States should ensure that training and specific tools and methodologies are made available to support and guide employers in the assessment of what constitutes work of equal value. This should facilitate the application of that concept, especially for micro, small and medium-sized enterprises. Taking into account national law, collective agreements and/or practice, Member States should be able to entrust the development of specific tools and methodologies to the social partners or develop them in cooperation with, or after consulting, the social partners.

(31) Job classification and evaluation systems can, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such cases, they contribute to and perpetuate the pay gap by evaluating male and female dominated jobs differently in situations where the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental in ensuring that direct or indirect discrimination on grounds of sex is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs the content of which is different but of equal value and so support the principle of equal pay.

(32) The lack of information on the envisaged pay range of a position creates an information asymmetry which limits the bargaining power of applicants for employment. Ensuring transparency should enable prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. Transparency would also ensure an explicit, non-gender-biased basis for pay setting and would disrupt the undervaluation of pay compared to skills and experience. Transparency would also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. Applicants for employment should receive information about the initial pay or its range in a manner such as to ensure an informed and transparent negotiation on pay, such as in a published job vacancy notice, prior to the job interview, or otherwise prior to the conclusion of any employment contract. The information should be provided by the employer or in a different manner, for instance by the social partners.

(33) In order to disrupt the perpetuation of the gender pay gap affecting individual workers over time, employers should ensure that job vacancy notices and job titles are gender neutral and that recruitment processes are led in a non-discriminatory manner, so as not to undermine the right to equal pay. Employers should not be allowed to enquire or proactively try to obtain information about the current pay or prior pay history of an applicant for employment.

(34) Pay transparency measures should protect workers' right to equal pay while limiting, to the extent possible, costs and administrative burden for employers, paying specific attention to micro, small and medium-sized enterprises. Where appropriate, measures should be tailored to the size of employers, taking into account employers' headcount. The number of workers employed by employers to be applied as a criterion whether an employer is subject to pay reporting as referred to in this Directive is set taking into account Commission Recommendation 2003/361/EC on micro, small and medium-sized enterprises ([11]).

(35) Employers should make accessible to workers the criteria that are used to determine pay levels and pay progression. Pay progression refers to the process of how a worker moves to a higher pay level. Criteria related to pay progression can include, *inter alia*, individual performance, skills development and seniority. When implementing this obligation, Member States should pay particular attention to avoiding excessive administrative burden for micro and small enterprises. Member States should also be able to provide, as a mitigating measure, ready-made templates to support micro and small enterprises in complying with the obligation. Member States should be able to exempt employers which are micro or small enterprises from the obligation related to pay progression, for instance by allowing them to make the pay progression criteria available upon request by workers.

(36) All workers should have the right to obtain information, upon their request, on their individual pay level and on the average pay levels, broken down by sex, for the category of workers performing the same work as them or work of equal value to theirs. They should also have the possibility to receive the information through workers' representatives or through an equality body. Employers should inform workers of that right on an annual basis, as well as of the steps to be undertaken in order to exercise the right. Employers may also, on their own initiative, opt to provide such information without workers needing to request it.

([11]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

(37) This Directive should ensure that persons with disabilities have adequate access to the information provided pursuant to it to applicants for employment and workers. Such information should be provided to those persons taking into account their particular disabilities, in a format and appropriate form of assistance and support to ensure their access to and comprehension of the information. This could include the provision of information in an understandable way which they can perceive, in fonts of adequate size, using sufficient contrast or other format appropriate to the type of their disability. Where relevant, Directive (EU) 2016/2102 of the European Parliament and of the Council ([12]) applies.

(38) Employers with at least 100 workers should regularly report on pay, as provided for by this Directive. That information should be published by the Member States' monitoring bodies in a suitable and transparent manner. Employers may publish those reports on their website or make them publicly available in another manner, for instance by including the information in their management report, where applicable in the management report drawn up under Directive 2013/34/EU of the European Parliament and of the Council ([13]). Employers that are subject to the requirements of that Directive may choose to report on pay alongside other worker-related matters in their management report. To maximise the coverage of pay transparency of workers, Member States may increase the frequency of reporting or make regular reporting on pay mandatory for employers with fewer than 100 workers.

(39) Pay reporting should allow employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. Reporting and joint pay assessments contribute to an increased awareness of gender bias in pay structures and of pay discrimination and contribute to addressing such bias and discrimination in an effective and systemic way, thereby benefitting all workers employed by the same employer. At the same time, the sex-disaggregated data should assist competent public authorities, workers' representatives and other stakeholders in monitoring the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. Where differences in average pay for the same work or work of equal value between female and male workers are not justified on the basis of objective, gender-neutral criteria, the employer should take measures to remove the inequalities.

(40) To reduce the burden on employers, Member States could gather and interlink the necessary data through their national administrations allowing for a computation of the pay gap between female and male workers per employer. Such data gathering may require interlinking data from several public administrations, such as tax inspectorates and social security offices, and would be possible if administrative data matching employers' data, at company or organisational level, to workers' data, at individual level, including benefits in cash and in kind, are available. Member States could gather that information not only for employers that are covered by the pay reporting obligation under this Directive, but also for employers that are not covered by the obligation and that report voluntarily. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved.

(41) In order to make the information on the gender pay gap at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to compile the data on the pay gap received from employers without putting an additional burden on the latter. The monitoring body should make those data public, including by publishing them on an easily accessible website, allowing comparison of the data of individual employers, sectors and regions of the Member State concerned.

(42) Member States may acknowledge employers that are not subject to the reporting obligations set out in this Directive, which voluntarily report on their pay, for instance by means of a pay transparency label, with a view to promoting good practices in relation to the rights and obligations laid down in this Directive.

([12]) Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

([13]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(43) Joint pay assessments should trigger the review and revision of pay structures in organisations with at least 100 workers that show pay inequalities. The joint pay assessment should be carried out if employers and the workers' representatives concerned do not agree that the difference in average pay level between female and male workers of at least 5 % in a given category of workers can be justified on the basis of objective, gender-neutral criteria, if such a justification is not provided by the employer, or if the employer has not remedied such a difference in pay level within six months of the date of submission of the pay reporting. The joint pay assessment should be carried out by employers in cooperation with workers' representatives. If there are no workers' representatives, they should be designated by workers for the purpose of the joint pay assessment. Joint pay assessments should lead, within a reasonable period of time, to the elimination of gender-based pay discrimination through the adoption of remedial measures.

(44) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ([14]). Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable worker. Workers should not be prevented from voluntarily disclosing their pay for the purpose of the enforcement of the principle of equal pay.

(45) It is important that the social partners discuss and pay particular attention to matters of equal pay in collective bargaining. The various features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of the social partners, as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures to encourage the social partners to pay due attention to equal pay matters, which may include discussions at the appropriate level of collective bargaining, measures to stimulate and remove undue restrictions on the exercise of the right to collective bargaining related to the matters concerned and the development of gender-neutral job evaluation and classification systems.

(46) All workers should have the necessary procedures at their disposal to facilitate the exercise of their right of access to justice. National legislation providing for the use of conciliation, or making the intervention of an equality body compulsory or subject to incentives or penalties should not prevent parties from exercising their right of access to the courts.

(47) Involving equality bodies, in addition to other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies should therefore be adequate to fully cover gender-based pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles faced by workers who seek to exercise their right to equal pay, equality bodies, as well as associations, organisations and workers' representatives or other legal entities with an interest in ensuring equality between men and women should be able to represent individuals. They should be able to assist workers by acting on their behalf or in support of them, which would allow workers who have suffered discrimination to effectively institute a claim regarding the alleged infringement of their rights and the principle of equal pay.

(48) Bringing claims on behalf or in support of several workers is a way to facilitate proceedings that would not otherwise have been brought because of procedural and financial barriers or a fear of victimisation. It is also facilitative when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of the right to equal pay and of gender equality in society as a whole. The possibility of collective redress could motivate pro-active compliance with pay transparency measures, creating peer pressure, increasing employers' awareness and willingness to act preventively, and addressing the systemic nature of pay discrimination. Member States may decide to set qualification criteria for representatives of workers in court proceedings relating to equal pay claims, in order to ensure that such representatives are adequately qualified.

([14]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(49) Member States should ensure the allocation of sufficient resources to equality bodies for the effective and adequate performance of their tasks related to pay discrimination based on sex. Where the tasks are allocated to more than one body, Member States should ensure that they are adequately coordinated. This includes, for instance, allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay, including bringing pay discrimination claims or assisting and supporting victims in bringing such claims.

(50) Compensation should cover in full the loss and damage sustained as a result of gender-based pay discrimination in accordance with the case-law of the Court of Justice ([15]). It should include full recovery of back pay and related bonuses or payments in kind, as well as compensation for lost opportunities, such as access to certain benefits depending on pay level, and for non-material damage, such as distress because of the undervaluation of work performed. Where appropriate, the compensation can take into account damage caused by pay discrimination based on sex that intersects with other protected grounds of discrimination. Member States should not fix a prior upper limit for such compensation.

(51) In addition to compensation, other remedies should be provided for. Competent authorities or national courts should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up an action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness of their right to equal pay; and to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.

(52) In accordance with the case- law of the Court of Justice ([16]), Directive 2006/54/EC establishes provisions to ensure that the burden of proof shifts to the respondent when there is a *prima facie* case of discrimination. Nevertheless, it is not always easy for victims and courts to know how to establish even that presumption. In case C-109/88, the Court of Justice held that when a system of pay is totally lacking in transparency, the burden of proof should be shifted to the respondent, irrespective of the worker showing a *prima facie* case of pay discrimination. Accordingly, the burden of proof should be shifted to the respondent where an employer does not comply with the pay transparency obligations set out in this Directive, for instance by refusing to provide information requested by the workers or not reporting on the gender pay gap, where relevant, save where the employer proves that such an infringement was manifestly unintentional and of a minor character.

(53) In accordance with the case-law of the Court of Justice, national rules on limitation periods relating to the bringing of claims regarding alleged infringements of the rights provided for in this Directive should be such that they do not render virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender-based pay discrimination. For that purpose, common minimum standards should be established. Those standards should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is suspended or interrupted, and should provide that the limitation period for bringing claims is at least three years. Limitation periods should not begin to run before the claimant is aware, or can reasonably be expected to be aware, of the infringement. Member States should be able to decide that the limitation period does not begin to run while the infringement is ongoing or before the end of the employment contract or employment relationship.

(54) Litigation costs create a serious disincentive for victims of gender-based pay discrimination to bring claims regarding alleged infringements of their right to equal pay, leading to the insufficient protection of workers and the insufficient enforcement of the right to equal pay. In order to remove that significant procedural obstacle to justice, Member States should ensure that national courts can assess whether an unsuccessful claimant had reasonable grounds for bringing the claim and, if so, whether that claimant should not be required to pay the costs of the proceedings. This should in particular apply where a successful respondent has not complied with the pay transparency obligations set out in this Directive.

([15]) Judgment of the Court of Justice of 17 December 2015, Arjona Camacho, C-407/14, ECLI:EU:C:2015:831, para. 45.
([16]) Judgment of the Court of Justice of 17 October 1989, Danfoss, C-109/88, ECLI:EU:C:1989:383.

(55) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already in force on the date of entry into force of this Directive and that relate to the right to equal pay. Such penalties should include fines which could be based on the employer's gross annual turnover or on the employer's total payroll. Any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination based on sex is combined with other protected grounds of discrimination should be taken into account. It is for the Member States to determine the infringements of the rights and obligations relating to equal pay for equal work or work of equal value for which fines are the most appropriate penalty.

(56) Member States should establish specific penalties for repeated infringements of any right or obligation relating to equal pay between men and women for the same work or work of equal value, to reflect the severity of the infringement and to further deter such infringements. Such penalties could include different types of financial disincentives such as the revocation of public benefits or the exclusion, for a certain period of time, from any further award of financial inducements or from any public tender procedure.

(57) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law compliance with which Member States have to ensure under Directives 2014/23/EU ([17]), 2014/24/EU ([18]) and 2014/25/EU ([19]) of the European Parliament and of the Council in regard to participation in public procurement procedures. In order to comply with those obligations on employers as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a gender pay gap between workers in any category of workers performing equal work or work of equal value that cannot be justified on the basis of gender-neutral criteria. In addition, Member States should consider requiring contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Contracting authorities should also be able to take into account non-compliance with the principle of equal pay by the bidder or one of the bidder's subcontractors when considering the application of exclusion grounds or when taking a decision not to award a contract to the tenderer submitting the most economically advantageous tender.

(58) The effective implementation of the right to equal pay requires adequate administrative and court protection against any adverse treatment as a reaction to an attempt by workers to exercise that right, to any complaint to the employer or to any administrative procedure or court proceedings aiming to enforce compliance with that right. According to the case-law of the Court of Justice ([20]) the category of employees who are entitled to the protection should be interpreted broadly and include all employees who may be subject to retaliatory measures taken by an employer in response to a complaint of discrimination on grounds of sex. The protection is not limited solely to employees who have lodged complaints or their representatives, or to those who comply with certain formal requirements governing the recognition of a certain status, such as that of a witness.

(59) In order to improve the enforcement of the principle of equal pay, this Directive should strengthen the existing enforcement tools and procedures in regard to the rights and obligations laid down in this Directive and the equal pay provisions set out in Directive 2006/54/EC.

(60) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain provisions that are more favourable to workers. Rights acquired under the existing legal framework should continue to apply, unless provisions that are more favourable to workers are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to the principle of equal pay.

([17]) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

([18]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

([19]) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

([20]) Judgment of the Court of Justice of 20 June 2019, Hakelbracht and others, C-404/18, ECLI:EU:2019:523.

(61) In order to ensure proper monitoring of the implementation of the right to equal pay, Member States should set up or designate a dedicated monitoring body. That body, which should be able to be part of an existing body pursuing similar objectives, should have specific tasks in relation to the implementation of the pay transparency measures provided for in this Directive and gather certain data to monitor pay inequalities and the impact of the pay transparency measures. Member States should be able to designate more than one body, provided that the monitoring and analysis functions set out in this Directive are ensured by a central body.

(62) Compiling wage statistics broken down by sex and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999 ([21]) requires Member States to compile four-yearly structural earnings statistics at micro level, which provide harmonised data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union. Relevant statistics transmitted to the Commission (Eurostat) should be collected for statistical purposes within the meaning of Regulation (EC) No 223/2009 of the European Parliament and of the Council ([22]).

(63) Since the objectives of this Directive, namely a better and more effective application of the principle of equal pay through the establishment of common minimum requirements which should apply to all undertakings and organisations across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve those objectives.

(64) The role of the social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore have the possibility to entrust the social partners with the implementation of all or part of this Directive, provided that Member States take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.

(65) In implementing this Directive, Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of micro, small or medium-sized enterprises. Member States should therefore assess the impact of their transposition measures on micro, small and medium-sized enterprises in order to ensure that those enterprises are not disproportionately affected, giving specific attention to microenterprises, to alleviate the administrative burden, and to publish the results of such assessments.

(66) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council ([23]) and delivered an opinion on 27 April 2021,

([21]) Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6).

([22]) Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

([23]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Directive lays down minimum requirements to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women (the 'principle of equal pay') enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.

Article 2

Scope

1. This Directive applies to employers in public and private sectors.

2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State with consideration to the case-law of the Court of Justice.

3. For the purposes of Article 5, this Directive applies to applicants for employment.

Article 3

Definitions

1. For the purposes of this Directive, the following definitions apply:

(a) 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which a worker receives directly or indirectly (complementary or variable components) in respect of his or her employment from his or her employer;

(b) 'pay level' means gross annual pay and the corresponding gross hourly pay;

(c) 'gender pay gap' means the difference in average pay levels between female and male workers of an employer expressed as a percentage of the average pay level of male workers;

(d) 'median pay level' means the pay level at which half of the workers of an employer earn more and half of them earn less;

(e) 'median gender pay gap' means the difference between the median pay level of female and median pay level of male workers of an employer expressed as a percentage of the median pay level of male workers;

(f) 'quartile pay band' means each of four equal groups of workers into which they are divided according to their pay levels, from the lowest to the highest;

(g) 'work of equal value' means work that is determined to be of equal value in accordance with the non-discriminatory and objective gender-neutral criteria referred to in Article 4(4);

(h) 'category of workers' means workers performing the same work or work of equal value grouped in a non-arbitrary manner based on the non-discriminatory and objective gender-neutral criteria referred to in Article 4(4), by the workers' employer and, where applicable, in cooperation with the workers' representatives in accordance with national law and/or practice.

(i) 'direct discrimination' means the situation in which one person is treated less favourably on grounds of sex than another person is, has been or would be treated in a comparable situation;

(j) 'indirect discrimination' means the situation in which an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified on the basis of a legitimate aim, and the means of achieving that aim are appropriate and necessary;

(k) 'labour inspectorate' means the body or bodies responsible, in accordance with national law and/or practice, for control and inspection functions in the labour market, save that, where provided for in national law, the social partners may carry out those functions;

(l) 'equality body' means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC;

(m) 'workers' representatives' means the workers' representatives in accordance with national law and/or practice.

2. For the purposes of this Directive, discrimination includes:

(a) harassment and sexual harassment, within the meaning of Article 2(2), point (a), of Directive 2006/54/EC, as well as any less favourable treatment based on a person's rejection of, or submission to, such conduct, when such harassment or treatment relates to or results from the exercise of the rights provided for in this Directive;

(b) any instruction to discriminate against persons on grounds of sex;

(c) any less favourable treatment related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC ([24]);

(d) any less favourable treatment, within the meaning of Directive (EU) 2019/1158 of the European Parliament and of the Council ([25]), based on sex, including with regard to paternity leave, parental leave or carers' leave;

(e) intersectional discrimination, which is discrimination based on a combination of sex and any other ground or grounds of discrimination protected under Directive 2000/43/EC or 2000/78/EC.

3. Paragraph 2, point (e), shall not entail additional obligations on employers to gather data as referred to in this Directive with regard to protected grounds of discrimination other than sex.

Article 4

Equal work and work of equal value

1. Member States shall take the necessary measures to ensure that employers have pay structures ensuring equal pay for equal work or work of equal value.

2. Member States shall, in consultation with equality bodies, take the necessary measures to ensure that analytical tools or methodologies are made available and are easily accessible to support and guide the assessment and comparison of the value of work in accordance with the criteria set out in this Article. Those tools or methodologies shall allow employers and/or the social partners to easily establish and use gender-neutral job evaluation and classification systems that exclude any pay discrimination on grounds of sex.

([24]) Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

([25]) Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019, p. 79).

3. Where appropriate, the Commission may update Union-wide guidelines related to gender-neutral job evaluation and classification systems, in consultation with the European Institute for Gender Equality (EIGE).

4. Pay structures shall be such as to enable the assessment of whether workers are in a comparable situation in regard to the value of work on the basis of objective, gender-neutral criteria agreed with workers' representatives where such representatives exist. Those criteria shall not be based directly or indirectly on workers' sex. They shall include skills, effort, responsibility and working conditions, and, if appropriate, any other factors which are relevant to the specific job or position. They shall be applied in an objective gender-neutral manner, excluding any direct or indirect discrimination based on sex. In particular, relevant soft skills shall not be undervalued.

CHAPTER II

PAY TRANSPARENCY

Article 5

Pay transparency prior to employment

1. Applicants for employment shall have the right to receive, from the prospective employer, information about:

(a) the initial pay or its range, based on objective, gender-neutral criteria, to be attributed for the position concerned; and

(b) where applicable, the relevant provisions of the collective agreement applied by the employer in relation to the position.

Such information shall be provided in a manner such as to ensure an informed and transparent negotiation on pay, such as in a published job vacancy notice, prior to the job interview or otherwise.

2. An employer shall not ask applicants about their pay history during their current or previous employment relationships.

3. Employers shall ensure that job vacancy notices and job titles are gender-neutral and that recruitment processes are led in a non-discriminatory manner, in order not to undermine the right to equal pay for equal work or work of equal value (the 'right to equal pay').

Article 6

Transparency of pay setting and pay progression policy

1. Employers shall make easily accessible to their workers the criteria that are used to determine workers' pay, pay levels and pay progression. Those criteria shall be objective and gender neutral.

2. Member States may exempt employers with fewer than 50 workers from the obligation related to the pay progression set out in paragraph 1.

Article 7

Right to information

1. Workers shall have the right to request and receive in writing, in accordance with paragraphs 2 and 4, information on their individual pay level and the average pay levels, broken down by sex, for categories of workers performing the same work as them or work of equal value to theirs.

2. Workers shall have the possibility to request and receive the information referred to in paragraph 1 through their workers' representatives, in accordance with national law and/or practice. They shall also have the possibility to request and receive the information through an equality body.

If the information received is inaccurate or incomplete, workers shall have the right to request, personally or through their workers' representatives, additional and reasonable clarifications and details regarding any of the data provided and receive a substantiated reply.

3. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1 and of the steps that the worker is to undertake to exercise that right.

4. Employers shall provide the information referred to in paragraph 1 within a reasonable period of time but in any event within two months from the date on which the request is made.

5. Workers shall not be prevented from disclosing their pay for the purpose of the enforcement of the principle of equal pay. In particular, Member States shall put in place measures to prohibit contractual terms that restrict workers from disclosing information about their pay.

6. Employers may require workers who have obtained information pursuant to this Article, other than information concerning their own pay or pay level, not to use that information for any purpose other than to exercise their right to equal pay.

Article 8

Accessibility of information

Employers shall provide any information shared with workers or applicants for employment pursuant to Articles 5, 6 and 7 in a format which is accessible to persons with disabilities and which takes into account their particular needs.

Article 9

Reporting on pay gap between female and male workers

1. Member States shall ensure that employers provide the following information concerning their organisation, in accordance with this Article:

(a) the gender pay gap;

(b) the gender pay gap in complementary or variable components;

(c) the median gender pay gap;

(d) the median gender pay gap in complementary or variable components;

(e) the proportion of female and male workers receiving complementary or variable components;

(f) the proportion of female and male workers in each quartile pay band;

(g) the gender pay gap between workers by categories of workers broken down by ordinary basic wage or salary and complementary or variable components.

2. Employers with 250 workers or more shall, by 7 June 2027 and every year thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.

3. Employers with 150 to 249 workers shall, by 7 June 2027 and every three years thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.

4. Employers with 100 to 149 workers shall, by 7 June 2031 and every three years thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.

5. Member States shall not prevent employers with fewer than 100 workers from providing the information set out in paragraph 1 on a voluntary basis. Member States may, as a matter of national law, require employers with fewer than 100 workers to provide information on pay.

6. The accuracy of the information shall be confirmed by the employer's management, after consulting workers' representatives. Workers' representatives shall have access to the methodologies applied by the employer.

7. The information referred to in paragraph 1, points (a) to (g), of this Article shall be communicated to the authority in charge of compiling and publishing such data pursuant to Article 29(3), point (c). The employer may publish the information referred to in paragraph 1, points (a) to (f), of this Article on its website or make it publicly available in another manner.

8. Member States may compile the information set out in paragraph 1, points (a) to (f), of this Article themselves, on the basis of administrative data such as data provided by employers to the tax or social security authorities. The information shall be made public pursuant to Article 29(3), point (c).

9. Employers shall provide the information referred to in paragraph 1, point (g), to all their workers and to the workers' representatives of their workers. Employers shall provide the information to the labour inspectorate and the equality body upon request. The information from the previous four years, if available, shall also be provided upon request.

10. Workers, workers' representatives, labour inspectorates and equality bodies shall have the right to ask employers for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. Employers shall respond to such requests within a reasonable time by providing a substantiated reply. Where gender pay differences are not justified on the basis of objective, gender-neutral criteria, employers shall remedy the situation within a reasonable period of time in close cooperation with workers' representatives, the labour inspectorate and/or the equality body.

Article 10

Joint pay assessment

1. Member States shall take appropriate measures to ensure that employers who are subject to pay reporting pursuant to Article 9 conduct, in cooperation with their workers' representatives, a joint pay assessment where all the following conditions are met:

(a) the pay reporting demonstrates a difference in the average pay level between female and male workers of at least 5 % in any category of workers;

(b) the employer has not justified such a difference in the average pay level on the basis of objective, gender-neutral criteria;

(c) the employer has not remedied such an unjustified difference in the average pay level within six months of the date of submission of the pay reporting.

2. The joint pay assessment shall be carried out in order to identify, remedy and prevent differences in pay between female and male workers which are not justified on the basis of objective, gender-neutral criteria, and shall include the following:

(a) an analysis of the proportion of female and male workers in each category of workers;

(b) information on average female and male workers' pay levels and complementary or variable components for each category of workers;

(c) any differences in average pay levels between female and male workers in each category of workers;

(d) the reasons for such differences in average pay levels, on the basis of objective, gender-neutral criteria, if any, as established jointly by the workers' representatives and the employer;

(e) the proportion of female and male workers who benefited from any improvement in pay following their return from maternity or paternity leave, parental leave or carers' leave, if such improvement occurred in the relevant category of workers during the period in which the leave was taken;

(f) measures to address differences in pay if they are not justified on the basis of objective, gender-neutral criteria;

(g) an evaluation of the effectiveness of measures from previous joint pay assessments.

3. Employers shall make the joint pay assessment available to workers and workers' representatives and shall communicate it to the monitoring body pursuant to Article 29(3), point (d). They shall make it available to the labour inspectorate and the equality body upon request.

4. When implementing the measures arising from the joint pay assessment, the employer shall remedy the unjustified differences in pay within a reasonable period of time, in close cooperation, in accordance with national law and/or practice, with the workers' representatives. The labour inspectorate and/or the equality body may be asked to participate in the process. The implementation of the measures shall include an analysis of the existing gender-neutral job evaluation and classification systems or the establishment of such systems, to ensure that any direct or indirect pay discrimination on the grounds of sex is excluded.

Article 11

Support for employers with fewer than 250 workers

Member States shall provide support, in the form of technical assistance and training, to employers with fewer than 250 workers and to the workers' representatives concerned, to facilitate their compliance with the obligations laid down in this Directive.

Article 12

Data protection

1. To the extent that any information provided pursuant to measures taken under Articles 7, 9, and 10 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679.

2. Any personal data processed pursuant to Articles 7, 9 or 10 of this Directive shall not be used for any purpose other than for the application of the principle of equal pay.

3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 9 and 10 would lead to the disclosure, either directly or indirectly, of the pay of an identifiable worker, only the workers' representatives, the labour inspectorate or the equality body shall have access to that information. The workers' representatives or the equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers performing the same work or work of equal value. For the purposes of monitoring pursuant to Article 29, the information shall be made available without restriction.

Article 13

Social dialogue

Without prejudice to the autonomy of the social partners and in accordance with national law and practice, Member States shall take adequate measures to ensure the effective involvement of the social partners, by means of discussing the rights and obligations laid down in this Directive, where applicable upon their request.

Member States shall, without prejudice to the autonomy of the social partners and taking into account the diversity of national practices, take adequate measures to promote the role of the social partners and encourage the exercise of the right to collective bargaining on measures to tackle pay discrimination and its adverse impact on the valuation of jobs predominantly carried out by workers of one sex.

CHAPTER III

REMEDIES AND ENFORCEMENT

Article 14

Defence of rights

Member States shall ensure that, after possible recourse to conciliation, court proceedings for the enforcement of rights and obligations relating to the principle of equal pay are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay. Such proceedings shall be easily accessible to workers and to persons who act on their behalf, even after the end of the employment relationship in which the discrimination is alleged to have occurred.

Article 15

Procedures on behalf or in support of workers

Member States shall ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have, in accordance with criteria laid down in national law, a legitimate interest in ensuring equality between men and women, may engage in any administrative procedure or court proceedings regarding an alleged infringement of the rights or obligations relating to the principle of equal pay. They may act on behalf of, or in support of, a worker who is an alleged victim of an infringement of any right or obligation relating to the principle of equal pay, with that person's approval.

Article 16

Right to compensation

1. Member States shall ensure that any worker who has sustained damage as a result of an infringement of any right or obligation relating to the principle of equal pay has the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that damage.

2. The compensation or reparation referred to in paragraph 1 shall constitute real and effective compensation or reparation, as determined by the Member State, for the loss and damage sustained, in a dissuasive and proportionate manner.

3. The compensation or reparation shall place the worker who has sustained damage in the position in which that person would have been if he or she had not been discriminated against based on sex or if there had been no infringement of any of the rights or obligations relating to the principle of equal pay. Member States shall ensure that the compensation or reparation includes full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities, non-material damage, any damage caused by other relevant factors which may include intersectional discrimination, as well as interest on arrears.

4. The compensation or reparation shall not be restricted by the fixing of a prior upper limit.

Article 17

Other remedies

1. Member States shall ensure that, in the case of an infringement of rights or obligations related to the principle of equal pay, competent authorities or national courts may, in accordance with national law, at the request of the claimant and at the expense of the respondent, issue:

(a) an order to stop the infringement;

(b) an order to take measures to ensure that the rights or obligations related to the principle of equal pay are applied.

2. Where a respondent does not comply with any order issued pursuant to paragraph 1, Member States shall ensure that their competent authorities or national courts are able, where appropriate, to issue a recurring penalty payment order, with a view to ensuring compliance.

Article 18

Shift of burden of proof

1. Member States shall take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them establish before a competent authority or national court facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no direct or indirect discrimination in relation to pay.

2. Member States shall ensure that, in administrative procedures or court proceedings regarding alleged direct or indirect discrimination in relation to pay, where an employer has not implemented the pay transparency obligations set out in Articles 5, 6, 7, 9 and 10, it is for the employer to prove that there has been no such discrimination.

The first subparagraph of this paragraph shall not apply where the employer proves that the infringement of the obligations set out in Articles 5, 6, 7, 9 and 10 was manifestly unintentional and of a minor character.

3. This Directive shall not prevent Member States from introducing evidential rules which are more favourable to a worker who institutes an administrative procedure or court proceedings regarding an alleged infringement of any of the rights or obligations relating to the principle of equal pay.

4. Member States need not apply paragraph 1 to procedures and proceedings in which it is for the competent authority or the national court to investigate the facts of the case.

5. This Article shall not apply to criminal proceedings, unless national law provides otherwise.

Article 19

Proof of equal work or work of equal value

1. When assessing whether female and male workers are carrying out the same work or work of equal value, the assessment of whether workers are in a comparable situation shall not be limited to situations in which female and male workers work for the same employer, but shall be extended to a single source establishing the pay conditions. A single source shall exist where it stipulates the elements of pay relevant for the comparison of workers.

2. The assessment of whether workers are in a comparable situation shall not be limited to workers who are employed at the same time as the worker concerned.

3. Where no real comparator can be established, any other evidence may be used to prove alleged pay discrimination, including statistics or a comparison of how a worker would be treated in a comparable situation.

Article 20

Access to evidence

1. Member States shall ensure that in proceedings concerning an equal pay claim, competent authorities or national courts are able to order the respondent to disclose any relevant evidence which lies in the respondent's control, in accordance with national law and practice.

2. Member States shall ensure that competent authorities or national courts have the power to order the disclosure of evidence containing confidential information where they consider it relevant to the equal pay claim. Member States shall ensure that, when ordering the disclosure of such information, competent authorities or national courts have at their disposal effective measures to protect such information, in accordance with national procedural rules.

3. This Article shall not prevent Member States from maintaining or introducing rules which are more favourable to claimants.

Article 21

Limitation periods

1. Member States shall ensure that national rules applicable to limitation periods for bringing equal pay claims determine when such periods begin to run, the duration thereof and the circumstances under which they may be suspended or interrupted. The limitation periods shall not begin to run before the claimant is aware, or can reasonably be expected to be aware, of an infringement. Member States may decide that limitation periods do not begin to run while the infringement is ongoing or before the end of the employment contract or employment relationship. Such limitation periods shall be no shorter than three years.

2. Member States shall ensure that a limitation period is suspended or, depending on national law, interrupted, as soon as a claimant undertakes action by bringing a complaint to the attention of the employer or by instituting proceedings before a court, directly or through the workers' representatives, the labour inspectorate or the equality body.

3. This Article does not apply to rules on the expiry of claims.

Article 22

Legal costs

Member States shall ensure that, where a respondent is successful in proceedings relating to a pay discrimination claim, national courts can assess, in accordance with national law, whether the unsuccessful claimant had reasonable grounds for bringing the claim and, if so, whether it is appropriate not to require that claimant to pay the costs of the proceedings.

Article 23

Penalties

1. Member States shall lay down the rules on effective, proportionate and dissuasive penalties applicable to infringements of the rights and obligations relating to the principle of equal pay. Member States shall take all measures necessary to ensure that those rules are implemented and shall, without delay, notify the Commission of those rules and of those measures and of any subsequent amendment affecting them.

2. Member States shall ensure that the penalties referred to in paragraph 1 guarantee a real deterrent effect with regard to infringements of the rights and obligations relating to the principle of equal pay. Those penalties shall include fines, the setting of which shall be based on national law.

3. The penalties referred to in paragraph 1 shall take into account any relevant aggravating or mitigating factor applicable to the circumstances of the infringement, which may include intersectional discrimination.

4. Member States shall ensure that specific penalties apply in the case of repeated infringements of the rights and obligations relating to the principle of equal pay.

5. Member States shall take all measures necessary to ensure that the penalties provided for pursuant to this Article are effectively applied in practice.

Article 24

Equal pay in public contracts and concessions

1. The appropriate measures that Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with their obligations relating to the principle of equal pay.

2. Member States shall consider requiring contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article 38(7), point (a), of Directive 2014/23/EU, Article 57(4), point (a), of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4), point (a), of Directive 2014/24/EU, contracting authorities may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means an infringement of the obligations referred to in paragraph 1 of this Article, related either to a failure to comply with pay transparency obligations or a pay gap of more than 5 % in any category of workers which is not justified by the employer on the basis of objective, gender-neutral criteria. This shall be without prejudice to any other rights or obligations set out in Directive 2014/23/EU, 2014/24/EU or 2014/25/EU.

Article 25

Victimisation and protection against less favourable treatment

1. Workers and their workers' representatives shall not be treated less favourably on the ground that they have exercised their rights relating to equal pay or have supported another person in the protection of that person's rights.

2. Member States shall introduce in their national legal systems such measures as are necessary to protect workers, including workers who are workers' representatives, against dismissal or other adverse treatment by an employer as a reaction to a complaint within the employer's organisation or to any administrative procedure or court proceedings for the purpose of the enforcement of any rights or obligations relating to the principle of equal pay.

Article 26

Relationship with Directive 2006/54/EC

Chapter III of this Directive shall apply to proceedings concerning any right or obligation relating to the principle of equal pay set out in Article 4 of Directive 2006/54/EC.

CHAPTER IV

HORIZONTAL PROVISIONS

Article 27

Level of protection

1. Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive.

2. The implementation of this Directive shall under no circumstances constitute grounds for reducing the level of protection in the fields covered by this Directive.

Article 28

Equality bodies

1. Without prejudice to the competence of labour inspectorates or other bodies that enforce the rights of workers, including the social partners, the equality bodies shall be competent with regard to matters falling within the scope of this Directive.

2. Member States shall, in accordance with national law and practice, take active measures to ensure close cooperation and coordination among the labour inspectorates, the equality bodies and, where applicable, the social partners with regard to the principle of equal pay.

3. Member States shall provide their equality bodies with the adequate resources necessary for effectively carrying out their functions with regard to the respect for the right to equal pay.

Article 29

Monitoring and awareness raising

1. Member States shall ensure the consistent and coordinated monitoring of and support for the application of the principle of equal pay and the enforcement of all available remedies.

2. Each Member State shall designate a body for the monitoring and support of the implementation of national measures implementing this Directive (monitoring body) and shall make the necessary arrangements for the proper functioning thereof. The monitoring body may be part of an existing body or structure at national level. Member States may designate more than one body for the purpose of awareness-raising and data collection, provided that the monitoring and analysis functions provided for in paragraph 3, points (b), (c) and (e), are ensured by a central body.

3. Member States shall ensure that the tasks of the monitoring body include the following:

(a) raising awareness among public and private undertakings and organisations, the social partners and the public to promote the principle of equal pay and the right to pay transparency, including by addressing intersectional discrimination in relation to equal pay for equal work or work of equal value;

(b) analysing the causes of the gender pay gap and devising tools to help assess pay inequalities, making use, in particular, of the analytical work and tools of the EIGE;

(c) collecting data received from employers pursuant to Article 9(7), and promptly publishing the data referred to in Article 9(1), points (a) to (f), in an easily accessible and user-friendly manner that allows comparison between employers, sectors and regions of the Member State concerned, and ensuring that the data from the previous four years is accessible if available;

(d) collecting the joint pay assessment reports pursuant to Article 10(3);

(e) aggregating data on the number and types of pay discrimination complaints brought before the competent authorities, including equality bodies, and claims brought before the national courts.

4. By 7 June 2028 and every two years thereafter, Member States shall, in a single submission, provide the Commission with the data referred to in paragraph 3, points (c), (d), and (e).

Article 30

Collective bargaining and action

This Directive shall not affect in any way the right to negotiate, conclude and enforce collective agreements or to take collective action in accordance with national law or practice.

Article 31

Statistics

Member States shall, on an annual basis, provide the Commission (Eurostat) with up-to-date national data for the calculation of the gender pay gap in unadjusted form. Those statistics shall be broken down by sex, economic sector, working time (full-time/part-time), economic control (public/private ownership) and age and shall be calculated on an annual basis.

The data referred to in the first paragraph shall be transmitted from 31 January 2028 for reference year 2026.

Article 32

Dissemination of information

Member States shall take active measures to ensure that the provisions which they adopt pursuant to this Directive, together with the relevant provisions already in force, are brought by all appropriate means to the attention of the persons concerned throughout their territory.

Article 33

Implementation

Member States may entrust the social partners with the implementation of this Directive in accordance with national law and/or practice with regard to the role of the social partners, provided that Member States take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times. The implementation tasks entrusted to the social partners may include:

(a) the development of analytical tools or methodologies as referred to in Article 4(2);

(b) financial penalties equivalent to fines, provided that they are effective, proportionate and dissuasive.

Article 34

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 7 June 2026. They shall immediately inform the Commission thereof.

When informing the Commission, Member States shall also provide it with a summary of the results of an assessment regarding the impact of their transposition measures on workers and employers with fewer than 250 workers and a reference to where such assessment is published.

2. When Member States adopt the measures referred to in paragraph 1 they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 35

Reporting and review

1. By 7 June 2031, Member States shall inform the Commission about the implementation of this Directive and its impact in practice.

2. By 7 June 2033, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Directive. The report shall examine, *inter alia*, the employer thresholds provided for in Articles 9 and 10, as well as the 5 % trigger for the joint pay assessment provided for in Article 10(1). The Commission shall, if appropriate, propose any legislative amendments that it considers to be necessary on the basis of that report.

Article 36

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 37

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/971

of 10 May 2023

entering a name in the register of protected designations of origin and protected geographical indications ('Cedro di Santa Maria del Cedro' (PDO))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ([1]), and in particular Article 52(2) thereof,

Whereas:

(1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Italy's application to register the name 'Cedro di Santa Maria del Cedro' was published in the *Official Journal of the European Union* ([2]).

(2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Cedro di Santa Maria del Cedro' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Cedro di Santa Maria del Cedro' (PDO) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.6. – Fruit, vegetables and cereals, fresh or processed, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ([3]).

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 May 2023.

For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission

([1]) OJ L 343, 14.12.2012, p. 1.
([2]) OJ C 25, 24.1.2023, p. 12.
([3]) Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION IMPLEMENTING REGULATION (EU) 2023/972

of 10 May 2023

authorising the placing on the market of aqueous ethanolic extract of *Labisia pumila* as a novel food and amending Implementing Regulation (EU) 2017/2470

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001 ([1]), and in particular Article 12(1) thereof,

Whereas:

(1) Regulation (EU) 2015/2283 provides that only novel foods authorised and included in the Union list of novel foods may be placed on the market within the Union.

(2) Pursuant to Article 8 of Regulation (EU) 2015/2283, Commission Implementing Regulation (EU) 2017/2470 ([2]) has established a Union list of novel foods.

(3) On 7 October 2019, the company Medika Natura Sdn. Bhd. ('the applicant', initially Orchid Life Sdn Bhd) submitted an application to the Commission in accordance with Article 10(1) of Regulation (EU) 2015/2283 to place aqueous ethanolic extract of *Labisia pumila* on the Union market as a novel food. The applicant requested for aqueous ethanolic extract of *Labisia pumila* to be used in food supplements as defined in Directive 2002/46/EC of the European Parliament and of the Council ([3]) intended for the adult population, excluding pregnant and lactating women, at the maximum use level of 750 mg per day.

([1]) OJ L 327, 11.12.2015, p. 1.

([2]) Commission Implementing Regulation (EU) 2017/2470 of 20 December 2017 establishing the Union list of novel foods in accordance with Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 72).

([3]) Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).

(4) On 7 October 2019, the applicant also made a request to the Commission for the protection of proprietary data, namely, pharmacokinetic study in rats ([4]), bacterial reverse mutation test ([5]), *in vitro* mammalian chromosome aberration test ([6]), mammalian erythrocyte micronucleus test in mice ([7]), repeated dose (90 days) oral toxicity study in rats ([8]), solubility test ([9]), *in vitro* micronucleus test ([10]) and one year chronic toxicity test ([11]).

(5) On 14 April 2020, the Commission requested the European Food Safety Authority ('the Authority') to carry out an assessment of aqueous ethanolic extract of *Labisia pumila* as a novel food.

(6) On 28 September 2022, the Authority adopted its scientific opinion on the 'Safety of an aqueous ethanolic extract of *Labisia pumila* as a novel food pursuant to Regulation (EU) 2015/2283' ([12]) in accordance with Article 11 of Regulation (EU) 2015/2283.

(7) In its scientific opinion, the Authority concluded that aqueous ethanolic extract (1:1) of the whole plant of *Labisia pumila* mixed with maltodextrin (2:1) which serves as a drying aid, is safe for the target population at levels of up to 350 mg per day. Therefore, that scientific opinion gives sufficient grounds to establish that aqueous ethanolic extract of *Labisia pumila*, when used in food supplements as defined in Directive 2002/46/EC of the European Parliament and of the Council intended for the adult population, excluding pregnant and lactating women, at the maximum use level of 350 mg per day, fulfils the conditions for its placing on the market in accordance with Article 12(1) of Regulation (EU) 2015/2283.

(8) In its scientific opinion, the Authority also noted that its conclusion on the safety of the novel food was based on the solubility test and toxicological information (studies on pharmacokinetics, genotoxicity, subchronic and chronic oral toxicity) without which it could not have assessed the novel food and reached its conclusion.

(9) The Commission requested the applicant to further clarify the justification provided with regard to its proprietary claim over those data and studies and to clarify their claim to an exclusive right of reference to them in accordance with Article 26(2)(b) of Regulation (EU) 2015/2283.

(10) The applicant declared that it held proprietary and exclusive rights of reference to the pharmacokinetic study in rats, bacterial reverse mutation test, *in vitro* mammalian chromosome aberration test, mammalian erythrocyte micronucleus test in mice, repeated dose (90 days) oral toxicity study in rats, solubility test, *in vitro* micronucleus test and one year chronic toxicity test at the time it submitted the application, and that third parties cannot lawfully access, use or refer to those data.

(11) The Commission assessed all the information provided by the applicant and considered that it has sufficiently substantiated the fulfilment of the requirements laid down in Article 26(2) of Regulation (EU) 2015/2283. Therefore, pharmacokinetic study in rats, bacterial reverse mutation test, *in vitro* mammalian chromosome aberration test, mammalian erythrocyte micronucleus test in mice, repeated dose (90 days) oral toxicity study in rats, solubility test, *in vitro* micronucleus test and one year chronic toxicity test should be protected in accordance with Article 27(1) of Regulation (EU) 2015/2283. Accordingly, only the applicant should be authorised to place aqueous ethanolic extract of *Labisia pumila* on the market within the Union during a period of five years from the entry into force of this Regulation.

([4]) Annex 48.
([5]) Annex 52.
([6]) Annex 53.
([7]) Annex 54.
([8]) Annex 55.
([9]) Annex 91.
([10]) Annex 92.
([11]) Annexes 93, 94, 97 and 98.
([12]) *EFSA Journal* 2022;20(11):7611.

(12) However, restricting the authorisation of aqueous ethanolic extract of *Labisia pumila* and the reference to the data contained in the applicant's file for its sole use does not prevent subsequent applicants from applying for an authorisation to place on the market the same novel food provided that their application is based on legally obtained information supporting such an authorisation.

(13) It is appropriate that the inclusion of aqueous ethanolic extract of *Labisia pumila* as a novel food in the Union list of novel foods contains the information referred to in Article 9(3) of Regulation (EU) 2015/2283. In this regard, in line with the conditions of use of food supplements containing aqueous ethanolic extract of *Labisia pumila* as proposed by the applicant and assessed by the Authority, it is necessary to inform consumers by appropriate labelling that food supplements containing aqueous ethanolic extract of *Labisia pumila* should only be consumed by adults excluding pregnant and lactating women.

(14) Aqueous ethanolic extract of *Labisia pumila* should be included in the Union list of novel foods set out in Implementing Regulation (EU) 2017/2470. The Annex to Implementing Regulation (EU) 2017/2470 should therefore be amended accordingly.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

1. Aqueous ethanolic extract of *Labisia pumila* is authorised to be placed on the market within the Union.

Aqueous ethanolic extract of *Labisia pumila* shall be included in the Union list of novel foods set out in Implementing Regulation (EU) 2017/2470.

2. The Annex to Implementing Regulation (EU) 2017/2470 is amended in accordance with the Annex to this Regulation.

Article 2

Only the company Medika Natura Sdn. Bhd. ([13]) is authorised to place on the market within the Union the novel food referred to in Article 1, for a period of five years from 6 June 2023, unless a subsequent applicant obtains an authorisation for that novel food without reference to the scientific data protected pursuant to Article 3 or with the agreement of Medika Natura Sdn. Bhd.

Article 3

The scientific data contained in the application file and fulfilling the conditions laid down in Article 26(2) of Regulation (EU) 2015/2283 shall not be used for the benefit of a subsequent applicant for a period of five years from the date of entry into force of this Regulation without the agreement of Medika Natura Sdn. Bhd.

Article 4

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

([13]) No. 44B Jalan Bola Tampar 13/14 Section 13, 40100 Shah Alam Selangor, Malaysia.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

The Annex to Implementing Regulation (EU) 2017/2470 is amended as follows:

(1) in Table 1 (Authorised novel foods), the following entry is inserted:

Authorised novel food	Conditions under which the novel food may be used		Additional specific labelling requirements	Other requirements	Data protection
'**Aqueous ethanolic extract of *Labisia pumila***'	Specified food category	Maximum levels	1. The designation of the novel food on the labelling of the foodstuffs containing it shall be 'aqueous ethanolic extract of *Labisia pumila*'. 2. The labelling of food supplements containing the novel food shall bear a statement that they should only be consumed by persons above 18 years of age excluding pregnant and lactating women.		Authorised on 6 June 2023. This inclusion is based on proprietary scientific evidence and scientific data protected in accordance with Article 26 of Regulation (EU) 2015/2283. Applicant: Medika Natura Sdn. Bhd., No. 44B Jalan Bola Tampar 13/14 Section 13, 40100 Shah Alam Selangor, Malaysia. During the period of data protection, the novel food aqueous ethanolic extract of *Labisia pumila* is authorised for placing on the market within the Union only by Medika Natura Sdn. Bhd., unless a subsequent applicant obtains authorisation for the novel food without reference to the proprietary scientific evidence or scientific data protected in accordance with Article 26 of Regulation (EU) 2015/2283 or with the agreement of Medika Natura Sdn. Bhd. End date of the date protection: 6 June 2028.'
	Food supplements as defined in Directive 2002/46/EC for the adult population, excluding pregnant and lactating women	350 mg/day			

(2) in Table 2 (Specifications), the following entry is inserted:

Authorised Novel Food	Specification
‘**Aqueous ethanolic extract of *Labisia pumila***	**Description/Definition:** The novel food is a hydroalcoholic extract obtained from a dried whole plant of *Labisia pumila* (Blume) Fern.-Vill. The production process of the novel food starts with washing, drying and grinding of the plant *Labisia pumila*. The ground plant material is then extracted twice with a mixture of water and ethanol (50/50 v/v). The liquid extract is then concentrated, mixed with maltodextrin (which is used as a drying aid) in a ratio of 2:1 and spray-dried. **Characteristics/composition (including maltodextrin):** Particle size: > 90 % through 120 mesh (125 μm) Ash: < 10 % Acid-insoluble ash: < 1 % Moisture: < 8 % Ethanol: < 1 % (w/w) Gallic acid: 2-10 % (w/w) Carbohydrate: 70-90 g/100 g Protein: < 9 % (w/w) Total fat: < 3 % (w/w) Saponin (as ardisiacripsin A): < 1,5 % (w/w) **Microbiological criteria:** Aerobic plate count: < 1×10^4 CFU/g Yeast and mould: < 5×10^2 CFU/g *E. coli*: not detected in 10 g *S.aureus*: not detected in 10 g Salmonella: not detected in 25 g *P. aeruginosa*: not detected in 10 g cfu: colony forming units w/w: weight per weight’

COMMISSION IMPLEMENTING REGULATION (EU) 2023/973

of 15 May 2023

amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada, Chile, the United Kingdom and the United States in the lists of third countries authorised for the entry into the Union of consignments of poultry, germinal products of poultry and fresh meat of poultry and game birds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ([1]), and in particular Articles 230(1) and 232(1) and (3) thereof.

Whereas:

(1) Regulation (EU) 2016/429 provides that consignments of animals, germinal products and products of animal origin must come from a third country or territory, or zone or compartment thereof, listed in accordance with Article 230(1) of that Regulation in order to enter the Union.

(2) Commission Delegated Regulation (EU) 2020/692 ([2]) lays down the animal health requirements that consignments of certain species and categories of animals, germinal products and products of animal origin, from third countries or territories, or zones thereof, or compartments thereof in the case of aquaculture animals, must comply with in order to enter the Union.

(3) Commission Implementing Regulation (EU) 2021/404 ([3]) establishes the lists of third countries, or territories, or zones or compartments thereof, from which the entry into the Union of the species and categories of animals, germinal products and products of animal origin falling within the scope of Delegated Regulation (EU) 2020/692 is permitted.

(4) More particularly, Annexes V and XIV to Implementing Regulation (EU) 2021/404 set out the lists of third countries, or territories, or zones thereof authorised for the entry into the Union, respectively, of consignments of poultry, germinal products of poultry, and of fresh meat of poultry and game birds.

(5) Canada has notified the Commission of two outbreaks of highly pathogenic avian influenza (HPAI) in poultry in the provinces of Ontario (1) and Quebec (1), which were confirmed on 17 April 2023 and 19 April 2023 by laboratory analysis (RT-PCR).

(6) Furthermore, Chile has notified the Commission of three outbreaks of HPAI in poultry in the region of Valparaíso (2) and Biobío (1), which were confirmed between 18 April 2023 and 20 April 2023 by laboratory analysis (RT-PCR).

(7) In addition, the United Kingdom has notified the Commission of six outbreaks of HPAI in poultry in the counties of Devon (1), South Yorkshire (1) Yorkshire (1) in England and Powys (3) in Wales, which were confirmed between 31 March 2023 and 29 April 2023 by laboratory analysis (RT-PCR).

([1]) OJ L 84, 31.3.2016, p. 1.

([2]) Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

([3]) Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and of the Council (OJ L 114, 31.3.2021, p. 1).

(8) Following those recent outbreaks of HPAI, the veterinary authorities of Canada, Chile and the United Kingdom established restricted zones of at least 10 km around the affected establishments and implemented a stamping-out policy in order to control the presence of HPAI and limit the spread of that disease.

(9) Canada, Chile and the United Kingdom have submitted information to the Commission on the epidemiological situation on their territories and the measures they have taken to prevent the further spread of HPAI. That information has been evaluated by the Commission. On the basis of that evaluation and in order to protect the animal health status of the Union, the entry into the Union of consigments of poultry, germinal products of poultry, and fresh meat of poultry and game birds from the areas under restrictions established by the veterinary authorities of Canada, Chile and the United Kingdom due to the recent outbreaks of HPAI should no longer be authorised.

(10) Furthermore, Canada has submitted updated information on the epidemiological situation on its territory in relation to eight outbreaks of HPAI in poultry establishments in the provinces of British Columbia (4), Ontario (3) and Quebec (1), which were confirmed between 5 April 2022 and 1 December 2022.

(11) In addition, the United Kingdom has submitted updated information on the epidemiological situation on its territory in relation to 58 outbreaks of HPAI in poultry establishments in the counties of Cumbria (1), Herefordshire (1), Lincolnshire (6), Norfolk (42), North Yorkshire (1), Staffordshire (1) Suffolk (4), Worcestershire (1) and Yorkshire (1) in England, United Kingdom, which were confirmed between 3 September 2022 and 10 March 2023.

(12) Furthermore, Canada and the United Kingdom have also submitted information on the measures they have taken to prevent the further spread of HPAI. In particular, following those outbreaks of that disease, Canada and the United Kingdom have implemented a stamping out policy in order to control and limit the spread of that disease, and they have also completed the requisite cleaning and disinfection following the implementation of the stamping out policy on the infected poultry establishments on their territories.

(13) The Commission has evaluated the information submitted by Canada and the United Kingdom and concluded that the outbreaks of HPAI in poultry establishments have been cleared and that there is no longer a risk associated with the entry into the Union of poultry commodities from the zones of Canada and the United Kingdom from which the entry into the Union of poultry commodities was suspended following those outbreaks.

(14) Annexes V and XIV to Implementing Regulation (EU) 2021/404 should be therefore amended to take account of the current epidemiological situation as regards HPAI in Canada, Chile and the United Kingdom.

(15) Taking into account the current epidemiological situation in Canada, Chile and the United Kingdom as regards HPAI and the serious risk of its introduction into the Union, the amendments to be made to Annexes V and XIV to Implementing Regulation (EU) 2021/404 by this Regulation should take effect as a matter of urgency.

(16) Commission Implementing Regulation (EU) 2023/868 ([4]) amended Annex V and Annex XIV to Implementing Regulation (EU) 2021/404 by amending in Annex V and in Annex XIV the rows for the zone US-2.278, by setting the opening date of this previously closed zone in the entries for the United States. As an error has been detected concerning the opening date of the zone US-2.278 in Annexes V and XIV, the rows for the zone US-2.278 in Annexes V and XIV should be corrected accordingly. This correction should apply from the date of application of Implementing Regulation (EU) 2023/868.

(17) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

([4]) Commission Implementing Regulation (EU) 2023/868 of 27 April 2023 amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada, Chile and the United Kingdom in the lists of third countries authorised for the entry into the Union of consignments of poultry, germinal products of poultry and fresh meat of poultry and game birds (OJ L 113, 28.4.2023, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Annexes V and XIV to Implementing Regulation (EU) 2021/404 are amended in accordance with the Annex to this Regulation.

Article 2

Correction to Implementing Regulation (EU) 2021/404

1. In Annex V, in Section B of Part 1, in the entry for the United States, the row for the zone US-2.278 is replaced by the following:

'**US** United States	US-2.278	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		23.9.2022	31.3.2023'

2. In Annex XIV, in Section B of Part 1, in the entry for the United States, the rows for the zones US-2.278 are replaced by the following:

'**US** United States	US-2.278	POU, RAT	N, P1		23.9.2022	31.3.2023
		GBM	P1		23.9.2022	31.3.2023'

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

However, Article 2 shall apply from 29 April 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes V and XIV to Implementing Regulation (EU) 2021/404 are amended as follows:

(1) Annex V is amended as follows:

(a) in Part 1, Section B is amended as follows:

(i) in the entry for Canada, the row for the zone CA-2.8 is replaced by the following:

'**CA** Canada	CA-2.8	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		5.4.2022	21.4.2023'

(ii) in the entry for Canada, the row for the zone CA-2.52 is replaced by the following:

'**CA** Canada	CA-2.52	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		3.5.2022	21.4.2023'

(iii) in the entry for Canada, the row for the zone CA-2.54 is replaced by the following:

'**CA** Canada	CA-2.54	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		3.5.2022	21.4.2023'

(iv) in the entry for Canada, the row for the zone CA-2.65 is replaced by the following:

'**CA** Canada	CA-2.65	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		18.5.2022	21.4.2023'

(v) in the entry for Canada, the row for the zone CA-2.148 is replaced by the following:

'**CA** Canada	CA-2.148	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		16.10.2022	21.4.2023'

(vi) in the entry for Canada, the row for the zone CA-2.153 is replaced by the following:

'**CA** Canada	CA-2.153	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		19.11.2022	21.4.2023'

(vii) in the entry for Canada, the rows for the zones CA-2.161 and CA-2.162 are replaced by the following:

'**CA** Canada	CA-2.161	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		29.11.2022	21.4.2023
	CA-2.162	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		1.12.2022	21.4.2023'

(viii) in the entry for Canada, the following rows for the zones CA-2.184 and CA-2.185 are added after the row for the zone CA-2.183:

'**CA** Canada	CA-2.184	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		17.4.2023	
	CA-2.185	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		19.4.2023'	

(ix) in the entry for Chile, the following rows for the zones CL-2.8, CL-2.9 and CL-2.10 are added after the row for the zone CL-2.7:

'**CL** Chile	CL-2.8	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		18.4.2023	
	CL-2.9	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.4.2023	
	CL-2.10	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.4.2023'	

(x) in the entry for the United Kingdom, the row for the zone GB-2.138 is replaced by the following:

'**GB** United Kingdom	GB-2.138	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		3.9.2022	18.4.2023'

(xi) in the entry for the United Kingdom, the row for the zone GB-2.148 is replaced by the following:

'**GB** United Kingdom	GB-2.148	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		19.9.2022	23.4.2023'

(xii) in the entry for the United Kingdom, the row for the zone GB-2.153 is replaced by the following:

'**GB** United Kingdom	GB-2.153	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		24.9.2022	14.4.2023'

(xiii) in the entry for the United Kingdom, the row for the zone GB-2.155 is replaced by the following:

'**GB** United Kingdom	GB-2.155	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		27.9.2022	23.4.2023'

(xiv) in the entry for the United Kingdom, the row for the zones GB-2.159 and GB.2-160 are replaced by the following:

'**GB** United Kingdom	GB-2.159	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		1.10.2022	23.4.2023
	GB-2.160	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		1.10.2022	23.4.2023'

(xv) in the entry for the United Kingdom, the row for the zone GB-2.162 is replaced by the following:

'**GB** United Kingdom	GB-2.162	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		4.10.2022	14.4.2023'

(xvi) in the entry for the United Kingdom, the row for the zone GB-2.164 is replaced by the following:

'**GB** United Kingdom	GB-2.164	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		4.10.2022	23.4.2023'

(xvii) in the entry for the United Kingdom, the row for the zone GB-2.167 is replaced by the following:

'**GB** United Kingdom	GB-2.167	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		6.10.2022	23.4.2023'

(xviii) in the entry for the United Kingdom, the row for the zone GB-2.171 is replaced by the following:

'**GB** United Kingdom	GB-2.171	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		9.10.2022	23.4.2023'

(xix) in the entry for the United Kingdom, the rows for the zones GB-2.173 and GB-2.174 are replaced by the following:

'**GB** United Kingdom	GB-2.173	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		10.10.2022	23.4.2023
	GB-2.174	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		10.10.2022	18.4.2023'

(xx) in the entry for the United Kingdom, the rows for the zones GB-2.176, GB-2.177 and GB.2-178 are replaced by the following:

'**GB** United Kingdom	GB-2.176	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		11.10.2022	19.4.2023
	GB-2.177	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		11.10.2022	23.4.2023
	GB-2.178	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		11.10.2022	23.4.2023'

(xxi) in the entry for the United Kingdom, the row for the zone GB-2.181 is replaced by the following:

'**GB** United Kingdom	GB-2.181	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		12.10.2022	23.4.2023'

(xxii) in the entry for the United Kingdom, the row for the zones GB-2.186, GB-2.187 and GB-2.188 are replaced by the following:

'**GB** United Kingdom	GB-2.186	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		14.10.2022	23.4.2023
	GB-2.187	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		14.10.2022	23.4.2023
	GB-2.188	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		15.10.2022	19.4.2023'

(xxiii) in the entry for the United Kingdom, the row for the zone GB-2.190 is replaced by the following:

'**GB** United Kingdom	GB-2.190	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		16.10.2022	14.4.2023'

(xxiv) in the entry for the United Kingdom, the row for the zone GB-2.192 is replaced by the following:

'**GB** United Kingdom	GB-2.192	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		16.10.2022	23.4.2023'

(xxv) in the entry for the United Kingdom, the row for the zone GB-2.196 is replaced by the following:

'**GB** United Kingdom	GB-2.196	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		18.10.2022	23.4.2023'

(xxvi) in the entry for the United Kingdom, the row for the zones GB-2.199, GB-2.200and GB-2.201 are replaced by the following:

'**GB** United Kingdom	GB-2.199	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		18.10.2022	23.4.2023
	GB-2.200	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		19.10.2022	19.4.2023
	GB-2.201	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		19.10.2022	23.4.2023'

(xxvii) in the entry for the United Kingdom, the row for the zones GB-2.205, GB-2.206 and GB-2.207 are replaced by the following:

'**GB** United Kingdom	GB-2.205	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.10.2022	23.4.2023
	GB-2.206	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		21.10.2022	23.4.2023
	GB-2.207	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		21.10.2022	19.4.2023'

(xxviii) in the entry for the United Kingdom, the rows for the zones GB-2.210 and GB-2.111 are replaced by the following:

'**GB** United Kingdom	GB-2.210	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		22.10.2022	19.4.2023
	GB-2.211	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		22.10.2022	30.4.2023'

(xxix) in the entry for the United Kingdom, the rows for the zone GB-2.214 and GB.2-215 are replaced by the following:

'**GB** United Kingdom	GB-2.214	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		23.10.2022	19.4.2023
	GB-2.215	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		23.10.2022	23.4.2023'

(xxx) in the entry for the United Kingdom, the rows for the zone GB-2.221 and GB.2-222 are replaced by the following:

'**GB** United Kingdom	GB-2.221	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		26.10.2022	19.4.2023
	GB-2.222	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		26.10.2022	22.4.2023'

(xxxi) in the entry for the United Kingdom, the row for the zone GB-2.225 is replaced by the following:

'**GB** United Kingdom	GB-2.225	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		28.10.2022	23.4.2023'

(xxxii) in the entry for the United Kingdom, the row for the zone GB-2.228 is replaced by the following:

'**GB** United Kingdom	GB-2.228	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		29.10.2022	22.4.2023'

(xxxiii) in the entry for the United Kingdom, the row for the zone GB-2.234 is replaced by the following:

'**GB** United Kingdom	GB-2.234	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		1.11.2022	22.4.2023'

(xxxiv) in the entry for the United Kingdom, the row for the zone GB-2.237 is replaced by the following:

'**GB** United Kingdom	GB-2.237	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		2.11.2022	19.4.2023'

(xxxv) in the entry for the United Kingdom, the row for the zone GB-2.239 is replaced by the following:

'**GB** United Kingdom	GB-2.239	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		3.11.2022	23.4.2023'

(xxxvi) in the entry for the United Kingdom, the rows for the zones GB-2.245 and GB-2.246 are replaced by the following:

'**GB** United Kingdom	GB-2.245	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		6.11.2022	18.4.2023
	GB-2.246	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		6.11.2022	19.4.2023'

(xxxvii) in the entry for the United Kingdom, the row for the zone GB-2.250 is replaced by the following:

'**GB** United Kingdom	GB-2.250	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		9.11.2022	23.4.2023'

(xxxviii) in the entry for the United Kingdom, the row for the zone GB-2.259 is replaced by the following:

'**GB** United Kingdom	GB-2.259	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		16.11.2022	20.4.2023'

(xxxix) in the entry for the United Kingdom, the rows for the zones GB-2.263 and GB-2.264 are replaced by the following:

'**GB** United Kingdom	GB-2.263	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.11.2022	16.4.2023
	GB-2.264	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.11.2022	30.4.2023'

(xl) in the entry for the United Kingdom, the rows for the zone GB-2.268 and GB-2.269 are replaced by the following:

'**GB** United Kingdom	GB-2.268	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		23.11.2022	19.4.2023
	GB-2.269	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		26.11.2022	22.4.2023'

(xli) in the entry for the United Kingdom, the row for the zone GB-2.276 is replaced by the following:

‘**GB** United Kingdom	GB-2.276	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		13.12.2022	16.4.2023’

(xlii) in the entry for the United Kingdom, the rows for the zones GB-2.278 and GB-2.279 are replaced by the following:

‘**GB** United Kingdom	GB-2.278	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1			15.12.2022	24.4.2023
	GB-2.279	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1			15.12.2022	13.4.2023’

(xliii) in the entry for the United Kingdom, the row for the zone GB-2.281 is replaced by the following:

‘**GB** United Kingdom	GB-2.281	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		20.12.2022	23.4.2023’

(xliv) in the entry for the United Kingdom, the rows for the zones GB-2.284 and GB-2.285 are replaced by the following:

‘**GB** United Kingdom	GB-2.284	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		30.12.2022	23.4.2023
	GB-2.285	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		4.1.2023	18.4.2023’

(xlv) in the entry for the United Kingdom, the row for the zone GB-2.287 is replaced by the following:

‘**GB** United Kingdom	GB-2.287	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		10.1.2023	19.4.2023’

(xlvi) in the entry for the United Kingdom, the rows for the zones GB-2.289 and GB-2.290 are replaced by the following:

‘**GB** United Kingdom	GB-2.289	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		12.1.2023	18.4.2023
	GB-2.290	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		12.1.2023	18.4.2023’

(xlvii) in the entry for the United Kingdom, the rows for the zones GB-2.295 and GB-2.296 are replaced by the following:

'**GB** United Kingdom	GB-2.295	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		21.2.2023	27.4.2023
	GB-2.296	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		10.3.2023	4.5.2023'

(xlviii) in the entry for the United Kingdom, the following rows for the zones GB-2.297 to GB-2.302 are added after the row for the zone GB-2.296:

'**GB** United Kingdom	GB-2.297	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		31.3.2023	
	GB-2.298		N, P1		13.4.2023	
	GB-2.299		N, P1		13.4.2023	
	GB-2.300		N, P1		23.4.2023	
	GB-2.301		N, P1		27.4.2023	
	GB-2.302		N, P1		29.4.2023'	

(b) Part 2 is amended as follows:

(i) in the entry for Canada, the following description of the zones CA-2.184 and CA-2.185 are added after the description of the zone CA-2.183:

'Canada	CA-2.184	Quebec- Latitude 45.74, Longitude -72.72 The municipalities involved are: 3km PZ: Sainte-Hélène-de-Bagot and Saint-Eugene-de-Grantham. 10km SZ: Sainte-Hélène-de-Bagot, Saint-Eugène-de-Grantham, Saint-Germain de-Grantham, Saint-Guillaume, Saint-Hugues, Saint-Liboire, Sait-Nazaire-d'Acton, Saint-Simon-De-Bagot, Saint-Théodore-d'Acton, and Upton
	CA-2.185	Ontario- Latitude 43.01, Longitude -80.29 The municipalities involved are: 3km PZ: Waterford and Wilsonville 10km SZ: Hagersville, Ohsweken, Simcoe, Townsend, Waterford, and Wilsonville'

(ii) in the entry for Chile, the following description of the zones CL-2.8, CL-2.9and CL-2.10 are added after the description of the zone CL-2.7:

'Chile	CL-2.8	Valparaíso Region, Province of Quillota, Commune of Hijuelas. Latitude -32.804 Longitude -71.052 PZ: Communities: Romeral, San Rafael SZ: Communities: Purehue, Ocoa
	CL-2.9	Valparaíso Region, Province of Quillota, Commune of Nogales Latitude -32,744967 Longitude -71,180022 PZ :Communities: La Peña SZ: Communities: Melón, Ex asentamiento El Melón, El Chamisal, Pucalán, Los Maquis, Nueva Pucalán, Rosario, El Navío, El Olivo, Garretón

	CL-2.10	Biobío Region, Province of Concepción latitude -36.809390, longitude -72.717702 PZ: Commune of Florida, Communities: Chequén SZ: Commune of Florida, and part of commune of Tomé (a zone of 26 km2, separated by a highway). Communities: Porvenir, San Lorenzo, San Juan, Bodega, Peninhueque, Roa, Granerillos'

(iii) in the entry for the United Kingdom, the following description of the zones GB-2.297 to GB-2.302 are added after the description of the zone GB-2.296:

'United Kingdom	GB-2.297	near Newton Abbot, Teignbridge, Devon, England, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N50.52 and Long: W3.64
	GB-2.298	near Newtown, Powys, Wales, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N52.57 and Long: W3.30
	GB-2.299	near Leven, East Riding of Yorkshire, Yorkshire, England, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N53.89 and Long: W0.32
	GB-2.300	near Montgomery, Powys, Wales, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N52.58 and Long: W3.24
	GB-2.301	near Newtown, Powys, Wales, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N52.57 and Long: W3.29
	GB-2.302	near Cantley, Doncaster, South Yorkshire, England, GB The area contained with a circle of a radius of 10km, centred on WGS84 dec, coordinates Lat: N53.53 and Long: W0.99'

(2) in Annex XIV, in Part 1, Section B is amended as follows:

(i) in the entry for Canada, the rows for the zone CA-2.8 are replaced by the following:

'**CA** Canada	CA-2.8	POU, RAT	N, P1		5.4.2022	21.4.2023
		GBM	P1		5.4.2022	21.4.2023'

(ii) in the entry for Canada, the rows for the zone CA-2.52 are replaced by the following:

'**CA** Canada	CA-2.52	POU, RAT	N, P1		3.5.2022	21.4.2023
		GBM	P1		3.5.2022	21.4.2023'

(iii) in the entry for Canada, the rows for the zone CA-2.54 are replaced by the following:

'**CA** Canada	CA-2.54	POU, RAT	N, P1		3.5.2022	21.4.2023
		GBM	P1		3.5.2022	21.4.2023'

(iv) in the entry for Canada, the rows for the zone CA-2.65 are replaced by the following:

'**CA** Canada	CA-2.65	POU, RAT	N, P1		18.5.2022	21.4.2023
		GBM	P1		18.5.2022	21.4.2023'

(v) in the entry for Canada, the rows for the zone CA-2.148 are replaced by the following:

'**CA** Canada	CA-2.148	POU, RAT	N, P1		16.10.2022	21.4.2023
		GBM	P1		16.10.2022	21.4.2023'

(vi) in the entry for Canada, the rows for the zone CA-2.153 are replaced by the following:

'**CA** Canada	CA-2.153	POU, RAT	N, P1		19.11.2022	21.4.2023
		GBM	P1		19.11.2022	21.4.2023'

(vii) in the entry for Canada, the rows for the zones CA-2.161 and CA-2.162 are replaced by the following:

'**CA** Canada	CA-2.161	POU, RAT	N, P1		29.11.2022	21.4.2023
		GBM	P1		29.11.2022	21.4.2023
	CA-2.162	POU, RAT	N, P1		1.12.2022	21.4.2023
		GBM	P1		1.12.2022	21.4.2023'

(viii) in the entry for Canada, the following rows for the zones CA-2.184 and CA-2.185 are added after the row for the zone CA-2.183:

'**CA** Canada	CA-2.184	POU, RAT	N, P1		17.4.2023	
		GBM	P1		17.4.2023	
	CA-2.185	POU, RAT	N, P1		19.4.2023	
		GBM	P1		19.4.2023'	

(ix) in the entry for Chile, the following rows for the zones CL-2.8, CL-2.9 and CL-2.10 are added after the rows for the zone CL-2.7:

'**CL** Chile	CL-2.8	POU, RAT	N, P1		18.4.2023	
		GBM	P1		18.4.2023	
	CL-2.9	POU, RAT	N, P1		20.4.2023	
		GBM	P1		20.4.2023	
	CL-2.10	POU, RAT	N, P1		20.4.2023	
		GBM	P1		20.4.2023'	

(x) in the entry for the United Kingdom, the rows for the zone GB-2.138 are replaced by the following:

'**GB** United Kingdom	GB-2.138	POU, RAT	N, P1		3.9.2022	18.4.2023
		GBM	P1		3.9.2022	18.4.2023'

(xi) in the entry for the United Kingdom, the rows for the zone GB-2.148 are replaced by the following:

'**GB** United Kingdom	GB-2.148	POU, RAT	N, P1		19.9.2022	23.4.2023
		GBM	P1		19.9.2022	23.4.2023'

(xii) in the entry for the United Kingdom, the rows for the zone GB-2.153 are replaced by the following:

'**GB** United Kingdom	GB-2.153	POU, RAT	N, P1		24.9.2022	14.4.2023
		GBM	P1		24.9.2022	14.4.2023'

(xiii) in the entry for the United Kingdom, the rows for the zone GB-2.155 are replaced by the following:

'**GB** United Kingdom	GB-2.155	POU, RAT	N, P1		27.9.2022	23.4.2023
		GBM	P1		27.9.2022	23.4.2023'

(xiv) in the entry for the United Kingdom, the rows for the zones GB-2.159 and GB-2.160 are replaced by the following:

'**GB** United Kingdom	GB-2.159	POU, RAT	N, P1		1.10.2022	23.4.2023
		GBM	P1		1.10.2022	23.4.2023
	GB-2.160	POU, RAT	N, P1		1.10.2022	23.4.2023
		GBM	P1		1.10.2022	23.4.2023'

(xv) in the entry for the United Kingdom, the rows for the zone GB-2.162 are replaced by the following:

'**GB** United Kingdom	GB-2.162	POU, RAT	N, P1		4.10.2022	14.4.2023
		GBM	P1		4.10.2022	14.4.2023'

(xvi) in the entry for the United Kingdom, the rows for the zone GB-2.164 are replaced by the following:

'**GB** United Kingdom	GB-2.164	POU, RAT	N, P1		4.10.2022	23.4.2023
		GBM	P1		4.10.2022	23.4.2023'

(xvii) in the entry for the United Kingdom, the rows for the zone GB-2.167 are replaced by the following:

'**GB** United Kingdom	GB-2.167	POU, RAT	N, P1		6.10.2022	23.4.2023
		GBM	P1		6.10.2022	23.4.2023'

(xviii) in the entry for the United Kingdom, the rows for the zone GB-2.171 are replaced by the following:

'**GB** United Kingdom	GB-2.171	POU, RAT	N, P1		9.10.2022	23.4.2023
		GBM	P1		9.10.2022	23.4.2023'

(xix) in the entry for the United Kingdom, the rows for the zones GB-2.173 and GB-2.174 are replaced by the following:

'**GB** United Kingdom	GB-2.173	POU, RAT	N, P1		10.10.2022	23.4.2023
		GBM	P1		10.10.2022	23.4.2023
	GB-2.174	POU, RAT	N, P1		10.10.2022	18.4.2023
		GBM	P1		10.10.2022	18.4.2023'

(xx) in the entry for the United Kingdom, the rows for the zones GB-2.176, GB-2.177 and GB.2-178 are replaced by the following:

'**GB** United Kingdom	GB-2.176	POU, RAT	N, P1		11.10.2022	19.4.2023
		GBM	P1		11.10.2022	19.4.2023
	GB-2.177	POU, RAT	N, P1		11.10.2022	23.4.2023
		GBM	P1		11.10.2022	23.4.2023
	GB-2.178	POU, RAT	N, P1		11.10.2022	23.4.2023
		GBM	P1		11.10.2022	23.4.2023'

(xxi) in the entry for the United Kingdom, the rows for the zone GB-2.181 are replaced by the following:

'**GB** United Kingdom	GB-2.181	POU, RAT	N, P1		12.10.2022	23.4.2023
		GBM	P1		12.10.2022	23.4.2023'

(xxii) in the entry for the United Kingdom, the rows for the zones GB.2-186 to GB-2.188 are replaced by the following:

'**GB** United Kingdom	GB-2.186	POU, RAT	N, P1		14.10.2022	23.4.2023
		GBM	P1		14.10.2022	23.4.2023
	GB-2.187	POU, RAT	N, P1		14.10.2022	23.4.2023
		GBM	P1		14.10.2022	23.4.2023
	GB-2.188	POU, RAT	N, P1		15.10.2022	19.4.2023
		GBM	P1		15.10.2022	19.4.2023'

(xxiii) in the entry for the United Kingdom, the rows for the zone GB-2.190 are replaced by the following:

'**GB** United Kingdom	GB-2.190	POU, RAT	N, P1		16.10.2022	14.4.2023
		GBM	P1		16.10.2022	14.4.2023'

(xxiv) in the entry for the United Kingdom, the rows for the zone GB-2.192 are replaced by the following:

'**GB** United Kingdom	GB-2.192	POU, RAT	N, P1		16.10.2022	23.4.2023
		GBM	P1		16.10.2022	23.4.2023'

(xxv) in the entry for the United Kingdom, the rows for the zone GB-2.196 are replaced by the following:

'**GB** United Kingdom	GB-2.196	POU, RAT	N, P1		18.10.2022	23.4.2023
		GBM	P1		18.10.2022	23.4.2023'

(xxvi) in the entry for the United Kingdom, the rows for the zones GB2.199, GB2.200 and GB-2.201 are replaced by the following:

'**GB** United Kingdom	GB-2.199	POU, RAT	N, P1		18.10.2022	23.4.2023
		GBM	P1		18.10.2022	23.4.2023
	GB-2.200	POU, RAT	N, P1		19.10.2022	19.4.2023
		GBM	P1		19.10.2022	19.4.2023
	GB-2.201	POU, RAT	N, P1		19.10.2022	23.4.2023
		GBM	P1		19.10.2022	23.4.2023'

(xxvii) in the entry for the United Kingdom, the rows for the zones GB.2-205, GB.2-206and GB-2.207 are replaced by the following:

'**GB** United Kingdom	GB-2.205	POU, RAT	N, P1		20.10.2022	23.4.2023
		GBM	P1		20.10.2022	23.4.2023
	GB-2.206	POU, RAT	N, P1		21.10.2022	23.4.2023
		GBM	P1		21.10.2022	23.4.2023
	GB-2.207	POU, RAT	N, P1		21.10.2022	19.4.2023
		GBM	P1		21.10.2022	19.4.2023'

(xxviii) in the entry for the United Kingdom, the rows for the zones GB-2.210 and GB-2.211 are replaced by the following:

'**GB** United Kingdom	GB-2.210	POU, RAT	N, P1		22.10.2022	19.4.2023
		GBM	P1		22.10.2022	19.4.2023
	GB-2.211	POU, RAT	N, P1		22.10.2022	30.4.2023
		GBM	P1		22.10.2022	30.4.2023'

(xxix) in the entry for the United Kingdom, the rows for the zones GB-2.214 and GB.2-215 are replaced by the following:

'**GB** United Kingdom	GB-2.214	POU, RAT	N, P1		23.10.2022	19.4.2023
		GBM	P1		23.10.2022	19.4.2023
	GB-2.215	POU, RAT	N, P1		23.10.2022	23.4.2023
		GBM	P1		23.10.2022	23.4.2023'

(xxx) in the entry for the United Kingdom, the rows for the zones GB-2.221 and GB-2.222 are replaced by the following:

'**GB** United Kingdom	GB-2.221	POU, RAT	N, P1		26.10.2022	19.4.2023
		GBM	P1		26.10.2022	19.4.2023
	GB-2.222	POU, RAT	N, P1		26.10.2022	22.4.2023
		GBM	P1		26.10.2022	22.4.2023'

(xxxi) in the entry for the United Kingdom, the rows for the zone GB-2.225 are replaced by the following:

'**GB** United Kingdom	GB-2.225	POU, RAT	N, P1		28.10.2022	23.4.2023
		GBM	P1		28.10.2022	23.4.2023'

(xxxii) in the entry for the United Kingdom, the rows for the zone GB-2.228 are replaced by the following:

'**GB** United Kingdom	GB-2.228	POU, RAT	N, P1		29.10.2022	22.4.2023
		GBM	P1		29.10.2022	22.4.2023'

(xxxiii) in the entry for the United Kingdom, the rows for the zone GB-2.234 are replaced by the following:

'**GB** United Kingdom	GB-2.234	POU, RAT	N, P1		1.11.2022	22.4.2023
		GBM	P1		1.11.2022	22.4.2023'

(xxxiv) in the entry for the United Kingdom, the rows for the zone GB-2.237 are replaced by the following:

'**GB** United Kingdom	GB-2.237	POU, RAT	N, P1		2.11.2022	19.4.2023
		GBM	P1		2.11.2022	19.4.2023'

(xxxv) in the entry for the United Kingdom, the rows for the zone GB-2.239 are replaced by the following:

'**GB** United Kingdom	GB-2.239	POU, RAT	N, P1		3.11.2022	23.4.2023
		GBM	P1		3.11.2022	23.4.2023'

(xxxvi) in the entry for the United Kingdom, the rows for the zones GB-2.245 and GB-2.246 are replaced by the following:

'**GB** United Kingdom	GB-2.245	POU, RAT	N, P1		6.11.2022	18.4.2023
		GBM	P1		6.11.2022	18.4.2023
	GB-2.246	POU, RAT	N, P1		6.11.2022	19.4.2023
		GBM	P1		6.11.2022	19.4.2023'

(xxxvii) in the entry for the United Kingdom, the rows for the zone GB-2.250 are replaced by the following:

'**GB** United Kingdom	GB-2.250	POU, RAT	N, P1		9.11.2022	23.4.2023
		GBM	P1		9.11.2022	23.4.2023'

(xxxviii) in the entry for the United Kingdom, the rows for the zone GB-2.259 are replaced by the following:

'**GB** United Kingdom	GB-2.259	POU, RAT	N, P1		16.11.2022	20.4.2023
		GBM	P1		16.11.2022	20.4.2023'

(xxxix) in the entry for the United Kingdom, the rows for the zones GB-2.263 and GB-2.264 are replaced by the following:

'**GB** United Kingdom	GB-2.263	POU, RAT	N, P1		20.11.2022	16.4.2023
		GBM	P1		20.11.2022	16.4.2023
	GB-2.264	POU, RAT	N, P1		20.11.2022	30.4.2023
		GBM	P1		20.11.2022	30.4.2023'

(xl) in the entry for the United Kingdom, the rows for the zones GB-2.268 and GB.2-269 are replaced by the following:

'**GB** United Kingdom	GB-2.268	POU, RAT	N, P1		23.11.2022	19.4.2023
		GBM	P1		23.11.2022	19.4.2023
	GB-2.269	POU, RAT	N, P1		26.11.2022	22.4.2023
		GBM	P1		26.11.2022	22.4.2023'

(xli) in the entry for the United Kingdom, the rows for the zone GB-2.276 are replaced by the following:

'**GB** United Kingdom	GB-2.276	POU, RAT	N, P1		13.12.2022	16.4.2023
		GBM	P1		13.12.2022	16.4.2023'

(xlii) in the entry for the United Kingdom, the rows for the zones GB-2.278 and GB-2.279 are replaced by the following:

'**GB** United Kingdom	GB-2.278	POU, RAT	N, P1		15.12.2022	24.4.2023
		GBM	P1		15.12.2022	24.4.2023
	GB-2.279	POU, RAT	N, P1		15.12.2022	13.4.2023
		GBM	P1		15.12.2022	13.4.2023'

(xliii) in the entry for the United Kingdom, the rows for the zone GB-2.281 are replaced by the following:

'**GB** United Kingdom	GB-2.281	POU, RAT	N, P1		20.12.2022	23.4.2023
		GBM	P1		20.12.2022	23.4.2023'

(xliv) in the entry for the United Kingdom, the rows for the zones GB-2.284 and GB-2.285 are replaced by the following:

'**GB** United Kingdom	GB-2.284	POU, RAT	N, P1		30.12.2023	23.4.2023
		GBM	P1		30.12.2023	23.4.2023
	GB-2.285	POU, RAT	N, P1		4.1.2023	18.4.2023
		GBM	P1		4.1.2023	18.4.2023'

(xlv) in the entry for the United Kingdom, the rows for the zone GB-2.287 are replaced by the following:

'**GB** United Kingdom	GB-2.287	POU, RAT	N, P1		10.1.2023	19.4.2023
		GBM	P1		10.1.2023	19.4.2023'

(xlvi) in the entry for the United Kingdom, the rows for the zones GB-2.289 and GB-2.290 are replaced by the following:

'**GB** United Kingdom	GB-2.289	POU, RAT	N, P1		12.1.2023	18.4.2023
		GBM	P1		12.1.2023	18.4.2023
	GB-2.290	POU, RAT	N, P1		12.1.2023	18.4.2023
		GBM	P1		12.1.2023	18.4.2023'

(xlvii) in the entry for the United Kingdom, the rows for the zones GB-2.295 and GB-2.296 are replaced by the following:

'**GB** United Kingdom	GB-2.295	POU, RAT	N, P1		21.2.2023	27.4.2023
		GBM	P1		21.2.2023	27.4.2023
	GB-2.296	POU, RAT	N, P1		10.3.2023	4.5.2023
		GBM	P1		10.3.2023	4.5.2023'

(xlviii) in the entry for the United Kingdom, the following rows for the zones GB-2.297 to GB-2.302 are added after the row for the zone GB-2.296:

'**GB** United Kingdom	GB-2.297	POU, RAT	N, P1		31.3.2023	
		GBM	P1		31.3.2023	
	GB-2.298	POU, RAT	N, P1		13.4.2023	
		GBM	P1		13.4.2023	
	GB-2.299	POU, RAT	N, P1		13.4.2023	
		GBM	P1		13.4.2023	
	GB-2.300	POU, RAT	N, P1		23.4.2023	
		GBM	P1		23.4.2023	
	GB-2.301	POU, RAT	N, P1		27.4.2023	
		GBM	P1		27.4.2023	
	GB-2.302	POU, RAT	N, P1		29.4.2023	
		GBM	P1		29.4.2023'	

COMMISSION IMPLEMENTING REGULATION (EU) 2023/974

of 16 May 2023

extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 ([1]), and in particular Article 13(5) thereof,

Whereas:

(1) On 19 March 2014, the Commission adopted Commission Implementing Regulation (EU) No 277/2014 ([2]) establishing for the first time a derogation from Article 13(1), first subparagraph of Regulation (EC) No 1967/2006 as regards the minimum distance from coast and depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia, which expired on 23 March 2017. An extension of that derogation was granted by Commission Implementing Regulation (EU) 2017/2383 ([3]), which expired on 27 March 2020. A further extension of that derogation was granted by Commission Implementing Regulation (EU) 2022/511 ([4]), which expired on 27 March 2023.

(2) On 21 September 2022 the Commission received a request from Slovenia to extend the derogation granted by Implementing Regulation (EU) 2022/511. Slovenia provided the management plan, adopted on 18 August 2021 ([5]), and a report on the management plan monitoring and implementation, in line with Implementing Regulation (EU) 2022/511, justifying the extension of the derogation, in light of the requirements of Regulation (EC) No 1967/2006 and Regulation (EU) 2019/1241 of the European Parliament and of the Council ([6]).

(3) During its 71st plenary session held in November 2022, the Scientific, Technical and Economic Committee for Fisheries (STECF) ([7]) assessed the request for further extending the derogation and the implementation report. STECF confirmed its past opinion on the plan and on the basis of the new information provided by Slovenia, STECF concluded that the conditions for the derogation continue to be fulfilled.

(4) The derogation requested by Slovenia complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

([1]) OJ L 409 30, 12.2006, p. 11.

([2]) Commission Implementing Regulation (EU) No 277/2014 of 19 March 2014 derogating from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia (OJ L 82, 20.3.2014, p.1).

([3]) Commission Implementing Regulation (EU) 2017/2383 of 19 December 2017 extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia (OJ L 340, 20.12.2017, p. 32).

([4]) Commission Implementing Regulation (EU) 2022/511 of 30 March 2022 extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from coast and the minimum sea depth for the 'volantina' trawlers fishing in the territorial waters of Slovenia (OJ L 103, 31.3.2022, p. 7).

([5]) Decision No 34200-2/2021/3 of 18.8.2021.

([6]) Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) No 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005 (OJ L 198, 25.7.2019, p. 105).

([7]) Scientific, Technical and Economic Committee for Fisheries (STECF) – 71st Plenary report (STECF-PLEN-22-03). Publications Office of the European Union, Luxembourg, 2022 (https://stecf.jrc.ec.europa.eu/documents/43805/43440856/STECF+PLEN+22-03.pdf/d0acb3d4-6b6a-4067-9d08-0b6004660e25).

(5) In particular, there are specific geographical constraints, as the territorial waters of Slovenia do not at any point reach a depth of 50 meters. In the absence of a derogation, 'volantina' trawlers could therefore only operate beyond 3 nautical miles from the coast, where fishing grounds are significantly limited by an area devoted to commercial shipping routes.

(6) Moreover, the Slovenian management plan guarantees no future increase in the fishing effort, as required by Article 13(9) of Regulation (EC) No 1967/2006. Fishing authorisations will only be issued to specified 12 vessels that are already authorised to fish by Slovenia.

(7) The request concerns fishing activities already authorised by Slovenia and vessels with a track record in the fishery of more than five years in accordance with Article 13(9) of Regulation (EC) No 1967/2006.

(8) Those vessels are included in a list communicated to the Commission in line with the requirements of Article 13(9) of Regulation (EC) No 1967/2006.

(9) The fishing activities concerned fulfil the requirements of Article 4(1) of Regulation (EC) No 1967/2006 since the fishery do not operate above seagrass beds of, in particular, *Posidonia oceanica* or other marine phanerogams.

(10) As regards the requirement to comply with minimum mesh sizes, the requested derogation complies with Article 8(1)(h) of Regulation (EC) No 1967/2006, as replaced by Article 8(1) and section I of Part B of Annex IX to Regulation (EU) 2019/1241, since no square mesh below 40mm is used in the 'volantina' net rigging.

(11) The 'volantina' trawl fishery, a mixed fishery type, cannot be undertaken with another gear, with the exeption of the heavier 'tartana' which could however lead to higher contact with the sea bottom and higher catch of demersal species, and does not interfere with gears other than trawls, seines or similar towed nets.

(12) 'Volantina' trawlers are regulated to ensure that catches of species in Part A of Annex IX to Regulation (EU) 2019/1241 are minimal, in compliance with the criteria of Article 13(9)(c) of Regulation (EC) No 1967/2006. STECF noted that reported catches of these species are not negligible, it nevertheless concluded that given the limited size of the 'volantina' fishery, these catches sum up to a total volume of a few tens of tons, which represent only a very small amount of the total catches of these species in the North Adriatic Sea.

(13) 'Volantina' trawlers do not target cephalopods. STECF noted that cephalopods are a valuable bycatch of the 'volantina' fishery, however it concluded that, based on the latest implementation report of the plan, given the limited size of the 'volantina' fishery, the respective catches of cephalopods most likely represent only a very small amount of the total catches of these species in the wider northern Adriatic.

(14) The Slovenian management plan includes measures for the monitoring of fishing activities, as provided for in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006 and in Articles 14 and 15 of Council Regulation (EC) No 1224/2009 ([8]).

(15) The Commission therefore considers that extension of the derogation requested by Slovenia complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006. The requested extension of the derogation should therefore be granted.

(16) Slovenia should report to the Commission in due time and in accordance with the monitoring plan provided for in the Slovenian management plan.

([8]) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

(17) A limitation in duration of the derogation should be established in order to allow prompt corrective management measures in case the report to the Commission shows a poor conservation status of the exploited stock while providing scope to improve the scientific basis for an improved management plan.

(18) Since the derogation granted by Implementing Regulation (EU) 2017/2383 expired on 27 March 2023, in order to ensure legal continuity, this Regulation should apply with effect from 28 March 2023. For reasons of legal certainty, this Regulation should enter into force as a matter of urgency.

(19) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

The first subparagraph of Article 13(1) of Regulation (EC) No 1967/2006 shall not apply within the territorial waters of Slovenia, irrespective of the depth, between 1,5 and 3 nautical miles from the coast, to 'volantina' trawlers which are used by vessels fulfilling the following requirements:

(a) bearing the registration number mentioned in the Slovenian management plan adopted by Slovenia in accordance with Article 19(2) of Regulation (EC) No 1967/2006;

(b) having a track record in the fishery of more than five years and not involving any future increase in the fishing effort provided; and

(c) holding a fishing authorisation and operating under the management plan adopted by Slovenia in accordance with Article 19(2) of Regulation (EC) No 1967/2006.

Article 2

Monitoring plan and reporting

Slovenia shall communicate to the Commission, within one year following the entry into force of this Regulation, a report drawn up in accordance with the monitoring plan established in the management plan referred to in Article 1.

Article 3

Entry into force and period of application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 28 March 2023 until 27 March 2026.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2023.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2023/975

of 15 May 2023

amending Commission Implementing Decision (EU) 2019/417 laying down guidelines for the management of the European Union Rapid Information System 'RAPEX' established under Article 12 of Directive 2001/95/EC of the European Parliament and of the Council on general product safety and its notification system

(notified under document C(2023) 2817)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ([1]), and in particular Article 11(1), the third subparagraph, thereof and point 8 of Annex II thereto,

Having regard to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 ([2]), and in particular Article 20 thereof,

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council, of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ([3]), and in particular Article 28(1) thereof,

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ([4]), and in particular Article 26(1) thereof,

After consulting the committee established by Article 15(1) of Directive 2001/95/EC,

After consulting the European Data Protection Supervisor in accordance with Article 42 of Regulation (EU) 2018/1725,

Whereas:

(1) Commission Implementing Decision (EU) 2019/417 ([5]) sets out the guidelines for the management of the European Union Rapid Information System 'RAPEX' established under Article 12 of Directive 2001/95/EC and its notification system.

([1]) OJ L 11, 15.1.2002, p. 4.
([2]) OJ L 169, 25.6.2019, p. 1.
([3]) OJ L 295, 21.11.2018, p. 39.
([4]) OJ L 119, 4.5.2016, p. 1.
([5]) Commission Implementing Decision (EU) 2019/417 of 8 November 2018 laying down guidelines for the management of the European Union Rapid Information System 'RAPEX' established under Article 12 of Directive 2001/95/EC on general product safety and its notification system (OJ L 73, 15.3.2019, p. 121).

(2) Article 28 of Regulation (EU) 2018/1725 sets out that where two or more controllers jointly determine the purposes and means of processing, they are to be joint controllers. The respective responsibilities of the joint controllers may be determined by EU law, in particular as regards exercising the rights of the data subject and their respective duties to provide the information referred to in Articles 15 and 16 of Regulation (EU) 2018/1725.

(3) Article 26 of Regulation (EU) 2016/679 sets out that where two or more controllers jointly determine the purposes and means of processing of personal data, they are considered joint controllers. The respective responsibilities of the joint controllers may be determined by EU law, in particular as regards exercising the rights of the data subject and their respective duties to provide the information referred to in Articles 13 and 14 of Regulation (EU) 2016/679.

(4) The Commission and national authorities act as joint controllers for processing data in the Safety Gate/RAPEX system.

(5) It is necessary to lay down the respective roles, responsibilities and arrangements between the Commission and national authorities as joint controllers under Article 28 of Regulation (EU) 2018/1725 and Article 26 of Regulation (EU) 2016/679.

(6) Implementing Decision (EU) 2019/417 should therefore be amended accordingly.

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2019/417 is amended as follows:

(1) Article 1 is replaced by the following:

"*Article 1*

1. The guidelines for the management of the European Union Rapid Information System 'RAPEX' established under Article 12 of Directive 2001/95/EC and its notification system are set out in the Annex I to this Decision.

2. The joint controllership of the European Union Rapid Information System 'RAPEX' is set out in Annex II to this Decision.";

(2) the Annex is renamed Annex I;

(3) Annex II as set out in the Annex to this Decision is added.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 15 May 2023.

For the Commission
Didier REYNDERS
Member of the Commission

ANNEX

"ANNEX II

JOINT CONTROLLERSHIP OF THE EUROPEAN UNION RAPID INFORMATION SYSTEM 'RAPEX' ESTABLISHED UNDER ARTICLE 12 OF DIRECTIVE 2001/95/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL [1] (THE GENERAL PRODUCT SAFETY DIRECTIVE)

1. ***Subject matter and description of the processing***

The Safety Gate/RAPEX application is a notification system intended for the rapid exchange of information between national authorities of Member States, the 3 European Economic Area/European Free Trade Association (EEA/EFTA) states (Iceland, Liechtenstein and Norway) and the Commission on measures taken against dangerous products found on the Union and/or EEA/EFTA market. The purpose of this notification system is:

— to prevent the supply to consumers of dangerous products in the internal market;

— where necessary, to take corrective measures such withdrawing or recalling such products from the market.

The information exchange concerns preventive and restrictive measures and actions taken in relation to dangerous consumer and professional products, except food, feed, pharmaceuticals and medical devices. Both measures ordered by national authorities and measures taken voluntarily by economic operators are covered by the Safety Gate/RAPEX system.

2. ***Scope of the Joint Controllership***

The Commission and national authorities act as joint controllers for processing data in the Safety Gate/RAPEX system. 'National authorities' are all Member States authorities and authorities of EFTA/EEA countries acting on product safety and participating in the Safety Gate/RAPEX network, including market surveillance authorities responsible for monitoring the compliance of products with safety requirements and authorities in charge of external border controls.

For the purposes of Article 26 of Regulation (EU) 2016/679 of the European Parliament and of the Council [2] and Article 28 of Regulation (EU) 2018/1725 of the European Parliament and of the Council [3], the following processing activities fall under the responsibility of the Commission as a joint controller of personal data:

(1) The Commission may process information regarding measures taken against products posing serious risks, imported into or exported from the Union and the European Economic Area, in order to transmit it to the RAPEX Contact Points.

(2) The Commission may process information received from third countries, international organisations, businesses or other rapid alert systems about products of EU and non-EU origin posing a risk, in order to transmit such information to the national authorities.

It is the responsibility of the Commission to ensure compliance with the obligations and conditions of Regulation (EU) 2018/1725 regarding these activities.

[1] Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

[2] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

[3] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

The following processing activities fall under the responsibility of the national authorities, as joint controllers of personal data:

(1) National authorities may process information pursuant to Articles 11 and 12 of Directive 2001/95/EC and Article 20 of Regulation (EU) 2019/1020 of the European Parliament and of the Council ([4]) in order to notify such information to the Commission and other Member States and EFTA/EEA countries;

(2) National authorities may process information subsequent to their follow-up activities in relation to Safety Gate/RAPEX notifications in order to notify such information to the Commission and other Member States and EFTA/EEA countries;

It is the responsibility of the national authorities to ensure compliance with the obligations and conditions of Regulation (EU) 2016/679 regarding these activities.

3. ***Responsibilities, roles and relationship of the joint controllers towards data subjects***

3.1. **Categories of data subjects and personal data**

The Joint Controllers jointly process the following categories of personal data:

(a) Contact details of the Safety Gate/RAPEX users.

The following data may be processed:

— Name of the Safety Gate/RAPEX users

— Surname of the Safety Gate/RAPEX users

— email address of the Safety Gate/RAPEX users

— country of the Safety Gate/RAPEX users

— preferred language of the Safety Gate/RAPEX users.

(b) Contact details of the authors and validators of notifications and reactions submitted through the Safety Gate/RAPEX system.

These authors and validators include:

— National Safety Gate/RAPEX contact points and inspectors from the market surveillance authorities of Member States and EFTA/EEA countries or from the national authorities in charge of external border controls, who are involved in the notification procedure

— Commission staff such as officials, temporary agents, contract agents, trainees and external service providers.

The following data may be processed:

— Name of the authors and validators of notifications and reactions submitted through the Safety Gate/RAPEX system

— Surname of the authors and validators of notifications and reactions submitted through the Safety Gate/RAPEX system

— name of the authority authoring or validating notifications and reactions submitted through the Safety Gate/RAPEX system

— address of the authority authoring or validating notifications and reactions submitted through the Safety Gate/RAPEX system

([4]) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

— email address of the authors and validators of notifications and reactions submitted through the Safety Gate/RAPEX system

— phone number of the authors and validators of notifications and reactions submitted through the Safety Gate/RAPEX system

(c) In addition, two types of personal data can incidentally be included in the system:

(i) When necessary to trace dangerous products, as defined in Article 2 (c) of Directive 2001/95/EC, contact details of economic operators (manufacturers, exporters, importers, distributors or retailers) might contain personal data that will be included in the system. Such data are inserted in the Safety Gate/RAPEX system by national authorities only, based on the information collected during their investigation.

The following data may be processed:

— Name of economic operators

— Address of economic operators

— City of economic operators

— Country of economic operators

— Contact information of economic operators: this field may refer to the physical person representing the manufacturers or authorised representatives. Member States are however asked to avoid entering any personal data and favour non-personal contact details like generic email addresses.

— Contact address of economic operators.

(ii) When they have been incidentally included in other documents such as test reports, names of persons who have performed the tests on dangerous products and/or authenticated the test reports. These names are included in attachments and are not searchable. Member States are asked to delete such data prior to submission if they are not considered necessary for the purpose of the system.

3.2. **Provision of information to data subjects**

The Commission shall provide the information referred to in Articles 15 and 16 and any communication under Articles 17 to 24 and 35 of Regulation (EU) 2018/1725 in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The Commission shall also take appropriate measures to assist national authorities in providing any information referred to in Articles 13 and 14 and any communication under Articles 19 to 26 and 37 of Regulation (EU) 2016/679 in a concise, transparent, intelligible and easily accessible form, using clear and plain language concerning the following data:

— Data related to Safety Gate/RAPEX users;

— Data related to the authors and validators of notifications and reactions.

Safety Gate/RAPEX users are informed about their rights through the Privacy Statement available in Safety Gate/RAPEX.

National authorities shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 19 to 26 and 37 of Regulation (EU) 2016/679 in a concise, transparent, intelligible and easily accessible form, using clear and plain language concerning the following data:

— information on legal persons identifying a natural person;

— names and other data of persons who have performed the tests on dangerous products and/or authenticated the test reports.

The information shall be provided in writing, including electronically.

National authorities shall use the model for a privacy statement provided by the Commission when complying with their obligations concerning data subjects.

3.3. **Handling of data subjects' requests**

The data subjects may exercise their rights under Regulation (EU) 2018/1725 and Regulation (EU) 2016/679, respectively, in respect of and against each of the Joint Controllers.

The Joint Controllers shall handle the requests of data subjects in accordance with the procedure established by the Joint Controllers for this purpose. The detailed procedure for the exercise of data subjects' rights is explained in the Privacy Statement.

The Joint Controllers shall cooperate and, when so requested, provide each other with swift and efficient assistance in handling any data subject requests.

Should one Joint Controller receive a data subject request, which does not fall under its responsibility, that Joint Controller shall forward the request promptly, and at the latest within seven calendar days of its receipt, to the Joint Controller actually responsible for that request. The responsible Joint Controller shall send an acknowledgment of receipt to the data subject within further three calendar days, while at the same time informing thereof the Joint Controller, which received the request in the first place.

In response to a data subject request for access to personal data, no Joint Controller shall disclose or otherwise make available any personal data processed jointly without first consulting the other relevant Joint Controller.

4. ***Other responsibilities and roles of joint controllers***

4.1. **Security of processing**

Each Joint Controller shall implement appropriate technical and organisational measures designed to:

(a) Ensure and protect the security, integrity and confidentiality of the personal data jointly processed, in line with Commission Decision (EU, Euratom) 2017/46 ([5]) and relevant legal act of the EU Member State/EFTA/EEA country, respectively;

(b) Protect against any unauthorised or unlawful processing, loss, use, disclosure or acquisition of or access to any personal data in its possession;

(c) Not disclose or allow access to the personal data to anyone other than the beforehand agreed recipients or processors.

Each Joint Controller shall implement appropriate technical and organisational measures to ensure the security of processing pursuant to Article 33 of Regulation (EU) 2018/1725 and Article 32 of Regulation (EU) 2016/679, respectively.

The Joint Controllers shall provide a swift and efficient assistance to each other in case of security incidents, including personal data breaches.

4.2. **Management of security incidents, including personal data breaches**

The Joint Controllers shall handle security incidents, including personal data breaches, in accordance with their internal procedures and applicable legislation.

The Joint Controllers shall in particular provide each other with swift and efficient assistance as required to facilitate the identification and handling of any security incidents, including personal data breaches, linked to the joint processing operation.

The Joint Controllers shall notify each other of the following:

(a) any potential or actual risks to the availability, confidentiality and/or integrity of the personal data undergoing joint processing;

(b) any security incidents that are linked to the joint processing operation;

([5]) Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission (OJ L 6, 11.1.2017, p. 40).

(c) any personal data breach (i.e. any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data undergoing joint processing), the likely consequences of the personal data breach, the assessment of the risk to the rights and freedoms of natural persons, and any measures taken to address the personal data breach and mitigate the risk to the rights and freedoms of natural persons;

(d) any breach of the technical and/or organisational safeguards of the joint processing operation.

Each Joint Controller is responsible for all security incidents, including personal data breaches, that occur as a result of an infringement of that Joint Controller's obligations under this Decision, Regulation (EU) 2018/1725 and Regulation (EU) 2016/679, respectively.

The Joint Controllers shall document the security incidents (including personal data breaches) and notify each other without undue delay and at the latest within 48 hours after becoming aware of a security incident (including a personal data breach).

The Joint Controller responsible for a personal data breach shall document that personal data breach and notify it to the European Data Protection Supervisor or the competent national supervisory authority. It shall do so without undue delay and, where feasible, no later than 72 hours after having become aware of the personal data breach, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons. The Joint Controller responsible shall inform the other Joint Controllers of such notification.

The Joint Controller, responsible for the personal data breach, shall communicate that personal data breach to the data subjects concerned if the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons. The Joint Controller responsible shall inform the other Joint Controllers of such communication.

4.3. **Localisation of personal data**

Personal data collected for the purpose of the notification process through the Safety Gate/RAPEX system shall be stored and collected in the Safety Gate/RAPEX application operated by the Commission in order to ensure that the access to the application is limited only to clearly identified persons and thus that data stored in the application are well protected.

Personal data collected for the purpose of the processing operation shall only be processed within the territory of the EU/EEA and shall not leave that territory, unless they are in compliance with Articles 45, 46 or 49 of Regulation (EU) 2016/679 or with Articles 47, 48 or 50 of Regulation (EU) 2018/1725.

According to Article 12(4) of Directive 2001/95/EC, access to Safety Gate/RAPEX is open to applicant countries, third countries or international organisations, within the framework of agreement between the EU and those countries or international organisations, according to arrangements defined in these agreements. Selected information from the Safety Gate/RAPEX system may be exchanged. Such information shall not contain personal data.

4.4. **Recipients**

Access to personal data shall only be allowed to authorised staff and contractors of the Commission and national authorities for the purposes of administering and operating the Safety Gate/RAPEX system, which facilitates the processing operation. This access shall be subject to identity and password requirements as follows:

— Safety Gate/RAPEX shall only open to the Commission and to users specifically appointed by the EU Member State's authorities and by EFTA/EEA countries, as well as UK authorities in respect of Northern Ireland users.

— Access to the collected personal data on Safety Gate/RAPEX shall only be granted to the nominated and authorised users of the application who have a User Id/Password. Access to the application and granting of a password shall be possible only if this is requested by the competent national authority under the general supervision of the Safety Gate/RAPEX Commission team..

— Access to the collected personal data shall be provided to the Commission staff responsible for carrying out this processing operation and to authorised persons according to the 'need to know' principle. Such staff shall abide by statutory, and, when required, additional confidentiality agreements.

The persons who shall have access to the collected personal data are:

(a) staff and contractors of the Commission;

(b) identified contact points and inspectors from the market surveillance authorities of EU Member States and EFTA/EEA countries as well as UK authorities in respect of Norther Ireland users;

(c) identified inspectors from the authorities in charge of external border controls of EU Member States and EFTA/EEA countries.

The persons who shall have access to all collected personal data and who shall have the possibility to modify them upon request are:

(a) members of the Commission's Safety Gate/RAPEX Team;

(b) members of the Commission's Safety Gate/RAPEX Helpdesk.

A list of all Safety Gate/RAPEX contact points (users nominated by the national authorities in the EU/EEA countries), containing their contact details (surname, name, name of authority, address of authority, phone, fax, email) shall be available on the public Europa website Safety Gate ([6]). User management at national level shall be controlled by the Safety Gate/RAPEX national contact points through the Safety Gate/RAPEX application.

All users shall have access to the content of notifications with an 'EC validated' status. Only national Safety Gate/RAPEX users shall have access to the draft of their notifications (before submission to EC). Commission staff and authorized persons shall have access to notifications with an 'EC submitted status'.

Each Joint Controller shall inform all other Joint Controllers about any transfers of personal data to the recipients in third countries or international organisations.

5. ***Specific responsibilities of Joint Controllers***

The Commission shall ensure and be responsible for:

(a) Deciding on the means, requirements and purposes of processing;

(b) Recording of the processing operation;

(c) Facilitating the exercise of the rights of data subjects;

(d) Handling of data subjects' requests;

(e) Deciding to restrict the application of or derogate from data subject rights, where necessary and proportionate;

(f) Ensuring privacy by design and privacy by default;

(g) Identifying and assessing the lawfulness, necessity and proportionality of transmissions and transfers of personal data;

(h) Carrying out a prior consultation with the European Data Protection Supervisor, where needed;

(i) Ensuring that persons authorised to process personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(j) Cooperating with the European Data Protection Supervisor, on request, in the performance of his or her tasks.

([6]) https://ec.europa.eu/safety/consumers/consumers_safety_gate/menu/documents/Safety_Gate_contacts.pdf

The national authorities shall ensure and be responsible for:

(a) Recording of the processing operation;

(b) Ensuring that the personal data undergoing processing are adequate, accurate, relevant and limited to what is necessary for the purpose;

(c) Ensuring a transparent information and communication to data subjects of their rights;

(d) Facilitating the exercise of the rights of data subjects;

(e) Using only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing meets the requirements of Regulation (EU) 2016/679 and ensure the protection of the rights of the data subject;

(f) Govern the processor's processing by a contract or legal act under Union or member State law in accordance with Article 28 of Regulation (EU) 2016/679;

(g) Carrying out a prior consultation with the national supervisory authority, where needed;

(h) Ensuring that persons authorised to process personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(i) Cooperating with the national supervisory authority on request, in the performance of their tasks.

6. ***Duration of processing***

Joint Controllers shall not retain or process personal data longer than necessary to carry out the agreed purposes and obligations as set out in this Decision, i.e. for the time necessary to fulfil the purpose of collection or further processing. In particular:

(a) Contact details of the users of the Safety Gate/RAPEX application shall be kept in the system as long as they are users. Contact details shall be deleted from the application immediately after the receipt of information that a certain person is no longer a user of the system;

(b) Contact details of the inspectors from the market surveillance authorities of Member States and EFTA/EEA countries, as well as from the inspectors from the authorities in charge of external border controls, provided in notifications and reactions shall be kept in the system for a period of five years after the validation of the notification or reaction.

(c) Personal data of other natural persons possibly included in the system shall be kept in a form that permits identification for 30 years from the moment of the insertion of the information in Safety Gate/RAPEX, which corresponds to the estimated maximum lifecycle of categories of products such as electrical appliances or motor vehicles.

Legitimate requests from data subjects to have their data blocked, adjusted or erased shall be complied with by the Commission within one month from receipt of the request.

7. ***Liability for non-compliance***

The Commission shall be liable for non-compliance in line with Chapter VIII of Regulation (EU) 2018/1725.

The EU Member State(s)' authorities shall be liable for non-compliance in line with Chapter VIII of Regulation (EU) 2016/679.

8. ***Cooperation between Joint Controllers***

Each Joint Controller, when so requested, shall provide a swift and efficient assistance to the other Joint Controllers in execution of this Decision, while complying with all applicable requirements of Regulation (EU) 2018/1725 and Regulation (EU) 2016/679, respectively, and other applicable data protection rules.

9. ***Settlement of disputes***

The Joint Controllers shall endeavour to settle amicably any dispute arising out or relating to the interpretation or application of this Decision.

If at any time a question, dispute or difference arises between the Joint Controllers, in relation to or in connection with this Decision, the Joint Controllers shall use every endeavour to resolve it by a process of consultation.

The preference is that all disputes are settled at the operational level as they arise, and that they are settled by the contact points referred to in point 10 of this Annex and listed on the public Europa website Safety Gate.

The purpose of the consultation shall be to review and agree so far as is practicable the action taken to solve the problem arisen and the Joint Controllers shall negotiate with each other in good faith to that end. Each Joint Controller shall respond to a request for amicable settlement within 7 working days of such request. The Period to reach an amicable settlement shall be 30 working days from the date of the request.

If the dispute cannot be settled amicably, each Joint Controller may submit for mediation or/and judicial proceedings in the following manner:

(a) in case of mediation, the Joint Controllers shall jointly appoint a mediator acceptable by each of them, who will be responsible for facilitating the resolution of the dispute within two months from the referral of the dispute to him/her,

(b) in case of judicial proceedings, the matter shall be referred to the Court of Justice of the European Union in accordance with Article 272 of the Treaty on the Functioning of the European Union.

10. ***Contact points for cooperation between the Joint Controllers***

Each Joint Controller nominates a single point of contact, whom other Joint Controllers shall contact in respect of queries, complaints and provision of information within the scope of this Decision.

A detailed list of all contact points nominated by the Commission and the national authorities in the EU/EEA countries, containing their contact details (surname, name, name of authority, address of authority, phone, fax, email) shall be available on the public Europa website Safety Gate."

DECISION (EU) 2023/976 OF THE SINGLE RESOLUTION BOARD

of 22 March 2023

on discharge in respect of the implementation of the budget and on the closure of the accounts of the Single Resolution Board ('SRB') for the financial year 2021 (SRB/PS/2023/02)

(Only the English text is authentic)

THE SINGLE RESOLUTION BOARD,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 ([1]), and in particular, Articles 50(1)(b) and 63(8) of the SRM Regulation,

Having regard to Articles 97, 98 and 99 of the SRB Financial Regulation of 17 January 2020,

Having regard to the Final Annual Accounts of the SRB for the financial year 2021 as adopted on 29 June 2022 (the '2021 Final Annual Accounts'),

Having regard to the Annual Report of the SRB for the financial year 2021 as adopted on 30 May 2022 (the '2021 Annual Report'),

Having regard to the European Court of Auditors' Report on the annual accounts of the Single Resolution Board (SRB) for the financial year 2021, together with the SRB's replies (the '2021 Court of Auditors' Annual Report'),

Having regard to the Report on the 2021 Final Annual Accounts including audit opinions dated 17 June 2022 prepared by Mazars Réviseurs d'Enterprises (the 'Mazars 2021 Audit Report'),

Having regard to the European Court of Auditors' Report (pursuant to Article 92(4) of Regulation (EU) No 806/2014) on any contingent liabilities arising as a result of the performance by the Single Resolution Board, the Council or the Commission of their tasks under the SRM Regulation for the financial year 2021 (the 'Court of Auditors' Contingent Liabilities Report 2021'),

Having regard to the Internal Audit Annual Report 2021 dated 15 January 2022,

Having regard to the 2021 SRB Work Programme,

HAS ADOPTED THIS DECISION:

Sole Article

1. Grant the Chair of the Single Resolution Board discharge in respect of the implementation of the SRB's budget for the financial year 2021;

2. Approve the closure of the accounts of the SRB for the financial year 2021;

3. Set out its observations in the motion below;

4. Instruct the Chair of the Single Resolution Board to notify this Decision to the Council, the Commission and the Court of Auditors, to arrange for its publication in the *Official Journal of the European Union* (L series), and on the website of the SRB.

([1]) OJ L 225, 30.7.2014, p. 1.

This Decision enters into force on the date of its signature.

For the Single Resolution Board,
Jan Marc BERK
Plenary Member

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN