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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.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1368

of 11 August 2016

establishing a list of critical benchmarks used in financial markets pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investments funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 ([1]), and in particular Article 20(1) thereof,

Whereas:

(1) Benchmarks play an important role in the determination of the price of many financial instruments and financial contracts and of the measurement of performance for many investment funds. The contribution to and administration of benchmarks are in many cases vulnerable to manipulation and persons involved often face conflict of interests.

(2) In order to fulfil their economic role, benchmarks need to be representative of the underlying market or economic reality they reflect. Should a benchmark no longer be representative of an underlying market, such as interbank offered rates, there is a risk of negative effects on, inter alia, market integrity, the financing of households (loans and mortgages) and businesses in the Union.

(3) Risks to users, markets and the economy of the Union generally increase where the total value of financial instruments, financial contracts and investment funds referencing a specific benchmark is high. Regulation (EU) 2016/1011 therefore establishes different categories of benchmarks and provides for additional requirements ensuring the integrity and robustness of certain benchmarks considered as being critical, including the power of competent authorities to mandate, under certain conditions, contributions to or the administration of a critical benchmark.

(4) The additional obligations and powers of competent authorities of administrators of critical benchmarks require a formal process for the determination of critical benchmarks. In accordance with Article 20(1) of Regulation (EU) 2016/1011, a benchmark is considered as being a critical benchmark where it is used directly or indirectly within a combination of benchmarks as a reference for financial instruments or financial contracts or for measuring the performance of investment funds, having a total value of at least EUR 500 billion on the basis of all the range of maturities or tenors of the benchmark, where applicable.

([1]) OJ L 171, 29.6.2016, p. 1.

(5) Euro Interbank Offered Rate (EURIBOR) measures unsecured inter-bank offered rates in the Euro area and is one of most important interest rate benchmarks worldwide. It is estimated that that benchmark underpins more than EUR 180 000 billion worth of contracts. While these contracts are mostly interest rate swaps, the benchmark also covers more than EUR 1 000 billion of retail mortgages.

(6) Therefore, the value of financial instruments and financial contracts using that benchmark in the Union exceeds the threshold of EUR 500 billion by far.

(7) In light of the crucial importance of EURIBOR for credit loans and mortgages in the Union this Regulation should enter into force as a matter of urgency.

(8) The measures provided for in this Regulation are accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The benchmark set out in the annex shall be considered as being a critical benchmark.

Article 2

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

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

Done at Brussels, 11 August 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

LIST OF CRITICAL BENCHMARKS PURSUANT TO ARTICLE 20(1) OF REGULATION (EU) 2016/1011

Euro Interbank Offered Rate (EURIBOR®), administered by the European Money Markets Institute (EMMI), Brussels, Belgium

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1369

of 11 August 2016

amending Implementing Regulation (EU) 2016/388 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic anti-dumping Regulation'), and in particular Article 9(4) thereof,

Whereas:

(1) On 20 December 2014, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India. On 11 March 2015, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of the same product originating in India.

(2) On 18 September 2015 the Commission adopted Implementing Regulation (EU) 2015/1559 [2] ('the provisional anti-dumping Regulation'). The Commission did not impose a provisional countervailing duty on imports of tubes and pipes of ductile cast iron originating in India.

(3) On 17 March 2016 the Commission adopted Implementing Regulation (EU) 2016/388 [3] ('the definitive anti-dumping Regulation') and Implementing Regulation (EU) 2016/387 [4] ('the definitive countervailing Regulation').

(4) In line with the basic anti-dumping Regulation and Regulation (EU) 2016/1037 of the European Parliament and of the Council [5] ('the basic anti-subsidy Regulation') export subsidies and dumping margins cannot be cumulated as export subsidies cause dumping. Export subsidies reduce export prices and increase dumping margins. Therefore, the Commission took account of the fact that three of the investigated subsidy schemes were export subsidies. The Commission reduced the definitive anti-dumping duties in the anti-dumping investigation by the export subsidy amounts found in the parallel anti-subsidy investigation [6].

(5) The definitive anti-dumping duty was determined at 0 % for Electrosteel Castings Ltd ('ECL') and 14,1 % for Jindal Saw Ltd ('Jindal') and all other companies in the definitive anti-dumping Regulation [7]. The dumping margin was determined at 4,1 % for ECL and 19,0 % for Jindal and all other companies in the same Regulation [8]. Therefore, the imposed definitive anti-dumping duty was below the level of definitive dumping margin found for the two companies.

(6) Article 2 of the definitive anti-dumping Regulation stipulated that the amounts secured in excess of the combined rates of the anti-dumping duties and countervailing duties shall be released. However, a number of national customs authorities have indicated to the Commission that this provision, in its current drafting, creates some confusion in terms of actual implementation in the specific circumstances of the case.

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[1] OJ L 176, 30.6.2016, p. 21.
[2] Commission Implementing Regulation (EU) 2015/1559 of 18 September 2015 imposing a provisional anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (OJ L 244, 19.9.2015, p. 25).
[3] Commission Implementing Regulation (EU) 2016/388 of 17 March 2016 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India (OJ L 73, 18.3.2016, p. 53).
[4] Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (OJ L 73, 18.3.2016, p. 1).
[5] Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).
[6] See recital 160 of the definitive anti-dumping Regulation.
[7] See Article 1(2) of the definitive anti-dumping Regulation.
[8] See recital 160 of the definitive anti-dumping Regulation.

(7) Therefore, Article 2 of the definitive anti-dumping Regulation should be amended, so as to make clear that the amounts secured in excess of only the dumping margin have to be released, as no provisional countervailing duties were imposed.

(8) If the amount of the provisional duties definitively collected under Article 2 of the definitive anti-dumping Regulation exceeds those due under the present regulation, that amount should be repaid or remitted.

(9) With regard to the product concerned, the Commission excluded the tubes and pipes of ductile cast iron without internal and external coating ('bare pipes') from the product concerned in the definitive anti-dumping and countervailing Regulations ([1]). The Commission considers it appropriate to monitor the imports of bare pipes in the Union. Therefore, separate TARIC codes will be established for bare pipes.

(10) This amendment was disclosed to the interested parties and they were given the opportunity to comment. No comments were received objecting to the amendment.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Implementing Regulation (EU) 2016/388 is amended as follows:

(1) Article 2 is replaced by the following:

'*Article 2*

The amounts secured by way of the provisional anti-dumping duties pursuant to Implementing Regulation (EU) 2015/1559 shall be definitively collected at the following rates, which equal the definitive dumping margins found:

Company	
Electrosteel Castings Ltd	4,1 %
Jindal Saw Limited	19 %
All other companies	19 %'

(2) the following Articles 1a and 1b are inserted:

'*Article 1a*

Tubes and pipes of ductile cast iron without internal and external coating ("bare pipes") shall fall within TARIC codes 7303 00 10 20 and 7303 00 90 20.

Article 1b

The amount of duties paid or entered into the accounts under Article 2 and which exceeds those as established in accordance with Article 1 shall be repaid or remitted.

([1]) See Article 1 and recitals 13-18 of the definitive anti-dumping regulation and Article 1 and recitals 24-29 of the definitive countervailing Regulation.

Repayment and remission shall be requested from national customs authorities in accordance with applicable customs legislation within a period as set out in Article 236 of Council Regulation (EEC) No 2913/92 (*) and in Article 121 of Regulation (EU) No 952/2013 of the European Parliament and of the Council (**).

(*) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

(**) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).'.

Article 2

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 retroactively as from 19 March 2016, with the exception of the establishment of TARIC codes 7303 00 10 20 and 7303 00 90 20.

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

Done at Brussels, 11 August 2016.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1370

of 11 August 2016

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ([1]),

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ([2]), and in particular Article 136(1) thereof,

Whereas:

(1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

(2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 11 August 2016.

For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General for Agriculture and Rural Development

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MA	131,8
	ZZ	131,8
0707 00 05	TR	116,3
	ZZ	116,3
0709 93 10	TR	134,4
	ZZ	134,4
0805 50 10	AR	182,4
	CL	152,2
	MA	115,2
	TR	156,0
	UY	153,5
	ZA	150,3
	ZZ	151,6
0806 10 10	EG	223,0
	MA	178,5
	TR	158,2
	ZZ	186,6
0808 10 80	AR	145,1
	BR	102,1
	CL	123,4
	CN	90,3
	NZ	135,1
	PE	106,8
	US	167,6
	UY	92,2
	ZA	96,7
	ZZ	117,7
0808 30 90	AR	197,7
	CL	127,1
	TR	147,9
	ZA	133,0
	ZZ	151,4
0809 30 10, 0809 30 90	TR	135,1
	ZZ	135,1

(1) Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COMMISSION DECISION (EU) 2016/1371

of 10 August 2016

establishing the ecological criteria for the award of the EU Ecolabel for personal, notebook and tablet computers

(notified under document C(2016) 5010)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel ([1]), and in particular Articles 6(7) and 8(2) thereof,

After consulting the European Union Eco-labelling Board,

Whereas:

(1) Under Regulation (EC) No 66/2010, the EU Ecolabel may be awarded to products which have a reduced environmental impact during their entire life cycle.

(2) Regulation (EC) No 66/2010 provides that specific EU Ecolabel criteria are to be established according to product groups.

(3) In order to better reflect the state of the art of the market for this product group and innovation, it is considered appropriate to modify the scope of the product group and to establish a revised set of ecological criteria.

(4) Commission Decision 2011/330/EU ([2]) and Commission Decision 2011/337/EU ([3]) addressed separately notebook and personal computers. It is appropriate to merge the criteria laid down in Decisions 2011/330/EU and 2011/337/EU into one criterion in order to reduce the administrative burden for competent bodies and applicants. Moreover, the revised criteria reflect a broadening of the scope to address new products such as tablet and all-in-one portable computers, as well as new requirements on hazardous substances that were introduced subsequent to the Decisions 2011/330/EU and 2011/337/EU by Regulation (EC) No 66/2010.

(5) The criteria aim, in particular, at promoting products that have a lower environmental impact and contribute to sustainable development along their life cycle, are energy efficient, are durable, repairable and upgradeable, easy to dismantle and recover resources from for recycling at the end of their useful life and which restrict the presence of hazardous substances ([4]). Products with improved performance in relation to these aspects should be

([1]) OJ L 27, 30.1.2010, p. 1.
([2]) Commission Decision 2011/330/EU of 6 June 2011 on establishing the ecological criteria for the award of the EU Ecolabel for notebook computers (OJ L 148, 7.6.2011, p. 5).
([3]) Commission Decision 2011/337/EU of 9 June 2011 on establishing the ecological criteria for the award of the EU Ecolabel for personal computers (OJ L 151, 10.6.2011, p. 5).
([4]) Substances with hazard classifications established under Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1) ('the CLP Regulation') and which have been identified according to Article 59(1) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1) ('the REACH Regulation').

promoted via the Ecolabel. It is therefore appropriate to establish EU Ecolabel criteria for the product group 'personal, notebook and tablet computers'.

(6) The criteria also promote the social dimension of sustainable development by introducing requirements regarding labour conditions at final assembly plants, with reference to the International Labour Organisation's (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multi-National Enterprises.

(7) The revised criteria, as well as the related assessment and verification requirements should be valid for three years from the date of adoption of this Decision, taking into account the innovation cycle for this product group.

(8) Decisions 2011/330/EU and 2011/337/EU should therefore be replaced by this Decision.

(9) A transitional period should be allowed for producers whose products have been awarded the EU Ecolabel for personal and notebook computers on the basis of the criteria set out in Decisions 2011/330/EU and 2011/337/EU, so that they have sufficient time to adapt their products to comply with the revised criteria and requirements.

(10) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

Article 1

1. The product group of 'personal, notebook and tablet computers' shall comprise desktop computers, integrated desktop computers, portable all-in-one computers, notebook computers, two-in-one notebook computers, tablet computers, thin clients, workstations, and small-scale servers.

2. Gaming consoles and digital picture frames shall not be considered computers for the purpose of this Decision.

Article 2

For the purpose of this Decision, the following definitions shall apply, as specified in Commission Regulation (EU) No 617/2013 ([1]) and the Agreement between the USA and the Union referred to in Regulation (EC) No 106/2008 of the European Parliament and of the Council ([2]) as amended by Energy Star v6.1 ([3]):

(1) 'Computer' means a device which performs logical operations and processes data and normally includes a central processing unit (CPU) to perform operations or, where no CPU is present, it must function as a client gateway to a server which acts as a computational processing unit. Although computers are capable of using input devices such as a keyboard, mouse, or touchpad, and outputting information to displays, such devices are not required to be included with the computer upon shipment.

([1]) Commission Regulation (EU) No 617/2013 of 26 June 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for computers and computer servers (OJ L 175, 27.6.2013, p. 13).

([2]) Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Union energy-efficiency labelling programme for office equipment (OJ L 39, 13.2.2008, p. 1).

([3]) Commission Decision (EU) 2015/1402 of 15 July 2015 determining the European Union position with regard to a decision of the management entities under the Agreement between the Government of the United States of America and the European Union on the coordination of energy-efficiency labelling programmes for office equipment on the revision of specifications for computers included in Annex C to the Agreement (OJ L 217, 18.8.2015, p. 9).

(2) 'Desktop Computer' means a computer whose main unit is designed to be located in a permanent location and is not designed for portability and which is designed for use with an external display, keyboard, and mouse. Desktop computers are intended for a broad range of home and office applications.

'Integrated Desktop Computer' means a Desktop Computer in which the computer and display are integrated into a single housing, function as a single unit, and are connected to AC mains power through a single cable. Integrated Desktop Computers come in one of two possible forms:

(a) a system where the display and computer are physically combined into a single unit; or

(b) a system packaged as a single system where the display is separate but is connected to the main chassis by a DC power cord and both the computer and display are powered from a single power supply.

(3) 'Portable All-In-One Computer' means a computing device designed for limited portability that meets all of the following criteria:

(a) it includes an integrated display with a diagonal size greater than or equal to 17,4 inches;

(b) it lacks a keyboard integrated into the physical housing of the product in its as-shipped configuration;

(c) it includes and primarily relies on touchscreen input (with optional keyboard);

(d) it includes wireless network connection;

(e) it includes an internal battery, but is intended primarily to be powered by connection to the AC mains.

(4) 'Notebook Computer' means a computer designed specifically for portability and to be operated for extended periods of time both with and without a direct connection to an AC mains power source. Notebook Computers utilise an Integrated Display, a non-detachable mechanical keyboard (using physical, moveable keys) and pointing device, and are capable of being powered by an integrated rechargeable battery or other portable power source. Notebook computers are typically designed to provide similar functionality to desktops, including operation of software similar in functionality to that used in desktops.

A portable computer with a reversible, but non-detachable, touch-sensitive screen and an integrated physical keyboard is considered to be a Notebook Computer.

(a) 'Mobile Thin Client' means a computer meeting the definition of a Thin Client, but is designed specifically for portability and also meets the definition of a Notebook Computer. These products are considered to be Notebook Computers for the purposes of this Decision.

(b) 'Two-In-One Notebook' means a computer which resembles a Notebook Computer with a clam shell form factor and physical keyboard, but has a detachable touch-sensitive display which can act as an independent tablet computer upon detachment, where the keyboard and display portions of the product must be shipped as an integrated unit. Two-In-One Notebooks are considered Notebooks for the purpose of this Decision.

(5) 'Tablet Computer' (also referred to as a 'slate computer') means a computing device designed for portability that meets all of the following criteria:

(a) it includes an integrated display with a diagonal size greater than 6,5 inches and less than 17,4 inches;

(b) it lacks an integrated, physical attached keyboard in its as-shipped configuration;

(c) it includes and primarily relies on touchscreen input (with optional keyboard);

(d) it includes and primarily relies on a wireless network connection (e.g. Wi-Fi, 3G, etc.);

(e) it includes and is primarily powered by an internal rechargeable battery (with connection to the AC mains for battery charging, not primary powering of the device).

(6) 'Small-scale Server' means a computer that typically uses desktop components in a desktop form factor, but is designed primarily to be a storage host for other computers. Small-scale Servers are designed to perform functions such as providing network infrastructure services and hosting data and media. These products are not designed to process information for other systems or run web servers as a primary function. A Small-scale Server has the following characteristics:

(a) it is designed in a pedestal, tower, or other form factor similar to those of desktop computers such that all data processing, storage, and network interfacing is contained within one box or product;

(b) it is designed to operate 24 hours/day, 7 days/week, with minimal unscheduled downtime (in the 65 order of hours/year);

(c) it is capable of operating in a simultaneous multi-user environment serving several users through networked client units; and

(d) the operating system is designed for home or low-end server applications including Windows Home Server, Mac OS X Server, Linux, UNIX, Solaris.

(7) 'Thin Client' means an independently-powered computer that relies on a connection to remote computing resources to obtain primary functionality. Its main computing functions are provided by the remote computing resources. Thin clients covered by this specification are limited to devices with no rotational storage media integral to the computer and are designed for use in a permanent location and not for portability.

(a) 'Integrated Thin Client' means a Thin Client in which computing hardware and display are connected to AC mains power through a single cable. Integrated Thin Client computers can be either a system where the display and computer are physically combined into a single unit or a system packaged as a single system where the display is separate but is connected to the main chassis by a DC power cord and both the computer and display are powered from a single power supply. As a subset of Thin Clients, Integrated Thin Clients are typically designed to provide similar functionality to Thin Client systems.

(b) 'Ultra-thin Client' means a computer with less local resources than a standard Thin Client that sends raw mouse and keyboard inputs to a remote computing resource and receives back raw video from the remote computing resource. Ultra-thin clients cannot interface with multiple devices simultaneously nor run windowed remote applications due to the lack of a user-discernible client operating system on the device (i.e. they operate at a level which is beneath firmware and therefore user inaccessible).

(8) 'Workstation' means a high-performance, single-user computer typically used for graphics, Computer Aided Design (CAD), software development, financial and scientific applications, amongst other computer intensive tasks. Workstations covered by this specification are marketed as a workstation; provide Mean Time Between Failures (MTBF) of at least 15 000 hours (based on either Bellcore TR-NWT-000332, issue 6, 12/97 or field collected data); and support Error-Correcting Code (ECC) and/or buffered memory. In addition, a workstation shall meet three or more of the following criteria:

(a) it provides supplementary power support for high-end graphics (e.g. PCI-E 6-pin 12 V supplemental power feed);

(b) it is wired for greater than x4 PCI-E (Peripheral Component Interconnect Express) serial connections on the motherboard in addition to the graphics slot(s) and/or PCI-X support;

(c) it does not provide support for Uniform Memory Access (UMA) graphics;

(d) it includes 5 or more PCI, PCI-E, or PCI-X slots;

(e) it is capable of multi-processor support for 2 or more processors, supporting physically separate processor packages/sockets, i.e. this requirement cannot be met with support for a single multicore processor; and/or

(f) qualification by 2 or more Independent Software Vendor's (ISV) product certifications.

(9) The following additional definition shall apply for the purpose of defining a sub-product within the definitions of 'Notebook Computer' and 'Two-in-one Notebooks':

'Subnotebook' means a form of notebook that is less than 21 mm thick and that weighs less than 1,8 kg. Two-in-one notebooks (see the separate definition in Article 2(4)(b)) with a subnotebook form are less than 23 mm thick. Subnotebooks incorporate low power processors and solid state drives. Optical disk drives are generally not incorporated. Subnotebooks provide longer rechargeable battery life than notebooks, usually more than 8 hours.

Article 3

The criteria for awarding the EU Ecolabel under Regulation (EC) No 66/2010, for a product falling within the product group 'personal, notebook and tablet computers' defined in Article 1 of this Decision, as well as the related assessment and verification requirements, are set out in the Annex to this Decision.

Article 4

The criteria and the related assessment and verification requirements set out in the Annex, shall be valid for three years from the date of adoption of this Decision.

Article 5

For administrative purposes, the code number assigned to the product group 'personal, notebook and tablet computers' shall be '050'.

Article 6

Decisions 2011/330/EU and 2011/337/EU are repealed.

Article 7

1. This Decision shall apply two months after its adoption date. However applications for the EU Ecolabel for products falling within the product group 'personal, notebook and tablet computers' submitted within two months from the date of adoption of this Decision may be based either on the criteria set out in Decision 2011/330/EU or 2011/337/EU, or on the criteria set out in this Decision. Applications should be evaluated in accordance with the criteria on which they are based.

2. Ecolabels awarded in accordance with the criteria set out in Decision 2011/330/EU or 2011/337/EU may be used for 12 months from the date of adoption of this Decision.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 10 August 2016.

For the Commission
Karmenu VELLA
Member of the Commission

ANNEX

EU ECOLABEL CRITERIA AND ASSESSMENT AND VERIFICATION REQUIREMENTS

Criteria for awarding the EU Ecolabel to personal, notebook and tablet computers:

1. Energy Consumption
   (a) Total energy consumption of the computer
   (b) Power management
   (c) Graphics capabilities
   (d) Internal power supplies
   (e) Enhanced performance displays
2. Hazardous substances and mixtures in the product, sub-assemblies and component parts
   (a) Restrictions on Substances of Very High Concern (SVHCs)
   (b) Restrictions on the presence of specific hazardous substances
   (c) Restrictions based on CLP hazard classifications
3. Lifetime extension
   (a) Durability testing for portable computers
   (b) Rechargeable battery quality and lifetime
   (c) Data storage drive reliability and protection
   (d) Upgradeability and Repairability
4. Design, material selection and end-of-life management
   (a) Material selection and compatibility with recycling
   (b) Design for disassembly and recycling
5. Corporate Social Responsibility
   (a) Sourcing of 'conflict-free' minerals
   (b) Labour conditions and human rights during manufacturing
6. User information
   (a) User instructions
   (b) Information appearing on the EU Ecolabel

Assessment and verification: The specific assessment and verification requirements are indicated within each criterion.

Where the applicant is required to provide declarations, documentation, analyses, test reports, or other evidence to show compliance with the criteria, these may originate from the applicant and/or his supplier(s) and/or their supplier(s), and/or third party certification and testing bodies, as appropriate.

Where possible, verification should be performed by conformity assessment bodies that have been accredited by a national accreditation body according to Regulation (EC) No 765/2008 of the European Parliament and of the Council ([1]) setting out the requirements for accreditation and market surveillance. Competent Bodies shall preferentially recognise:

— Test reports which are issued by conformity assessment bodies accredited according to the relevant harmonised standard for testing and calibration laboratories,

— Verifications by conformity assessment bodies that are accredited according to the relevant harmonised standard for bodies certifying products, processes and services,

— Verifications by conformity assessment bodies that are accredited according to the relevant harmonised standard for bodies carrying out inspections.

Where appropriate, test methods other than those indicated for each criterion may be used if these are described in the user manual of the Ecolabel criteria application and the Competent Body assessing the application accepts their equivalence.

Where appropriate, competent bodies may require supporting documentation and may carry out independent verifications or site visits.

Changes in suppliers and production sites pertaining to products to which the ecolabel has been granted shall be notified to Competent Bodies, together with supporting information to enable verification of continued compliance with the criteria.

Criterion 1. Energy consumption

1(a) *Total energy consumption of the computer*

The total energy consumption of the computer shall meet the energy-efficiency requirements set out in Regulation (EC) No 106/2008 and as amended by Energy Star v6.1.

Capability adjustments specified under the Agreement as amended by Energy Star v6.1 may be applied, with the exception of:

— Discrete Graphics Processing Units (GPUs): See sub-criterion 1(c);

— Internal power supplies: See sub-criterion 1(d)

A specific additional requirement shall apply to enhanced-performance integrated displays, which can be found in sub-criterion 1(e).

Assessment and verification: The applicant shall submit a test report for the computer model carried out according to the Energy Star v6.1 test methods for computers. Energy Star v6.1 registrations in the USA shall be accepted provided that testing according to European input power requirements has been carried out.

1(b) *Power management*

Power management functions shall be provided as a default setting. Whenever the user or a software attempts to deactivate the default power management functions, a warning message shall be displayed communicating to the user that an energy saving function will be disabled and giving the option to retain the default function.

Assessment and verification: The applicant shall provide the description of the power management settings that appears in the model's user manual, accompanied by screen shots of examples of when warning messages are displayed.

([1]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

1(c) *Graphics capabilities*

The Functional Adder $TEC_{graphics}$ allowances for discrete graphics cards (dGfx) in desktop, integrated desktop and notebook computers in Table 1 shall apply in place of those in the Energy Star v6.1 eligibility criteria. dGfx shall have power management that shuts down the Graphics Processor (GPU) in the long idle state.

Table 1

Functional Adder allowances for discrete graphics cards (dGfx) in desktop, integrated desktop and notebook computers

dGfx category (Gigabytes/second) [1]	TEC Allowance (kWh/year)	
	Desktop and integrated desktops	Notebooks
G1 (FB_BW ≤ 16)	30	9
G2 (16 < FB_BW ≤ 32)	37	12
G3 (32 < FB_BW ≤ 64)	47	20
G4 (64 < FB_BW ≤ 96)	62	25
G5 (96 < FB_BW ≤ 128)	76	38
G6 (FB_BW > 128 with data width < 192 bits)	76	38
G7 (FB_BW > 128 with data width ≥ 192 bits)	90	48

[1] Categories are defined according to the frame buffer bandwidth in gigabytes per second (GB/s).

Assessment and verification: The applicant shall declare Energy Star v6.1 compliance based on the stricter allowances and provide the supporting E_{TEC_MAX} calculation and performance data from the model's test report.

1(d) *Internal Power Supplies*

Internal power supplies in desktop and integrated desktop computers shall meet the requirements for the TEC_{PSU} allowances of Energy Star v6.1 and shall achieve minimum efficiencies as a proportion of the rated output current of 0,84 at 10 %, 0,87 at 20 %, 0,90 at 50 % and 0,87 at 100 %.

Assessment and verification: The applicant shall declare compliance of the model's internal power supply, supported by the products Energy Star v6.1 E_{TEC_MAX} calculation and either performance data from the model's test report or independent power supply performance certifications.

1(e) *Enhanced-performance displays*

Integrated desktop and notebook computers that have Enhanced Performance Displays, as defined by Energy Star v6.1, and thereby qualify for the $TEC_{INT\_DISPLAY}$ allowance shall automatically adjust the picture brightness to the ambient light conditions. This Automatic Brightness Control (ABC) function shall be installed as a default setting and it shall be possible for the user to adjust and calibrate. The ABC default setting shall be validated according to the following test procedure:

Test (i) $\left(\frac{P_{50} - P_{10}}{P_{10}}\right) \geq 5\ \%$ Test (ii) $\left(\frac{P_{100} - P_{50}}{P_{50}}\right) \geq 5\ \%$ Test (iii) $P_{300} \geq P_{100}$

Where P_n is the Power consumed for On Mode with ABC enabled at *n* lux with a direct light source.

Assessment and verification: The applicant shall submit a test report for the computer model showing compliance with the specified test procedure.

Criterion 2. Hazardous substances and mixtures in the product, sub-assemblies and component parts

The presence in the product, or defined sub-assemblies and component parts, of substances that are identified according to Article 59(1) of Regulation (EC) No 1907/2006 (the 'REACH Regulation') or substances and mixtures that meet the criteria for classification according to Regulation (EC) No 1272/2008 (the 'CLP Regulation') for the hazards listed in Table 2, shall be restricted in accordance with sub-criterion 2(a), (b) and (c). For the purpose of this criterion Candidate List Substances of Very High Concern (SVHCs) and CLP hazard classifications are grouped in Table 2 according to their hazardous properties.

Table 2

Grouping of Candidate List SVHCs and CLP hazards

Group 1 hazards
Hazards that identify a substance or mixture as being within Group 1: — Substances that appear on the Candidate List for Substances of Very High Concern (SVHC) — Carcinogenic, Mutagenic and/or Toxic for Reproduction (CMR) Category 1A or 1B CMR: H340, H350, H350i, H360, H360F, H360D, H360FD, H360Fd, H360Df

Group 2 hazards
Hazards that identify a substance or mixture as being within Group 2: — Category 2 CMR: H341, H351, H361f, H361d, H361fd, H362 — Category 1 aquatic toxicity: H400, H410 — Category 1 and 2 acute toxicity: H300, H310, H330 — Category 1 aspiration toxicity: H304 — Category 1 Specific Target Organ Toxicity (STOT): H370, H372

Group 3 hazards
Hazards that identify a substance or mixture as being within Group 3: — Category 2, 3 and 4 aquatic toxicity: H411, H412, H413 — Category 3 acute toxicity: H301, H311, H331, EUH070 — Category 2 STOT: H371, H373

2(a) *Restriction of Substances of Very High Concern (SVHCs)*

The product shall not contain substances that have been identified according to the procedure described in Article 59(1) of the 'REACH Regulation' and are included in the Candidate List of SVHCs at concentrations of greater than 0,10 % (weight by weight). The same restriction shall apply to the sub-assemblies and component parts forming part of the product that are listed in Table 3.

No derogation from this requirement shall be given to Candidate List SVHCs present in the product or in the listed sub-assemblies or component parts at concentrations greater than 0,10 % (weight by weight).

Table 3

Sub-assemblies and component parts to which Criterion 2(a) shall apply

— Populated motherboard (including CPU, RAM, graphics units)
— Data storage devices (HDD and SSD)
— Optical Drive (CD and DVD)
— Display unit (including backlighting)
— Chassis and fixings
— Casings and bezels
— External keyboard, mouse and/or trackpad
— Internal and external Power Supply Units
— External AC and DC power cords
— Rechargeable batteries packs

In communicating this requirement to suppliers of the listed sub-assemblies and component parts, applicants may pre-screen the REACH Candidate List using the IEC 62474 declarable substance list ([1]). The screening shall be based on identification of the potential for presence of substances in the product.

Assessment and verification: The applicant shall compile declarations of the non-presence of SVHCs at or above the specified concentration limit for the product and the sub-assemblies and component parts identified in Table 3. Declarations shall be with reference to the latest version of the Candidate List published by ECHA ([2]). Where declarations are made based on a pre-screening of the Candidate List using IEC 62474 the screened list given to sub-assembly and component suppliers shall also be provided by the applicant. The version of the IEC 62474 declarable substance list used shall reflect the latest version of the Candidate List.

2(b) *Restrictions on the presence of specific hazardous substances*

The sub-assemblies and component parts identified in Table 4 shall not contain the specified hazardous substances at or above the stipulated concentration limits.

([1]) International Electrotechnical Commission (IEC), *IEC 62474: Material declaration for products of and for the electrotechnical industry*, http://std.iec.ch/iec62474.
([2]) ECHA, *Candidate List of substances of very high concern for Authorisation*, http://www.echa.europa.eu/candidate-list-table.

Table 4

Substance restrictions that shall apply to sub-assemblies and component parts

Substance group or material	Scope of restriction	Concentration limits (where applicable)	Assessment and verification
(i) Metal solder and contacts	Exemption 7b in accordance with Directive 2011/65/EU of the European Parliament and of the Council [1] relating to the use of lead solder in *small-scale servers* shall not be permitted.	0,1 % w/w	Declaration to be provided by the manufacturer or final assembler supported by a valid test report. *Test method*: IEC 62321-5
	Exemption 8b in accordance with Directive 2011/65/EU relating to the use of *cadmium in electrical contacts* shall not be permitted.	0,01 % w/w	
(ii) Polymer stabilisers, colourants and contaminants	The following organotin stabiliser compounds classified with Group 1 and 2 hazards shall not be present in *external AC and DC power cords and power packs*: — Dibutyltin oxide — Dibutyltin diacetate — Dibutyltin dilaurate — Dibutyltin maleate — Dioctyl tin oxide — Dioctyl tin dilaurate	n/a	Declaration to be provided by the sub-assembly supplier.
	Plastic casings and bezels shall not contain the following colourants: — Azo dyes that may cleave to the carcinogenic aryl amines listed in Appendix 8 of the REACH Regulation, and/or — Colorant compounds included in the IEC 62474 declarable substances list.	n/a	Declaration to be provided by the sub-assembly supplier.
	Polycyclic Aromatic Hydrocarbons (PAHs) classified with Group 1 and 2 hazards shall not be present at concentrations greater than or equal to individual and sum total concentration limits in any external plastic or man-made rubber surfaces of: — Notebooks and tablets; — Peripheral keyboards, — Mice, — Stylus and/or trackpads; — External power cables.	The individual concentration limits for PAHs restricted under REACH shall be 1 mg/kg The sum total concentration of the 18 listed PAHs shall not be greater than 10 mg/kg	Test report to be provided by the applicant for relevant parts of the identified parts of the product. *Test method*: AfPS GS 2014:01 PAK.

Substance group or material	Scope of restriction	Concentration limits (where applicable)	Assessment and verification
	The presence and concentration of the following PAHs shall be verified: PAH's restricted by the REACH Regulation: — Benzo[a]pyrene, — Benzo[e]pyrene, — Benzo[a]anthracene, — Chrysen, — Benzo[b]fluoranthene, — Benzo[j]fluoranthene, — Benzo[k]fluoranthene — Dibenzo[a,h]anthracene, Additional PAH's subject to restriction: — Acenaphthene — Acenaphthylene — Anthracene — Benzo[ghi]perylene — Fluoranthene — Fluorene — Indeno[1,2,3-cd]pyrene — Naphthalene — Phenanthrene — Pyrene		
(iii) Biocidal products	Biocidal products intended to provide an anti-bacterial function shall not be incorporated into plastic or rubber parts of keyboards and peripherals.	n/a	Declaration to be provided by the sub-assembly supplier.
(iv) Mercury in backlights	Exemption 3 in accordance with Directive 2011/65/EU relating to the use of mercury in *cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL)* shall not be permitted.	n/a	Declaration to be provided by the sub-assembly supplier.
(v) Glass fining agents	Arsenic and its compounds shall not be used in the manufacturing of LCD display unit glass, screen cover glass and glass used in track pad surfaces.	0,0050 % w/w	Declaration to be provided by the screen glass supplier(s) supported by an analytical testing report.

([1]) Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).

Assessment and verification: The applicant shall provide declarations of compliance and test reports according to the requirements in Table 4. Test reports, where required, shall be valid at the time of application for the relevant production model and all associated suppliers. Where sub-assemblies or component parts with the same technical specification originate from a number of different suppliers tests, where applicable, shall be carried out on parts from each supplier.

2(c) *Restrictions based on CLP hazard classifications*

Flame retardants, plasticisers, steel additives and coatings, cathode materials, solvents and salts that meet the criteria for classification with the CLP hazards in Table 2 shall not be present in the sub-assemblies and component parts in Table 5 at or above a concentration limit of 0,10 % (weight by weight).

Table 5

Sub-assemblies and component parts to which Criterion 2(c) shall apply

Parts containing flame retardants
— Main Printed Circuit Boards (PCBs)
— Central Processing Units (CPUs)
— Connectors and sockets
— Data storage devices (HDD and SSD)
— Plastic casings and bezels
— Internal and external Power Supply Units
— External AC and DC power cords
Parts containing plasticisers
— Internal cables and cords
— External AC and DC power cords
— External Power Supply Units
— Plastic casings and bezels
Parts with stainless steel alloys and/or nickel coatings
— Chassis, casings, bolts, nuts, screws and brackets
Rechargeable battery packs
— Rechargeable battery cells

(i) *Derogations for the use of hazardous flame retardants and plasticisers*

The use of flame retardants and plasticisers meeting the criteria for classification with CLP hazards listed in Table 2 are derogated from the requirements of criterion 2(c) provided that they meet the conditions specified in Table 6. Inherently flame retardant external AC and DC power cord materials shall also meet the conditions in Table 6(ii)(b).

Table 6

Derogations conditions that shall apply to the use of flame retardants and plasticisers

Substances and mixtures	Sub-assembly or component part	Scope of derogation	Assessment and verification
Flame retardants	(i) Main Printed Circuit Board	The use of flame retardants in motherboard laminates is derogated under either of the following conditions: (a) The flame retardant is classified with a Group 3 hazard. Where a claim is made in conformance with IEC 61249-2-21 [1] a fire test of the PCB simulating improper WEEE disposal shall show carcinogenic polycyclic aromatic hydrocarbon (PAHs) emissions to be ≤ 0,1 mg TEQ/g. (b) The flame retardant is reacted into the polymer resin and a fire test of the PCB simulating improper WEEE disposal shall show polybrominated dibenzo-p-dioxin and polybrominated dibenzofuran (PBDD/DF) emissions to be ≤ 0,4 ng TEQ/g and carcinogenic PAHs emissions to be ≤ 0,1 mg TEQ/g.	Declaration to be provided by the sub-assembly supplier supported by documentation to verify hazard classifications. and where required: A third party test report for the combination of board material, components and flame retardant. *Test method*: ISO 5660 in oxidative pyrolysis conditions (IEC 60695-7-1 fire type 1b with a heat flux of 50 kW/m^2). Quantification shall be made according to EN 1948 (PBDD/DF) and/or ISO 11338 (PAHs).
	(ii) External AC and DC power cords.	The use of flame retardants and their synergists is derogated under either of the following conditions: (a) The flame retardant and its synergist are classified with a Group 3 hazard. Where a claim is made in conformance with IEC 62821 [2] a fire test of the power cord polymer shall show halogen acid gas emissions of less than 5,0 mg/g. (b) Fire test results for the power cord simulating improper WEEE disposal shall show polychlorinated dibenzo-p-dioxin and polychlorinated dibenzofuran (PCDD/DF) emissions to be ≤ 0,3 ng TEQ/g Power cords insulated with inherently flame retardant materials shall be subject to the part (ii)(b) fire testing requirement.	Declaration to be provided by the sub-assembly supplier supported by documentation to verify hazard classifications. and where required: A third party test report for the power cord. *Test method*: IEC 60754-1 or ISO 19700 in under-ventilated conditions (IEC 60695-7-1 fire type 3a with a heat flux of 50 kW/m^2) PCDD/DF quantification shall be made according to EN 1948.
	(iii) External plastic casings and bezels.	Flame retardants and their synergists classified with Group 2 and 3 hazards are derogated for use.	Declaration to be provided by the sub-assembly supplier supported by documentation to verify hazard classifications.

Substances and mixtures	Sub-assembly or component part	Scope of derogation	Assessment and verification
	(iv) Miscellaneous sub-assemblies and parts: — CPU assembly — Data storage drives — Internal connectors and sockets — Power supply units.	Flame retardants classified with Group 3 hazards are derogated for use.	Declaration to be provided by the sub-assembly supplier supported by documentation to verify hazard classifications.
Plasticisers	(i) External power cords and power packs, external casings and internal cables	Plasticisers classified with Group 3 hazards are derogated for use.	Declaration to be provided by the sub-assembly supplier supported by documentation to verify hazard classifications.

([1]) According to IEC 61249-2-21 claims can be made for the 'halogen free' composition of a printed circuit board material.
([2]) According to IEC 62821 claims can be made for 'halogen free low smoke' cables.

(ii) *Derogations for the use of additives, coatings, cathode materials, solvents and salts*

The use of metal additives and coatings, battery cathode materials, and battery solvents and salts meeting the criteria for classification with the CLP hazards listed in Table 2 are derogated from the requirements of criterion 2(c) provided that they meet the conditions specified in Table 7.

Table 7

Components and subassemblies that are specifically derogated

Substances and mixtures	Sub-assembly or component part	Scope of the derogation	Assessment and verification
Metal additives and coatings	(i) Metal components	Stainless steel alloys and scratch resistant coatings containing nickel metal classified with H351, H372 and H412. Derogation condition: The release rate of metallic nickel from scratch resistance coatings on parts of a casing where they may in direct and prolonged contact with skin shall not exceed 0,5 μg/cm^2/week.	Identification of relevant parts by weight and location in the product. Where external casing parts come into direct and prolonged skin contact a test report shall be provided. Test method: EN 1811
Battery cell cathode materials	(ii) Lithium ion and polymer batteries	Cell cathode materials classified with group 2 and 3 hazards. These shall include: — Lithium cobalt oxide — Lithium manganese dioxide — Lithium iron phosphate — Lithium cobalt nickel manganese oxide	Declaration to be provided by the battery or cell supplier supported by documentation to verify hazard classifications.

Substances and mixtures	Sub-assembly or component part	Scope of the derogation	Assessment and verification
Battery electrolyte solvents and salts		Electrolyte solvents and salts classified with group 2 and 3 hazards. These shall include: — Propylene carbonate — Ethylene carbonate — Diethyl carbonate — Di-Methyl Carbonate — Ethyl methyl carbonate — Lithium Hexafluorophosphate	

Assessment and verification: The applicant shall provide a declaration of compliance with criterion 2(c). The declaration shall be supported by information about the flame retardants, plasticisers, steel additives and coatings, cathode materials, solvents and salts used in the sub-assemblies and component parts listed in Table 5 together with declarations of their hazard classification or non-classification.

The following information shall be provided to support declarations of the hazard classification or non-classification for each substance or mixture:

— The CAS, EC or list number (where available for mixtures);

— The physical form and state in which a substance is used;

— Harmonised CLP hazard classifications for substances;

— Self-classification entries in ECHA's REACH registered substance database ([1]) (if no harmonised classification is available);

— Mixture classifications according to the criteria laid down in the CLP Regulation.

When considering self-classification entries in the REACH registered substance database, priority shall be given to entries from joint submissions.

Where a classification is recorded as 'data lacking' or 'inconclusive' according to the REACH registered substance database, or where a substance has not yet been registered under the REACH system, toxicological data meeting the requirements in Annex VII to the REACH Regulation shall be provided that is sufficient to support conclusive self-classifications in accordance with Annex I of the CLP Regulation and ECHA's supporting guidance. In the case of 'data lacking' or 'inconclusive' database entries, self-classifications shall be verified, with the following information sources being accepted:

— Toxicological studies and hazard assessments by ECHA peer regulatory agencies ([2]), Member State regulatory bodies or Intergovernmental bodies;

— A Safety Data Sheet fully completed in accordance with Annex II to the REACH Regulation;

— A documented expert judgement provided by a professional toxicologist. This shall be based on a review of scientific literature and existing testing data, where necessary supported by results from new testing carried out by independent laboratories using methods recognised by ECHA;

— An attestation, where appropriate based on expert judgement, issued by an accredited conformity assessment body that carries out hazard assessments according to the GHS or CLP hazard classification systems.

([1]) ECHA, *REACH registered substances database*, http://www.echa.europa.eu/information-on-chemicals/registered-substances.
([2]) ECHA, *Cooperation with peer regulatory agencies*, http://echa.europa.eu/en/about-us/partners-and-networks/international-cooperation/cooperation-with-peer-regulatory-agencies.

Information on the hazardous properties of substances or mixtures may, in accordance with Annex XI to the REACH Regulation, be generated by means other than tests, for instance through the use of alternative methods such as in vitro methods, by quantitative structure activity models or by the use of grouping or read-across.

For the derogated substances and mixtures listed in Tables 6 and 7, the applicant shall provide proof that all the derogation conditions are met. Where test reports are required, they shall be valid at the time of application for a production model.

Criterion 3. Product lifetime extension

3(a) *Durability testing of portable computers*

(i) *Tests that shall apply to notebook computers*

The notebook computer model shall pass durability tests. Each model shall be verified to function as specified and meet the stipulated performance requirements after performing the mandatory tests in Table 8 and a minimum of one additional test selected from Table 9.

Table 8

Mandatory durability test specification for notebook computers

Test	Test conditions and functional performance requirements	Test method
Resistance to shock	Specification: A minimum of a 40 G peak half-sine wave pulse shall be applied three times for a duration of a minimum of 6 ms to the top, bottom, right, left, front and rear side of the product. Functional requirement: The notebook shall be switched on and running a software application during the test. It shall continue to function following the test.	IEC 60068 Part 2-27: Ea Part 2-47
Resistance to vibration	Specification: Randomised sinusoidal vibrations in the frequency range 5 Hz up to a maximum of 250 Hz shall be applied for a minimum of 1 sweep cycle to the end of each axis of the top, bottom, right, left, front and back side of the product. Functional requirement: The notebook shall be switched on and running a software application during the test. It shall continue to function following the test.	IEC 60068 Part 2-6: Fc Part 2-47
Accidental drop	Specification: The notebook shall be dropped from a height of 76 cm onto a non-yielding surface covered with a minimum of 30 mm of wood. One drop shall be made on the top, bottom, right, left, front and rear side, as well as each bottom corner. Functional requirement: The notebook shall be switched off during the test and shall successfully boot up following each drop. The casing shall remain integral and the screen undamaged following each test.	IEC 60068 Part 2-31: Ec (Freefall, procedure 1)

Table 9

Additional durability test specifications for notebook computers

Test	Test conditions and performance benchmarks	Test method
Temperature stress	Specification: The notebook shall be subjected to a minimum of four 24 hour exposure cycles in a test chamber. The notebook shall be switched on during a cold cycle at – 25 °C and a dry heat cycle at + 40 °C. The notebook shall be switched off during a cold cycle at – 50 °C and dry heat cycling between + 35 and + 60 °C. Functional requirement: The notebook shall be checked that it functions following each of the four exposure cycles.	IEC 60068 Part 2-1: Ab/e Part 2-2: B
Screen resilience	Specification: Two loading tests shall be carried out. A minimum load of 50 kg shall be uniformly applied to the screen. A minimum load of 25 kg shall be applied to the centre of the screen. The notebook shall be placed on a flat surface during each test. Functional requirement: The screen surface and pixels shall be inspected for the absence of lines, spots and cracks after application of each loading.	The test equipment and setup used shall be confirmed by the applicant.
Water spill ingress	Specification: The test shall be carried out two times. A minimum of 30 ml of liquid shall be poured evenly over the keyboard of the notebook *or* onto three specific, separated locations, then actively drained away after a maximum of 5 seconds, and the computer then tested for functionality after 3 minutes. The test shall be carried for a hot and a cold liquid. Functional requirement: The notebook shall remain switched on during and after the test. The notebook shall then be dismantled and visually inspected so as to ensure it passes the IEC 60529 acceptance conditions for water ingress.	Acceptance conditions: IEC 60529 (water ingress)
Keyboard lifespan	Specification: 10 million random keystrokes shall be applied to the keyboard. The number of keystrokes per key shall be weighted to reflect the most commonly used keys. Functional requirement: The keys shall then be inspected for their integrity and functionality.	The test equipment and setup used shall be confirmed by the applicant.
Screen hinge lifespan	Specification: The screen shall be fully opened and then closed 20 000 times. Functional requirement: The screen shall then be inspected for any loss of stability and hinge integrity.	The test equipment and setup used shall be confirmed by the applicant.

(ii) *Tests that shall apply to tablet and two-in-one computers*

The tablet computer model or the tablet component of a two-in-one computer model shall pass durability tests. Each model shall be verified to function as specified and meet the stipulated performance requirements for each test as specified in Table 10.

Table 10

Mandatory durability test specification for tablet and two-in-one notebook computers

Test	Test conditions and functional performance requirements	Test method
Accidental drop	Specification: The tablet shall be dropped from a height of 76 cm onto non-yielding surface covered with a minimum of 30 mm of wood. One drop shall be made on the top, bottom, right, left, front and rear side, as well as each bottom corner. Functional requirement: The tablet shall be switched off during the test and shall successfully boot up following each drop. The casing shall remain integral and the screen undamaged following each test.	IEC 60068 Part 2-31: Ec (Freefall, procedure 1)
Screen resilience	Specification: Two loading tests shall be carried out. A minimum load of 50 kg shall be uniformly applied to the screen. A minimum load of 25 kg shall be applied to the centre of the screen. The tablet shall be placed on a flat surface during each test. Functional requirement: The screen surface and pixels shall be inspected for the absence of lines, spots and cracks after application of each loading.	The test equipment and setup used shall be confirmed by the applicant.

Assessment and verification: The applicant shall provide test reports showing that the model has been tested and has met the functional performance requirements for durability. Testing shall verified by a third party. Existing tests for the same model, carried out to the same or a stricter specification, shall be accepted without the need to retest.

3(b) *Rechargeable battery quality and lifetime*

(i) *Minimum battery life*: Notebooks, tablets and two-in-one computers shall provide the user with a minimum of 7 hours of rechargeable battery life after the first full charge.

For notebooks this shall be benchmarked using either:

— For home and consumer products the Futuremark PCMark 'Home' scenario.

— For business or enterprise products the BAPCo Mobilemark 'Office productivity' scenario. For models which qualify for Energy Star $TEC_{graphics}$ allowances, the 'Media creation & consumption' scenario shall be used instead.

(ii) *Charging cycle performance*: Notebook, tablet and two-in-one computer rechargeable batteries shall meet the following performance requirements, which are dependent on whether the rechargeable battery can be changed without tools (as specified in criterion 3(d)):

— Models in which rechargeable batteries can be changed without tools shall maintain 80 % of their declared minimum initial capacity after 750 charging cycles;

— Models in which rechargeable batteries cannot be changed without tools shall maintain 80 % of their declared minimum initial capacity after 1 000 charging cycles.

This performance shall be verified for rechargeable battery packs or their individual cells according to the IEC EN 61960 'endurance in cycles' test, to be carried out at 25 °C and at a rate of either 0,2 I_t A or 0,5 I_t A (accelerated test procedure). Partial charging may be used to comply with this requirement (as specified in sub-criterion 3(b)(iii)).

(iii) *Partial charging option for achieving charging cycle performance*: The performance requirements described in sub-criterion 3(b)(ii) may be achieved using factory installed software and firmware which partially charges the battery up to 80 % of its capacity. In this case partial charging shall be set as the default charging routine and the battery performance shall then be verified at up to 80 % charging according to the requirements in sub-criterion 3(b)(ii). The maximum partial charge shall provide a battery life that complies with sub-criterion 3(b)(i).

(iv) *Minimum guarantee*: The applicant shall provide a minimum two year commercial guarantee for defective batteries ([1]).

(v) *User information*: Information about known factors influencing the lifetime of rechargeable batteries, as well as instructions on how the user can prolong battery life, shall be included in factory installed energy management software, written user instructions and posted on the manufacturer's website.

Assessment and verification: The applicant shall provide a third party test report showing that the rechargeable battery pack or cell types making up the pack used in the product meet the specified rechargeable battery life and charging cycle capacity. Partial charging and the accelerated test method specified by IEC EN 61960 may be used to demonstrate compliance. The applicant shall also provide a demonstration version of the energy management software and the text content of user instructions and website postings.

3(c) *Data storage drive reliability and protection*

(i) *Desktop computers, workstations, thin clients and small-scale servers*

The data storage drive or drives used in desktops, workstations and thin clients marketed for business use shall have a projected Annualised Failure Rate (AFR) ([2]) of less than 0,25 %.

Small-scale servers shall have a projected AFR of less than 0,44 % and a Bit Error Rate for non-recoverable data of less than 1 in 10^{16} bits.

(ii) *Notebook computers*

The primary data storage drive used in notebooks shall be specified to protect both the drive and data from shock and vibration. The drive shall comply with one of the following options:

— The Hard Disk Drive (HDD) shall be designed to withstand a half sine wave shock of 400 G (operating) and 900 G (non-operating) for 2 ms without damage to data or operation of the drive.

([1]) Defects shall be considered to include failure to charge and to detect the battery's connection. A progressive reduction in the battery's capacity due to usage shall not be considered to be a defect unless it is covered by a specific warranty provision.

([2]) The AFR shall be calculated based on the Mean Time Between Failure (MTBF). The MTBF shall be determined based on Bellcore TR-NWT-000332, issue 6, 12/97 or field collected data.

— The HDD head should retract from the disc surface in less than or equal to 300 milliseconds upon detection of the notebook having been dropped.

— A solid state storage drive technology such as SSD (Solid State Drive) or eMMC (embedded Multi Media Card) is used.

Assessment and verification: The applicant shall provide a specification for the drive or drives integrated into the product. This shall be obtained from the drive manufacturer and for shock resistance and drive head retraction shall be supported by an independently certified technical report verifying that the drive complies with the specified performance requirements.

3(d) *Upgradeability and Repairability*

For the purpose of upgrading older components or undertaking repairs and replacements of worn out components or parts, the following criteria shall be fulfilled:

(i) *Design for upgrade and repair*: The following components of computers shall be easily accessible and exchangeable by the use of universal tools (i.e. widely used commercially available tools such as a screwdriver, spatula, plier, or tweezers):

— Data storage (HDD, SSD or eMMC),

— Memory (RAM),

— Screen assembly and LCD backlight units (where integrated),

— Keyboard and track pad (where used)

— Cooling fan assemblies (in desktops, workstations and small-scale servers)

(ii) *Rechargeable battery replacement*: The rechargeable battery pack shall be easy to extract by one person (either a non-professional user or a professional repair service provider) according to the steps defined below ([1]). Rechargeable batteries shall not be glued or soldered into a product and there shall be no metal tapes, adhesive strips or cables that prevent access in order to extract the battery. In addition, the following requirements and definitions of the ease of extraction shall apply:

— For notebooks and portable all-in-one computers it shall be possible to extract the rechargeable battery manually without tools;

— For sub-notebooks it shall be possible to extract the rechargeable battery in a maximum of three steps using a screwdriver;

— For tablets and two-in-one notebooks it shall be possible to extract the rechargeable battery in a maximum of four steps using a screwdriver and spudger.

Simple instructions on how the rechargeable battery packs are to be removed shall be provided in a repair manual or via the manufacturer's website.

(iii) *Repair manual*: The applicant shall provide clear disassembly and repair instructions (e.g. hard or electronic copy, video) to enable a non-destructive disassembly of products for the purpose of replacing key components or parts for upgrades or repairs. This shall be made publicly available or by entering the product's unique serial number on a webpage. Additionally, a diagram shall be provided on the inside of the casing of stationary computers showing the location of the components listed in point (i) and how they can be accessed and exchanged. For portable computers a diagram showing the location of the battery, data storage drives and memory shall be made available in pre-installed user instructions and via the manufacturers website for a period of at least five years.

(iv) *Repair Service/Information*: Information should be included in the user instructions or on the manufacturer's website to let the user know where to go to obtain professional repairs and servicing of the computer, including contact details. During the guarantee period referred to in (vi) this may be limited to the applicant's Authorised Service Providers.

([1]) A step consists of an operation that finishes with the removal of a component or part, and/or with a change of tool.

(v) *Availability of spare parts*: The applicant shall ensure that original or backwardly compatible spare parts, including rechargeable batteries (*if applicable*), are publicly available for at least five years following the end of production for the model.

(vi) *Commercial Guarantee*: The applicant shall provide at no additional cost a minimum of a three year guarantee effective from purchase of the product. This guarantee shall include a service agreement with a pick-up and return or on-site repair option for the consumer. This guarantee shall be provided without prejudice to the legal obligations of the manufacturer and seller under national law.

Assessment and verification: The applicant shall declare the compliance of the product with these requirements to the competent body. Additionally, the applicant shall provide:

— A copy of the user instructions

— A copy of the repair manual and supporting diagrams

— A description supported by photographs showing compliance for battery extraction

— A copy of the guarantee and service agreement

— Pictures of any diagrams, markings and instructions on the computer casing

Criterion 4. Design, material selection and end-of-life management

4(a). *Material selection and recyclability*

Applicants shall comply with, as a minimum, criterion part (i) together with either part (ii) or part (iii). *Tablets, subnotebooks, two-in-one notebooks and products with metal casings and enclosures are exempt from sub-criteria (ii) and (iii).*

(i) *Material information to facilitate recycling*: Plastic parts with a weight greater than 25 grams for tablet computers and 100 grams for all other computers shall be marked in accordance with ISO 11469 and ISO 1043, sections 1-4. The markings shall be large enough and located in a visible position in order to be easily identified. Exemptions are made in the following cases:

— Printed circuit boards, Polymethyl Methacrylate Board (PMMA) and display optical plastics forming part of display units;

— Where the marking would impact on the performance or functionality of the plastic part;

— Where the marking is technically not possible due to the production method;

— Where the marking causes higher defect rates under quality inspection, leading to an avoidable wastage of materials;

— Where parts cannot be marked because there is not enough appropriate surface area available for the marking to be of a legible size to be identified by a recycling operator.

(ii) *Improving the recyclability of plastic casings, enclosures and bezels:*

Parts shall not contain molded-in or glued-on metal inserts unless they can be removed with commonly available tools. Disassembly instructions shall show how to remove them (see sub-criterion 3(d)).

For parts with a weight greater than 25 grams for tablet computers and 100 grams for all other computers, the following treatments and additives shall not result in recycled resin with a > 25 % reduction in the notched izod impact when tested according to ISO 180:

— Paints and coatings

— Flame retardants and their synergists

Existing test results for recycled resin shall be accepted provided that the recycled resin is derived from the same input material that the plastic parts of the product are composed of.

(iii) *Minimum recycled plastic content: The product shall contain on average a minimum 10 % content of post-consumer recycled plastic measured as a percentage of the total plastic (by weight) in the product excluding Printed Circuit Boards and display optical plastics. Where the recycled content is greater than 25 % a declaration may be made in the text box accompanying the Ecolabel (see criterion 6(b)).*

Assessment and verification: The applicant shall verify recyclability by providing valid mechanical/physical test reports according to ISO 180 and disassembly instructions. Valid test reports obtained from plastics recyclers, resin manufacturers or independent pilot tests shall be accepted.

The applicant shall provide the Competent Body with an exploded diagram of the computer or a parts listing in written or audiovisual format. This shall identify the plastic parts by their weight, their polymer composition, and their ISO 11469 and ISO 1043 markings. The dimension and position of the marking shall be visually illustrated and, where exemptions apply, technical justifications shall be provided.

The applicant shall provide third party verification and traceability back to plastic component suppliers for post-consumer recycled content claims. Average content claims may be calculated on a periodic or annual basis for the model.

Criterion 4(b) Design for disassembly and recycling

For recycling purposes computers shall be designed so that target components and parts can be easily extracted from the product. A disassembly test shall be carried out according to the test procedure in the Appendix. The test shall record the number of steps required and the associated tools and actions required to extract the target components and parts identified under points (i) and (ii).

(i) The following target components and parts, as applicable to the product, shall be extracted during the disassembly test:

All products

— Printed Circuit Boards > 10 cm^2 relating to computing functions

Stationary computers

— Internal Power Supply Unit

— HDD drive(s)

Portable computers

— Rechargeable battery

Displays (where integrated into the product enclosure)

— Printed Circuit Boards > 10 cm^2

— Thin Film Transistor unit and film conductors in display units > 100 cm^2

— LED backlight units

(ii) At least *two* of the following target components and parts, selected as applicable to the product, shall also be extracted during the test, following-on in the test from those in point (i):

— HDD drive (portable products)

— Optical drives (where included)

— Printed circuit boards ≤ 10 cm^2 and > 5 cm^2

— Speaker units (notebooks, integrated desktops and portable all-in-one computers)

— Polymethyl Methacrylate (PMMA) film light guide (where the screen size is > 100 cm^2)

Assessment and verification: The applicant shall provide a 'disassembly test report' to the competent body detailing the adopted disassembly sequence, including a detailed description of the specific steps and procedures, for the target parts and components listed under points (i) and (ii).

The disassembly test may be carried out by:

— The applicant, or a nominated supplier, in their own laboratory, or;

— An independent third party testing body, or;

— A recycling firm that is a permitted electrical waste treatment operation in accordance with Article 23 of Directive 2008/98/EC of the European Parliament and of the Council ([1]) or is certified under national regulations.

Criterion 5. Corporate Social Responsibility

5(a) *Sourcing of 'conflict-free' minerals*

The applicant shall support the responsible sourcing of tin, tantalum, tungsten and their ores and gold from conflict-affected and high-risk areas by:

(i) Conducting due diligence in line with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and

(ii) Promoting responsible mineral production and trade within conflict-affected and high-risk areas for the identified minerals as used in components of the product and in accordance with OECD guidance.

Assessment and verification: The applicant shall provide a declaration of compliance with these requirements together with the following supporting information:

— A report describing their due diligence activities along the supply chain for the four minerals identified. Supporting documents such as certifications of conformity issued by the European Union's scheme shall also be accepted.

— Identification of component(s) which contain the identified minerals, and their supplier(s), as well as the supply chain system or project used for responsible sourcing.

5(b) *Labour conditions and human rights during manufacturing*

Having regard to the International Labour Organisation's (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact (Pillar 2), the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multi-National Enterprises, the applicant shall obtain third party verification supported by site audits that the applicable principles included in the ILO fundamental conventions and the supplementary provisions identified below have been respected at the final assembly plant for the product.

Fundamental conventions of the ILO:

(i) *Child Labour:*

— Minimum Age Convention, 1973 (No 138)

— Worst Forms of Child Labour Convention, 1999 (No 182)

([1]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(ii) *Forced and Compulsory Labour:*

— Forced Labour Convention, 1930 (No 29) and 2014 Protocol to the Forced labour Convention

— Abolition of Forced Labour Convention, 1957 (No 105)

(iii) *Freedom of Association and Right to Collective Bargaining:*

— Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87)

— Right to Organise and Collective Bargaining Convention, 1949 (No 98)

(iv) *Discrimination:*

— Equal Remuneration Convention, 1951 (No 100)

— Discrimination (Employment and Occupation) Convention, 1958 (No 111)

Supplementary provisions:

(v) *Working Hours:*

— ILO Hours of Work (Industry) Convention, 1919 (No 1)

(vi) *Remuneration:*

— ILO Minimum Wage Fixing Convention, 1970 (No 131)

— Living wage: The applicant shall ensure that wages paid for a normal work week shall always meet at least legal or industry minimum standards, are sufficient to meet the basic needs of personnel and provide some discretionary income. Implementation shall be audited with reference to the SA8000 [1] guidance on 'Remuneration';

(vii) *Health & Safety*

— ILO Occupational Safety and Health Convention, 1981 (No 155)

— ILO Safety in the use of chemicals at work Convention, 1990 (No 170)

In locations where the right to freedom of association and collective bargaining are restricted under law, the company shall recognise legitimate employee associations with whom it can enter into dialogue about workplace issues.

The audit process shall include consultation with external stakeholders in local areas around production sites, including trade unions, community organisations, NGOs and labour experts. The applicant shall publish aggregated results and key findings from the audits online in order to provide evidence of their supplier's performance to interested consumers.

Assessment and verification: The applicant shall show compliance with these requirements by providing copies of certificates of compliance and supporting audit reports for each final product assembly plant for the model(s) to be eco labelled, together with a web link to where online publication of the results and findings can be found.

Third party site audits shall be carried out by auditors qualified to assess the compliance of the electronics industry supply chain with social standards or codes of conduct or, in countries where ILO Labour Inspection Convention, 1947 (No 81) has been ratified and ILO supervision indicates that the national labour inspection system is effective and the scope of the inspection system covers the areas listed above [2], by labour inspector(s) appointed by a public authority.

Valid certifications from third party schemes or inspection processes that, together or in part, audit compliance with the applicable principles of the listed fundamental ILO Conventions and the supplementary provisions on working hours, remuneration and health & safety, shall be accepted. These certifications shall be not more than 12 months old.

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[1] Social Accountability International, *Social Accountability 8000 International Standard*, http://www.sa-intl.org
[2] See ILO NORMLEX (http://www.ilo.org/dyn/normlex/en) and supporting guidance in the User Manual.

Criterion 6. User information

6(a) *User instructions*

The computer shall be sold with relevant user information that provides advice on the environmental performance of the product. The information shall be located in a single, easy-to-find place in the user instructions as well as on the manufacturer's website. The information shall include, as minimum:

(i) Energy consumption: The TEC value in accordance with Energy Star v6.1, as well as the maximum power demand in each operating mode. In addition, instructions shall be provided on how to use the device's energy-saving mode and information that energy efficiency cuts energy consumption and thus saves money by reducing electricity bills.

(ii) The following indications on how to reduce power consumption when the computer is not being used:

— Putting the computer into off mode will reduce energy consumption but will still draw some power;

— Reducing the brightness of the screen will reduce energy use;

— Screen savers can stop computer displays from powering down into a lower power mode when not in use. Ensuring that screen savers are not activated on computer displays can therefore reduce energy use;

— Charging tablet computers via a USB-interface from another desktop or notebook computer may increase the energy consumption in case of leaving the desktop or notebook computer in an energy-consuming idle-mode for the sole reason of charging the tablet computer.

(iii) For notebooks, tablets and two-in-one computers information that extension of the computer's lifetime reduces the product's overall environmental impacts.

(iv) The following indications on how to prolong the lifetime of the computer:

— Information to let the user know the factors influencing the lifetime of rechargeable batteries as well as instructions for the user facilitating prolongation of their life (only applicable to mobile computers powered with rechargeable batteries).

— Clear disassembly and repair instructions to enable a non-destructive disassembly of products for the purpose of replacing key components or parts for upgrades or repairs.

— Information to let the user know where to go to obtain professional repairs and servicing of the computer, including contact details. Servicing should not be limited exclusively to the applicant's Authorised Service Providers.

(v) End-of-life instructions for the proper disposal of computers, including separate instructions for the proper disposal of rechargeable batteries, at civic amenity sites or through retailer take-back schemes as applicable, which shall comply with Directive 2012/19/EU of the European Parliament and of the Council ([1]).

(vi) Information that the product has been awarded the EU Ecolabel together with a brief explanation as to what this means together with an indication that more information on the EU Ecolabel can be found at the website address http://www.ecolabel.eu

(vii) Instruction and repair manual(s) shall be provided in a print version, and also online in electronic form for a period of at least five years.

Assessment and verification: The applicant shall declare the compliance of the product with these requirements to the competent body and shall provide a link to the online-version or a copy of the user instructions and repair manual.

([1]) Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

6(b) *Information appearing on the EU Ecolabel*

The optional label with text box shall contain three out of the following texts:

— High energy efficiency

— Designed to have a longer lifetime (*applicable to notebooks, two-in-one notebooks and tablets only*)

— Restriction of hazardous substances

— Designed to be easy to repair, upgrade and recycle

— Audited factory working conditions

The following texts may be displayed if the plastic recycled content is greater than 25 % as a percentage of the total plastic (by weight):

— Contains xy % post-consumer recycled plastic

The guidelines for the use of the optional label with text box can be found in the 'Guidelines for the use of the EU Ecolabel logo' on the website:

http://ec.europa.eu/environment/ecolabel/documents/logo_guidelines.pdf

Assessment and verification: The applicant shall provide a sample of the product label or an artwork of the packaging where the EU Ecolabel is placed, together with a declaration of compliance with this criterion.

APPENDIX

PROTOCOL FOR A PRODUCT DISASSEMBLY TEST

(a) *Terms and definitions*

(i) Target parts and components: Parts and/or components that are targeted for the extraction process.

(ii) Disassembly step: An operation that finishes with the removal of a component or part and/or with a change of tool.

(b) *Operating conditions for the test*

(i) Personnel: The test shall be carried out by one person.

(ii) Test sample: The sample product to be used for the test shall be undamaged.

(iii) Tools for extraction: The extraction operations shall be performed using manual or power-driven standard commercially available tools (i.e. pliers, screw-drivers, cutters and hammers as defined by ISO 5742, ISO 1174, ISO 15601).

(iv) Extraction sequence: The extraction sequence shall be documented and, where the test is to be carried out by a third party, this information provided to those carrying out the extraction.

(c) *Documentation and recording of the test conditions and steps*

(i) Documentation of steps: The individual steps in the extraction sequence shall be documented and the tools associated with each step shall be specified.

(ii) Recording media: Photos shall be taken and a video recorded of the extraction of the components. The video and photos shall enable clear identification of the steps in the extraction sequence.

COMMISSION IMPLEMENTING DECISION (EU) 2016/1372

of 10 August 2016

amending the Annex to Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States, as regards the entries for Latvia and Poland

(notified under document C(2016) 5319)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ([1]), and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ([2]), and in particular Article 10(4) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ([3]), and in particular Article 4(3) thereof,

Whereas:

(1) Commission Implementing Decision 2014/709/EU ([4]) lays down animal health control measures in relation to African swine fever in certain Member States. The Annex to that Implementing Decision demarcates and lists certain areas of those Members States in Parts I, II, III and IV thereof differentiated by the level of risk based on the epidemiological situation. That list includes certain areas of Latvia and Poland.

(2) In August 2016, cases of African swine fever in feral pig populations occurred in the area of Tukums in Latvia. This area is listed in Part I of the Annex to Implementing Decision 2014/709/EU and it is in close proximity to the unrestricted areas of Latvia. In August 2016, an outbreak of African swine fever in domestic pigs occurred in Gulbenes in Latvia in part II of the Annex thereto. The occurrence of this second outbreak constitutes an increase in the level of risk that needs to be taken into account. Accordingly, certain areas of Latvia listed in Part I should now be listed in Part II, certain new areas of Latvia should be included in the list in Part I and certain areas of Latvia listed in Part II should be included in the list in Part III of the Annex to Implementing Decision 2014/709/EU.

(3) In August 2016, one outbreak of African swine fever in domestic pigs occurred in Wysokomazowiecki in Poland in an area currently listed in Part I of the Annex to Implementing Decision 2014/709/EU. The occurrence of this outbreak, together with the absence of viral circulation of this disease in the feral pig populations in proximity of the outbreak constitute an increase in the level of risk that needs to be taken into account. In August 2016, another outbreak of African swine fever in domestic pigs occurred in Siemiatycki in Poland in close proximity to the border with Belarus. The occurrence of this second outbreak, together with unknown situation in this neighbouring third country, constitutes an increase in the level of risk that needs to be taken into account. Accordingly, certain areas of Poland listed in Part I should now be listed in Part III and certain new areas of Poland should be included in the list in Part I of the Annex to Implementing Decision 2014/709/EU.

(4) The evolution of the current epidemiological situation of African swine fever in the affected feral pig populations in the Union should be taken into account in the assessment of the animal health risk posed by to that situation

([1]) OJ L 395, 30.12.1989, p. 13.
([2]) OJ L 224, 18.8.1990, p. 29.
([3]) OJ L 18, 23.1.2003, p. 11.
([4]) Commission Implementing Decision 2014/709/EU of 9 October 2014 concerning animal health control measures relating to African swine fever in certain Member States and repealing Implementing Decision 2014/178/EU (OJ L 295, 11.10.2014, p. 63).

as regards that disease in Latvia and Poland. In order to focus the animal health control measures provided for in Implementing Decision 2014/709/ EU and to prevent the further spread of African swine fever, as well as to prevent any unnecessary disturbance to trade within the Union and to avoid unjustified barriers to trade by third countries, the Union list of areas subject to the animal health control measures set out in the Annex to that Implementing Decision should be amended to take into account the changes in the current epidemiological situation as regards that disease in Latvia and Poland.

(5) The Annex to Implementing Decision 2014/709/EU should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision 2014/709/EU is replaced by the text set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 August 2016.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

'ANNEX

PART I

1. **Latvia**

The following areas in Latvia:

— in the novads of Bauskas, the pagasti of Īslīces, Gailīšu, Brunavas and Ceraukstes,

— in the novads of Dobeles, the pagasti of Bikstu, Zebrenes, Annenieku, Naudītes, Penkules, Auru and Krimūnu, Dobeles, Berzes, the part of the pagasts of Jaunbērzes located to the West of road P98, and the pilsēta of Dobele,

— in the novads of Jelgavas, the pagasti of Glūdas, Svētes, Platones, Vircavas, Jaunsvirlaukas, Zaļenieku, Vilces, Lielplatones, Elejas and Sesavas,

— in the novads of Kandavas, the pagasti of Vānes and Matkules,

— in the novads of Talsu, the pagasti of Lubes, Īves, Valdgales, Ģibuļu, Lībagu, Laidzes, Ārlavas, Abavas, the pilsētas of Sabile, Talsi, Stende and Valdemārpils,

— the novads of Brocēnu,

— the novads of Dundagas,

— the novads of Jaunpils,

— the novads of Rojas,

— the novads of Rundāles,

— the novads of Stopiņu,

— the novads of Tērvetes,

— the pilsēta of Bauska,

— the republikas pilsēta of Jelgava,

— the republikas pilsēta of Jūrmala.

2. **Lithuania**

The following areas in Lithuania:

— in the rajono savivaldybė of Jurbarkas, the seniūnijos of Raudonės, Veliuonos, Seredžiaus and Juodaičių,

— in the rajono savivaldybė of Pakruojis, the seniūnijos of Klovainių, Rozalimo and Pakruojo,

— in the rajono savivaldybė of Panevežys, the part of the Krekenavos seniūnija located to the west of the river Nevėžis,

— in the rajono savivaldybė of Raseiniai, the seniūnijos of Ariogalos, Ariogalos miestas, Betygalos, Pagojukų and Šiluvos,

— in the rajono savivaldybė of Šakiai, the seniūnijos of Plokščių, Kriūkų, Lekėčių, Lukšių, Griškabūdžio, Barzdų, Žvirgždaičių, Sintautų, Kudirkos Naumiesčio, Slavikų, Šakių,

— the rajono savivaldybė of Pasvalys,

— the rajono savivaldybė of Vilkaviškis,

— the rajono savivaldybė of Radviliškis,

— the savivaldybė of Kalvarija,

— the savivaldybė of Kazlų Rūda,

— the savivaldybė of Marijampolė.

3. **Poland**

The following areas in Poland:

In the województwo podlaskie:

— the gminy of Augustów with the city of Augustów, Nowinka, Płaska, Sztabin and Bargłów Kościelny in the powiat augustowski,

— the gminy of Brańsk with the city of Brańsk, Boćki, Rudka, Wyszki, the part of the gmina of Bielsk Podlaski located to the West of the line created by road number 19 (going northwards from the city of Bielsk Podlaski) and prolonged by the eastern border of the city of Bielsk Podlaski and road number 66 (going southwards from the city of Bielsk Podlaski), the city of Bielsk Podlaski, the part of the gmina of Orla located to the West of road number 66, in the powiat bielski,

— the gminy of Choroszcz, Juchnowiec Kościelny, Suraż, Turośń Kościelna, Tykocin, Łapy, Poświętne, Zawady and Dobrzyniewo Duże in the powiat białostocki,

— the gminy of Drohiczyn, Dziadkowice, Grodzisk, Milejczyce and Perlejewo in the powiat siemiatycki,

— the gminy of Rutka-Tartak, Szypliszki, Suwałki, Raczki in the powiat suwalski,

— the gminy of Suchowola and Korycin in the powiat sokólski,

— the parts of the gminy of Kleszczele and Czeremcha located to the West of road number 66, in the powiat hajnowski,

— the powiat łomżyński,

— the powiat M. Białystok,

— the powiat M. Łomża,

— the powiat M. Suwałki,

— the powiat moniecki,

— the powiat sejneński,

— the powiat wysokomazowiecki,

— the powiat zambrowski.

In the województwo mazowieckie:

— the gminy of Ceranów, Jabłonna Lacka, Sterdyń and Repki in the powiat sokołowski,

— the gminy of Korczew, Przesmyki, Paprotnia in the powiat siedlecki,

— the gminy of Rzekuń, Troszyn, Czerwin and Goworowo in the powiat ostrołęcki,

— the powiat łosicki,

— the powiat ostrowski.

In the województwo lubelskie:

— the gmina of Hanna in the powiat włodawski,

— the gminy of Konstantynów, Janów Podlaski, Leśna Podlaska, Rokitno, Biała Podlaska, Zalesie, Terespol with the city of Terespol, Piszczac, Kodeń, Tuczna, Sławatycze and Sosnówka in the powiat bialski,

— the powiat M. Biała Podlaska.

PART II

1. **Estonia**

The following areas in Estonia:

— the linn of Kallaste,

— the linn of Rakvere,

— the linn of Tartu,

— the linn of Viljandi,

— the maakond of Harjumaa (excluding the part of the vald of Kuusalu located to the South of road 1 (E20), the vald of Aegviidu and the vald of Anija),

— the maakond of Ida-Virumaa,

— the maakond of Läänemaa,

— the maakond of Pärnumaa,

— the maakond of Põlvamaa,

— the maakond of Raplamaa,

— the part of the vald of Kuusalu located to the North of road 1 (E20),

— the part of the vald of Pärsti located to the West of road 24126,

— the part of the vald of Suure-Jaani located to the West of road 49,

— the part of the vald of Tamsalu located to the North-East of the Tallinn-Tartu railway,

— the part of the vald of Tartu located to the East of the Tallinn-Tartu railway,

— the part of the vald of Viiratsi located to the West of the line defined by the Western part of road 92 until the junction to road 155, then road 155 until the junction to road 24156, then road 24156 until it crosses Verilaske river, then the Verilaske river until it reaches the southern border of the vald,

— the vald of Abja,

— the vald of Alatskivi,

— the vald of Avanduse,

— the vald of Haaslava,

— the vald of Haljala,

— the vald of Halliste,

— the vald of Kambja,

— the vald of Karksi,

— the vald of Koonga,

— the vald of Kõpu,

— the vald of Laekvere,

— the vald of Luunja,

— the vald of Mäksa,

— the vald of Märjamaa,

— the vald of Meeksi,

— the vald of Peipsiääre,

— the vald of Piirissaare,

— the vald of Rägavere,

— the vald of Rakvere,

— the vald of Saksi,

— the vald of Sõmeru,

— the vald of Vara,

— the vald of Vihula,

— the vald of Võnnu.

2. **Latvia**

The following areas in Latvia:

— in the novads of Balvu, the pagsti of Vīksnas, Bērzkalnes, Vectilžas, Lazdulejas, Briežuciema, Tilžas, Bērzpils and Krišjāņu,

— in the novads of Bauskas, the pagasti of Mežotnes, Codes, Dāviņu and Vecsaules,

— in the novads of Dobeles, the part of the pagasts of Jaunbērzes located to the East of road P98,

— in the novads of Gulbenes the pagasti of Lejasciema, Lizuma, Rankas, Druvienas, Tirzas and Līgo,

— in the novads of Jelgavas the pagasti of Kalnciema, Līvbērzes and Valgundes,

— in the novads of Kandavas, the pagasti of Cēres, Kandavas, Zemītes and Zantes, the pilsēta of Kandava,

— in the novads of Limbažu, the pagasti of Skultes, Vidrižu, Limbažu and Umurgas,

— in the novads of Rugāju the pagsts of Lazdukalna,

— in the novads of Salacgrīvas, the pagasts of Liepupes,

— in the novads of Talsu, the pagasti of Ķūļciema, Balgales, Vandzenes, Laucienes, Virbu and Strazdes,

— the novads of Ādažu,

— the novads of Aizkraukles,

— the novads of Aknīstes,

— the novads of Alūksnes,

— the novads of Amatas,

— the novads of Apes,

— the novads of Babītes,

— the novads of Baldones,

— the novads of Baltinavas,

— the novads of Carnikavas,

— the novads of Cēsu,

— the novads of Cesvaines,

— the novads of Engures,

— the novads of Ērgļu,

— the novads of Garkalnes,

— the novads of Iecavas,

— the novads of Ikšķiles,

— the novads of Ilūkstes,

— the novads of Inčukalna,

— the novads of Jaunjelgavas,

— the novads of Jaunpiebalgas,

— the novads of Jēkabpils,

— the novads of Ķeguma,

— the novads of Ķekavas,

— the novads of Kocēnu,

— the novads of Kokneses,

— the novads of Krimuldas,

— the novads of Krustpils,

— the novads of Lielvārdes,

— the novads of Līgatnes,

— the novads of Līvānu,

— the novads of Lubānas,

— the novads of Madonas,

— the novads of Mālpils,

— the novads of Mārupes,

— the novads of Mērsraga,

— the novads of Neretas,

— the novads of Ogres,

— the novads of Olaines,

— the novads of Ozolnieki,

— the novads of Pārgaujas,

— the novads of Pļaviņu,

— the novads of Priekuļu,

— the novads of Raunas,

— the novads of Ropažu,

— the novads of Salas,

— the novads of Salaspils

— the novads of Saulkrastu,

— the novads of Sējas,

— the novads of Siguldas,

— the novads of Skrīveru,

— the novads of Smiltenes,

— the novads of Tukuma,

— the novads of Varakļānu,

— the novads of Vecpiebalgas,

— the novads of Vecumnieku,

— the novads of Viesītes,

— the novads of Viļakas,

— the pilsēta of Limbaži,

— the republikas pilsēta of Jēkabpils,

— the republikas pilsēta of Valmiera.

3. **Lithuania**

The following areas in Lithuania:

— in the rajono savivaldybė of Anykščiai, the seniūnijos of Kavarskas, Kurkliai and the part of Anykščiai located south west to the road No. 121 and No. 119,

— in the rajono savivaldybė of Jonava, the seniūnijos of Šilų, Bukonių and, in the Žeimių seniūnija, the villages of Biliuškiai, Drobiškiai, Normainiai II, Normainėliai, Juškonys, Pauliukai, Mitėniškiai, Zofijauka, Naujokai,

— in the rajono savivaldybė of Kaunas, the seniūnijos of Akademijos, Alšėnų, Babtų, Batniavos, Čekiškės, Domeikavos, Ežerėlio, Garliavos, Garliavos apylinkių, Kačerginės, Kulautuvos, Linksmakalnio, Raudondvario, Ringaudų, Rokų, Samylų, Taurakiemio, Užliedžių, Vilkijos, Vilkijos apylinkių and Zapyškio,

— in the rajono savivaldybė of Kėdainiai, the seniūnijos of Josvainių, Pernaravos, Krakių, Dotnuvos, Gudžiūnų, Surviliškio, Vilainių, Truskavos, Šėtos, Kėdainių miesto,

— in the rajono savivaldybė of Panevėžys the seniūnijos of Karsakiškio, Naujamiesčio, Pajstrio, Panevėžio, Ramygalos, Smilgių, Upytės, Vadoklių,Velžio and the part of Krekenavos seniūnija located to the east of the river Nevėžis,

— in the rajono savivaldybė of Prienai the seniūnijos of Veiverių, Šilavoto, Naujosios Ūtos, Balbieriškio, Ašmintos, Išlaužo, Pakuonių,

— in the rajono savivaldybė of Šalčininkai, the seniūnijos of Jašiūnų, Turgelių, Akmenynės, Šalčininkų, Gerviškių, Butrimonių, Eišiškių, Poškonių, Dieveniškių,

— in the rajono savivaldybė of Varėna, the seniūnijos of Kaniavos, Marcinkonių, Merkinės,

— in the rajono savivaldybė of Vilnius the parts of the seniūnija of Sudervė and Dūkštai located to the North-East from the road No. 171, the seniūnijos of Maišiagala, Zujūnų, Avižienių, Riešės, Paberžės, Nemenčinės, Nemenčinės miesto, Sužionių, Buivydžių, Bezdonių, Lavoriškių, Mickūnų, Šatrininkų, Kalvelių, Nemėžių, Rudaminos, Rūkainių, Medininkų, Marijampolio, Pagirių and Juodšilių,

— the miesto savivaldybė of Alytus,

— in the rajono savivaldybė of Utena the seniūnijos of Sudeikių, Utenos, Utenos miesto, Kuktiškių, Daugailių, Tauragnų, Saldutiškio,

— in the miesto savivaldybė of Alytus the seniūnijos of Pivašiūnų, Punios, Daugų, Alovės, Nemunaičio, Raitininkų, Miroslavo, Krokialaukio, Simno, Alytaus,

— the miesto savivaldybė of Kaunas,

— the miesto savivaldybė of Panevėžys,

— the miesto savivaldybė of Prienai,

— the miesto savivaldybė of Vilnius,

— the rajono savivaldybė of Biržai,

— the savivaldybė of Druskininkai,

— the rajono savivaldybė of Ignalina,

— the rajono savivaldybė of Lazdijai,

— the rajono savivaldybė of Molėtai,

— the rajono savivaldybė of Rokiškis,

— the rajono savivaldybė of Širvintos,

— the rajono savivaldybė of Švenčionys,

— the rajono savivaldybė of Ukmergė,

— the rajono savivaldybė of Zarasai,

— the savivaldybė of Birštonas,

— the savivaldybė of Visaginas.

4. **Poland**

The following areas in Poland:

In podlaskie województwo:

— the gminy of Czarna Białostocka, Gródek, Michałowo, Supraśl, Wasilków and Zabłudów in the powiat białostocki,

— the gminy of Dąbrowa Białostocka, Janów, Krynki, Kuźnica, Nowy Dwór, Sidra, Sokółka and Szudziałowo in the powiat sokólski,

— the gmina of Lipsk in the powiat augustowski,

— the gmina of Dubicze Cerkiewne, the parts of the gminy of Kleszczele and Czeremcha located to the East of road number 66, in the powiat hajnowski,

— the part of the gmina of Bielsk Podlaski located to the East of the line created by road number 19 (going northwards from the city of Bielsk Podlaski) and prolonged by the eastern border of the city of Bielsk Podlaski and road number 66 (going southwards from the city of Bielsk Podlaski), the part of the gmina of Orla located to the East of road number 66, in the powiat bielski.

PART III

1. **Estonia**

The following areas in Estonia:

— the linn of Elva,

— the linn of Võhma,

— the maakond of Jõgevamaa,

— the maakond of Järvamaa,

— the maakond of Valgamaa,

— the maakond of Võrumaa,

— the part of the vald of Kuusalu located to the South of road 1 (E20),

— the part of the vald of Pärsti located to the East of road 24126,

— the part of the vald of Suure-Jaani located to the East of road 49,

— the part of the vald of Tamsalu located to the South-West of the Tallinn-Tartu railway,

— the part of the vald of Tartu located to the West of the Tallinn-Tartu railway,

— the part of the vald of Viiratsi located to the East of the line defined by the Western part of road 92 until the junction to road 155, then road 155 until the junction to road 24156, then road 24156 until it crosses the Verilaske river, then the Verilaske river until it reaches the southern border of the vald,

— the vald of Aegviidu,

— the vald of Anija,

— the vald of Kadrina,

— the vald of Kolga-Jaani,

— the vald of Konguta,

— the vald of Kõo,

— the vald of Laeva,

— the vald of Nõo,

— the vald of Paistu,

— the vald of Puhja,

— the vald of Rakke,

— the vald of Rannu,

— the vald of Rõngu,

— the vald of Saarepeedi,

— the vald of Tapa,

— the vald of Tähtvere,

— the vald of Tarvastu,

— the vald of Ülenurme,

— the vald of Väike-Maarja.

2. **Latvia**

The following areas in Latvia:

— in the novads of Balvu, the pagasti of Kubuļu and Balvu,

— in the novads of Gulbenes, the pagasti of Beļavas, Galgauskas, Jaungulbenes, Daukstu, Stradu, Litenes and Stāmerienas,

— in the novads of Limbažu, the pagasti of Viļķenes, Pāles and Katvaru,

— in the novads of Rugāju the pagasts of Rugāju,

— in the novads of Salacgrīvas, the pagasti of Ainažu and Salacgrīvas,

— the novads of Aglonas,

— the novads of Alojas,

— the novads of Beverīnas,

— the novads of Burtnieku,

— the novads of Ciblas,

— the novads of Dagdas,

— the novads of Daugavpils,

— the novads of Kārsavas,

— the novads of Krāslavas,

— the novads of Ludzas,

— the novads of Mazsalacas,

— the novads of Naukšēnu,

— the novads of Preiļu,

— the novads of Rēzeknes,

— the novads of Riebiņu,

— the novads of Rūjienas,

— the novads of Strenču,

— the novads of Valkas,

— the novads of Vārkavas,

— the novads of Viļānu,

— the novads of Zilupes,

— the pilsēta of Ainaži,

— the pilsēta of Salacgrīva.

— the republikas pilsēta of Daugavpils,

— the republikas pilsēta of Rēzekne.

3. **Lithuania**

The following areas in Lithuania:

— in the rajono savivaldybė of Anykščiai, the seniūnijos of Debeikių, Skiemonių, Viešintų, Andrioniškio, Svėdasų, Troškūnų, Traupio and the part of the seniūnija of Anykščių located north east to the road No. 121 and No. 119,

— in the rajono savivaldybė of Alytus, the seniūnija of Butrimonių,

— in the rajono savivaldybė of Jonava the seniūnijos of Upninkų, Ruklos, Dumsių, Užusalių, Kulvos and, in the seniūnija of Žeimiai, the villages Akliai, Akmeniai, Barsukinė, Blauzdžiai, Gireliai, Jagėlava, Juljanava, Kuigaliai, Liepkalniai, Martyniškiai, Milašiškiai, Mimaliai, Naujasodis, Normainiai I, Paduobiai, Palankesiai, Pamelnytėlė, Pėdžiai, Skrynės, Svalkeniai, Terespolis, Varpėnai, Žeimių gst., Žieveliškiai and Žeimių miestelis,

— the rajono savivaldybė of Kaišiadorys,

— in the rajono savivaldybė of Kaunas, the seniūnijos of Vandžiogalos, Lapių, Karmėlavos and Neveronių,

— in the rajono savivaldybė of Kėdainiai, the seniūnija of Pelėdnagių,

— in the rajono savivaldybė of Prienai, the seniūnijos of Jiezno and Stakliškių,

— in the rajono savivaldybė of Panevėžys, the seniūnijos of Miežiškių and Raguvos,

— in the rajono savivaldybė of Šalčininkai, the seniūnijos of Baltosios Vokės, Pabarės, Dainavos and Kalesninkų,

— in the rajono savivaldybė of Varėna, the seniūnijos of Valkininkų, Jakėnų, Matuizų, Varėnos and Vydenių,

— in the rajono savivaldybė of Vilnius the parts of the seniūnija of Sudervė and Dūkštai located to the South-West from the road No. 171,

— in the rajono savivaldybė of Utena, the seniūnijos of Užpalių, Vyžuonų and Leliūnų,

— the savivaldybė of Elektrėnai,

— the miesto savivaldybė of Jonava,

— the miesto savivaldybė of Kaišiadorys,

— the rajono savivaldybė of Kupiškis,

— the rajono savivaldybė of Trakai.

4. **Poland**

The following areas in Poland:

— the gminy of Czyże, Białowieża, Hajnówka with the city of Hajnówka, Narew, Narewka in the powiat hajnowski,

— the gminy of Mielnik, Nurzec-Stacja, Siemiatycze with the city of Siemiatycze in the powiat siemiatycki.

PART IV

Italy

The following areas in Italy:

— all areas of Sardinia.'

COMMISSION IMPLEMENTING DECISION (EU) 2016/1373

of 11 August 2016

approving the Network Performance Plan for the second reference period of the Single European Sky performance scheme (2015-2019)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ([1]), and in particular Article 11(1) thereof,

Having regard to Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions ([2]), and in particular Article 6(d) thereof,

Whereas:

(1) In accordance with Commission Regulation (EU) No 677/2011 ([3]), the Network Manager is to contribute to the implementation of the performance scheme.

(2) In accordance with Implementing Regulation (EU) No 390/2013, the Network Manager drew up the Network Performance Plan for the second reference period of the Single European Sky performance scheme (2015-2019) and submitted it to the Commission.

(3) The Commission, assisted by the Performance Review Body, has assessed the Network Performance Plan against the Union-wide performance targets and, mutatis mutandis, the criteria laid down in Annex IV to Implementing Regulation (EU) No 390/2013, as well as the other requirements of that Regulation.

(4) That assessment has shown that the Network Performance Plan is in accordance with those targets, criteria and requirements. In particular, as regards the key performance areas of safety, environment and capacity, the targets set out in the plan are equal to the respective Union-wide targets and they are consequently consistent with those Union-wide targets. As regards the key performance area of cost-efficiency, the targets set out in the plan are also consistent with the Union-wide targets, given that the trend of determined unit cost reduction is above the Union-wide target.

(5) It is therefore appropriate for the Commission to approve the final version of the Network Performance Plan, in its edition of June 2015, as drawn up by the Network Manager and submitted to the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The Network Performance Plan for the second reference period of the Single European Sky performance scheme (2015-2019), in its edition of June 2015, as submitted by the Network Manager, is approved.

([1]) OJ L 96, 31.3.2004, p. 1.
([2]) OJ L 128, 9.5.2013, p. 1.
([3]) Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (OJ L 185, 15.7.2011, p. 1).

Article 2

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

Done at Brussels, 11 August 2016.

For the Commission
The President
Jean-Claude JUNCKER

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2016/1374

of 27 July 2016

regarding the rule of law in Poland

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

(1) The European Union is founded on a common set of values enshrined in Article 2 of the Treaty on European Union, which include the respect for the rule of law. The Commission, beyond its task to ensure the respect of EU law, is also responsible, together with the European Parliament, the Member States and the Council, for guaranteeing the common values of the Union.

(2) For this reason the Commission, taking account of its responsibilities under the Treaties, adopted on 11 March 2014 a Communication 'A new EU Framework to Strengthen the Rule of Law' ([1]). This Rule of Law Framework sets out how the Commission will react should clear indications of a threat to the rule of law emerge in a Member State of the Union and explains the principles which the rule of law entails.

(3) The Rule of Law Framework provides guidance for a dialogue between the Commission and the Member State concerned to prevent the escalation of systemic threats to the rule of law.

(4) The purpose of this dialogue is to enable the Commission to find a solution with the Member State concerned in order to prevent the emergence of a systemic threat to the rule of law that could develop into a 'clear risk of a serious breach' which would potentially trigger the use of the 'Article 7 TEU Procedure'. Where there are clear indications of a systemic threat to the rule of law in a Member State, the Commission can initiate a dialogue with that Member State under the Rule of Law Framework.

(5) Case law of the Court of Justice of the European Union and of the European Court of Human Rights, as well as documents drawn up by the Council of Europe, building notably on the expertise of the European Commission for Democracy through Law ('Venice Commission'), provides a non-exhaustive list of these principles and hence defines the core meaning of the rule of law as a common value of the Union in accordance with Article 2 of the Treaty on European Union (TEU). Those principles include legality, which implies a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibition of arbitrariness of the executive powers; independent and impartial courts; effective judicial review including respect for fundamental rights; and equality before the law ([2]). In addition to upholding those principles and values, State institutions also have the duty of loyal cooperation.

(6) The Framework is to be activated in situations where the authorities of a Member State are taking measures or are tolerating situations which are likely to systematically and adversely affect the integrity, stability or the proper functioning of the institutions and the safeguard mechanisms established at national level to secure the rule of law ([3]). The purpose is to address threats to the rule of law which are of a systemic nature ([4]). The political, institutional and/or legal order of a Member State as such, its constitutional structure, separation of powers, the independence or impartiality of the judiciary, or its system of judicial review including constitutional justice where it exists, must be threatened ([5]). The Framework is to be activated in situations when national 'rule of law safeguards' do not seem capable of effectively addressing those threats.

([1]) COM(2014) 158 final, hereinafter 'the Communication'.
([2]) See COM(2014) 158 final, section 2, Annex I.
([3]) See para 4.1 of the Communication.
([4]) Ibid.
([5]) Ibid.

(7) The Rule of Law Framework has three stages. In a first stage ('Commission assessment') the Commission collects and examines all the relevant information and assesses whether there are clear indications of a systemic threat to the rule of law. If, as a result of this preliminary assessment, the Commission believes that there is a systemic threat to the rule of law, it will initiate a dialogue with the Member State concerned, by sending a 'rule of law opinion', substantiating its concerns and giving the Member State concerned the possibility to respond. The opinion could be the result of an exchange of correspondence and meetings with the relevant authorities and be followed by further exchanges. In a second stage ('Commission Recommendation'), if the matter has not been satisfactorily resolved, the Commission can issue a 'rule of law recommendation' addressed to the Member State. In such a case, the Commission indicates the reasons for its concerns and recommends that the Member State solves the problems identified within a fixed time limit, and informs the Commission of the steps taken to that effect. In a third stage ('Follow-up to the Commission Recommendation'), the Commission monitors the follow-up given by the Member State to the recommendation. The entire process is based on a continuous dialogue between the Commission and the Member State concerned. If there is no satisfactory follow-up within the time limit set, resort can be had to the 'Article 7 TEU Procedure'; the procedure can be triggered by a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission.

(8) In November 2015, the Commission became aware of an ongoing dispute in Poland concerning in particular the composition of the Constitutional Tribunal, as well as the shortening of the mandates of its current President and Vice-President. The Constitutional Tribunal rendered two judgments on this matter, on 3 and 9 December 2015.

(9) On 22 December 2015, the *Sejm* adopted a law amending the law on the Constitutional Tribunal, which concerns the functioning of the Tribunal as well as the independence of its judges ([1]).

(10) In a letter of 23 December 2015, to the Polish Government ([2]), the Commission asked to be informed about the constitutional situation in Poland, including the steps envisaged by the Polish authorities with respect to the abovementioned two judgments of the Constitutional Tribunal. As regards the amendments contained in the law adopted on 22 December 2015 on the Constitutional Tribunal, the Commission stated it would expect that this law is not finally adopted or at least not put into force until all questions regarding the impact of this law on the independence and the functioning of the Constitutional Tribunal have been fully and properly assessed. The Commission also recommended to the Polish authorities to work closely with the Council of Europe's Venice Commission.

(11) On 23 December 2015, the Polish Government asked for an opinion of the Venice Commission on the law adopted on 22 December 2015. However, the Polish Parliament did not await this opinion before taking further steps, and the Law was published in the Official Journal and entered into force on 28 December 2015.

(12) On 30 December 2015, the Commission wrote to the Polish Government ([3]) to seek additional information about the proposed reforms to the governance of Poland's Public State Broadcasters. On 31 December 2015, the Polish Senate adopted the 'small media law' concerning the management and supervisory boards of the Polish public television broadcaster and public radio broadcaster. On 7 January 2016, the Commission received a response from the Polish Government ([4]) on the letter on the media law denying any adverse impact on media pluralism. On 11 January, the Commission received a response from the Polish Government on the Constitutional Tribunal reform ([5]). These responses did not remove existing concerns.

(13) On 13 January 2016, the College of Commissioners held a first orientation debate in order to assess the situation in Poland. The Commission decided to examine the situation under the Rule of Law Framework and mandated First Vice-President Timmermans to enter into a dialogue with the institutions of the Republic of Poland in order to clarify the issues at hand and identify possible solutions. On the same day, the Commission wrote to the Polish Government ([6]) informing the Government that it was examining the situation under the Rule of Law

([1]) Law adopted on 22 December 2015 amending the Law of 25 June 2015 on the Constitutional Tribunal. The amending Law was published in the Official Journal on 28 December; item 2217.
([2]) Letter of 23 December 2015 from First Vice-President Timmermans to Minister of Foreign Affairs Mr Waszczykowski and Minister of Justice Mr Ziobro.
([3]) Letter of 30 December 2015 from First Vice-President Timmermans to Minister of Foreign Affairs Mr Waszczykowski and Minister of Justice Mr Ziobro.
([4]) Letter of 7 January 2016 from Undersecretary of State Mr Stepkowski to First Vice-President Timmermans.
([5]) Letter of 11 January 2016 from Minister of Justice Mr Ziobro to First Vice-President Timmermans.
([6]) Letter of 13 January 2016 from First Vice-President Timmermans to Minister of Justice Mr Ziobro.

Framework and wished to enter into a dialogue with the institutions of the Republic of Poland in order to clarify the issues at hand and identify possible solutions. On 19 January 2016 the Commission wrote to the Polish Government ([1]) offering to contribute expertise and discuss matters related to the new media law.

(14) On 19 January 2016, the Polish Government wrote to the Commission ([2]) setting out its views on the dispute concerning the appointment of judges, referring, inter alia, to a constitutional custom relating to the appointment of judges. The Polish Government set out a number of positive effects considered to result from the amendment to the Act on the Constitutional Tribunal.

(15) On the same day the European Parliament held a plenary debate on the situation in Poland.

(16) On 1 February 2016, the Commission wrote to the Polish Government ([3]) noting that the judgments of the Constitutional Tribunal on the appointment of judges had still not been implemented. The letter also underlined the need to further examine the amendment to the Act on the Constitutional Tribunal, in particular the 'combined effect' of the various changes made, requesting more detailed explanations. The letter also requested information about other laws which had been adopted recently, in particular the new Civil Service Act, the Act amending the law on the Police and certain other laws, as well as the Law on the Public Prosecution Office, and about legislative reforms which were being envisaged, notably further reforms of the media legislation.

(17) On 29 February 2016, the Polish Government wrote to the Commission ([4]) providing further clarifications on the mandate of the President of the Constitutional Tribunal. The letter clarified that the Tribunal's judgment of 9 December 2015 states that the interim provisions of the amending law that provided for ending the mandate of the President had been pronounced unconstitutional and lost their legal effect. As a result, the current President of the Tribunal would continue to exercise his mandate pursuant to the old legislative provisions until his mandate expired on 19 December 2016. The letter also stated that the mandate of the next President would be 3 years long. The letter furthermore requested clarifications as to what the Commission meant by insisting that the binding and final judgments of the Constitutional Tribunal had still not been implemented as well as clarifications why according to the Commission the resolutions electing three judges of the Constitutional Tribunal on 2 December 2015 ran counter to the Tribunal's subsequent judgment.

(18) On 3 March 2016, the Commission wrote to the Polish Government ([5]), providing clarifications concerning the issue of the appointment of judges as requested by the Polish Government in the letter of 29 February 2016. Regarding the amendment to the Act on the Constitutional Tribunal the letter noted that according to a preliminary assessment, certain amendments, both individually and taken together, made more difficult the conditions under which the Constitutional Tribunal could review the constitutionality of newly passed laws and requested more detailed explanations on this. The letter also asked for information about other laws which had been adopted recently and further legislative reforms which were being envisaged.

(19) On 9 March 2016, the Constitutional Tribunal ruled that the law adopted on 22 December 2015 was unconstitutional. That judgment has so far not been published by the Government in the Official Journal, with the consequence that it does not have legal effect.

(20) On 11 March 2016, the Venice Commission adopted its opinion 'on amendments to the Act of 25 June 2015 on the Constitutional Tribunal' ([6]). As regards the appointment of judges, the opinion called on the Polish Parliament to find a solution on the basis of the rule of law, respecting the judgments of the Tribunal. It also considered, inter alia, that a high attendance quorum, the requirement of a two-thirds majority for adopting judgments and a strict rule making it impossible to deal with urgent cases, especially in their combined effect, would have made the Tribunal ineffective. Finally, it considered that a refusal to publish the judgment of 9 March 2016 would further deepen the constitutional crisis in Poland.

([1]) Letter of 19 January 2016 from Commissioner Oettinger to Minister of Justice Mr Ziobro.
([2]) Letter of 19 January 2016 from Minister of Justice Mr Ziobro to First Vice-President Timmermans.
([3]) Letter of 1 February 2016 from First Vice-President Timmermans to Minister of Justice Mr Ziobro.
([4]) Letter of 29 February 2016 from Minister of Foreign Affairs Mr Waszczykowski to First Vice-President Timmermans.
([5]) Letter of 3 March 2016 from First Vice-President Timmermans to Minister of Foreign Affairs Mr Waszczykowski.
([6]) Opinion No 833/2015, CDL-AD(2016)001.

(21) On 21 March 2016, the Polish Government wrote to the Commission inviting First Vice-President Timmermans to a meeting in Poland to assess the dialogue carried out so far between the Polish Government and the Commission and to determine how to continue it in an impartial, evidence-based and cooperative way.

(22) On 31 March 2016, the Polish Government wrote to the Commission with recent information and legal assessments regarding the dispute around the Constitutional Tribunal in Poland. On 5 April 2016, meetings took place in Warsaw between First Vice-President Timmermans and the Minister of Foreign Affairs of Poland, the Minister of Justice, the Deputy Prime Minister, as well as with the President and the Vice-President of the Constitutional Tribunal. Following these meetings, several meetings also took place between the Polish Government, represented by the Ministry of Justice, and the Commission.

(23) Following the judgment of 9 March 2016, the Constitutional Tribunal resumed the adjudication of cases. The Polish Government did not participate in these proceedings and the judgments rendered by the Constitutional Tribunal since 9 March 2016 have so far not been published by the Government in the Official Journal ([1]).

(24) On 13 April 2016, the European Parliament adopted a Resolution on the situation in Poland, inter alia, urging the Polish Government to respect, publish and fully implement without further delay the Constitutional Tribunal's judgment of 9 March 2016 and to implement the judgments of 3 and 9 December 2015, and calling on the Polish Government to fully implement the recommendations of the Venice Commission.

(25) On 20 April 2016, a meeting took place between the Commission and representatives of the Network of Presidents of Supreme Judicial Courts of the EU and of the Conference of European Constitutional Courts to discuss the situation in Poland.

(26) On 26 April 2016, the General Assembly of the Supreme Court of Poland adopted a resolution attesting that the rulings of the Constitutional Tribunal are valid, even if the Polish Government refuses to publish them in the Official Journal.

(27) On 29 April 2016, a group of members of the *Sejm* submitted to the *Sejm* a legislative proposal for a new Constitutional Tribunal Act with a view to replacing the current Act. The proposal contained several provisions which were already criticised by the Venice Commission in its opinion of 11 March 2016 and declared unconstitutional by the Tribunal in its ruling of 9 March 2016. This included the requirement of a two-thirds majority for adopting decisions for 'abstract' constitutional review of newly adopted laws. In the course of April an expert group was composed in the *Sejm* to help prepare a new law on the Constitutional Tribunal.

(28) On 24 May 2016, First Vice-President Timmermans had meetings in Warsaw with the Prime Minister of Poland, with the President and the Vice-President of the Constitutional Tribunal, with the Ombudsman, with the Mayor of the City of Warsaw and with members of the opposition parties in the *Sejm*. On 26 May 2016, First Vice-President Timmermans had a meeting in Brussels with the Deputy Prime Minister of Poland. Subsequently, further exchanges and meetings took place between the Commission and the Polish government.

(29) However, despite the detailed and constructive nature of the exchanges between the Commission and the Polish Government, they were not able to resolve the concerns of the Commission. On 1 June 2016, the Commission adopted an Opinion concerning the rule of law in Poland. Following the dialogue that had been ongoing with the Polish authorities since 13 January, the Commission deemed it necessary to formalise its assessment of the current situation in that Opinion. The Opinion set out the concerns of the Commission and served to focus the ongoing dialogue with the Polish authorities towards finding a solution.

(30) On 24 June 2016, the Polish Government wrote to the Commission acknowledging receipt of the Commission's Rule of Law Opinion of 1 June ([2]). The letter informed the Commission about the state of play of Parliamentary work in Poland including on a new Law on the Constitutional Tribunal, and expressed the conviction that the work undertaken at the Parliament was the right way to reach a constructive solution. Subsequently, the dialogue between the Commission and the Polish Government continued.

([1]) Since 9 March 2016, 20 judgments rendered by the Constitutional Tribunal have not been published.
([2]) Letter of 24 June 2016 from Minister of Foreign Affairs Mr Waszczykowski to First Vice-President Timmermans.

(31) On 22 July 2016, the *Sejm* adopted a new law on the Constitutional Tribunal replacing the Law of 25 June 2015 on the Constitutional Tribunal. A first reading took place on 10 June 2016, a second reading started on 5 July 2016 and a third reading was concluded on 7 July. The Senate adopted amendments on 21 July 2016. The *Sejm* adopted the law as amended by the Senate on 22 July 2016. Before the law can take effect it must be signed by the President of the Republic and published in the Official Journal. The Commission provided comments and discussed the content of the draft law with the Polish authorities at various stages of the legislative process,

HAS ADOPTED THIS RECOMMENDATION:

1. Poland should duly take into account the Commission's analysis set out hereafter and take the measures figuring in section 6 of this recommendation so that the problems identified are solved within the time limit set.

1. **SCOPE OF THE RECOMMENDATION**

2. The present recommendation sets out the concerns of the Commission with regard to the rule of law in Poland and makes recommendations to the Polish authorities on how to address these concerns. These concerns relate to the following issues:

(1) the appointment of judges of the Constitutional Tribunal and the lack of implementation of the judgments of the Constitutional Tribunal of 3 and 9 December 2015 relating to these matters;

(2) the lack of publication in the Official Journal and of implementation of the judgment of 9 March 2016 and of the judgments rendered by the Constitutional Tribunal since 9 March 2016;

(3) the effective functioning of the Constitutional Tribunal and the effectiveness of Constitutional review of new legislation, in particular in view of the law on the Constitutional Tribunal adopted by the *Sejm* on 22 July 2016.

2. **APPOINTMENT OF JUDGES OF THE CONSTITUTIONAL TRIBUNAL**

3. Ahead of the general elections for the *Sejm* of 25 October 2015, on 8 October the outgoing legislature nominated five persons to be 'appointed' as judges of the Constitutional Tribunal by the President of the Republic. Three judges would take seats vacated during the mandate of the outgoing legislature while two would take seats vacated during that of the incoming legislature which commenced on 12 November 2015.

4. On 19 November 2015, the *Sejm*, through an accelerated procedure, amended the Law on the Constitutional Tribunal, introducing the possibility to annul the judicial nominations made by the previous legislature and to nominate five new judges. On 25 November 2015, the *Sejm* passed a motion annulling the five nominations by the previous legislature and on 2 December nominated five new judges.

5. The Constitutional Tribunal was seised concerning the decisions of both the previous legislature and the incoming legislature. The Tribunal consequently delivered two judgments, on 3 and 9 December 2015.

6. In its judgment of 3 December ([1]), the Constitutional Tribunal ruled, inter alia, that the previous legislature of the *Sejm* had been entitled to nominate three judges replacing the judges whose terms expired on 6 November 2015. At the same time, the Tribunal clarified that the *Sejm* had not been entitled to elect the two judges replacing those whose term expired in December. The judgment also specifically referred to the obligation for the President of the Republic to immediately take the oath from a judge elected by the *Sejm*.

([1]) K 34/15.

7. On 9 December ([1]), the Constitutional Tribunal, inter alia, invalidated the legal basis for the nominations by the new legislature of the *Sejm* of the three judges for the vacancies opened up on 6 November 2015 for which the previous legislature had already lawfully nominated judges.

8. Despite these judgments, the three judges nominated by the previous legislature have not taken up their function of judge in the Constitutional Tribunal and their oath has not yet been taken by the President of the Republic. Conversely, the oath of the three judges nominated by the new legislature without a valid legal basis has been taken by the President of the Republic.

9. The two judges elected by the new legislature replacing the two judges outgoing in December 2015 have in the meantime taken up their function of judge in the Constitutional Tribunal.

10. On 28 April 2016, the President of the Republic took the oath of a new judge in the Constitutional Tribunal, nominated by the *Sejm* to fill a vacancy created earlier that month to replace a judge whose term in the Constitutional Tribunal had ended.

11. On 22 July 2016, the *Sejm* adopted a new Law on the Constitutional Tribunal. Article 90 of this Law states that 'With effect from this Act's entry into force, the President of the Tribunal shall include on panels ruling on cases, and assign cases to, judges of the Tribunal who have taken the oath before the President of the Republic but, by the date of this Act's entry into force, had yet to take up their duties as judges.' Article 6(7) of the new Law stipulates that 'After taking the oath, judges shall present themselves at the Tribunal to take up their duties, and the President of the Tribunal shall assign them cases and create conditions enabling them to perform their duties'.

12. The Commission considers that the binding and final judgments of the Constitutional Tribunal of 3 and 9 December 2015 have still not been implemented as far as the appointment of judges is concerned. These judgments require that the State institutions of Poland cooperate loyally in order to ensure, in accordance with the rule of law, that the three judges that have been nominated by the previous legislature of the *Sejm* can take up their function of judge in the Constitutional Tribunal, and that the three judges nominated by the new legislature without a valid legal basis do not take up this function. The fact that these judgments have not been implemented raises serious concerns in regard of the rule of law, as compliance with final court judgments is an essential requirement inherent in the rule of law.

13. In one of its letters the Polish Government has referred to the existence of a constitutional custom in Poland regarding the nomination of judges which would justify the position taken by the new legislature of the *Sejm*. The Commission notes however, as did the Venice Commission ([2]), that it is for the Constitutional Tribunal to interpret and apply the national constitutional law and custom, and that the Constitutional Tribunal did not refer to such a custom in its judgments. The judgment of 3 December which has validated the legal basis for the nominations of the three judges by the previous *Sejm* for the posts which became vacant on 6 November cannot be overturned by invoking a supposed constitutional custom which the Tribunal has not recognized.

14. Also, limiting the impact of these judgments to a mere obligation for the Government to publish them, as put forward by the Polish authorities, would deny any legal and operational effect of the judgments of 3 and 9 December. In particular, it denies the obligation of the President of the Republic to take the oath of the judges in question, which has been confirmed by the Constitutional Tribunal.

15. The Commission furthermore notes that also the Venice Commission considers that a solution to the current conflict over the composition of the Constitutional Tribunal 'must be based on the obligation to respect and fully implement the judgments of the Constitutional Tribunal' and 'therefore calls on all State organs and notably the Sejm to fully respect and implement the judgments' ([3]).

16. Finally, as regards the law adopted on 22 July 2016 on the Constitutional Tribunal the Commission observes that this law is not compatible with the judgments of 3 and 9 December. Article 90 and Article 6(7) require the President of the Constitutional Tribunal to assign cases to all judges who have taken the oath before the President

([1]) K 35/15.
([2]) Opinion, para. 112.
([3]) Opinion, para. 136.

of the Republic but have not yet taken up their duties as judges. This provision seems targeted at the situation of the three judges which were unlawfully nominated by the new legislature of the *Sejm* in December 2015. It would enable these judges to take up their function while using the vacancies for which the previous legislature of the *Sejm* had already lawfully nominated three judges. These provisions are therefore contrary to the judgments of the Constitutional Tribunal of 3 and 9 December 2015 and the opinion of the Venice Commission.

17. In conclusion, the Commission considers that the Polish authorities should respect and fully implement the judgments of the Constitutional Tribunal of 3 and 9 December 2015. These judgments require that the State institutions cooperate loyally in order to ensure, in accordance with the rule of law, that the three judges that were nominated by the previous legislature can take up their function of judge in the Constitutional Tribunal, and that the three judges nominated by the new legislature without a valid legal basis do not take up the post of judge without being validly elected. The relevant provisions of the law adopted on 22 July 2016 on the Constitutional Tribunal are contrary to the judgments of the Constitutional Tribunal of 3 and 9 December 2015 and to the opinion of the Venice Commission and raise serious concerns in respect of the rule of law.

3. LACK OF PUBLICATION AND IMPLEMENTATION OF THE CONSTITUTIONAL TRIBUNAL JUDGMENT OF 9 MARCH 2016 AND OF THE JUDGMENTS RENDERED SINCE 9 MARCH 2016

18. On 22 December 2015, following an accelerated procedure, the *Sejm* amended the Law on the Constitutional Tribunal ([1]). The amendments are set out in more detail below in section 4.1. In its judgment of 9 March 2016, the Constitutional Tribunal declared unconstitutional the law adopted on 22 December 2015 in its entirety as well as specific provisions thereof. So far the Polish authorities have failed to publish the judgment in the Official Journal. The Polish Government contests the legality of the judgment, as the Constitutional Tribunal did not apply the procedure foreseen by the law adopted on 22 December 2015. The same position is taken by the Government towards the judgments rendered by the Tribunal after 9 March 2016.

19. The Commission considers that the judgment of 9 March 2016 is binding and must be respected. The Constitutional Tribunal was correct not to apply the procedure foreseen by the law adopted on 22 December 2015. In that respect the Commission agrees with the Venice Commission, which states on this point that 'a simple legislative act, which threatens to disable constitutional control, must itself be evaluated for constitutionality before it can be applied by the Court. […] The very idea of the supremacy of the Constitution implies that such a law, which allegedly endangers constitutional justice, must be controlled — and if need be, annulled — by the Constitutional Tribunal before it enters into force' ([2]). The Commission furthermore underlines that as the law adopted on 22 December 2015 required a quorum of 13 judges for judgments by the full bench and as the Constitutional Tribunal was composed of 12 judges only, it could otherwise not have reviewed the constitutionality of the amendments of 22 December 2015 as requested by the First President of the Supreme Court, the Ombudsman and the National Council of the Judiciary. This would have been contrary to the Polish Constitution which has tasked the Constitutional Tribunal with the role of ensuring constitutional review. Similarly, the Tribunal could not have decided on the constitutionality of the qualified majority requirement while voting in accordance with the very requirement the constitutionality of which it was examining.

20. The refusal of the Government to publish the judgment of the Constitutional Tribunal of 9 March 2016 raises serious concerns in regard of the rule of law, as compliance with final judgments is an essential requirement inherent in the rule of law. In particular, where the publication of a judgment is a prerequisite for its taking effect and where such publication is incumbent on a State authority other than the court which has rendered the judgment, an *ex post* control by that State authority regarding the legality of the judgment is incompatible with the rule of law. The refusal to publish the judgment denies the automatic legal and operational effect of a binding and final judgment, and breaches the principles of legality and separation of powers.

21. The refusal to publish the judgment of 9 March creates a level of uncertainty and controversy which will adversely affect not only that judgment, but all subsequent and future judgments of the Tribunal. Since these judgments are, following the judgment of 9 March 2016, rendered in accordance with the rules applicable before 22 December 2015, the risk of a continuous controversy about every future judgment will undermine the proper

([1]) Law of 25 June 2015 on the Constitutional Tribunal, published in Official Journal on 30 July 2015, item 1064, as amended. The law adopted on 22 December 2015 was published in the Official Journal on 28 December; item 2217.

([2]) Opinion, para. 41.

functioning of constitutional justice in Poland. This risk is already a reality as the Tribunal has to date rendered 20 rulings since its ruling of 9 March 2016, and none of these rulings have been published in the Official Journal.

22. The Commission observes that the new law adopted on 22 July 2016 on the Constitutional Tribunal does not remove the above concerns. Article 80(4) of the Law requires an 'application' for publication of judgments from the President of the Constitutional Tribunal to the Prime Minister. This seems to indicate that publication of judgments would be dependent on a decision of the Prime Minister. It therefore raises significant concerns regarding the independence of the Tribunal.

23. In addition, Article 89 stipulates that 'In a period of 30 days from the entry into force of [this] Act the rulings of the Tribunal handed down before 20 July 2016 in a manner contrary to the Constitutional Tribunal Act of 25 June 2015 shall be published except for the rulings regarding normative acts that were repealed'. This provision gives rise to concern as the publication of the judgments should not depend on a decision of the legislator. In addition, the indication that the judgments have been rendered illegally is contrary to the principle of the separation of powers as it is not for the *Sejm* to determine compatibility with the Constitution. Moreover, the provision is incompatible with the judgment of 9 March 2016 and the findings of the Venice Commission.

24. In conclusion, the fact that the Polish Government has so far refused to publish the judgment of 9 March 2016 of the Constitutional Tribunal, as well as all subsequent judgments, in the Official Journal creates uncertainty on the legal basis on which the Tribunal must act and on the legal effects of its judgments. This uncertainty undermines the effectiveness of constitutional review and raises serious concerns in respect of the rule of law. The law adopted on 22 July 2016 does not remove these concerns.

4. **REVIEW OF THE LAW ON THE CONSTITUTIONAL TRIBUNAL AND EFFECTIVENESS OF CONSTITUTIONAL REVIEW OF NEW LEGISLATION**

25. The Commission notes that on 22 July 2016 the *Sejm* adopted a new law relating to the functioning of the Constitutional Tribunal, repealing the Law of 25 June 2015 on the Constitutional Tribunal. This law follows the law adopted on 22 December 2015 which was declared unconstitutional by the Constitutional Tribunal. It must therefore be assessed whether this law is compatible with the rule of law, taking into account its impact on the effectiveness of the constitutional review, including of recently adopted acts and therefore constitutes appropriate action to redress the rule of law concerns identified in the Commission's Rule of Law Opinion of 1 June. The legislation concerned and its impact is considered in more detail below, taking into account the effect of the provisions both individually and collectively, as well as the previous case law of the Constitutional Tribunal and the opinion of the Venice Commission.

4.1. **Amendment of 22 December 2015 to the Law on the Constitutional Tribunal**

26. On 22 December 2015, following an accelerated procedure, the *Sejm* amended the Law on the Constitutional Tribunal ([1]). The amendments, inter alia, increased the attendance quorum of judges for hearing cases ([2]), raised the majorities needed in the Constitutional Tribunal to hand down judgments by the full bench ([3]), required the handling of cases in chronological order ([4]) and provided a minimum delay for hearings ([5]). Certain amendments ([6]) increased the involvement of other institutions of the State in disciplinary proceedings concerning judges of the Tribunal.

27. In its judgment of 9 March 2016, the Constitutional Tribunal declared unconstitutional the law adopted on 22 December 2015 in its entirety as well as specific provisions thereof, in particular those referred to above. So far the Polish authorities have failed to publish the judgment in the Official Journal (see section 3 above).

([1]) Law of 25 June 2015 on the Constitutional Tribunal, published in Official Journal on 30 July 2015, item 1064, as amended. The law adopted on 22 December 2015 was published in the Official Journal on 28 December; item 2217.
([2]) See Article 1(9) new, replacing Article 44(1-3).
([3]) See Article 1(14) new, replacing Article 99(1).
([4]) See Article 1(10) new, inserting a new Article 80(2).
([5]) See Article 1(12) new, replacing Article 87(2).
([6]) See Article 1(5) new, inserting a new Article 28a and Article 1(7) new, inserting a new Article 31a.

28. As set out already in its Opinion of 1 June 2016, the Commission took the view that the effect of the amendments concerning the attendance quorum, the voting majority, the handling of cases in chronological order and the minimum delay for hearings, in particular their combined effect, undermined the effectiveness of the Constitutional Tribunal as a guarantor of the Constitution. This conclusion is shared by the Venice Commission. As these findings are relevant for the assessment of the law adopted on 22 July 2016, the main conclusions are recalled hereunder.

4.1.1. *Attendance quorum*

29. The amended Article 44(3) stated that 'Adjudicating in full bench shall require the participation of at least 13 judges of the Court' ([1]). According to the amended Article 44(1) the Constitutional Tribunal shall rule by the full bench, unless otherwise specified by law. This applied in particular to what are described as 'abstract cases' of constitutional review of newly adopted laws. The amended Article 44(1) also provided for exceptions, notably for individual complaints or cases submitted by ordinary courts. The former version of the Law required, for a decision by the full bench, the presence of at least nine judges (Article 44(3), item 3 of the Law before the amendment).

30. The Commission considered that the attendance quorum of 13 out of 15 judges for the full bench (which deals with the 'abstract' constitutional review of newly adopted laws) represents a serious constraint on the decision-making process of the Constitutional Tribunal, with the risk of blocking it. The Commission noted, as confirmed by the Venice Commission, that an attendance quorum of 13 out of 15 judges is unusually high compared to requirements in other Member States. It is indeed entirely imaginable that for various reasons, such an attendance quorum might on occasion not be reached, which would then leave the Tribunal at least temporarily unable to adjudicate. In fact, such a situation would be present in the current circumstances, as the Tribunal has only 12 judges at this stage.

4.1.2. *Voting majority*

31. According to the amended Article 99(1), judgments of the Constitutional Tribunal sitting as a full bench (for 'abstract cases') required a majority of two thirds of the judges sitting. With a view to the new (higher) attendance quorum (see above) this meant that a judgment had to be approved by at least nine judges if the Constitutional Tribunal adjudicated as a full bench ([2]). Only if the Tribunal adjudicated in a panel of seven or three judges (individual complaints and preliminary requests from ordinary courts), was a simple majority of votes required. The former version of the Law required, for a decision by the full bench, a simple majority of votes (Article 99(1) of the Law before the amendment).

32. In addition to the increased attendance quorum, a two-thirds majority for adopting decisions (for 'abstract' constitutional review of newly adopted laws) significantly aggravated the constraints on the decision-making process of the Constitutional Tribunal. The Commission noted, as also confirmed by the Venice Commission, that in the vast majority of European legal systems, only a simple voting majority is required. In any event, the Constitutional Tribunal found that the Polish Constitution required voting by simple majority, and that the requirement of a qualified majority was thus unconstitutional.

4.1.3. *Handling of cases in chronological order*

33. According to amended Article 80(2) ([3]), the dates for hearings or proceedings in camera, where applications in abstract constitutional review proceedings were to be considered, 'shall be established by order in which the cases are submitted to the Court'. There were no exceptions foreseen to this rule and according to the amendment this rule applied to all pending cases for which no date for a hearing had been set yet ([4]). The former version of the Law did not include such a rule.

([1]) This new attendance quorum also applies for resolutions of the General Assembly, unless otherwise provided in the Law, see Article 1(3) new, amending Article 10(1).
([2]) According to the amendment, the same rules — attendance quorum and a two-thirds majority of votes — also apply to the General Assembly of the Court.
([3]) See Article 1(10) new, inserting a new Article 80(2).
([4]) See Article 2 new.

34. The 'sequence rule' according to which the Constitutional Tribunal had to hear cases in the sequence in which they were registered negatively affected its capacity to render rapidly decisions on the constitutionality of new laws, in particular in view of the number of pending cases. The impossibility to take into account the nature of a case (notably when involving fundamental rights issues), its importance and the context in which it is presented, could have prevented the Constitutional Tribunal from meeting the requirements for a reasonable length of proceedings as enshrined in Article 6 of the European Convention on Human Rights and Article 47 of the EU Charter of Fundamental Rights. As also noted by the Venice Commission, the sequencing rule could also have discouraged the putting of preliminary ruling questions to the Court of Justice, particularly if a hearing is required after the preliminary ruling has been received.

4.1.4. *Minimum delay for hearings*

35. According to amended Article 87(2) ([1]), '[t]he hearing may not take place earlier than after three months from the day the notification on the date of the hearing has been delivered to the participants of the proceedings, and for cases adjudicated in full bench — after six months'. The former version of the Law stated that the hearing cannot be held earlier than after 14 days from the delivery date of the notification of its date to participants of the proceedings.

36. Finally, this issue had to be seen in combination with the requirement concerning the scheduling of cases. In particular the minimum delay for hearings (participants of the proceedings must be notified of a hearing before the Constitutional Tribunal at least 3 — and in important cases 6 — months before the date of the hearing) risked slowing down proceedings. As set out above, the absence of a general provision that would allow the Constitutional Tribunal to reduce these deadlines in urgent cases is incompatible with the requirements for a reasonable length of proceedings under Article 6 of the European Convention on Human Rights and Article 47 of the EU Charter of Fundamental Rights.

4.1.5. *Disciplinary proceedings*

37. According to amended Article 28a ([2]), '[d]isciplinary proceedings may also be instituted further to an application from the President of the Republic of Poland or the Minister for Justice no later than three weeks after the date of receipt of the application, unless the President of the Court decides that the application is unfounded'. Furthermore, according to the amended Article 31a(1) of the Law ([3]) '[i]n particularly gross cases, the General Assembly shall apply to the *Sejm* to depose the judge of the Court'. Such an action of the General Assembly could have been initiated by an application by the President of the Republic or the Minister of Justice pursuant to the amended Article 31a(2), although the Constitutional Tribunal remained free to decide. The final decision would have been taken by the *Sejm*. According to the former version of the Law the Executive branch was not entitled to institute disciplinary proceedings and the *Sejm* was not granted the power to depose a judge of the Court. The Constitutional Tribunal itself had the power to depose of a judge of the Tribunal.

38. The Commission noted with concern the fact that certain amendments increased the involvement of other institutions of the State in disciplinary proceedings concerning judges of the Tribunal. In particular, the President of the Republic or the Minister of Justice were given the power to initiate disciplinary proceedings against a Constitutional Tribunal judge ([4]) and, in particularly serious cases, the *Sejm* was given the power to take the final decision on the dismissal of a judge following a request to that effect by the Constitutional Tribunal ([5]).

39. The Commission considered that the fact that a political body decides on (and hence may refuse to impose) a disciplinary sanction as proposed by the Constitutional Tribunal may pose a problem regarding the independence of the judiciary, as the Parliament (as a political body) could be expected to decide on the basis of political considerations. Similarly it was not clear why political institutions such as the President of the Republic and the Minister of Justice should have the power to initiate disciplinary proceedings. Even if such proceedings required approval by the Tribunal or its President, already the fact that they could have been initiated by political

([1]) See Article 1(12) new.
([2]) See Article 1(5) new.
([3]) See Article 1(7) new.
([4]) See Article 1(5) new, inserting a new Article 28a.
([5]) See Article 1(7) new, inserting a new Article 31a.

institutions could have had an impact on the independence of the Tribunal. This raised concerns as regards the separation of powers and the independence of the Constitutional Tribunal as the proposal of the Tribunal to dismiss a judge could be rejected by the *Sejm*.

4.2. **Law adopted on 22 July 2016 on the Constitutional Tribunal**

40. In addition to provisions on the appointment of judges of the Tribunal and the publication of its judgments (see sections 2 and 3), the law adopted on 22 July 2016 contains other provisions on the functioning of the Tribunal. The law is inspired by the Law on the Constitutional Tribunal of 1 August 1997 but adds new provisions, inter alia, on the attendance quorum of judges for hearing cases, the majorities needed in the Constitutional Tribunal to hand down judgments by the full bench, the handling of cases in chronological order, the minimum delay for hearings, the role of the Public Prosecutor-General, the postponement of deliberations, transitional provisions for pending cases and *vacatio legis*.

41. The Commission considers that even if certain improvements can be noted as compared to the amending Act adopted on 22 December 2015, and certain concerns have been addressed as set out hereunder, a number of concerns raised already regarding the law adopted on 22 December 2015 remain and a number of new provisions raising concern have been introduced. Overall, the effects of certain provisions of the law adopted on 22 July 2016, taken separately or in combination, raise concern regarding the effectiveness of constitutional review and the rule of law.

4.2.1. *Attendance quorum*

42. Article 26(2) states that 'The examination of a case by the full Tribunal shall require the participation of at least eleven judges of the Tribunal'. In addition, Article 26(1)(g) provides that 'The Tribunal shall rule (…) in the full Tribunal on (…) cases in which three judges of the Tribunal submit an application to that effect within 14 days of receiving copies of a constitutional complaint or of an application or legal question referred to in Article 38(1)'.

43. Article 26(2) increases the number of judges required to participate in a full bench from nine (as under the 1997 Act on the Constitutional Tribunal and the Law of 25 June 2015 prior to its amendment of 22 December 2015) to 11. This represents a constraint on the decision-making process of the Constitutional Tribunal. The number has been reduced compared to the 13 which was required by the amending Act of 22 December 2015. However, in particular as the Constitutional Tribunal currently has only 12 judges to handle cases, the attendance quorum might on occasion not be reached, which would then leave the Tribunal at least temporarily unable to judicate.

44. In addition, according to Article 26(1)(g) the Tribunal adjudicates as a full bench, inter alia, in cases in which three judges file an application thereto. These judges do not have to be judges designated to an adjudicating bench in a given case. The Law does not provide that their application needs to be justified or meet any particular conditions. Such a provision permits for an unforeseeable number of cases to be considered by a full bench and could hamper the efficient functioning of the Tribunal and consequently the effectiveness of the constitutional review.

4.2.2. *Voting majority*

45. Article 69 provides: 'Rulings shall be adopted by a simple majority of votes'. This is an improvement as compared to the amending Act of 22 December 2015 in so far as it no longer contains the unconstitutional requirement of a two-thirds majority for adopting decisions and thus addresses this concern previously raised by the Commission.

4.2.3. *Handling of cases in chronological order*

46. Article 38(3) provides that 'The dates of the hearings at which applications are examined shall be set in accordance with the order in which cases arrive at the Tribunal'. Article 38(4) lists a limited number of cases in which the order in which an application arrives shall not be relevant. Article 38(5) provides that 'The President of the Tribunal may set the date for the hearing setting aside condition foreseen by paragraph 3 [above] in cases where it is justified by protection of the citizen's rights and freedoms, security of state or constitutional order. On an application from 5 judges the President of the Tribunal may consider again his decision to set the date for the hearing.'

47. The 'sequence rule' according to which the Tribunal must hear cases at which applications are considered in the sequence in which they have been registered was introduced in the amending Act of 22 December 2015 and has already been ruled by the Tribunal to be inconsistent, inter alia, with the Constitution, on the grounds that the said provision interferes with the judiciary's independence and its separateness from other branches of government.

48. According to Article 38(3), the sequencing rule applies to 'applications' and does not relate to 'constitutional complaints'. Even if the sequencing rule applies only to applications, it will affect the capacity of the Tribunal to render rapidly decisions on the constitutionality of laws at the request of institutional actors.

49. Article 38(5) does foresee a possibility for the President of the Constitutional Tribunal to derogate from the sequencing rule. However, this possibility is limited to specific cases and may give rise to delays, considering that five judges may file an application to reconsider the decision of the President of the Constitutional Tribunal to set the date for the hearing. Moreover, it is not clear whether the conditions would allow the President of the Tribunal to diverge from the sequencing rule in all cases requiring urgent decision.

50. Therefore, even if the law adopted on 22 July 2016 constitutes an improvement over the law adopted on 22 December 2015, the impact of the sequencing rule on the effectiveness of the Tribunal still may give rise to certain concerns.

4.2.4. *Minimum delay for hearings*

51. Article 61(1) provides that 'The hearing may not take place earlier than 30 days after notice of the date of the hearing is served.' Article 61(3) provides that 'In cases concerning legal questions, constitutional complaints and disputes on jurisdiction between central constitutional authorities of the state, the President of the Tribunal may order the time limit laid down in paragraph 1 to be halved, unless the complainant, court referring a legal question or applicant concerned expresses opposition within seven days of service of the President of the Tribunal's order'. The fact that the President of the Tribunal may order to halve the period of 30 days is an improvement as compared to the law adopted on 22 December 2015, even if the complainant, the court referring a legal question or the applicant can object to the shortening of the period.

4.2.5. *Disciplinary proceedings*

52. The law adopted on 22 July 2016 does not provide for the involvement of other institutions of the State in disciplinary proceedings concerning judges of the Tribunal. This is an improvement as compared to the law adopted on 22 December 2015 and therefore this matter no longer raises concerns.

4.2.6. *Possibility of Public Prosecutor-General to prevent examination of cases*

53. Article 61(6) provides that 'Absence from the hearing of the Public Prosecutor-General, who has been properly notified thereof, or his/her representative shall not prevent examination of the case unless the obligation to participate in the hearing results from the provisions of the Act.' Article 30(5) provides that 'The Public Prosecutor-General or his/her deputy shall participate in cases examined by the Tribunal sitting in full bench'.

54. In practice, the combination of Articles 61(6) and 30(5) would appear to give a possibility to the Public Prosecutor-General, who is also the Minister of Justice, to delay or even to prevent the examination of certain cases, including cases handled by the full bench, by deciding not to participate at the hearing. This would allow for an undue interference with the functioning of the Tribunal and would violate the independence of the judiciary and the principle of the separation of powers.

4.2.7. *Postponement of deliberation*

55. Article 68(5) provides that 'During deliberations of the full Tribunal, at least four judges may object to the proposed settlement if they consider that the matter is particularly important for State organisational reasons or reasons of public order and they do not agree with the tenor of the settlement.' Article 68(6) provides that 'In the event of an objection under paragraph 5, the deliberations shall be postponed for three months and, at the subsequent deliberations after the end of that period, the judges that made the objection shall present their joint proposed settlement.' Article 68(7) stipulates that 'If, during the new deliberations referred to in paragraph 6, at least four judges again object, the deliberations shall be postponed by a further three months. At the end of that period, new deliberations and voting shall take place.'

56. For cases examined by a full bench, which could imply a large number of cases (see above) the law adopted on 22 July 2016 allows at least four judges of the Tribunal to raise an objection to a draft determination. This could lead to the postponement of deliberations on a case for at least 3 months and in some instances for 6 months following the moment the Tribunal reaches the stage of deliberation. The Law does not provide for an exception to deal with urgent cases more rapidly.

57. The impact of these provisions on the effectiveness of the constitutional review is a matter of concern in respect of the rule of law, as it prevents the Constitutional Tribunal from fully ensuring an effective constitutional review, and grant effective and timely judicial redress in all cases.

4.2.8. *Transitional provisions for pending cases*

58. Article 83(1) provides: 'The provisions of this Act shall apply to cases begun but not completed before the date of this Act's entry into force.' According to Article 83(2) 'The Tribunal must settle cases referred to in paragraph 1 within one year of this Act's entry into force. The time-limit of one year shall not apply to the cases specified in Article 84.' Article 84(1) states: 'In the case of applications filed by the entities referred to in Article 191(1), subparagraphs 1 to 5, of the Constitution pending before the date of this Act's entry into force, the Tribunal shall (…) suspend proceedings for six months and call on the applicants to supplement their applications in accordance with the requirements of Article 33(2) to (5).' Article 84(2) provides: 'If an application referred to in paragraph 1 is supplemented in accordance with the requirements of Article 33(2) to (5), the Tribunal shall order the resumption of the suspended proceedings on expiry of the time-limit referred to in paragraph 1. Otherwise the proceedings shall be discontinued.'

59. Article 85(1) states: 'If the date of a hearing has been set before this Act's entry into force, the hearing shall be postponed and the competent panel shall be adjusted to this Act.' Article 85(2) provides: 'A new date shall be set for the hearing. The hearing shall take place in accordance with this Act.' Article 86 provides: 'If the date of publication of a ruling has been set before this Act's entry into force, publication shall be postponed and the competent panel and the requirements concerning the ruling shall be adjusted to this Act.'

60. On the one hand, Article 83(2) fixes a deadline of 1 year from the date of entry into force of the Act to deal with pending cases. However, on the other hand, Article 84 provides, by derogation to Article 83(2), that pending applications (i.e. applications by institutional actors for constitutional review of legislation) shall be frozen for a period of 6 months. The Tribunal would request the applicants to supplement their applications in order to comply with the new procedural requirements, and would be able to resume its work on these applications only after this period of 6 months has lapsed (even if the applicants have supplemented their application before). The Law does not provide for an exception to handle urgent cases more rapidly.

61. Articles 85 and 86 amount to legislative interference with pending cases, in particular with those which are already at an advanced stage, and could hamper the functioning of the Tribunal.

62. These transitional provisions taken together raise important concerns as they will slow down significantly the work of the Tribunal on applications and prevent the Tribunal from fully ensuring an effective constitutional review. This is particularly relevant in the context of all the sensitive new legislative acts as referred to in the Commission opinion (see below in section 4.3).

4.2.9. *Vacatio legis*

63. Article 92 of the law adopted on 22 July 2016 provides that 'This Act shall enter into force 14 days after its publication.' Unless recourse is had to a preventive constitutional review of the Act, the period of *vacatio legis* of 14 days is too short for an effective constitutional review of the Law. For reasons of legal certainty it is important that enough time should be provided to allow the Constitutional Tribunal to review the constitutionality of the Law before its entry into force.

64. In this respect it is recalled that in its opinion of 11 March 2016, the Venice Commission stressed that the Constitutional Tribunal must have a possibility of reviewing an ordinary statute that regulates the functioning of the Tribunal before the statute enters into force.

4.3. **Consequences of the lack of effectiveness of Constitutional review on new legislation**

65. A number of particularly sensitive new legislative acts have been adopted by the *Sejm*, often through accelerated legislative procedures, such as, in particular, a media law ([1]), a new Civil Service Act ([2]), a law amending the law on the Police and certain other laws ([3]) and laws on the Public Prosecution Office ([4]), and a new law on the Ombudsman and amending certain other laws ([5]). The Commission asked the Polish Government about the state of play and content of these legislative reforms in its letters of 1 February 2016 and 3 March 2016, but so far this information has not been provided. In addition, a number of other sensitive draft legislative acts have been adopted by the *Sejm*, such as the Law on the National Council of Media ([6]) and a new anti-terrorism law ([7]).

66. The Commission considers that as long as the Constitutional Tribunal is prevented from fully ensuring an effective constitutional review, there will be no effective scrutiny of compliance with the Constitution, including fundamental rights, of legislative acts such as those referred to above.

67. The Commission notes for example that new legislation (notably the media legislation ([8])) raises concerns relating to freedom and pluralism of the media. More specifically, the new media legislation modifies the rules for the appointment of the Management and Supervisory Boards of the public service broadcasters, putting them under the control of the Government (the Treasury Minister), rather than an independent body. The new legislation also provides for the immediate dismissal of the existing Supervisory and Management Boards. In that respect the Commission questions in particular the possibilities of judicial redress for the persons affected by the law.

([1]) Law of 30 December 2015 amending the Broadcasting Law, published in Official Journal on 7 January 2016, item 25.
([2]) Law of 30 December 2015 amending the Law on Civil Service and certain other acts, published in Official Journal on 8 January 2016, item 34.
([3]) Law of 15 January 2016 amending the Law on Police and other laws, published in Official Journal on 4 February 2016, item 147.
([4]) Law of 28 January 2016 on the Prosecutor's Office, published in Official Journal on 15 February 2016, item 177; Law of 28 January 2016 — Regulations implementing the Act — Law on the Prosecutor's Office, published in Official Journal on 15 February 2016, item 178.
([5]) Law of 18 March 2016 on the Ombudsman and amending certain other laws. The law was signed by the President of the Republic on 4 May 2016.
([6]) Law of 22 June 2016 on the National Council of Media. The law was signed by the President of the Republic on 27 June 2016.
([7]) Law of 10 June 2016 on anti-terrorism. The law was signed by the President of the Republic on 22 June 2016. The Commission is furthermore aware that a new law amending the Law on the National Judicial Council and certain other laws has been submitted on 5 May 2016 by the Minister of Justice to the National Legislative Centre.
([8]) Law of 30 December 2015 amending the Broadcasting Law, published in Official Journal on 7 January 2016, item 25, and Law of 22 June 2016 on the National Council of Media. The law was signed by the President of the Republic on 27 June 2016.

68. Legislation such as the new Civil Service Act ([1]) is equally important from the perspective of the rule of law and fundamental rights. In that respect the Commission has asked the Polish Government about the possibilities of judicial redress for the persons affected by the law in its letters of 1 February and 3 March 2016 ([2]). The Polish Government has so far not replied to the Commission on this point.

69. The law amending the law on the Police and certain other laws ([3]) may also raise questions relating to its compliance with fundamental rights, including privacy and data protection. On 28-29 April 2016, a delegation of the Venice Commission visited Warsaw to discuss the amendments to the Law on the Police and certain other laws, and delivered an opinion in its session of 10-11 June 2016 ([4]). The opinion states, inter alia, that the procedural safeguards and material conditions set in the Law are still insufficient to prevent its excessive use and unjustified interference with the privacy of individuals.

70. Furthermore, the new anti-terrorism legislation may raise questions relating to its compliance with fundamental rights ([5]) and is the subject of constitutional review.

71. In conclusion, the Commission considers that as long as the Constitutional Tribunal is prevented from fully ensuring an effective constitutional review, there will be no effective scrutiny of the compliance of legislative acts with fundamental rights. This raises serious concerns in respect of the rule of law, notably as a number of particularly sensitive new legislative acts have been adopted recently by the *Sejm* for which constitutional review should be available. These concerns are further increased by the fact that, as set out above, the law adopted on 22 July 2016 foresees that a number of pending cases would be put on hold.

5. **FINDING OF A SYSTEMIC THREAT TO THE RULE OF LAW**

72. For the reasons set out above the Commission is of the opinion that there is a situation of a systemic threat to the rule of law in Poland. The fact that the Constitutional Tribunal is prevented from fully ensuring an effective constitutional review adversely affects its integrity, stability and proper functioning, which is one of the essential safeguards of the rule of law in Poland. Where a constitutional justice system has been established, its effectiveness is a key component of the rule of law.

73. Respect for the rule of law is not only a prerequisite for the protection of all fundamental values listed in Article 2 of the Treaty on European Union. It is also a prerequisite for upholding all rights and obligations deriving from the Treaties and from international law, and for establishing mutual trust of citizens, businesses and national authorities in the legal systems of all other Member States.

6. **RECOMMENDED ACTION**

74. The Commission recommends that the Polish authorities take appropriate action to address this systemic threat to the rule of law as a matter of urgency. In particular the Commission recommends that the Polish authorities:

(a) implement fully the judgments of the Constitutional Tribunal of 3 and 9 December 2015 which requires that the three judges that were lawfully nominated in October 2015 by the previous legislature can take up their function of judge in the Constitutional Tribunal, and that the three judges nominated by the new legislature without a valid legal basis do not take up the post of judge without being validly elected;

(b) publish and implement fully the judgments of the Constitutional Tribunal of 9 March 2016 and its subsequent judgments and ensure that the publication of future judgments is automatic and does not depend on any decision of the executive or legislative powers;

([1]) Law of 30 December 2015 amending the Law on Civil Service and certain other acts, published in Official Journal on 8 January 2016, item 34.
([2]) Letter of 1 February 2016 from First Vice-President Timmermans to Minister of Justice Mr Ziobro; Letter of 3 March 2016 from First Vice-President Timmermans to Minister of Foreign Affairs Mr Waszczykowski.
([3]) Law of 15 January 2016 amending the Law on Police and other laws, published in Official Journal on 4 February 2016, item 147.
([4]) Opinion No 839/2016.
([5]) Law of 10 June 2016 on anti-terrorism. The law was signed by the President of the Republic on 22 June 2016.

(c) ensure that any reform of the Law on the Constitutional Tribunal respects the judgments of the Constitutional Tribunal, including the judgments of 3 and 9 December 2015 and the judgment of 9 March 2016, and takes the opinion of the Venice Commission fully into account; ensure that the effectiveness of the Constitutional Tribunal as a guarantor of the Constitution is not undermined by requirements, whether separately or through their combined effect, such as those referred to above relating to the attendance quorum, the handling of cases in chronological order, the possibility for the Public Prosecutor-General to prevent the examination of cases, the postponement of deliberations or transitional measures affecting pending cases and putting cases on hold;

(d) ensure that the Constitutional Tribunal can review the compatibility of the new law adopted on 22 July 2016 on the Constitutional Tribunal before its entry into force and publish and implement fully the judgment of the Tribunal in that respect;

(e) refrain from actions and public statements which could undermine the legitimacy and efficiency of the Constitutional Tribunal.

75. The Commission underlines that the loyal cooperation which is required amongst the different state institutions in rule of law related matters is essential in order to find a solution in the present situation. The Commission also encourages the Polish authorities to seek the views of the Venice Commission on the new law adopted on 22 July 2016 on the Constitutional Tribunal.

76. The Commission invites the Polish Government to solve the problems identified in this recommendation within 3 months of receipt of this recommendation, and to inform the Commission of the steps taken to that effect.

77. On the basis of this recommendation, the Commission stands ready to pursue a constructive dialogue with the Polish Government.

Done at Brussels, 27 July 2016.

For the Commission
Frans TIMMERMANS
Vice-President

RULES OF PROCEDURE

AMENDMENT OF THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

THE COURT OF JUSTICE,

Having regard to the Treaty on the Functioning of the European Union, and in particular the sixth paragraph of Article 253 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas following the entry into force of the Rules of Procedure of the General Court on 1 July 2015, it is appropriate to insert into the Rules of Procedure of the Court of Justice a provision enabling the Court of Justice to deal appropriately, in appeals brought before it, with information or material which has been produced by a main party before the General Court in accordance with Article 105(1) or (2) of the Rules of Procedure of the General Court and which, owing to its confidential nature, has not been communicated to the other main party,

With the approval of the Council given on 6 July 2016,

HAS ADOPTED THE FOLLOWING AMENDMENT OF ITS RULES OF PROCEDURE:

Article 1

The following article is inserted in Title V, Chapter 8, of the Rules of Procedure of the Court of Justice of 25 September 2012 ([1]):

'Article 190a

Treatment of information or material produced before the General Court in accordance with Article 105 of its Rules of Procedure

1. Where an appeal is brought against a decision of the General Court adopted in proceedings in which information or material has been produced by a main party in accordance with Article 105 of the Rules of Procedure of the General Court and has not been communicated to the other main party, the Registry of the General Court shall make that information or material available to the Court of Justice, on the conditions laid down in the decision referred to in paragraph 11 of that Article.

2. The information or material referred to in paragraph 1 shall not be communicated to the parties to the proceedings before the Court of Justice.

3. The Court of Justice shall ensure that the confidential matters contained in the information or material referred to in paragraph 1 are not disclosed in the decision which closes the proceedings or in any Opinion of the Advocate General.

4. The information or material referred to in paragraph 1 shall be returned to the party that produced it before the General Court as soon as the decision closing the proceedings before the Court of Justice has been served, save where the case is referred back to the General Court. In the latter case, the information or material concerned shall again be made available to the General Court, on the conditions laid down in the decision referred to in paragraph 5.

5. The Court of Justice shall adopt, by decision, the security rules for protecting the information or material referred to in paragraph 1. That decision shall be published in the *Official Journal of the European Union*.'

([1]) Rules of Procedure of the Court of Justice (OJ L 265, 29.9.2012, p. 1), as amended on 18 June 2013 (OJ L 173, 26.6.2013, p. 65).

Article 2

1. This amendment of the Rules of Procedure, authentic in the languages referred to in Article 36 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the day of its publication.

2. The provisions of Article 190a shall apply only from the entry into force of the decision referred to in Article 190a(5).

Done at Luxembourg, 19 July 2016.

AMENDMENT TO THE RULES OF PROCEDURE OF THE GENERAL COURT

THE GENERAL COURT,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fifth paragraph of Article 254 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, and repealing Commission Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) ([1]) changes the name of the Office for Harmonization in the Internal Market (Trade Marks and Designs) and it is appropriate in consequence to amend the Rules of Procedure to include in them a reference to the European Union Intellectual Property Office,

With the agreement of the Court of Justice,

With the approval of the Council given on 6 July 2016,

HAS ADOPTED THE FOLLOWING AMENDMENT TO ITS RULES OF PROCEDURE:

Article 1

In Article 1(2)(g) of the Rules of Procedure of the General Court ([2]), the reference to 'the Office for Harmonization in the Internal Market (Trade Marks and Designs)' is replaced by a reference to 'the European Union Intellectual Property Office'.

Article 2

This amendment to the Rules of Procedure, authentic in the languages referred to in Article 44 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the day of its publication.

Done at Luxembourg, 13 July 2016.

Registrar	*President*
E. COULON	M. JAEGER

([1]) OJ L 341, 24.12.2015, p. 21.
([2]) Rules of Procedure of the General Court (OJ L 105, 23.4.2015, p. 1).

AMENDMENT OF THE RULES OF PROCEDURE OF THE GENERAL COURT

THE GENERAL COURT,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fifth paragraph of Article 254 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas the information or material that is confidential and relevant for the purpose of ruling on the dispute, which has been produced in accordance with Article 105 of the Rules of Procedure of the General Court and has not been returned during the proceedings, must be made available to the Court of Justice in order that it may fully exercise its powers as a court of appeal should the General Court's decision at the end of proceedings in which the specific regime of Article 105 has been applied be challenged,

Whereas, by contrast, that information or material must be returned to the main party that produced it if no appeal has been brought against the decision of the General Court within the time limit laid down by the Protocol on the Statute of the Court of Justice of the European Union,

Whereas it is in consequence appropriate to amend the Rules of Procedure of the General Court,

With the agreement of the Court of Justice,

With the approval of the Council given on 6 July 2016,

HAS ADOPTED THE FOLLOWING AMENDMENT OF ITS RULES OF PROCEDURE:

Article 1

Paragraph 10 of Article 105 of the Rules of Procedure of the General Court ([1]) is replaced by the following:

'10. The information or material referred to in paragraph 5, which has not been withdrawn pursuant to paragraph 7 by the main party that produced it, shall be returned to the party concerned as soon as the period referred to in the first paragraph of Article 56 of the Statute has expired, unless, within that period, an appeal has been brought against the decision of the General Court. Where such an appeal is brought, the abovementioned information or material shall be made available to the Court of Justice on the conditions laid down in the decision referred to in paragraph 11.'.

Article 2

This amendment of the Rules of Procedure, authentic in the languages referred to in Article 44 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the day of its publication.

Done at Luxembourg, 13 July 2016.

Registrar	*President*
E. COULON	M. JAEGER

([1]) OJ L 105, 23.4.2015, p. 1.

AMENDMENTS TO THE RULES OF PROCEDURE OF THE GENERAL COURT

THE GENERAL COURT,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fifth paragraph of Article 254 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants ([1]), which is due to take effect on 1 September 2016, provides that the General Court is to exercise at first instance jurisdiction in the disputes between the Union and its servants referred to in Article 270 of the Treaty on the Functioning of the European Union (TFEU), including disputes between all institutions and all bodies, offices or agencies, on the one hand, and their servants, on the other, in respect of which jurisdiction is conferred on the Court of Justice of the European Union,

Whereas it is in consequence appropriate to amend the Rules of Procedure of the General Court,

With the agreement of the Court of Justice,

With the approval of the Council given on 6 July 2016,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the General Court ([2]) are hereby amended as follows:

(1) in Article 1(2):

(a) the text in point (i) is replaced by the following:

'(i) "direct actions" means actions brought on the basis of Articles 263 TFEU, 265 TFEU, 268 TFEU, 270 TFEU and 272 TFEU;';

(b) the following point (j) is added:

'(j) "Staff Regulations" means the Regulation laying down the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the European Union.';

(2) Article 29 is amended as follows:

(a) in paragraph 1(b), the words 'cases brought pursuant to the fourth paragraph of Article 263 TFEU, the third paragraph of Article 265 TFEU and Article 268 TFEU' are replaced by 'cases brought pursuant to the fourth paragraph of Article 263 TFEU, the third paragraph of Article 265 TFEU, Article 268 TFEU and Article 270 TFEU';

(b) paragraph 2(b) is renumbered paragraph 2(c);

([1]) OJ L 200, 26.7.2016, p. 137.
([2]) Rules of Procedure of the General Court (OJ L 105, 23.4.2015, p. 1).

(c) in paragraph 2, the following point is inserted as point (b):

'(b) in an action brought pursuant to Article 270 TFEU in which a plea of illegality is expressly raised against an act of general application, unless the Court of Justice or the General Court has already given a ruling on the issues raised by that plea;';

(3) in Article 39(1), the first sentence is replaced by the following:

'The officials and other servants whose task is to assist directly the President, the Judges and the Registrar shall be appointed under the conditions laid down by the Staff Regulations.';

(4) Article 78 is amended as follows:

(a) paragraphs 2 to 5 are renumbered paragraphs 3 to 6;

(b) the following is inserted as paragraph 2:

'2. An application submitted pursuant to Article 270 TFEU shall be accompanied, where appropriate, by the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint, together with an indication of the dates on which the complaint was submitted and the decision notified.';

(c) in paragraph 5, which is renumbered paragraph 6, the reference to 'paragraphs 1 to 4' is replaced by a reference to 'paragraphs 1 to 5';

(5) in Article 80(2), the reference to 'Article 78(5)' is replaced by a reference to 'Article 78(6)';

(6) in Article 81(2), the reference to 'Article 78(3) to (5)' is replaced by a reference to 'Article 78(4) to (6)';

(7) Article 86 is amended as follows:

(a) paragraphs 3 to 6 are renumbered paragraphs 4 to 7;

(b) the following is inserted as paragraph 3:

'3. In cases brought pursuant to Article 270 TFEU, the modification of the application must be made by a separate document and, by way of derogation from paragraph 2, within the time limit laid down in Article 91(3) of the Staff Regulations within which the annulment of the measure justifying the modification of the application may be sought.';

(8) in Article 110, the following paragraph 4 is added:

'4. In cases brought pursuant to Article 270 TFEU, the members of the formation of the Court and the Advocate General may in the course of the hearing invite the parties themselves to express their views on certain aspects of the case.';

(9) in Article 120, the words 'or on the Civil Service Tribunal' are deleted;

(10) in Article 124(1), the words 'If, before the General Court has given its decision, the main parties reach a settlement of their dispute' are replaced by the words 'If, before the General Court has given its decision, the main parties reach an out-of-court settlement of their dispute';

(11) after Article 125, a new chapter comprising four articles is added:

'Chapter 11a

PROCEDURE IN RELATION TO AMICABLE SETTLEMENTS INITIATED BY THE GENERAL COURT IN CASES BROUGHT PURSUANT TO ARTICLE 270 TFEU

Article 125a

Procedure

1. The General Court may, at all stages of the procedure, examine the possibilities of an amicable settlement of all or part of the dispute between the main parties.

2. The General Court shall instruct the Judge-Rapporteur, assisted by the Registrar, to seek the amicable settlement of a dispute.

3. The Judge-Rapporteur may propose one or more solutions capable of putting an end to the dispute, adopt appropriate measures with a view to facilitating its amicable settlement and implement the measures which he has adopted to that end. He may, in particular:

(a) invite the main parties to supply information or particulars;

(b) invite the main parties to produce documents;

(c) invite to meetings the main parties' representatives, the main parties themselves or any official or servant of the institution empowered to negotiate an agreement;

(d) on the occasion of the meetings referred to in point (c), have contact with each of the main parties separately, if they consent to that.

4. Paragraphs 1 to 3 shall apply to proceedings for interim measures also.

Article 125b

Effect of the main parties' agreement

1. Where the main parties come to an agreement before the Judge-Rapporteur on a solution which brings the dispute to an end, they may request that the terms of that agreement be recorded in a document signed by the Judge-Rapporteur and by the Registrar. That document shall be served on the main parties and shall constitute an official record.

2. The case shall be removed from the register by reasoned order of the President. At the request of a main party with the agreement of the other main party, the terms of the agreement reached by the main parties shall be recorded in the order removing the case from the register.

3. The President shall give a decision as to costs in accordance with the agreement or, failing that, at his discretion. Where appropriate, he shall give a decision as to the costs of an intervener in accordance with Article 138.

Article 125c

Specific register and file

1. Material produced in the context of the amicable settlement procedure as provided for in Article 125a:

— shall be entered in a specific register which shall not be subject to the rules laid down in Articles 36 and 37,

— shall be placed in a file separate from the case file.

2. Material produced in the context of the amicable settlement procedure as provided for in Article 125a shall be brought to the attention of the main parties, with the exception of material which either of them has communicated to the Judge-Rapporteur in the separate meetings provided for in Article 125a(3)(d).

3. The main parties may have access to the material in the file separate from the case file as referred to in paragraph 1, with the exception of material which either of the main parties has communicated to the Judge-Rapporteur in the separate meetings provided for in Article 125a(3)(d).

4. An intervener may not have access to material in the file separate from the case file as referred to in paragraph 1.

5. The parties may examine the specific register referred to in paragraph 1 at the Registry.

Article 125d

Amicable settlement and judicial proceedings

No opinion expressed, suggestion made, proposal put forward, concession made or document drawn up for the purposes of the amicable settlement may be relied upon as evidence by the General Court or the main parties in the judicial proceedings.';

(12) Article 127 is amended as follows:

(a) the heading 'Referral of a case to the Court of Justice or to the Civil Service Tribunal' is replaced by 'Referral of a case to the Court of Justice';

(b) the words 'and in Article 8(2) of Annex I to the Statute' are deleted;

(13) in Article 130(7), the second sentence, 'It shall refer the case to the Court of Justice or to the Civil Service Tribunal if the case falls within their jurisdiction.' is replaced by 'It shall refer the case to the Court of Justice if the case falls within the latter's jurisdiction.';

(14) in Article 135(1), the word 'Exceptionally,' is deleted;

(15) in Article 143(4), the reference to 'Article 78(3) to (5)' is replaced by a reference to 'Article 78(4) to (6)';

(16) in Article 147(5):

(a) the reference to 'Article 78(3).' is replaced by a reference to 'Article 78(4).';

(b) the reference to 'Article 78(5)' is replaced by a reference to 'Article 78(6)';

(17) Article 156 is amended as follows:

(a) paragraphs 3 and 4 are renumbered paragraphs 4 and 5;

(b) the following is inserted as paragraph 3:

'3. In cases brought pursuant to Article 270 TFEU, an application of a kind referred to in paragraphs 1 and 2 may be presented as soon as the complaint under Article 90(2) of the Staff Regulations has been submitted, on the conditions laid down in Article 91(4) of those Regulations.';

(18) in Article 173(5), the reference to 'Article 78(3) to (5)' is replaced by a reference to 'Article 78(4) to (6)';

(19) in Article 175(4), the reference to 'Article 78(3) to (5)' is replaced by a reference to 'Article 78(4) to (6)';

(20) Article 193 is amended as follows:

(a) in paragraph 1, the words 'or at the Registry of the Civil Service Tribunal' are deleted;

(b) paragraph 2 is deleted;

(c) the number preceding the first paragraph is deleted;

(21) in Article 196(2), the words 'Civil Service Tribunal' are replaced by 'General Court ruling as a court of first instance', and the words 'ruling as a court of appeal' are added after the words 'General Court';

(22) in Article 213(3), the words 'and to the Civil Service Tribunal' are deleted.

Article 2

These amendments to the Rules of Procedure, authentic in the languages referred to in Article 44 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on 1 September 2016.

Done at Luxembourg, 13 July 2016.

Registrar	*President*
E. COULON	M. JAEGER

AMENDMENTS OF THE PRACTICE RULES FOR THE IMPLEMENTATION OF THE RULES OF PROCEDURE OF THE GENERAL COURT

THE GENERAL COURT,

Having regard to Article 224 of its Rules of Procedure;

Having regard to the Practice Rules for the Implementation of the Rules of Procedure of the General Court;

HAS ADOPTED THESE AMENDMENTS OF THE PRACTICE RULES FOR THE IMPLEMENTATION OF THE RULES OF PROCEDURE OF THE GENERAL COURT:

Article 1

The Practice Rules for the Implementation of the Rules of Procedure of the General Court ([1]) are hereby amended as follows:

1. In point 14, the words 'in the cases provided for in the first paragraph of Article 54 of the Statute and in Article 8(1) of the Annex to the Statute, the date on which the procedural document was lodged with the Registrar of the Court of Justice or with the Registrar of the Civil Service Tribunal.' are replaced by 'in the cases provided for in the first paragraph of Article 54 of the Statute, the date on which the procedural document was lodged with the Registrar of the Court of Justice.'.

2. After point 14, the following is inserted as point 14a:

   '14a. In accordance with Article 125c of the Rules of Procedure, material produced in the context of the amicable settlement procedure referred to in Articles 125a to 125d of the Rules of Procedure shall be entered in a specific register which shall not be subject to the rules set out in Articles 36 and 37 of those Rules.'

3. After point 24, the following is inserted as point 24a:

   '24a. Material produced in the context of the amicable settlement procedure as provided for in Article 125a of the Rules of Procedure shall be placed in a file separate from the case-file.'

4. In point 26, the first sentence is replaced by the following:

   '26. At the close of the proceedings before the Court, the Registry shall arrange for the case-file and the file referred to in Article 125c(1) of the Rules of Procedure to be closed and archived.'

5. After point 33, the following is inserted as point 33a:

   '33a. The requirements of points 28 to 33 above do not apply to access to the file referred to in Article 125c(1) of the Rules of Procedure. Access to that specific file is governed by Article 125c of the Rules of Procedure.'

6. In point 110, the reference to 'Article 78(5)' is replaced by a reference to 'Article 78(6)'.

7. Point 114 is replaced by the following:

   '114. In direct actions within the meaning of Article 1 of the Rules of Procedure, the maximum number of pages (*) shall be as follows.

([1]) OJ L 152, 18.6.2015, p. 1.

In direct actions other than those brought pursuant to Article 270 TFEU:

— 50 pages for the application and for the defence,

— 25 pages for the reply and for the rejoinder,

— 20 pages for a plea of inadmissibility and for observations thereon,

— 20 pages for a statement in intervention and 15 pages for observations thereon.

In direct actions brought pursuant to Article 270 TFEU:

— 30 pages for the application and for the defence,

— 15 pages for the reply and for the rejoinder,

— 10 pages for a plea of inadmissibility and for observations thereon,

— 10 pages for a statement in intervention and 5 pages for observations thereon.

(*) The text must be presented in accordance with the requirements set out in point 96(c) of these Practice Rules.'

8. After point 140, the following is inserted as point 140a:

'140a. In cases brought pursuant to Article 270 TFEU, the institutions should preferably annex to the defence any acts of general application cited which have not been published in the *Official Journal of the European Union*, together with details of the dates of their adoption, their entry into force and, where applicable, their repeal.'

9. In point 243, the reference to 'Article 78(3)' is replaced by a reference to 'Article 78(4)'.

10. In point 264, the reference to 'Article 156(4)' is replaced by a reference to 'Article 156(5)'.

11. Annex 1 is amended as follows:

(a) in the introductory part, the reference to 'Article 78(5)' is replaced by a reference to 'Article 78(6)';

(b) in point (b), the reference in the first column to 'Article 78(3)' is replaced by a reference to 'Article 78(4)';

(c) points e) to g) are renumbered points f) to h);

(d) the following is inserted in the first column as point (e):

'e) production of the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint (Article 78(2) of the Rules of Procedure)';

(e) in point (e), now point (f), the reference in the first column to 'Article 78(2)' is replaced by a reference to 'Article 78(3)';

(f) the following is inserted in the first column as point (h):

'h) indication of the dates on which the complaint within the meaning of Article 90(2) of the Staff Regulations was submitted and the decision responding to the complaint notified (Article 78(2) of the Rules of Procedure)'.

Article 2

These amendments to the Practice Rules for the Implementation of the Rules of Procedure of the General Court shall be published in the *Official Journal of the European Union*.

They shall enter into force on 1 September 2016.

Done at Luxembourg, 13 July 2016.

Registrar	*President*
E. COULON	M. JAEGER

CORRIGENDA

Corrigendum to Council Implementing Regulation (EU) 2016/466 of 31 March 2016 implementing Article 21(2) of Regulation (EU) 2016/44 concerning restrictive measures in view of the situation in Libya

(Official Journal of the European Union L 85 of 1 April 2016)

On pages 4 and 5, the Annex (concerning Annex III to Regulation (EU) 2016/44), the numbers '16.', '17.' and '18.' in front of the listed persons are replaced by the numbers '21.', '22.' and '23.'.

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