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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2021/1229 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 July 2021
on the public sector loan facility under the Just Transition Mechanism

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 175 and the first paragraph of Article 322 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the Court of Auditors ([1]),

Having regard to the opinion of the European Economic and Social Committee ([2]),

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ([3]),

Whereas:

(1) On 11 December 2019, the Commission adopted a communication entitled 'The European Green Deal', drawing a roadmap which sets out a new growth strategy for Europe and ambitious objectives for countering climate change and for environmental protection. In line with the objective of achieving the Union's 2030 climate target as established in Regulation (EU) 2021/1119 of the European Parliament and the Council ([4]) and achieving climate neutrality in the Union by 2050 at the latest in an effective and socially fair manner, the European Green Deal announced a Just Transition Mechanism to provide resources for facing the challenge of the transition process towards the Union's 2030 climate target and the objective of climate neutrality in the Union by 2050 while leaving no one behind. The most vulnerable regions and people are the most exposed to the harmful effects of climate change and environmental degradation. The transition towards a climate-neutral economy is a source of new economic opportunities, with significant potential for job creation, in particular in territories that currently depend on fossil fuels. It can also contribute to enhanced energy security and resilience. However, the transition may also trigger short term social and economic costs in territories undergoing heavy decarbonisation process, and already weakened by the disruptive economic and social effects of the COVID-19 crisis.

([1]) OJ C 373, 4.11.2020, p. 1.
([2]) OJ C 429, 11.12.2020, p. 240.
([3]) Position of the European Parliament of 24 June 2021 (not yet published in the Official Journal) and decision of the Council of 12 July 2021.
([4]) Regulation (EU) 2021/1119 of the European Parliament and the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

(2) Managing the transition will require significant structural changes at both national and regional level. To be successful, the transition needs to reduce inequalities, create a net employment effect with new high quality jobs, and be fair and socially acceptable for all, while strengthening competitiveness. In that regard, it is critical that the territories most negatively impacted by the transition, in particular coal-mining regions, can be supported in diversifying and revitalising their local economies and in creating sustainable employment opportunities for the impacted workers.

(3) On 14 January 2020, the Commission adopted a communication entitled 'Sustainable Europe Investment Plan – European Green Deal Investment Plan', in which it proposed a Just Transition Mechanism which focuses on the regions and sectors that are most affected by the transition because of their dependence on fossil fuels, such as coal, peat and oil shale, or their dependence on greenhouse gas-intensive industrial processes, but have less capacity to finance the necessary investments. The creation of a Just Transition Mechanism has also been affirmed by the conclusions of the European Council of 21 July 2020. The Just Transition Mechanism consists of three pillars: a Just Transition Fund (JTF) implemented under shared management, a dedicated Just Transition Scheme under InvestEU, and a public sector loan facility to mobilise additional investments to the regions concerned. Those three pillars provide complementary support to those regions, with a view to fostering the transition to a climate-neutral economy by 2050.

(4) For the better programming and implementation of the JTF, territorial just transition plans are to be established, setting out the key steps and timeline of the transition process and identifying the territories that are most negatively affected by the transition towards a climate-neutral economy and that have less capacity to deal with the transition challenges. Territorial just transition plans are to be prepared together with the relevant local and regional authorities and involve all relevant partners in accordance with Article 8 of Regulation (EU) 2021/1060 of the European Parliament and of the Council ([5]). They may be amended, together with the corresponding programmes supported by the JTF, in accordance with Article 24 of that Regulation, to include new territories which would be severely impacted by the transition in a way that was not anticipated at the time of their initial adoption.

(5) A public sector loan facility (the 'Facility') should be established. It constitutes the third pillar of the Just Transition Mechanism, which aims to support investments by public sector entities, given the key role of the public sector in addressing market failures. Such investments should meet the development needs resulting from the transition challenges described in the territorial just transition plans that have been approved by the Commission. The activities envisaged for support under the Facility should be consistent with, and should complement, activities supported under the other two pillars of the Just Transition Mechanism. In order to align its duration with the period of the multiannual financial framework from 1 January 2021 to 31 December 2027 (the '2021-2027 MFF') laid down in Council Regulation (EU, Euratom) 2020/2093 ([6]), the Facility should be established for a period of seven years.

(6) In order to enhance cohesion and the economic diversification of territories impacted by the transition, the Facility should cover a wide range of sustainable investments, provided that such investments contribute to meeting the development needs of these territories caused by the transition towards the Union's 2030 climate target, as established in Regulation (EU) 2021/1119 and climate neutrality in the Union by 2050 at the latest, as described in the territorial just transition plans. In order to improve the effectiveness of the Facility, it should be able to support eligible projects which began their implementation stage prior to the submission of the application by beneficiaries to the Facility. The Facility should not support investments covering any of the activities excluded under Article 9 of Regulation (EU) 2021/1056 of the European Parliament and of the Council ([7]), but could support investments in renewable energy and green and sustainable mobility, including the promotion of green hydrogen, efficient district heating networks, public research, digitalisation, environmental infrastructure for smart waste and water management, and could support sustainable energy, energy efficiency and integration measures, including

([5]) Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

([6]) Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

([7]) Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

renovations and conversions of buildings, urban renewal and regeneration, the transition to a circular economy, land and ecosystem restoration and decontamination, taking into account the 'polluter pays' principle, biodiversity, as well as up-skilling and re-skilling, training and social infrastructure, including care facilities and social housing.

(7) Infrastructure development could also include cross-border projects and solutions leading to enhanced resilience to withstand ecological disasters, in particular those accentuated by climate change. A comprehensive investment approach should be favoured, in particular for territories with important transition needs. Investments in other sectors could also be supported if they are consistent with the approved territorial just transition plans. By supporting investments that do not generate sufficient streams of revenues to cover their investment costs, the Facility should aim to provide public sector entities with the additional resources necessary to address the territorial, social, economic and environmental challenges that will result from the adjustment to the transition. In order to help identify investments that are eligible under the Facility and that have a high positive environmental impact, including in relation to biodiversity, the Commission should take into account, when carrying out the evaluation of the Facility, the EU taxonomy on environmentally sustainable economic activities. All finance partners should use, where applicable, the EU taxonomy on environmentally sustainable economic activities, including the 'do no significant harm' principle, to provide for transparency in relation to sustainable projects.

(8) Respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union, and in particular gender equality, should be ensured, as appropriate, throughout the preparation, evaluation, implementation and monitoring of eligible projects under the Facility. Similarly, beneficiaries and the Commission should also avoid any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation, throughout the implementation of the Facility. The objectives of the Facility should be pursued in line with the United Nations Sustainable Development Goals, the European Pillar of Social Rights, the polluter pays principle, the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ([8]) (the 'Paris Agreement') and the 'do no significant harm' principle.

(9) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. Those rules are laid down in the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([9]) (the 'Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(10) The Facility should provide support in the form of grants provided by the Union combined with loans provided by a finance partner in accordance with its rules, lending policies and procedures. The financial envelope for the grant component, implemented by the Commission in direct management, should take the form of financing not linked to costs, in accordance with Article 125 of the Financial Regulation. That form of financing should help incentivise project promoters to participate and contribute to the achievement of the Facility's objectives in an efficient way relative to the size of the loan. The loan component should be provided by the European Investment Bank (EIB). It should be possible to extend the Facility to enable other finance partners to provide the loan component, where additional resources for the grant component become available or where it is required for the correct implementation of the Facility. In such cases, the Commission should inform Member States and the European Parliament about the intention to extend the Facility and select additional finance partners, taking into account their capacity to fulfil the objectives of the Facility, to contribute their own resources and to ensure appropriate geographical coverage.

([8]) OJ L 282, 19.10.2016, p. 4.

([9]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(11) Administrative agreements should be signed between the Commission and finance partners. Those agreements should set out the implementing arrangements for the evaluation and the monitoring of projects, as well as the respective rights and obligations of each party, including the detailed arrangements on audits, reporting and communication. The communication arrangements should include, in particular, the obligation to publish information on each individual project or loan scheme receiving support under the Facility.

(12) By addressing the investment needs of the territories that are most negatively impacted by the transition towards a climate-neutral economy, the Facility should provide a key contribution to mainstream climate actions. Resources from the grant component of the Facility will therefore contribute to the achievement of the climate objectives to the same extent as the JTF.

(13) EUR 250 000 000 of the grant component of the Facility should be financed from the Union budget in accordance with Regulation (EU, Euratom) 2020/2093 and should constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ([10]), for the European Parliament and the Council during the annual budgetary procedure.

(14) EUR 275 000 000 of the grant component of the Facility should be financed by repayments stemming from the financial instruments established under the programmes listed in Annex I to this Regulation. Such revenue stems from terminated programmes independent of the Facility and should be considered external assigned revenue by way of derogation from point (f) of Article 21(3) of the Financial Regulation on the basis of Article 322(1) TFEU.

(15) EUR 1 000 000 000 of the grant component of the Facility should be financed by the foreseeable surplus of the provisioning for the EU guarantee established by Regulation (EU) 2015/1017 of the European Parliament and of the Council ([11]). Therefore, a derogation should be made from point (a) of Article 213(4) of the Financial Regulation, which envisages an obligation for any surplus of provisions for a budgetary guarantee to be returned to the budget, in order to assign that surplus to the Facility. That assigned revenue should be considered external assigned revenue by way of derogation from point (f) of Article 21(3) of the Financial Regulation on the basis of Article 322(1) TFEU.

(16) In accordance with point (c) of Article 12(4) of the Financial Regulation, the appropriations corresponding to external assigned revenue could be automatically carried over to the successive programme or action. That provision allows for matching the multiannual schedule of assigned revenue with the implementation path of the projects financed by the Facility.

(17) Resources for advisory support should also be provided for in order to promote the preparation, development and implementation of eligible projects and the early preparation of projects prior to the submission of the application by the beneficiary to the Facility. A share of those resources should be dedicated to supporting the endogenous capacity of beneficiaries to ensure the sustainability of eligible projects.

(18) In order to ensure that all Member States are able to benefit from the grant component, a mechanism should be set up to pre-allocate national shares during a first stage, as set out in Annex I to Regulation (EU) 2021/1056. However, in order to reconcile that objective with the need to optimise the economic impact of the Facility and its implementation, such national shares should not be pre-allocated for the period after 31 December 2025. Thereafter, the remaining resources available for the grant component should be provided without any pre-allocated national share and on a competitive basis at Union level, while ensuring predictability for investment and following a needs-based and regional convergence approach.

([10]) OJ L 433 I, 22.12.2020, p. 28.

([11]) Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

(19) The eligibility conditions and award criteria should be set out in the work programme and the call for proposals. Those eligibility conditions and award criteria should take into account the relevance of the project in the context of the development needs described in the territorial just transition plans, the overall objective of promoting regional and territorial convergence and the significance of the grant component for the viability of the project. The work programmes should also set award criteria for cases where resources would be insufficient to support eligible projects. Priority should be given to projects located in less developed regions, to projects contributing directly to the achievement of Union's climate targets and projects promoted by public sector entities that have adopted decarbonisation plans with this corresponding hierarchy of criteria, where applicable. Union support provided under the Facility should thus only be made available to Member States that have at least one approved territorial just transition plan. The work programme and calls for proposals should also take into account the territorial just transition plans submitted by Member States to ensure that the coherence across the different pillars of the mechanism is ensured. In order to optimise the impact of the Facility, individual projects supported under the Facility should not receive support from other Union programmes, except in relation to the preparation of projects. However, for operations composed of identifiable separate projects, those projects can be supported by different Union programmes, in accordance with the applicable eligibility rules.

(20) In order to optimise the effectiveness of Union assistance and to prevent the replacement of potential support and investment from alternative resources, support under the Facility should only be provided to projects that do not generate sufficient streams of revenues to cover their investment costs. Those revenues should correspond to revenues other than budgetary transfers that are generated directly by the activities carried out by the project, such as sales, fees or tolls and incremental savings generated by the upgrade of existing assets.

(21) Since the grant component should take into account the divergent development needs of regions across Member States, such support should be adjusted in favour of less developed regions. Taking into account the fact that public sector entities in less developed regions generally experience lower public investment capacity, the grant rates applied to loans provided to such entities should be comparatively higher.

(22) In order to ensure the effective implementation of the Facility, it may be necessary to provide advisory support for the preparation, development and implementation of projects. Such support should be provided through the InvestEU Advisory Hub for eligible projects and for the preparation of projects prior to the submission of applications, paying particular attention to beneficiaries that have lower administrative capacity or that are located in less developed regions. It should also be possible for such support to be granted under other Union programmes.

(23) In order to measure the effectiveness of the Facility, its capacity to meet its objectives and support the preparation of its possible prolongation beyond 2027, the Commission should carry out an interim and a final evaluation, including an assessment of the possibility of adopting provisions on a gender impact assessment, if appropriate, and should submit the evaluation reports to the European Parliament and to the Council. Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([12]), the Facility should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation.

(24) In order to speed up implementation and ensure that resources are used in a timely fashion, this Regulation should lay down specific safeguards to be included in the grant agreements. In view of that objective, the Commission, in line with the principle of proportionality, should be able to reduce or terminate any Union support in cases where there is a serious lack of progress in the implementation of the project. The Financial Regulation applies to the Facility. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation should apply to the grant component and to resources for advisory support provided under the Facility.

([12]) OJ L 123, 12.5.2016, p. 1.

(25) In accordance with the Financial Regulation and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council [13] and Council Regulations (EC, Euratom) No 2988/95 [14], (Euratom, EC) No 2185/96 [15] and (EU) 2017/1939 [16], the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council [17]. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(26) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the key performance indicators to monitor implementation and progress of the Facility. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(27) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards work programmes and the conditions and procedures for selecting finance partners other than the EIB. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council [18].

(28) Since the objective of this Regulation, namely to benefit the territories most negatively impacted by the transition towards climate neutrality by addressing the corresponding development needs through leveraging public investments, cannot be sufficiently achieved by the Member States alone, owing to the difficulties that public sector entities have in supporting investments which do not generate sufficient streams of revenues to cover their investment costs, but can rather, by reason of the need for a coherent implementation framework under direct management, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

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

[14] Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

[15] Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

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

[17] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

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

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation establishes the public sector loan facility (the 'Facility') for the duration of the 2021-2027 MFF in support of public sector entities by combining grants from the Union budget with loans granted by the finance partners, and sets out the objectives of the Facility. It lays down rules for the grant component of the Facility, covering in particular its budget, the forms of Union support and provisions on eligibility.

The Facility shall provide support benefiting Union territories facing serious social, economic and environmental challenges deriving from the transition towards the Union's 2030 climate target and the objective of climate neutrality in the Union by 2050.

Article 2

Definitions

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

(1) 'administrative agreement' means a legal instrument establishing the cooperation framework between the Commission and a finance partner setting out the respective tasks and responsibilities for the implementation of the Facility in accordance with this Regulation;

(2) 'beneficiary' means a legal entity established in a Member State as a public law body or established as a body governed by private law entrusted with a public service mission, with which the Commission has signed a grant agreement under the Facility;

(3) 'finance partners' means the EIB, other international financial institutions, national promotional banks and financial institutions, including private financial institutions, with which the Commission signs an administrative agreement to cooperate within the Facility;

(4) 'project' means any action identified by the Commission as being eligible for Union support under the Facility, intended to accomplish an indivisible task of a precise economic or technical nature, which has a pre-defined objective and a set period during which it must be implemented and finalised;

(5) 'territorial just transition plan' means a plan established in accordance with Article 11 of Regulation (EU) 2021/1056 and approved by the Commission;

(6) 'loan scheme' means a loan granted to a beneficiary by finance partners that is aimed at financing a set of several pre-determined projects under the Facility;

(7) 'less developed region' means a less developed region as referred to in Article 108(2) of Regulation (EU) 2021/1060.

Article 3

Objectives

1. The general objective of the Facility is to address serious social, economic and environmental challenges deriving from the transition towards the Union's 2030 climate and energy targets and the objective of climate neutrality in the Union by 2050 at the latest, set out in Regulation (EU) 2021/1119, for the benefit of the Union territories identified in the territorial just transition plans.

2. The specific objective of the Facility is to increase public sector investments which address the development needs of the territories identified in the territorial just transition plans, by facilitating the financing of projects that do not generate sufficient streams of revenues to cover their investment costs, in order to prevent the replacement of potential support and investment from alternative resources.

3. In pursuing the specific objective referred to in paragraph 2, this Regulation also aims to ensure that advisory support for the preparation, development and implementation of eligible projects, where necessary, including support for the preparation of projects prior to the submission of the application, is provided. That advisory support shall be provided in accordance with the rules and implementation methods for the InvestEU Advisory Hub established by Article 25 of Regulation (EU) 2021/523 of the European Parliament and of the Council ([19]).

Article 4

Horizontal principles

1. Respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union, and in particular gender equality, shall be ensured, as appropriate, throughout the preparation, evaluation, implementation and monitoring of eligible projects.

2. Beneficiaries and the Commission shall avoid any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation throughout the implementation of the Facility. In particular, accessibility for persons with disabilities, when relevant, shall be taken into account throughout the preparation and implementation of eligible projects.

3. The objectives of the Facility shall be pursued in line with the United Nations Sustainable Development Goals, the European Pillar of Social Rights, the 'polluter pays' principle, the Paris Agreement and the 'do no significant harm' principle.

Article 5

Budget

1. Without prejudice to additional resources allocated in the Union budget for the 2021-2027 period, the grant component of the Facility shall be financed from:

(a) resources from the Union budget at an amount of EUR 250 000 000 in current prices; and

(b) assigned revenue as referred to in paragraph 2 up to a maximum amount of EUR 1 275 000 000 in current prices.

2. The assigned revenue referred to in point (b) of paragraph 1shall be provided by repayments stemming from financial instruments established under the programmes listed in Annex I to this Regulation, up to a maximum amount of EUR 275 000 000, and from the surplus of the provisioning for the EU guarantee established by Regulation (EU) 2015/1017, up to a maximum amount of EUR 1 000 000 000.

3. The resources and assigned revenue referred to in paragraph 1 may be complemented by financial contributions from Member States, from third countries and from bodies other than those set up under the TFEU or the Treaty establishing the European Atomic Energy Community. Those financial contributions shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation.

4. By way of derogation from point (f) Article 21(3) of the Financial Regulation, resources stemming from repayments referred to in paragraph 2 of this Article shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation. By way of derogation from point (a) of Article 213(4) of the Financial Regulation, the resources stemming from surplus of the provisioning for the EU guarantee referred to in paragraph 2 of this Article shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation.

5. An amount up to 2 % of the resources referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Facility, such as preparatory, monitoring, control, audit and evaluation activities, including in relation to corporate information technology systems, as well as administrative expenditures and fees of the finance partners.

([19]) Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

6. Resources up to an amount of EUR 35 000 000 included in those referred to in paragraph 1 shall be provided for activities set out in Article 3(3), out of which at least EUR 10 000 000 shall support the administrative capacity of beneficiaries, in particular in the less developed regions.

7. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments.

CHAPTER II

UNION SUPPORT

Article 6

Form of Union support and method of implementation

1. Union support provided under the Facility shall be provided in the form of grants in accordance with Title VIII of the Financial Regulation.

2. Union support provided under the Facility shall be implemented in direct management in accordance with the Financial Regulation.

Article 7

Availability of resources

1. The resources referred to in Article 5(1) and (3), after deduction of a provision for technical and administrative expenditure referred to in Article 5(5), shall be used to finance projects in accordance with paragraphs 2 and 3.

2. For grants awarded pursuant to calls for proposals published not later than 31 December 2025, Union support awarded to eligible projects in a Member State shall not exceed the national shares set out in Annex I to Regulation (EU) 2021/1056.

3. For grants awarded pursuant to calls for proposals published as from 1 January 2026, Union support awarded to eligible projects shall be provided without any pre-allocated national share and on a competitive basis at Union level until the exhaustion of remaining resources. The award of such grants shall take into account the need to ensure the predictability of investment and the promotion of regional convergence, paying special attention to less developed regions, in accordance with the award criteria as provided for in Article 14(2).

Article 8

Administrative agreements with finance partners

Prior to the implementation of the Facility with a finance partner, the Commission and the finance partner shall sign an administrative agreement. The agreement shall set out the respective rights and obligations of each party to the agreement, including audit and communication arrangements including in particular the obligation to publish information on each project financed through the Facility and the scope of loan schemes.

CHAPTER III

ELIGIBILITY

Article 9

Eligible projects

1. Only projects that contribute to the objectives set out in Article 3 and that fulfil all the following conditions shall be eligible for Union support under the Facility:

(a) the projects achieve a measurable impact, and include output indicators where appropriate, in addressing serious social, economic and environmental challenges deriving from the transition towards the Union's 2030 climate and energy targets and the objective of climate neutrality in the Union by 2050 at the latest and benefit territories identified in a territorial just transition plan, even if the projects are not located in those territories;

(b) the projects do not receive support under any other Union programmes;

(c) the projects receive a loan by a finance partner under the Facility; and

(d) the projects do not generate sufficient streams of revenues to cover their investment costs, in order to prevent the replacement of potential support and investment from alternative resources;

2. By way of derogation from point (b) of paragraph 1, projects receiving Union support under the Facility may also receive advisory and technical assistance support from other Union programmes for their preparation, development and implementation.

3. The Facility shall not support activities excluded under Article 9 of Regulation (EU) 2021/1056.

Article 10

Eligible persons and entities

Notwithstanding the criteria set out in Article 197 of the Financial Regulation, only legal entities established in a Member State as a public law body or established as a body governed by private law entrusted with a public service mission, shall be eligible to apply as potential beneficiaries under this Regulation.

CHAPTER IV

GRANTS

Article 11

Grants

1. Grants shall take the form of financing not linked to costs in accordance with point (a) of Article 125(1) of the Financial Regulation.

2. The amount of the grant shall not exceed 15 % of the amount of the loan provided by the finance partner under the Facility. For projects located in territories in less developed regions, the amount of the grant shall not exceed 25 % of the amount of the loan provided by the finance partner under the Facility.

3. Payments of an awarded grant may be split into several instalments linked to progress in implementation as set out in the grant agreement.

Article 12

Reduction or termination of the grants

1. In addition to the grounds specified in Article 131(4) of the Financial Regulation, after consulting the finance partner, the Commission may reduce the amount of the grant or terminate the grant agreement if within two years from the date of signature of the grant agreement, the economically most significant supply contract, works contract or services contract has not been signed and the conclusion of such contract is envisaged pursuant to the grant agreement.

2. Where Union support is combined with loan schemes or where a supply contract, works contract or services contract is not envisaged, paragraph 1 does not apply.

In such cases, after consulting the finance partner, the Commission may reduce the amount of the grant or terminate the grant agreement, and recover any related amounts paid, in accordance with the conditions set out in the grant agreement.

CHAPTER V

ADVISORY SUPPORT SERVICES

Article 13

Advisory support services

1. Advisory support under this Regulation shall be implemented in indirect management in accordance with the rules and implementation methods for the InvestEU Advisory Hub.

2. Activities necessary to support the preparation, development and implementation of projects shall be eligible for advisory support and shall be financed in accordance with Article 5(6).

CHAPTER VI

PROGRAMMING, MONITORING, EVALUATION AND CONTROL

Article 14

Work programmes

1. The Facility shall be implemented by work programmes established in accordance with Article 110 of the Financial Regulation.

2. The work programmes shall include award criteria that apply whenever the total requested grant support for eligible projects would exceed the available resources. These criteria shall include priorities, where applicable, for:

(a) projects promoted by beneficiaries located in less developed regions;

(b) projects that contribute directly to the achievement of the Union's 2030 climate and energy targets and the objective of climate neutrality in the Union by 2050 at the latest; and

(c) projects promoted by beneficiaries that have adopted decarbonisation plans.

3. The Commission shall adopt the work programmes by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20.

Article 15

Selection of finance partners other than the EIB

1. The Commission shall set out the conditions and procedures for selecting finance partners other than the EIB by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20.

2. The conditions for selecting finance partners other than the EIB shall reflect the objectives of the Facility.

3. In particular, when selecting finance partners, the Commission shall take into account the capacity of potential finance partners:

(a) to ensure that their lending policy is consistent with Union environmental and social standards, the Union's 2030 climate and energy targets and the objective of climate neutrality in the Union by 2050;

(b) to contribute sufficient own resources to maximise the impact of the Union grant;

(c) to ensure appropriate geographical coverage of the Facility and allow for the financing of smaller individual projects;

(d) to implement thoroughly the requirements set out in Article 155(2) and (3) of the Financial Regulation concerning money laundering, terrorism financing, tax avoidance, tax fraud, tax evasion and non-cooperative jurisdictions;

(e) to ensure transparency and adequate visibility concerning each project financed through the Facility.

4. The Commission shall publish the list of the finance partners selected in accordance with this Article.

Article 16

Monitoring and reporting

1. Key performance indicators to monitor the implementation of the Facility and its progress towards the achievement of the objectives set out in Article 3 are set out in Annex II.

2. The performance reporting system shall ensure that data regarding the indicators referred to in paragraph 1 are collected effectively, efficiently and in a timely fashion. Beneficiaries and finance partners shall provide the Commission with data regarding those indicators in accordance with the grant agreements and administrative agreements, respectively.

3. By 31 October of each calendar year, starting with 2022, the Commission shall issue a report on the implementation of the Facility. That report shall provide information on the level of implementation of the Facility with respect to its objectives, conditions and performance indicators.

4. Where the interim evaluation report referred to in Article 17(2) finds that the indicators set out in Annex II do not allow for a proper assessment of the Facility, the Commission shall be empowered to adopt delegated acts in accordance with Article 19 to amend the key performance indicators set out in Annex II.

Article 17

Evaluation

1. Evaluations of the implementation of the Facility and its capacity to achieve the objectives set out in Article 3 shall be carried out in a sufficiently timely manner to take appropriate action.

2. An interim evaluation shall be performed by 30 June 2025 and a report on that interim evaluation shall be submitted to the European Parliament and to the Council. The interim evaluation shall in particular assess:

(a) the extent to which the Union support provided under the Facility contributed to address the needs of territories implementing the territorial just transition plans;

(b) how the horizontal principles referred to in Article 4 were taken into account;

(c) the need to carry out gender impact assessment;

(d) the application of the eligibility conditions set out in Article 9 and how the visibility obligations were applied;

(e) on basis of the projects supported by the Facility, the extent to which the Facility contributed to the environmental objectives laid down in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council ([20]), taking into account the applicable screening criteria provided for in that Regulation.

The interim evaluation report may be accompanied by a legislative proposal which takes into account, in particular, possible adjustments to the eligibility conditions.

3. At the end of the implementation period, in any case not later than 31 December 2031, the Commission shall submit to the European Parliament and to the Council a final evaluation report on the results and long-term impact of the Facility, which shall also assess the matters set out in paragraph 2.

Article 18

Audits

1. Audits of the use of the Union support provided under the Facility carried out by persons or entities, including by persons or entities other than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

2. Beneficiaries and finance partners, in accordance with their respective grant and administrative agreements, shall provide to the Commission and any designated auditors all available documents that are necessary for them to carry out their auditing tasks.

3. The external audit of the activities undertaken in accordance with this Regulation in relation to the use of the Union support provided under the Facility shall be carried out by the Court of Auditors in accordance with Article 287 TFEU. For those purposes, the Court of Auditors, at its request, shall be granted access to any document or information necessary to carry out its auditing tasks, including any information on the evaluations of applications and their outcome, in accordance with Article 287(3) TFEU.

Article 19

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 16(4) shall be conferred on the Commission until 31 December 2028.

3. The delegation of power referred to in Article 16(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

([20]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

6. A delegated act adopted pursuant to Article 16(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 20

Committee procedure

1. The Commission shall be assisted by the committee established by Article 115(1) of Regulation (EU) 2021/1060. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

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

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Article 21

Information, communication and visibility

1. Beneficiaries and finance partners shall ensure the visibility of the Union support provided under the Facility, in particular when promoting the projects and their results, by providing targeted information to multiple audiences, including the media and the public.

2. The Commission shall implement information and communication actions relating to the Facility, the funded projects and the results of those projects. That includes, in particular, informing Member States of the Commission's intention to open the Facility to finance partners other than the EIB and informing Member States of the calls for proposals that have been published, as well as raising awareness regarding technical and administrative support provided to beneficiaries. Financial resources allocated to the Facility shall also contribute to the communication of the political priorities of the Union, insofar as they are related to the objectives set out in Article 3. The Commission shall publish and regularly update the list of projects financed under the Facility.

Article 22

Transitional provisions

If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 5(5) to enable the management of actions not completed by 31 December 2027.

Article 23

Entry into force

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

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

Done at Brussels, 14 July 2021.

For the European Parliament	*For the Council*
The President	*The President*
D. M. SASSOLI	A. LOGAR

ANNEX I

Financial instruments from which repayments may be used for the Facility

A. Equity Instruments:

— European Technology Facility (ETF98): Council Decision No 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) – the growth and employment initiative (OJ L 155, 29.5.1998, p. 43);

— TTP: Commission decision adopting a complementary financing decision concerning the financing of actions of the activity 'Internal market of goods and sectoral policies' of the Directorate-General Enterprises & Industry for 2007 and adopting the framework decision concerning the financing of the preparatory action 'The EU assuming its role in a globalised world' and of four pilot projects 'Erasmus young entrepreneurs', 'Measures to promote cooperation and partnerships between micro and SMEs', 'Technological Transfer' and 'European Destinations of excellence' of the Directorate-General Enterprises & Industry for 2007 (C(2007) 531);

— European Technology Facility (ETF01): Council Decision 2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005) (OJ L 333, 29.12.2000, p. 84);

— GIF: Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15);

— Connecting Europe Facility (CEF): Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129) as modified by Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1);

— COSME EFG: Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 – 2020) and repealing Decision No 1639/2006/EC (OJ L 347, 20.12.2013, p. 33);

— InnovFin Equity:

  — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104);

  — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81);

  — Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965);

— EaSI Capacity Building Investments Window: Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ('EaSI') and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 347, 20.12.2013, p. 238).

B. Guarantee Instruments:

— SME Guarantee Facility '98 (SMEG98): Council Decision 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) – the growth and employment initiative (OJ L 155, 29.5.1998, p. 43);

— SME Guarantee Facility '01 (SMEG01): Council Decision 2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005) (OJ L 333, 29.12.2000, p. 84);

— SME Guarantee Facility '07 (SMEG07): Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15);

— European Progress Microfinance Facility – Guarantee (EPMF-G): Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 87, 7.4.2010, p. 1);

— Risk-Sharing Instruments:

  — Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) Statements by the Commission (OJ L 412, 30.12.2006, p. 1);

  — Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme Cooperation implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (OJ L 400, 30.12.2006, p. 86);

  — Council Decision 2006/974/EC of 19 December 2006 on the Specific Programme: Capacities implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (OJ L 400, 30.12.2006, p. 299);

— EaSI-Guarantee: Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ('EaSI') and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 347, 20.12.2013, p. 238);

— COSME Loan Guarantee Facility (COSME LGF): Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 – 2020) and repealing Decision No 1639/2006/EC (OJ L 347, 20.12.2013, p. 33);

— InnovFin Debt:

  — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81);

  — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104);

  — Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965);

— Cultural and Creative Sectors Guarantee Facility (CCS GF): Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC (OJ L 347, 20.12.2013, p. 221);

— Student Loan Guarantee Facility (SLGF): Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC (OJ L 347, 20.12.2013, p. 50);

— Private Finance for Energy Efficiency (PF4EE): Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (OJ L 347, 20.12.2013, p. 185).

C. Risk-Sharing Instruments:

— InnovFin:

  — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81);

  — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104);

— Connecting Europe Facility Debt Instrument (CEF DI): Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129);

— Natural Capital Financing Facility (NCFF): Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (OJ L 347, 20.12.2013, p. 185).

D. Dedicated Investment Vehicles:

— European Progress Microfinance Facility – Fonds commun de placements – fonds d'investissements spécialisés (EPMF FCP-FIS): Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 87, 7.4.2010, p. 1);

— Marguerite:

  — Regulation (EC) No 680/2007 of the European Parliament and of the Council of 20 June 2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks (OJ L 162, 22.6.2007, p. 1);

  — Commission Decision of 25.2.2010 on European Union participation in the 2020 European Fund for Energy, Climate Change and Infrastructure (the Marguerite Fund) (C(2010) 941);

— European Energy Efficiency Fund (EEEF): Regulation (EU) No 1233/2010 of the European Parliament and of the Council of 15 December 2010 amending Regulation (EC) No 663/2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy (OJ L 346, 30.12.2010, p. 5).

ANNEX II

Key performance indicators [1]

1. Volume of grants awarded

2. Volume of loans signed
   - 2.1 Individual loans
   - 2.2 Loan schemes

3. Overall investment mobilised, divided as follows
   - 3.1 Amount of private financing mobilised
   - 3.2 Amount of public financing mobilised

4. Number of projects receiving support, broken down by
   - 4.1 Country
   - 4.2 NUTS 2 region
   - 4.3 Just transition territory supported

5. Number of projects receiving financing under the Facility

6. Number of projects by sector
   - 6.1 Transport
   - 6.2 Social infrastructure
   - 6.3 Public utilities (water, wastewater, district heating, energy, waste management)
   - 6.4 Direct support to facilitate the transition towards climate neutrality (renewable energy, decarbonisation, energy efficiency)
   - 6.5 Environmental objectives
   - 6.6 Urban infrastructure and housing
   - 6.7 Others

7. Greenhouse gas emission reductions, where relevant

8. Job creation, where relevant

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[1] All indicators shall be broken down by region, where relevant. All personal data shall be broken down by gender, where relevant.

REGULATION (EU) 2021/1230 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 July 2021
on cross-border payments in the Union
(codification)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(1) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Central Bank ([1]),

Having regard to the opinion of the European Economic and Social Committee ([2]),

Acting in accordance with the ordinary legislative procedure ([3]),

Whereas:

(1) Regulation (EC) No 924/2009 of the European Parliament and of the Council ([4]) has been substantially amended several times ([5]). In the interests of clarity and rationality, that Regulation should be codified.

(2) For the proper functioning of the internal market and in order to facilitate cross-border trade within the Union, it is essential that the charges for cross-border payments in euro are the same as for corresponding payments within a Member State.

(3) It is not advisable to apply the principle of equality of charges for payment instruments which are mainly or exclusively paper-based, such as cheques, since, by their very nature, they cannot be processed as efficiently as electronic payments.

(4) The principle of equality of charges should apply to payments initiated or terminated on paper or in cash which are processed electronically in the course of the payment execution chain, excluding cheques, and to all charges linked directly or indirectly to a payment transaction, including charges linked to a contract. Indirect charges include charges for setting up a permanent payment order or fees for using a payment card or debit or credit card, which should be the same for national and cross-border payment transactions within the Union.

(5) In order to prevent the fragmentation of payment markets, it is appropriate to apply the principle of equality of charges. For that purpose, a national payment having the same characteristics as, or very similar characteristics to, the cross-border payment should be identified for each category of cross-border payment transaction. It should be possible, inter alia, to use the following criteria to identify the national payment corresponding to a cross-border payment: the channel used to initiate, execute and terminate the payment, the degree of automation, any payment guarantee, customer status and relationship with the payment service provider, or the payment instrument used, as defined in point (14) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council ([6]). Those criteria should not be considered to be exhaustive.

([1]) OJ C 65, 25.2.2021, p. 4.
([2]) OJ C 56, 16.2.2021, p. 43.
([3]) Position of the European Parliament of 23 June 2021 (not yet published in the Official Journal) and decision of the Council of 13 July 2021.
([4]) Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11).
([5]) See Annex I.
([6]) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

(6) Competent authorities should issue guidelines to identify corresponding payments where they consider it necessary. The Commission, assisted, where appropriate, by the Payments Committee established by Article 85(1) of Directive 2007/64/EC of the European Parliament and of the Council [7], should provide adequate guidance and assist the competent authorities.

(7) In order to facilitate the functioning of the internal market and to avoid inequalities between payment service users in the euro area and non-euro area Member States in respect of cross-border payments in euro, it is necessary to ensure that charges for cross-border payments in euro within the Union are aligned with charges for corresponding national payments made in the national currency of the Member State in which the payment service provider of the payment service user is located. A payment service provider is considered to be located in the Member State in which it provides its services to the payment service user.

(8) Currency conversion charges represent a significant cost of cross-border payments when different currencies are in use in the Member State of the payer and the Member State of the payee. Article 45 of Directive (EU) 2015/2366 requires the charges and the exchange rate used to be transparent, Article 52, point (3), of that Directive specifies information requirements with regard to payment transactions covered by a framework contract and Article 59(2) of that Directive covers the information requirements for parties offering currency conversion services at an automated teller machine (ATM) or at the point of sale. It is necessary to provide for additional measures in order to protect consumers against excessive charges for currency conversion services and to ensure that consumers are given the information they need to choose the best currency conversion option.

(9) The measures to be implemented should be appropriate, adequate and cost-effective. At the same time, in situations in which the payer is confronted with different currency conversion options at an ATM or at the point of sale, the information provided should make comparison possible, to allow the payer to make an informed choice.

(10) To achieve comparability, currency conversion charges for all card-based payments should be expressed in the same way, namely as percentage mark-ups over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). A mark-up might have to be based on a rate derived from two ECB rates in the case of a conversion between two non-euro currencies.

(11) In accordance with the general information requirements concerning currency conversion charges laid down in Directive (EU) 2015/2366, providers of currency conversion services should disclose information on their currency conversion charges prior to the initiation of the payment transaction. Parties that offer currency conversion services at an ATM or at the point of sale should provide information on their charges for such services in a clear and accessible manner, for example by displaying their charges at the counter, or digitally on the terminal, or on-screen in the case of online purchases. In addition to the information referred to in Article 59(2) of Directive (EU) 2015/2366, those parties should provide, prior to the initiation of the payment, explicit information on the amount to be paid to the payee in the currency used by the payee and the total amount to be paid by the payer in the currency of the payer's account. The amount to be paid in the currency used by the payee should express the price of the goods or services to be bought and might be displayed at the check-out rather than on the payment terminal. The currency used by the payee is in general the local currency, but according to the principle of contractual freedom might in some cases be another Union currency. The total amount to be paid by the payer in the currency of the payer's account should consist of the price of the goods or services and the currency conversion charges. In addition, both amounts should be documented on the receipt or on another durable medium.

(12) With regard to Article 59(2) of Directive (EU) 2015/2366, where a currency conversion service is offered at an ATM or at the point of sale, it should be possible for the payer to refuse that service and to pay in the currency used by the payee instead.

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[7] Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1).

(13) In order to enable payers to compare the charges of currency conversion options at an ATM or at the point of sale, the payers' payment service providers should not only include fully comparable information on the applicable charges for currency conversion in the terms and conditions of their framework contract, but should also make that information public on a broadly available and easily accessible electronic platform, in particular on their customer websites, on their home-banking websites and on their mobile banking applications, in an easily understandable and accessible manner. This would cater for the development of comparison websites to make it easier for consumers to compare prices when travelling or shopping abroad. In addition, payers' payment service providers should remind payers about the applicable currency conversion charges when a card-based payment is made in another currency, through the use of broadly available and easily accessible electronic communication channels, such as SMS messages, e-mails or push notifications through the payer's mobile banking application. Payment service providers should agree with payment service users on the electronic communication channel through which they will provide the information on currency conversion charges, taking into consideration the most effective channel for reaching the payer. Payment service providers should also accept requests from payment service users to opt out of receiving the electronic messages containing information on the currency conversion charges.

(14) Periodic reminders are appropriate in situations in which the payer stays abroad for longer periods of time, for example where the payer is posted or studies abroad, or where the payer regularly uses a card for online purchases in the local currency. An obligation to provide such reminders would ensure that the payer is informed when considering the different currency conversion options.

(15) It is important to facilitate the execution of cross-border payments by payment service providers. In that respect, standardisation should be promoted as regards, in particular, the use of the international payment account number identifier (IBAN) and the business identifier code (BIC). It is therefore appropriate that payment service providers provide payment service users with the IBAN and the BIC for the account in question.

(16) In order to guarantee the continuous, timely and efficient provision of balance-of-payments statistics in the framework of the Single Euro Payments Area (SEPA), it is desirable to ensure that it remains possible to collect readily available payments data, such as the IBAN, the BIC and the amount of the transaction, or basic, aggregated payments data for different payment instruments, if the collection process does not disrupt the automated payments processing and can be fully automated. This Regulation does not affect reporting obligations for other policy purposes, such as for the prevention of money laundering or terrorist financing, or for fiscal purposes.

(17) Competent authorities should be empowered to fulfil their monitoring duties efficiently and to take all necessary measures to ensure that payment service providers comply with this Regulation.

(18) In order to ensure that redress is possible where this Regulation has been incorrectly applied, Member States should provide for adequate and effective complaint and redress procedures for settling any dispute between the payment service user and the payment service provider. It is also important that competent authorities and out-of-court complaint and redress bodies be designated.

(19) It is essential to ensure that the competent authorities and out-of-court complaint and redress bodies within the Union actively cooperate for the smooth and timely resolution of cross-border disputes under this Regulation. It should be possible for such cooperation to take the form of an exchange of information regarding the law or legal practice in their jurisdictions, or of a transfer or takeover of complaint and redress procedures if appropriate.

(20) It is necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation.

(21) Extending the application of this Regulation to currencies other than the euro would have clear benefits, especially in terms of the number of payments covered. In order to allow Member States which do not have the euro as their currency to extend the application of this Regulation to cross-border payments denominated in their national currency, a notification procedure should be provided for.

(22) The Commission should submit to the European Parliament, to the Council, to the ECB and to the European Economic and Social Committee a report on the application of the rule equalising the cost of cross-border payments in euro with the cost of national transactions in national currencies and on the effectiveness of the information requirements on currency conversion set out in this Regulation. The Commission should also analyse further possibilities, and the technical feasibility of those possibilities, of extending the equal charges rule to all Union currencies and of further improving the transparency and comparability of currency conversion charges, as well as the possibility of disabling and enabling the option of accepting currency conversion by parties other than the payer's payment service provider.

(23) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down rules on cross-border payments and on the transparency of currency conversion charges within the Union.

2. This Regulation applies to cross-border payments, in accordance with the provisions of Directive (EU) 2015/2366, which are denominated in euro or in the national currencies of the Member States which have notified their decision to extend the application of this Regulation to their national currency, in accordance with Article 13 of this Regulation.

Notwithstanding the first subparagraph of this paragraph, Articles 4 and 5 apply to national and cross-border payments that are denominated in euro or in a national currency of a Member State other than the euro and that involve a currency conversion service.

3. This Regulation does not apply to payments made by payment service providers on their own account or on behalf of other payment service providers.

Article 2

Definitions

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

(1) 'cross-border payment' means an electronically processed payment transaction initiated by a payer, or by or through a payee, where the payer's payment service provider and the payee's payment service provider are located in different Member States;

(2) 'national payment' means an electronically processed payment transaction initiated by a payer, or by or through a payee, where the payer's payment service provider and the payee's payment service provider are located in the same Member State;

(3) 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;

(4) 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;

(5) ‘payment service provider’ means any of the categories of legal persons referred to in Article 1(1) of Directive (EU) 2015/2366 and the natural or legal persons referred to in Article 32 of that Directive, but excludes those institutions listed in points (2) to (23) of Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council ([8]) benefiting from a Member State waiver exercised under Article 2(5) of Directive (EU) 2015/2366;

(6) ‘payment service user’ means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both;

(7) ‘payment transaction’ means an act, initiated by a payer or by or through a payee, consisting of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;

(8) ‘payment order’ means an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;

(9) ‘charge’ means any amount levied on a payment service user by a payment service provider that is directly or indirectly linked to a payment transaction, any amount levied on a payment service user by a payment service provider or a party providing currency conversion services in accordance with Article 59(2) of Directive (EU) 2015/2366 for a currency conversion service, or a combination thereof;

(10) ‘funds’ means banknotes and coins, scriptural money and electronic money as defined in Article 2, point (2), of Directive 2009/110/EC of the European Parliament and of the Council ([9]);

(11) ‘consumer’ means a natural person acting for purposes other than his or her trade, business or profession;

(12) ‘micro-enterprise’ means an enterprise, which, at the time of conclusion of the payment service contract, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC ([10]);

(13) ‘interchange fee’ means a fee paid between the payment service providers of the payer and of the payee for each direct debit transaction;

(14) ‘direct debit’ means a payment service for debiting a payer’s payment account, where a payment transaction is initiated by the payee on the basis of the payer’s consent given to the payee, to the payee’s payment service provider or to the payer’s own payment service provider;

(15) ‘direct debit scheme’ means a common set of rules, practices and standards agreed between payment service providers for the execution of direct debit transactions.

Article 3

Charges for cross-border payments and corresponding national payments

1. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in euro shall be the same as the charges levied by that payment service provider for corresponding national payments of the same value in the national currency of the Member State in which the payment service provider of the payment service user is located.

2. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in the national currency of a Member State that has notified its decision to extend the application of this Regulation to its national currency in accordance with Article 13 shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the same currency.

([8]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

([9]) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

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

3. When assessing, for the purpose of complying with paragraph 1, the level of charges for a cross-border payment, a payment service provider shall identify the corresponding national payment. The competent authorities shall issue guidelines to identify corresponding national payments where they consider it necessary to do so. The competent authorities shall actively cooperate within the Payments Committee established by Article 85(1) of Directive 2007/64/EC, to ensure the consistency of guidelines for corresponding national payments.

4. Paragraphs 1 and 2 shall not apply to currency conversion charges.

Article 4

Currency conversion charges related to card-based transactions

1. With regard to the information requirements on currency conversion charges and the applicable exchange rate, as set out in Article 45(1), Article 52, point (3), and Article 59(2) of Directive (EU) 2015/2366, payment service providers and parties providing currency conversion services at an automated teller machine (ATM) or at the point of sale, as referred to in Article 59(2) of that Directive, shall express the total currency conversion charges as a percentage mark-up over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). That mark-up shall be disclosed to the payer prior to the initiation of the payment transaction.

2. Payment service providers shall also make the mark-up referred to in paragraph 1 public in a comprehensible and easily accessible manner on a broadly available and easily accessible electronic platform.

3. In addition to the information referred to in paragraph 1, a party providing a currency conversion service at an ATM or at the point of sale shall provide the payer with the following information prior to the initiation of the payment transaction:

(a) the amount to be paid to the payee in the currency used by the payee;

(b) the amount to be paid by the payer in the currency of the payer's account.

4. A party providing currency conversion services at an ATM or at the point of sale shall clearly display the information referred to in paragraph 1 at the ATM or at the point of sale. Prior to the initiation of the payment transaction, that party shall also inform the payer of the possibility of paying in the currency used by the payee and having the currency conversion subsequently performed by the payer's payment service provider. The information referred to in paragraphs 1 and 3 shall also be made available to the payer on a durable medium following the initiation of the payment transaction.

5. The payer's payment service provider shall, for each payment card that was issued to the payer by the payer's payment service provider and that is linked to the same account, send to the payer an electronic message with the information referred to in paragraph 1, without undue delay after the payer's payment service provider receives a payment order for a cash withdrawal at an ATM or a payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer's account.

Notwithstanding the first subparagraph, such a message shall be sent once every month in which the payer's payment service provider receives from the payer a payment order denominated in the same currency.

6. The payment service provider shall agree with the payment service user on the broadly available and easily accessible electronic communication channel or channels through which the payment service provider will send the message referred to in paragraph 5.

The payment service provider shall offer payment service users the possibility of opting out of receiving the electronic messages referred to in paragraph 5.

The payment service provider and the payment service user may agree that paragraph 5 and this paragraph do not apply in whole or in part where the payment service user is not a consumer.

7. The information referred to in this Article shall be provided free of charge and in a neutral and comprehensible manner.

Article 5

Currency conversion charges related to credit transfers

1. When a currency conversion service is offered by the payer's payment service provider in relation to a credit transfer, as defined in point (24) of Article 4 of Directive (EU) 2015/2366, that is initiated online directly, using the website or the mobile banking application of the payment service provider, the payment service provider, with regard to Article 45(1) and Article 52, point (3), of that Directive, shall inform the payer prior to the initiation of the payment transaction, in a clear, neutral and comprehensible manner, of the estimated charges for currency conversion services applicable to the credit transfer.

2. Prior to the initiation of a payment transaction, the payment service provider shall communicate to the payer, in a clear, neutral and comprehensible manner, the estimated total amount of the credit transfer in the currency of the payer's account, including any transaction fee and any currency conversion charges. The payment service provider shall also communicate the estimated amount to be transferred to the payee in the currency used by the payee.

Article 6

Measures for facilitating the automation of payments

1. The payment service provider shall, where applicable, communicate to the payment service user the payment service user's international payment account number identifier (IBAN) and the payment service provider's business identifier code (BIC).

In addition, where applicable, the payment service provider shall indicate the payment service user's IBAN and the payment service provider's BIC on statements of account or in an annex thereto.

The payment service provider shall provide the information required under this paragraph to the payment service user free of charge.

2. The payment service provider may levy charges additional to those levied in accordance with Article 3(1) on the payment service user where that user instructs the payment service provider to execute a cross-border payment without communicating the IBAN and, where appropriate and in accordance with Regulation (EU) No 260/2012 of the European Parliament and of the Council ([11]), the related BIC for the payment account in the other Member State. Those charges shall be appropriate and in line with the costs. They shall be agreed between the payment service provider and the payment service user. The payment service provider shall inform the payment service user of the amount of the additional charges in good time before the payment service user is bound by such an agreement.

3. Where appropriate, with regard to the nature of the payment transaction concerned, for all invoicing of goods and services in the Union, a supplier of goods and services that accepts payments covered by this Regulation shall communicate its IBAN and the BIC of its payment service provider to its customers.

Article 7

Balance of payments reporting obligations

1. Member States shall not provide for settlement-based national reporting obligations on payment service providers for balance of payments statistics relating to payment transactions of their customers.

2. Without prejudice to paragraph 1, Member States may collect aggregated data or other relevant readily available information, provided that such collection has no impact on the straight-through processing of the payments and can be fully automated by payment service providers.

([11]) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

Article 8

Competent authorities

Member States shall designate the competent authorities responsible for ensuring compliance with this Regulation.

Member States shall notify the Commission without delay of any change concerning the competent authorities of which it was notified in accordance with the second paragraph of Article 9 of Regulation (EC) No 924/2009.

Member States shall require the competent authorities to monitor compliance with this Regulation effectively and take all necessary measures to ensure such compliance.

Article 9

Complaint procedures for alleged infringements of this Regulation

1. Member States shall provide for procedures which allow payment service users and other interested parties to submit complaints to the competent authorities with regard to alleged infringements of this Regulation by payment service providers.

2. Where appropriate, and without prejudice to the right to bring proceedings before a court in accordance with national procedural law, the competent authorities shall inform any party that has submitted a complaint of the existence of the out-of-court complaint and redress procedures provided for in accordance with Article 10.

Article 10

Out-of-court complaint and redress procedures

1. Member States shall provide for adequate and effective out-of-court complaint and redress procedures for the settlement of disputes concerning rights and obligations arising under this Regulation between payment service users and their payment service providers. For those purposes, Member States shall designate the responsible bodies.

2. Member States shall notify the Commission without delay of any change concerning the bodies of which it was notified in accordance with Article 11(2) of Regulation (EC) No 924/2009.

3. Member States may provide that this Article applies only to payment service users which are consumers or micro-enterprises. In that event, Member States shall inform the Commission accordingly.

Article 11

Cross-border cooperation

The competent authorities and the bodies responsible for the out-of-court complaint and redress procedures of the different Member States, referred to in Articles 8 and 10, shall actively and expeditiously cooperate in solving cross-border disputes. Member States shall ensure that such cooperation takes place.

Article 12

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of any amendment affecting the rules and measures of which it was notified in accordance with Article 13 of Regulation (EC) No 924/2009.

Article 13

Application to currencies other than the euro

A Member State that does not have the euro as its currency and that decides to extend the application of this Regulation to its national currency shall notify the Commission accordingly.

That notification shall be published in the *Official Journal of the European Union*. The extended application of this Regulation to the national currency of the Member State concerned shall take effect 14 days after such publication.

Article 14

Review

1. By 19 April 2022, the Commission shall present to the European Parliament, the Council, the ECB and the European Economic and Social Committee a report on the application and impact of this Regulation, which shall contain, in particular:

(a) an evaluation of the way payment service providers apply Article 3 of this Regulation;

(b) an evaluation of the development of volumes and charges for national and cross-border payments in national currencies of Member States and in euro since the date of adoption of Regulation (EU) 2019/518 of the European Parliament and of the Council ([12]), namely, 19 March 2019;

(c) an evaluation of the impact of Article 3 of this Regulation on the development of currency conversion charges and other charges related to payment services, both to payers and payees;

(d) an evaluation of the estimated impact of amending Article 3(1) of this Regulation to cover currencies of all Member States;

(e) an evaluation of how providers of currency conversion services apply the information requirements laid down in Articles 4 and 5 of this Regulation and the national laws implementing Article 45(1), Article 52, point (3), and Article 59(2) of Directive (EU) 2015/2366 and whether those rules have enhanced the transparency of currency conversion charges;

(f) an evaluation of whether and to what extent providers of currency conversion services have faced difficulties with the practical application of Articles 4 and 5 of this Regulation and the national laws implementing Article 45(1), Article 52, point (3), and Article 59(2) of Directive (EU) 2015/2366;

(g) a cost-benefit analysis of communication channels and technologies that are used by, or are available to, providers of currency conversion services and that can further improve the transparency of currency conversion charges, including an evaluation of whether there are certain channels which payment service providers should be required to offer for the sending of the information referred to in Article 4; that analysis shall also include an assessment of the technical feasibility of disclosing simultaneously the information referred to in Article 4(1) and (3) of this Regulation, prior to the initiation of each transaction, for all currency conversion options available at an ATM or at the point of sale;

(h) a cost-benefit analysis of introducing the possibility for payers to block the option of currency conversion offered by a party other than the payer's payment service provider at an ATM or at the point of sale and to change their preferences in that regard;

(i) a cost-benefit analysis of introducing a requirement for the payer's payment service provider, to apply, when providing currency conversion services in relation to an individual payment transaction, the currency conversion rate applicable at the moment of initiation of the transaction when clearing and settling the transaction.

2. The report referred to in paragraph 1 shall cover at least the period from 15 December 2019 until 19 October 2021. When preparing the report, the Commission may use data collected by Member States in relation to paragraph 1 and shall take account of the specificities of various payment transactions, distinguishing in particular between transactions initiated at an ATM and at the point of sale.

([12]) Regulation (EU) 2019/518 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges (OJ L 91, 29.3.2019, p. 36).

Article 15

Repeal

Regulation (EC) No 924/2009 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 16

Entry into force

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

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

Done at Brussels, 14 July 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. LOGAR

ANNEX I

Repealed Regulation with list of the successive amendments thereto

Regulation (EC) No 924/2009 of the European Parliament and of the Council (OJ L 266, 9.10.2009, p. 11)	
Regulation (EU) No 260/2012 of the European Parliament and of the Council (OJ L 94, 30.3.2012, p. 22)	(Only the references made by Article 17 to Articles 2, 3, 4, 5, 7 and 8)
Regulation (EU) 2019/518 of the European Parliament and of the Council (OJ L 91, 29.3.2019, p. 36)	

ANNEX II

Correlation table

Regulation (EC) No 924/2009	This Regulation
Article 1(1), (2) and (3)	Article 1(1), (2) and (3)
Article 1(4)	–
Article 2	Article 2
Article 3(1)	Article 3(1)
Article 3(1a)	Article 3(2)
Article 3(2)	Article 3(3)
Article 3(4)	Article 3(4)
Article 3a	Article 4
Article 3b	Article 5
Article 4(1)	Article 6(1)
Article 4(3)	Article 6(2)
Article 4(4)	Article 6(3)
Article 5	Article 7
Article 6	–
Article 7	–
Article 9, first paragraph	Article 8, first paragraph
Article 9, second paragraph	Article 8, second paragraph
Article 9, third paragraph	–
Article 9, fourth paragraph	Article 8, third paragraph
Article 10(1), first subparagraph	Article 9(1)
Article 10(1), second subparagraph	–
Article 10(2)	Article 9(2)
Article 11	Article 10
Article 12	Article 11
Article 13	Article 12
Article 14(1)	Article 13
Article 14(2)	–
Article 14(3)	–
Article 15	Article 14
Article 16	Article 15
Article 17	Article 16
–	Annex I
–	Annex II

REGULATION (EU) 2021/1231 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 July 2021

amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Since the adoption of Regulation (EU) 2019/833 of the European Parliament and of the Council ([3]), the Northwest Atlantic Fisheries Organization (NAFO) adopted at its 41st and 42nd annual meetings, in 2019 and 2020 respectively, a number of legally binding decisions for the conservation of fishery resources under its purview.

(2) Those decisions are addressed to the NAFO Contracting Parties, but also contain obligations for the operators (for example the master of the vessel). New NAFO conservation and enforcement measures (CEM) that are binding on all NAFO Contracting Parties have entered into force. They are to be incorporated into Union law to the extent that they are not already provided for by Union law.

(3) Regulation (EU) 2019/833 should therefore be adapted in order to apply NAFO mesh measurement norms, to introduce the definition of 'fishing vessel' used by NAFO so as to allow the Union control and enforcement authorities to work in line with other NAFO Contracting Parties, and to improve the information flow between the Member States' authorities, the Commission and the NAFO Executive Secretary.

(4) In accordance with Article 3 of Regulation (EU) 2019/473 of the European Parliament and of the Council ([4]), the mission of the European Fisheries Control Agency (EFCA) is, inter alia, to organise the operational coordination of fisheries control and inspection activities by Member States for the implementation of international control and inspection programmes such as the NAFO Joint Inspection and Surveillance Scheme, and to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties. It is therefore appropriate for EFCA to be the body that receives from Member States and transmits to the NAFO Executive Secretary information relating to control and inspection, such as at sea inspection reports and notifications of the control observers scheme.

(5) The CEM procedure for Contracting Parties to transmit information to the NAFO Monitoring, Control and Surveillance (MCS) website involves sending the information to be transmitted to the NAFO Executive Secretary. It is therefore necessary to update the relevant provisions in Regulation (EU) 2019/833 to reflect that change and to clarify the channels to be used by Member States to transmit the relevant information.

([1]) OJ C 429, 11.12.2020, p. 279.

([2]) Position of the European Parliament of 23 June 2021 (not yet published in the Official Journal) and decision of the Council of 13 July 2021.

([3]) Regulation (EU) 2019/833 of the European Parliament and of the Council of 20 May 2019 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No 2115/2005 and (EC) No 1386/2007 (OJ L 141, 28.5.2019, p. 1).

([4]) Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

(6) It is also necessary to introduce the CEM provisions for the protection of Greenland shark (*Somniosus microcephalus*), to align the provisions of chartering arrangements with those in the CEM and to specify the need for the consent of the port State Contracting Party to be given to inspectors of another Contracting Party for their deployment.

(7) Certain provisions of the CEM are likely to be amended at NAFO annual meetings due to the introduction of new technical measures in relation to changing stock biomass and a review of area restrictions for bottom fishing activities. Therefore, in order to swiftly incorporate into Union law future amendments to the CEM before the start of fishing season, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the regulation of mesh sizes, sorting grids or grates and toggle chains in Northern prawn fishing and in respect of area restrictions for the bottom fishing activities. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([5]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(8) Regulation (EU) 2019/833 should therefore be amended,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2019/833

Regulation (EU) 2019/833 is amended as follows:

(1) Article 3 is amended as follows:

(a) point (6) is replaced by following:

'(6) "fishing vessel" means any Union vessel equipped for, intended for or engaged in fishing activities, including fish processing, transhipment or any other activity in preparation for or related to fishing activities, including experimental or exploratory fishing activities;';

(b) the following point is added:

'(31) "MCS website" means the NAFO Monitoring, Control and Surveillance website that contains information relevant for at-sea and in-port inspections.';

(2) Article 5 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Member States may permit fishing vessels flying their flag to fish for stocks for which the Union has not been allocated a quota in accordance with the fishing opportunities in force (the "Others" quota), if such quota exists and notification of closure has not been given by the NAFO Executive Secretary.';

(b) in paragraph 3, point (c) is replaced by the following:

'(c) notify the Commission and EFCA of the names of Union vessels that intend to fish the "Others" quota at least 48 hours in advance of each entry, and after a minimum of 48 hours of absence from the Regulatory Area. That notification shall, if possible, be accompanied by an estimate of the projected catch. Where the Commission considers that the relevant conditions established in the CEM are met, it shall notify the NAFO Executive Secretary.';

([5]) OJ L 123, 12.5.2016, p. 1.

(3) in Article 6(1), points (d) and (e) are replaced by the following:

‘(d) close its directed fishery for redfish in Division 3M between 24:00 UTC of the day the accumulated reported catch is estimated to reach 50 % of the TAC of redfish in Division 3M, as notified in accordance with paragraph 3, and 1 July;

(e) close its directed fishery for redfish in Division 3M at 24:00 UTC of the day the accumulated reported catch is estimated to reach 100 % of the TAC of redfish in Division 3M, as notified in accordance with paragraph 3;’;

(4) in Article 7(2), points (a) and (b) are replaced by the following:

‘(a) no quota has been allocated to the Union for that stock in that Division, in accordance with the fishing opportunities in force;

(b) a ban on fishing for that particular stock is in force (moratorium); or’;

(5) the following Article is inserted:

‘*Article 9a*

Cod in Division 3M

1. The following control measures shall apply to vessels with more than 1 250 kg of cod catches from Division 3M on board:

(a) vessels shall land or tranship their cod catches from Division 3M only in ports designated in accordance with Article 39;

(b) at least 48 hours before its estimated time of arrival in port, a vessel or its representative on its behalf shall advise the competent port authority of its estimated time of arrival, the estimated quantity of cod catches from Division 3M retained on board, and information on the Division or Divisions where any other cod catches retained on board were taken;

(c) each Member State shall inspect each landing or transhipment of cod catches from Division 3M in its ports and prepare an inspection report in the format prescribed in Annex IV.C to the CEM referred to in point 9 of the Annex to this Regulation, and send it to the NAFO Executive Secretary, with the Commission and EFCA in copy, within 12 working days from the date on which the inspection was completed. That report shall identify and provide details of any infringement of this Regulation detected during the port inspection. It shall include all relevant information available with regard to infringements detected at sea during the current trip of the inspected fishing vessel.

2. Each Member State shall inspect vessels with less than 1 250 kg of cod catches from Division 3M on board on a risk management basis.

3. The Commission or a body designated by it shall ensure that the information referred to in point (c) of paragraph 1 is transmitted to the NAFO Executive Secretary without delay, for posting on the MCS website.’;

(6) Article 10 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) each Member State shall send to the Commission the name of every port it has so designated, which shall transmit it to the NAFO Executive Secretary. Any subsequent changes to the list shall be sent in replacement of the previous one not less than 20 days before the change comes into effect;’;

(ii) point (e) is replaced by the following:

‘(e) each Member State shall inspect each landing of Greenland halibut in its ports and prepare an inspection report in the format prescribed in Annex IV.C to the CEM referred to in point 9 of the Annex to this Regulation, and send it to the NAFO Executive Secretary with the Commission and EFCA in copy, within 14 working days from the date on which the inspection was completed. The report shall identify and provide details of any infringement of this Regulation detected during the port inspection. It shall include all relevant information available with regard to infringements detected at sea during the current trip of the inspected fishing vessel.’;

(b) in paragraph 2, point (d)(i) is replaced by the following:

‘(i) it receives no confirmation within 72 hours of the notification it has transmitted in accordance with point (a); or’;

(7) in Article 12, the following paragraphs are added:

‘9. It shall be prohibited to conduct a directed fishery for Greenland shark (*Somniosus microcephalus*) in the Regulatory Area.

10. Fishing vessels flying the flag of a Member State shall undertake all reasonable efforts to minimise incidental catch and mortality, and, where alive, release Greenland sharks in a manner that causes the least possible harm.’;

(8) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. For the purpose of this Article, mesh size shall be measured in accordance with Annex III.A to the CEM referred to in point 10 of the Annex to this Regulation.’;

(b) in paragraph 2, point (a) is replaced by the following:

‘(a) 40 mm for shrimps, including prawns (PRA);’;

(9) in Article 14, the following paragraph is inserted:

‘3a. Fishing vessels conducting a directed trawl fishery for cod in Division 3M shall use a sorting grid for the purpose of reducing the catches of smaller individuals of cod with a minimum bar spacing of 55 mm. The sorting grid shall be placed in the top side panel of the trawl preceding the codend.’;

(10) Article 18 is replaced by the following:

‘*Article 18*

Area restrictions for bottom fishing activities

1. Until 31 December 2021, no vessel shall engage in bottom fishing activities in any of the areas illustrated in Figure 3 of the CEM referred to in point 14 of the Annex to this Regulation, and defined by connecting the coordinates specified in Table 5 of the CEM referred to in point 15 of the Annex to this Regulation, in their numerical order and back to coordinate 1.

2. Until 31 December 2021, no vessel shall engage in bottom fishing activities in the area of Division 3O illustrated in Figure 4 of the CEM referred to in point 16 of the Annex to this Regulation, and defined by connecting the coordinates specified in Table 6 of the CEM referred to in point 17 of the Annex to this Regulation, in their numerical order and back to coordinate 1.

3. Until 31 December 2021, no vessel shall engage in bottom fishing activities in areas 1-13 illustrated in Figure 5 of the CEM referred to in point 18 of the Annex to this Regulation, and defined by connecting the coordinates specified in Table 7 of the CEM referred to in point 19 of the Annex to this Regulation, in numerical order and back to coordinate 1.’;

(11) Article 23 is replaced by the following:

‘*Article 23*

Chartering arrangements

1. For the purpose of this Article, “chartering Contracting Party” refers to the Contracting Party that holds an allocation as indicated in Annex I.A and Annex I.B to the CEM, or the Member State that holds a fishing opportunities allocation, and “flag State Contracting Party” refers to the Contracting Party or to the Member State in which the chartered vessel is registered.

2. All or part of the fishing allocation of a chartering Contracting Party can be harvested using a chartered authorised vessel (“chartered vessel”) flying the flag of another Contracting Party, subject to the following conditions:

(a) the flag State Contracting Party has consented in writing to the chartering arrangement;

(b) the chartering arrangement is limited to one fishing vessel per flag State Contracting Party in any calendar year;

(c) the duration of the fishing operations under the chartering arrangement does not exceed six months cumulatively in any calendar year; and

(d) the chartered vessel is not a vessel that has previously been identified as having engaged in IUU fishing.

3. All catch and by-catch taken by the chartered vessel in accordance with the chartering arrangement shall be attributed to the chartering Contracting Party.

4. The flag State Contracting Party shall not authorise the chartered vessel, when conducting fishing operations under the chartering arrangement, to fish any of the flag State Contracting Party's allocations or under another charter at the same time.

5. No transhipment at sea may be carried out without the prior authorisation of the chartering Contracting Party, which shall ensure that it is carried out under the supervision of an observer on board.

6. The flag State Contracting Party shall notify the NAFO Executive Secretary in writing prior to the start of the chartering arrangement of its consent to the chartering arrangement and provide to the chartered vessel a copy of the notice issued by the NAFO Executive Secretary with the details of the chartering.

6a. Where the chartered vessel is a Union fishing vessel, the flag Member State shall notify the Commission in writing prior to the start of the chartering arrangement. Where the Commission considers that the relevant conditions established in the CEM are met, it shall notify the NAFO Executive Secretary of the consent to the chartering arrangement.

6b. The chartering Contracting Party shall, before the date the chartering arrangement is effective, provide the following information in writing to the NAFO Executive Secretary and to the chartered vessel, which shall at all times carry a copy on board:

(a) the name, flag State registration, IMO number and flag State of the vessel;

(b) previous name(s) and flag State(s) of the vessel, if any;

(c) the name and address of the owner(s) and operators of the vessel;

(d) a copy of the chartering arrangement and any fishing authorisation or licence the chartering Contracting Party has issued to the chartered vessel; and

(e) the allocation assigned to the vessel.

6c. Where the chartering Contracting Party is the Union, the chartering Member State shall notify the information referred to in paragraph 6b to the Commission before the chartering arrangement becomes effective. Where the Commission considers that the relevant conditions established in the CEM are met, it shall transmit the information to the NAFO Executive Secretary.

7. Where the chartered vessel is a Union fishing vessel, the flag Member State shall notify the Commission immediately upon the occurrence of any of the following events:

(a) start of fishing operations under the chartering arrangement;

(b) suspension of fishing operations under the chartering arrangement;

(c) resumption of fishing operations under a chartering arrangement that has been suspended;

(d) end of fishing operations under the chartering arrangement.

8. The flag State Contracting Party shall maintain a separate record of catch and by-catch data from fishing operations in accordance with every charter of a vessel flying its flag and report them to the Commission, which shall transmit it to the chartering Contracting Party and the NAFO Executive Secretary.';

(12) Article 25 is amended as follows:

(a) in paragraph 2, point (a) is replaced by the following:

'(a) accurately records the catch of each tow/set by Division;';

(b) paragraph 3 is amended as follows:

(i) point (b) is replaced by the following:

‘(b) records the production of each species and product type by Division;’;

(ii) point (d) is replaced by the following:

‘(d) records each entry in accordance with Article 24; and’;

(iii) the following point is added:

‘(e) when production has occurred on the day of an inspection, makes the information related to any catch processed for that day available to an inspector upon request.’;

(c) paragraph 6 is amended as follows:

(i) in the first subparagraph, point (c) is replaced by the following:

‘(c) catch report (CAT): quantity of catch retained and quantity discarded by species for the day preceding the report, by Division, including nil catch returns, sent daily before 12:00 UTC, unless otherwise submitted in a COX report; nil catch retained and nil discards of all species shall be reported using the 3 alpha code MZZ (marine species not specified) and quantity as “0” as the following examples demonstrate (//CA/MZZ 0//and//RJ/MZZ 0//);’;

(ii) the second subparagraph is replaced by the following:

‘Catch shall be reported at the species level under their corresponding 3-alpha code presented in Annex I.C to the CEM referred to in point 11 of the Annex to this Regulation or, if not contained in Annex I.C to the CEM, the FAO Aquatic Sciences and Fisheries Information System List of Species for Fishery Statistics shall be used. The estimated weight of sharks caught per haul or set shall also be recorded.’;

(d) in paragraph 9, the following subparagraph is added:

‘Point (a) of the first subparagraph of this paragraph shall not apply if all catches have been reported in accordance with paragraph 6.’;

(13) Article 27 is amended as follows:

(a) in paragraph 5, the following point is added:

‘(g) electronically and without delay following its receipt, transmit to the NAFO Executive Secretary the daily observer report referred to in point (e) of paragraph 11.’;

(b) paragraph 7 is replaced by the following:

‘7. Each Member State shall provide:

(a) not later than 24 hours in advance of an observer’s deployment on board a fishing vessel, the name of the fishing vessel and international radio call sign, together with the name and ID (if applicable) of the observer concerned;

(b) within 20 days following the arrival of the vessel in port, the observer trip report referred to in paragraph 11;

(c) by 15 February each year for the previous calendar year, a report on its compliance with the obligations set out in this Article.’;

(c) paragraph 15 is replaced by the following:

‘15. The information that Member States are required to provide in accordance with points (c) and (d) of paragraph 3, point (a) of paragraph 5, point (c) of paragraph 6 and paragraph 7 shall be transmitted to EFCA with the Commission in copy. EFCA shall ensure that this information is transmitted to the NAFO Executive Secretary without delay, for posting on the MCS website.’;

(14) Article 28 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Inspection and surveillance shall be carried out by inspectors assigned by the Member States, EFCA and the Commission. Member States and the Commission shall notify inspectors to EFCA through the Scheme.’;

(b) paragraph 7 is replaced by the following:

‘7. Inspectors visiting a research vessel shall note the status of the vessel, and shall limit inspection procedures to those necessary to ascertain that the vessel is conducting activities consistent with its research plan. Where the inspectors have reasonable grounds to suspect the vessel is conducting activities that are not consistent with its research plan, the Commission and EFCA shall be informed immediately, and the CEM shall fully apply.’;

(15) Article 30 is amended as follows:

(a) in paragraph 2, point (a) is replaced by the following:

‘(a) transmit the surveillance report to EFCA which shall submit it without delay to the NAFO Executive Secretary for transmission to the flag State Contracting Party of the vessel;’;

(b) paragraph 4 is replaced by the following:

‘4. Each Member State shall send the investigation report to EFCA, which shall send it to the NAFO Executive Secretary and to the Commission.’;

(16) Article 33 is amended as follows:

(a) in paragraph 2, point (c)(ii) is replaced by the following:

‘(ii) record summaries as well as differences between the recorded catch and their estimates of the catch on board in the appropriate sections of the inspection report;’;

(b) in paragraph 3, point (a) is replaced by the following:

‘(a) send to EFCA the at sea inspection report, if possible within 20 days of the inspection, which shall submit it to the NAFO Executive Secretary;’;

(17) Article 34 is amended as follows:

(a) in paragraph 1, point (g) is replaced by the following:

‘(g) notify any observer on board of the infringement.’;

(b) paragraph 2 is amended as follows:

(i) in the first subparagraph, point (a) is replaced by the following:

‘(a) within 24 hours from detection of the infringement, transmit to the Commission and EFCA, which shall in turn transmit to the competent authority of the flag State Contracting Party or Member State if different from the inspecting Member State, and the NAFO Executive Secretary, written notification of the infringement reported by its inspectors. The written notification shall include the information entered in the Infringement section of the inspection report in Annex IV.B to the CEM referred to in point 41 of the Annex to this Regulation, cite the relevant measures and describe in detail the basis for issuing the notice of infringement, and the evidence in support of the notice, and where possible, be accompanied by images of any gear, catch or other evidence relating to the infringement referred to in paragraph 1 of this Article;’;

(ii) the second subparagraph is replaced by the following:

‘EFCA shall submit the inspection report to the NAFO Executive Secretary.’;

(18) Article 35 is amended as follows:

(a) paragraph 1 is amended as follows:

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

‘(a) fishing the “Others” quota without prior notification to the Commission and EFCA in contravention of Article 5;’;

(ii) point (e) is replaced by the following:

‘(e) fishing in closed area, in contravention of Article 9(5) or Article 18;’;

(iii) point (g) is replaced by the following:

‘(g) using an unauthorised mesh size or grid size in contravention of Article 13 or Article 14;’;

(iv) point (k) is replaced by the following:

‘(k) failure to communicate messages relating to catch in contravention of Article 12(1) or Article 25;’;

(b) paragraph 5 is replaced by the following:

‘5. For the purposes of paragraphs 3 and 4, “misrecording of catches” means a difference of at least 10 tonnes or 20 %, whichever is greater, between the inspectors’ estimates of processed catch on board, by species or in total, and the figures recorded in the production logbook, calculated as a percentage of the production logbook figures.’;

(c) paragraph 6 is replaced by the following:

‘6. Subject to the consent of the flag Member State and of the port State Contracting Party if different, inspectors of another Contracting Party or Member State may participate in the full inspection and enumeration of the catch.’;

(19) Article 39 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

‘1. The port Member State shall provide the Commission with a list of designated ports to which fishing vessels may be permitted entry for the purpose of landing, transhipment and/or provision of port services, and shall to the greatest extent possible ensure that each designated port has sufficient capacity to conduct inspections pursuant to this Chapter. The Commission shall notify the NAFO Executive Secretary of the list of designated ports. Any subsequent changes to the list shall be posted in replacement of the previous one no less than 15 days before the change comes into effect.

2. The port Member State shall establish a minimum prior request period. The prior request period shall be three working days before the estimated time of arrival. However, in agreement with the Commission, the port Member State may make provisions for another prior request period, taking into account, inter alia, the catch product type or the distance between fishing grounds and its ports. The port Member State shall provide the information on the prior request period to the Commission, which shall notify the NAFO Executive Secretary.

3. The port Member State shall designate the competent authority which shall act as the contact point for the purposes of receiving requests in accordance with Article 41, receiving confirmations in accordance with Article 40(2) and issuing authorisations in accordance with paragraph 6 of this Article. The port Member State shall provide the name of the competent authority and its contact information to the Commission, which shall notify the NAFO Executive Secretary.’;

(b) paragraphs 8 and 9 are replaced by the following:

‘8. The port Member State shall without delay notify the master of the vessel of its decision on whether to authorise or deny the port entry or, if the vessel is in port, the landing, transhipment and other use of port. If the vessel entry is authorised the port Member State shall return to the master of the vessel a copy of the form Port State Control Prior Request Form in Annex II.L to the CEM referred to in point 43 of the Annex to this Regulation with Part C duly completed. That copy shall also be sent to the NAFO Executive Secretary with the Commission and EFCA in copy. In the case of a denial the port Member State shall also notify the flag NAFO Contracting Party.

9. In case of cancellation of the prior request referred to in Article 41(2) the port Member State shall send a copy of the cancelled Port State Control Prior Request Form to the NAFO Executive Secretary with the Commission and EFCA in copy.’;

(c) paragraph 17 is replaced by the following:

‘17. The port Member State shall without delay send a copy of each port State control inspection report to the NAFO Executive Secretary with the Commission and EFCA in copy.’;

(20) Article 45 is replaced by the following:

‘*Article 45*

Sighting and inspection of non-Contracting Party vessels in the Regulatory Area

Each Member State or, when appropriate, EFCA, with an inspection and/or surveillance presence in the Regulatory Area authorised under the Joint Inspection and Surveillance Scheme that sights or identifies a non-Contracting Party vessel engaged in fishing activities in the Regulatory Area shall:

(a) transmit immediately the information to the Commission using the format of the surveillance report set out in Annex IV.A to the CEM referred to in point 38 of the Annex to this Regulation;

(b) attempt to inform the master of the vessel that the vessel is presumed to be engaged in IUU fishing and that this information will be distributed to all Contracting Parties, relevant RFMOs and the flag State of the vessel;

(c) if appropriate, request permission from the master of the vessel to board the vessel for inspection; and

(d) where the master of the vessel agrees to inspection:

(i) transmit the inspector’s findings to the Commission without delay, using the inspection report form set out in Annex IV.B to the CEM referred to in point 41 of the Annex to this Regulation; and

(ii) provide a copy of the inspection report to the master of the vessel.’;

(21) in Article 50(2) the following points are added:

‘(i) mesh sizes set out in Article 13(2);

(j) technical specifications for sorting grids, grates and toggle chains in the Northern prawn fishery set out in Article 14(2) as well as technical specifications for sorting grids or attachments set out in Article 14(3) or (3a);

(k) area or period restrictions for bottom fishing activities set out in Article 18.’;

(22) the Annex is amended as follows:

(a) point (44) is replaced by the following:

‘(44) Annex IV.H to the CEM on inspections referred to in Article 39(11);’;

(b) the following point is added:

‘(45) Annex II.H of the CEM on the procedure for granting access to individuals within Contracting Parties to the MCS Website.’.

Article 2

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

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

Done at Brussels, 14 July 2021.

For the European Parliament	*For the Council*
The President	*The President*
D. M. SASSOLI	A. LOGAR

REGULATION (EU) 2021/1232 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 July 2021

on a temporary derogation from certain provisions of Directive 2002/58/EC as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combating online child sexual abuse

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2), in conjunction with Article 114(1) thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Directive 2002/58/EC of the European Parliament and of the Council ([3]) lays down rules ensuring the right to privacy and confidentiality with respect to the processing of personal data in exchanges of data in the electronic communication sector. That Directive particularises and complements Regulation (EU) 2016/679 of the European Parliament and of the Council ([4]).

(2) Directive 2002/58/EC applies to the processing of personal data in connection with the provision of publicly available electronic communication services. Until 21 December 2020, the definition of 'electronic communication service' set out in Article 2, point (c), of Directive 2002/21/EC of the European Parliament and of the Council ([5]) applied. On that date, Directive (EU) 2018/1972 of the European Parliament and of the Council ([6]) repealed Directive 2002/21/EC. The definition of 'electronic communications service' in Article 2, point (4), of Directive (EU) 2018/1972 includes number-independent interpersonal communications services as defined in Article 2, point (7), of that Directive. Number-independent interpersonal communications services, which include, for example, Voice over internet Protocol, messaging and web-based email services, were therefore brought within the scope of Directive 2002/58/EC on 21 December 2020.

(3) In accordance with Article 6(1) of the Treaty on European Union (TEU), the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union (the 'Charter'). Article 7 of the Charter protects the fundamental right of everyone to the respect for his or her private and family life, home and communications, which includes the confidentiality of communications. Article 8 of the Charter contains the right to the protection of personal data.

([1]) OJ C 10, 11.1.2021, p. 63.

([2]) Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal) and decision of the Council of 12 July 2021.

([3]) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

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

([5]) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

([6]) Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

(4) Article 3(1) of the 1989 United Nations Convention on the Rights of the Child (UNCRC) and Article 24(2) of the Charter provide that, in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Article 3(2) UNCRC and Article 24(1) of the Charter furthermore evoke the right of children to such protection and care as is necessary for their well-being.

(5) The protection of children, both offline and online, is one of the Union's priorities. Sexual abuse and sexual exploitation of children constitute serious violations of human and fundamental rights, in particular of the rights of children to be protected from all forms of violence, abuse and neglect, maltreatment or exploitation, including sexual abuse, as provided for by the UNCRC and by the Charter. Digitalisation has brought about many benefits for society and the economy, but it has also brought about challenges, including an increase of online child sexual abuse. On 24 July 2020, the Commission adopted a communication entitled 'EU strategy for a more effective fight against child sexual abuse' (the 'Strategy'). The Strategy aims to provide an effective response, at Union level, to the crime of child sexual abuse.

(6) In line with Directive 2011/93/EU of the European Parliament and of the Council ([7]), this Regulation does not govern Member States' policies with regard to consensual sexual activities in which children may be involved and which can be regarded as the normal discovery of sexuality in the course of human development, taking account of the different cultural and legal traditions and of new forms of establishing and maintaining relations among children and adolescents, including through information and communication technologies.

(7) Some providers of certain number-independent interpersonal communications services ('providers'), such as webmail and messaging services, already use specific technologies on a voluntary basis to detect online child sexual abuse on their services and report it to law enforcement authorities and to organisations acting in the public interest against child sexual abuse, by scanning either the content, such as images and text, or the traffic data of communications using, in some instances, historical data. The technology used for those activities could be hashing technology for images and videos and classifiers and artificial intelligence for analysing text or traffic data. When using hashing technology, online child sexual abuse material is reported when a positive hit is returned, which means a match resulting from a comparison between an image or a video and a unique, non-reconvertible digital signature ('hash') from a database maintained by an organisation acting in the public interest against child sexual abuse that contains verified online child sexual abuse material. Those providers refer to national hotlines for reporting online child sexual abuse material and to organisations, located both within the Union and in third countries, whose purpose is to identify children, reduce child sexual exploitation and sexual abuse and prevent child victimisation. Such organisations might not fall within the scope of Regulation (EU) 2016/679. Collectively, such voluntary activities play a valuable role in enabling the identification and rescue of victims, whose fundamental rights to human dignity and to physical and mental integrity are severely violated. Such voluntary activities are also important in reducing the further dissemination of online child sexual abuse material and in contributing to the identification and investigation of offenders and to the prevention, detection, investigation and prosecution of child sexual abuse offences.

(8) Notwithstanding their legitimate objective, voluntary activities by providers to detect online child sexual abuse on their services and report it constitute an interference with the fundamental rights to respect for private and family life and to the protection of personal data of all users of number-independent interpersonal communications services ('users'). Any limitation to the exercise of the fundamental right to respect for private and family life, including the confidentiality of communications, cannot be justified merely on the grounds that providers were using certain technologies at a time when number-independent interpersonal communications services did not fall within the definition of 'electronic communications services'. Such limitations are only possible under certain conditions. Pursuant to Article 52(1) of the Charter, such limitations are to be provided for by law and are to respect the essence of the rights to private and family life and to the protection of personal data and, subject to the principle of proportionality, they are to be necessary and genuinely meet objectives of general interest recognised by

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([7]) Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

the Union or the need to protect the rights and freedoms of others. Where such limitations permanently involve a general and indiscriminate monitoring and analysis of the communications of all users, they interfere with the right to confidentiality of communications.

(9) Until 20 December 2020, the processing of personal data by providers by means of voluntary measures for the purpose of detecting online child sexual abuse on their services and reporting it and removing online child sexual abuse material from their services was governed solely by Regulation (EU) 2016/679. Directive (EU) 2018/1972, which was to be transposed by 20 December 2020, brought providers within the scope of Directive 2002/58/EC. In order to continue using such voluntary measures after 20 December 2020, providers should comply with the conditions set out in this Regulation. Regulation (EU) 2016/679 will continue to apply to the processing of personal data carried out by means of such voluntary measures.

(10) Directive 2002/58/EC does not contain any specific provisions concerning the processing of personal data by providers in connection with the provision of electronic communication services for the purpose of detecting online child sexual abuse on their services and reporting it and removing online child sexual abuse material from their services. However, pursuant to Article 15(1) of Directive 2002/58/EC, Member States can adopt legislative measures to restrict the scope of the rights and obligations provided for in, inter alia, Articles 5 and 6 of that Directive, which concern the confidentiality of communications and traffic data, for the purposes of the prevention, detection, investigation and prosecution of criminal offences linked to child sexual abuse. In the absence of such national legislative measures and pending the adoption of a longer-term legal framework to tackle child sexual abuse at Union level, providers can no longer rely on Regulation (EU) 2016/679 to continue to use voluntary measures to detect online child sexual abuse on their services and report it and to remove online child sexual abuse material from their services beyond 21 December 2020. This Regulation does not provide for a legal ground for the processing of personal data by providers for the sole purpose of detecting online child sexual abuse on their services and reporting it and removing online child sexual abuse material from their services, but it provides for a derogation from certain provisions of Directive 2002/58/EC. This Regulation lays down additional safeguards which are to be respected by providers if they wish to rely on it.

(11) Processing of data for the purposes of this Regulation could entail the processing of special categories of personal data as set out in Regulation (EU) 2016/679. Processing of images and videos by specific technical means which allow for the unique identification or authentication of a natural person is considered processing of special categories of personal data.

(12) This Regulation provides for a temporary derogation from Articles 5(1) and 6(1) of Directive 2002/58/EC, which protect the confidentiality of communications and traffic data. The voluntary use by providers of technologies for the processing of personal and other data to the extent necessary to detect online child sexual abuse on their services and report it and to remove online child sexual abuse material from their services falls within the scope of the derogation provided for by this Regulation provided that such use complies with the conditions set out in this Regulation and is therefore subject to the safeguards and conditions set out in Regulation (EU) 2016/679.

(13) Directive 2002/58/EC was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union (TFEU). Moreover, not all Member States have adopted legislative measures in accordance with Directive 2002/58/EC to restrict the scope of the rights and obligations related to the confidentiality of communications and traffic data as set out in that Directive, and the adoption of such measures involves a significant risk of fragmentation likely to negatively affect the internal market. Consequently, this Regulation should be based on Article 114 TFEU.

(14) Given that data related to electronic communications involving natural persons usually qualify as personal data, this Regulation should also be based on Article 16 TFEU, which provides a specific legal basis for the adoption of rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and rules relating to the free movement of such data.

(15) Regulation (EU) 2016/679 applies to the processing of personal data in connection with the provision of electronic communications services by providers for the sole purpose of detecting online child sexual abuse on their services and reporting it and removing online child sexual abuse material from their services to the extent that that processing falls within the scope of the derogation provided for by this Regulation.

(16) The types of technologies used for the purposes of this Regulation should be the least privacy-intrusive in accordance with the state of the art in the industry. Those technologies should not be used to systematically filter and scan text in communications unless it is solely to detect patterns which point to possible concrete reasons for suspecting online child sexual abuse, and they should not be able to deduce the substance of the content of the communications. In the case of technology used for identifying solicitation of children, such concrete reasons for suspicion should be based on objectively identified risk factors such as age difference and the likely involvement of a child in the scanned communication.

(17) Appropriate procedures and redress mechanisms should be put in place to ensure that individuals can lodge complaints with providers. Such procedures and mechanisms are, in particular, relevant where content that does not constitute online child sexual abuse has been removed or reported to law enforcement authorities or to an organisation acting in the public interest against child sexual abuse.

(18) In order to ensure accuracy and reliability as much as possible, technology used for the purposes of this Regulation should, in accordance with the state of the art in the industry, limit the numbers and ratios of errors (false positives) to the maximum extent possible and should, where necessary, rectify without delay any such errors that might nonetheless occur.

(19) The content data and traffic data processed and the personal data generated when carrying out the activities covered by this Regulation, and the period during which the data are subsequently stored in the event of the identification of suspected online child sexual abuse, should remain limited to what is strictly necessary to carry out those activities. Any data should be immediately and permanently deleted as soon as they are no longer strictly necessary for one of the purposes specified in this Regulation, including where no suspected online child sexual abuse is identified, and in any event no later than 12 months from the date of the detection of suspected online child sexual abuse. This should be without prejudice to the possibility to store relevant content data and traffic data in accordance with Directive 2002/58/EC. This Regulation does not affect the application of any legal obligation under Union or national law to preserve data that applies to providers.

(20) This Regulation does not prevent a provider that has reported online child sexual abuse to law enforcement authorities from requesting those authorities to acknowledge receipt of the report.

(21) In order to ensure transparency and accountability in respect of the activities undertaken pursuant to the derogation provided for by this Regulation, providers should, by 3 February 2022, and by 31 January every year thereafter, publish and submit reports to the competent supervisory authority designated pursuant to Regulation (EU) 2016/679 ('supervisory authority') and to the Commission. Such reports should cover processing falling within the scope of this Regulation, including the type and volumes of data processed, the specific grounds relied on for the processing of personal data pursuant to Regulation (EU) 2016/679, the grounds relied on for transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, where applicable, the number of cases of online child sexual abuse identified, differentiating between online child sexual abuse material and solicitation of children, the number of cases in which a user has lodged a complaint with the internal redress mechanism or sought a judicial remedy and the outcome of such complaints and judicial proceedings, the numbers and ratios of

errors (false positives) of the different technologies used, the measures applied to limit the error rate and the error rate achieved, the retention policy and the data protection safeguards applied pursuant to Regulation (EU) 2016/679, and the names of the organisations acting in the public interest against child sexual abuse with which data have been shared pursuant to this Regulation.

(22) In order to support the supervisory authorities with their tasks, the Commission should request the European Data Protection Board to issue guidelines on the compliance of processing falling within the scope of the derogation laid down in this Regulation with Regulation (EU) 2016/679. When the supervisory authorities assess whether an established or new technology to be used is in accordance with the state of the art in the industry, the least privacy-intrusive and operating on an adequate legal basis under Regulation (EU) 2016/679, those guidelines should, in particular, assist the supervisory authorities in providing advice in the framework of the prior consultation procedure set out in that Regulation.

(23) This Regulation restricts the right to protection of the confidentiality of communications and derogates from the decision taken under Directive (EU) 2018/1972 to subject number-independent interpersonal communications services to the same rules that apply to all other electronic communications services as regards privacy for the sole purpose of detecting online child sexual abuse on those services and reporting it to law enforcement authorities or to organisations acting in the public interest against child sexual abuse and removing online child sexual abuse material from those services. The period of application of this Regulation should, therefore, be limited to three years from its date of application to allow for the necessary time to adopt a new long-term legal framework. Where the long-term legal framework is adopted and enters into force before that date, that long-term legal framework should repeal this Regulation.

(24) With regard to all other activities that fall within the scope of Directive 2002/58/EC, providers should be subject to the specific obligations set out in that Directive and, consequently, to the monitoring and investigative powers of the competent authorities designated pursuant to that Directive.

(25) End-to-end encryption is an important tool to guarantee the security and confidentiality of the communications of users, including those of children. Any weakening of encryption could potentially be abused by malicious third parties. Nothing in this Regulation should therefore be interpreted as prohibiting or weakening end-to-end encryption.

(26) The right to respect for private and family life, including the confidentiality of communications, is a fundamental right guaranteed under Article 7 of the Charter. It is thus also a prerequisite for secure communications between victims of child sexual abuse and a trusted adult or organisations active in the fight against child sexual abuse and for communications between victims and their lawyers.

(27) This Regulation should be without prejudice to the rules on professional secrecy under national law, such as rules on the protection of professional communications, between doctors and their patients, between journalists and their sources, or between lawyers and their clients, in particular since the confidentiality of communications between lawyers and their clients is key to ensuring the effective exercise of the rights of the defence as an essential part of the right to a fair trial. This Regulation should also be without prejudice to national rules on registers of public authorities or organisations which offer counselling to individuals in distress.

(28) Providers should communicate to the Commission the names of the organisations acting in the public interest against child sexual abuse to which they report potential online child sexual abuse under this Regulation. While it is the sole responsibility of the providers acting as controllers to assess with which third party they can share personal data under Regulation (EU) 2016/679, the Commission should ensure transparency regarding the transfer of potential cases of online child sexual abuse by making public on its website a list of the organisations acting in the public interest against child sexual abuse communicated to it. That public list should be easily accessible. It should also be possible for providers to use that list in order to identify relevant organisations in the global fight against

online child sexual abuse. That list should be without prejudice to the obligations of the providers acting as controllers under Regulation (EU) 2016/679, including with regard to their obligation to conduct any transfer of personal data outside the Union pursuant to Chapter V of that Regulation and their obligation to fulfil all of the obligations under Chapter IV of that Regulation.

(29) The statistics to be provided by Member States under this Regulation are important indicators for the evaluation of policy, including legislative measures. In addition, it is important to recognise the impact of secondary victimisation inherent in the sharing of images and videos of victims of child sexual abuse that might have been circulating for years and which is not fully reflected in such statistics.

(30) In line with the requirements laid down in Regulation (EU) 2016/679, in particular the requirement that Member States ensure that supervisory authorities are provided with the human, technical and financial resources necessary for the effective performance of their tasks and exercise of their powers, Member States should ensure that supervisory authorities have such sufficient resources for the effective performance of their tasks and exercise of their powers under this Regulation.

(31) Where a provider has conducted a data protection impact assessment and consulted the supervisory authorities with regard to a technology in accordance with Regulation (EU) 2016/679 prior to the entry into force of this Regulation, that provider should not be obliged under this Regulation to carry out an additional data protection impact assessment or consultation provided that the supervisory authorities have indicated that the processing of data by that technology would not result in a high risk to the rights and freedoms of natural persons or that measures have been taken by the controller to mitigate such a risk.

(32) Users should have the right to an effective judicial remedy where their rights have been infringed as a result of the processing of personal and other data for the purpose of detecting online child sexual abuse on number-independent interpersonal communications services and reporting it and removing online child sexual abuse material from those services, for instance where a user's content or identity have been reported to an organisation acting in the public interest against child sexual abuse or to law enforcement authorities or where a user's content has been removed or a user's account has been blocked or a service offered to a user has been suspended.

(33) In line with Directive 2002/58/EC and the principle of data minimisation, the processing of personal and other data should be limited to content data and related traffic data, in as far as strictly necessary to achieve the purpose of this Regulation.

(34) The derogation provided for by this Regulation should extend to the categories of data referred to in Articles 5(1) and 6(1) of Directive 2002/58/EC, which are applicable to the processing of both personal and non-personal data processed in the context of the provision of a number-independent interpersonal communications service.

(35) The objective of this Regulation is to create a temporary derogation from certain provisions of Directive 2002/58/EC without creating fragmentation in the internal market. In addition, it is unlikely that all Member States could adopt national legislative measures in time. Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. It introduces a temporary and strictly limited derogation from the applicability of Articles 5(1) and 6(1) of Directive 2002/58/EC, with a series of safeguards to ensure that it does not go beyond what is necessary for the achievement of the set objective.

(36) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ([8]) and delivered its opinion on 10 November 2020,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down temporary and strictly limited rules derogating from certain obligations laid down in Directive 2002/58/EC, with the sole objective of enabling providers of certain number-independent interpersonal communications services ('providers') to use, without prejudice to Regulation (EU) 2016/679, specific technologies for the processing of personal and other data to the extent strictly necessary to detect online child sexual abuse on their services and report it and to remove online child sexual abuse material from their services.

2. This Regulation does not apply to the scanning of audio communications.

Article 2

Definitions

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

(1) 'number-independent interpersonal communications service' means a number-independent interpersonal communications service as defined in Article 2, point (7), of Directive (EU) 2018/1972;

(2) 'online child sexual abuse material' means:

(a) child pornography as defined in Article 2, point (c), of Directive 2011/93/EU;

(b) pornographic performance as defined in Article 2, point (e), of Directive 2011/93/EU;

(3) 'solicitation of children' means any intentional conduct constituting a criminal offence under Article 6 of Directive 2011/93/EU;

(4) 'online child sexual abuse' means online child sexual abuse material and solicitation of children.

Article 3

Scope of the derogation

1. Articles 5(1) and 6(1) of Directive 2002/58/EC shall not apply to the confidentiality of communications involving the processing by providers of personal and other data in connection with the provision of number-independent interpersonal communications services provided that:

(a) the processing is:

(i) strictly necessary for the use of specific technology for the sole purpose of detecting and removing online child sexual abuse material and reporting it to law enforcement authorities and to organisations acting in the public interest against child sexual abuse and of detecting solicitation of children and reporting it to law enforcement authorities or organisations acting in the public interest against child sexual abuse;

(ii) proportionate and limited to technologies used by providers for the purpose set out in point (i);

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

(iii) limited to content data and related traffic data that are strictly necessary for the purpose set out in point (i);

(iv) limited to what is strictly necessary for the purpose set out in point (i);

(b) the technologies used for the purpose set out in point (a)(i) of this paragraph are in accordance with the state of the art in the industry and are the least privacy-intrusive, including with regard to the principle of data protection by design and by default laid down in Article 25 of Regulation (EU) 2016/679 and, to the extent that they are used to scan text in communications, they are not able to deduce the substance of the content of the communications but are solely able to detect patterns which point to possible online child sexual abuse;

(c) in respect of any specific technology used for the purpose set out in point (a)(i) of this paragraph, a prior data protection impact assessment as referred to in Article 35 of Regulation (EU) 2016/679 and a prior consultation procedure as referred to in Article 36 of that Regulation have been conducted;

(d) with regard to new technology, meaning technology used for the purpose of detecting online child sexual abuse mat erial that has not been used by any provider in relation to services provided to users of number-independent interpersonal communications services ('users') in the Union before 2 August 2021, and with regard to technology used for the purpose of identifying possible solicitation of children, the provider reports back to the competent authority on the measures taken to demonstrate compliance with written advice issued in accordance with Article 36(2) of Regulation (EU) 2016/679 by the competent supervisory authority designated pursuant to Chapter VI, Section 1, of that Regulation ('supervisory authority') in the course of the prior consultation procedure;

(e) the technologies used are sufficiently reliable in that they limit to the maximum extent possible the rate of errors regarding the detection of content representing online child sexual abuse and, where such occasional errors occur, their consequences are rectified without delay;

(f) the technologies used to detect patterns of possible solicitation of children are limited to the use of relevant key indicators and objectively identified risk factors such as age difference and the likely involvement of a child in the scanned communication, without prejudice to the right to human review.

(g) the providers:

(i) have established internal procedures to prevent abuse of, unauthorised access to, and unauthorised transfers of, personal and other data;

(ii) ensure human oversight of and, where necessary, human intervention in the processing of personal and other data using technologies falling under this Regulation;

(iii) ensure that material not previously identified as online child sexual abuse material, or solicitation of children, is not reported to law enforcement authorities or organisations acting in the public interest against child sexual abuse without prior human confirmation;

(iv) have established appropriate procedures and redress mechanisms to ensure that users can lodge complaints with them within a reasonable timeframe for the purpose of presenting their views;

(v) inform users in a clear, prominent and comprehensible way of the fact that they have invoked, in accordance with this Regulation, the derogation from Articles 5(1) and 6(1) of Directive 2002/58/EC concerning the confidentiality of users' communications for the sole purpose set out in point (a)(i) of this paragraph, the logic behind the measures they have taken under the derogation and the impact on the confidentiality of users' communications, including the possibility that personal data are shared with law enforcement authorities and organisations acting in the public interest against child sexual abuse;

(vi) inform users of the following, where their content has been removed or their account has been blocked or a service offered to them has been suspended:

(1) the avenues for seeking redress from them;

(2) the possibility of lodging a complaint with a supervisory authority; and

(3) the right to a judicial remedy;

(vii) by 3 February 2022, and by 31 January every year thereafter, publish and submit to the competent supervisory authority and to the Commission a report on the processing of personal data under this Regulation, including on:

(1) the type and volumes of data processed;

(2) the specific ground relied on for the processing pursuant to Regulation (EU) 2016/679;

(3) the ground relied on for transfers of personal data outside the Union pursuant to Chapter V of Regulation (EU) 2016/679, where applicable;

(4) the number of cases of online child sexual abuse identified, differentiating between online child sexual abuse material and solicitation of children;

(5) the number of cases in which a user has lodged a complaint with the internal redress mechanism or with a judicial authority and the outcome of such complaints;

(6) the numbers and ratios of errors (false positives) of the different technologies used;

(7) the measures applied to limit the error rate and the error rate achieved;

(8) the retention policy and the data protection safeguards applied pursuant to Regulation (EU) 2016/679;

(9) the names of the organisations acting in the public interest against child sexual abuse with which data has been shared pursuant to this Regulation;

(h) where suspected online child sexual abuse has been identified, the content data and related traffic data processed for the purpose set out in point (a)(i), and personal data generated through such processing are stored in a secure manner, solely for the purposes of:

(i) reporting, without delay, the suspected online child sexual abuse to the competent law enforcement and judicial authorities or organisations acting in the public interest against child sexual abuse;

(ii) blocking the account of, or suspending or terminating the provision of the service to, the user concerned;

(iii) creating a unique, non-reconvertible digital signature ('hash') of data reliably identified as online child sexual abuse material;

(iv) enabling the user concerned to seek redress from the provider or pursue administrative review or judicial remedies on matters related to the suspected online child sexual abuse; or

(v) responding to requests issued by competent law enforcement and judicial authorities in accordance with the applicable law to provide them with the necessary data for the prevention, detection, investigation or prosecution of criminal offences as set out in Directive 2011/93/EU;

(i) the data are stored no longer than strictly necessary for the relevant purpose set out in point (h) and, in any event, no longer than 12 months from the date of the identification of the suspected online child sexual abuse;

(j) every case of a reasoned and verified suspicion of online child sexual abuse is reported without delay to the competent national law enforcement authorities or to organisations acting in the public interest against child sexual abuse.

2. Until 3 April 2022, the condition set out in paragraph 1, point (c), shall not apply to providers that:

(a) were using a specific technology before 2 August 2021 for the purpose set out in paragraph 1, point (a)(i), without having completed a prior consultation procedure in respect of that technology;

(b) start a prior consultation procedure before 3 September 2021; and

(c) duly cooperate with the competent supervisory authority in connection with the prior consultation procedure referred to in point (b).

3. Until 3 April 2022, the condition set out in paragraph 1, point (d), shall not apply to providers that:

(a) were using a technology as referred to in paragraph 1, point (d), before 2 August 2021 without having completed a prior consultation procedure in respect of that technology;

(b) start a procedure as referred to in paragraph 1, point (d), before 3 September 2021; and

(c) duly cooperate with the competent supervisory authority in connection with the procedure referred to in paragraph 1, point (d).

Article 4

European Data Protection Board guidelines

By 3 September 2021, and pursuant to Article 70 of Regulation (EU) 2016/679, the Commission shall request the European Data Protection Board to issue guidelines for the purpose of assisting the supervisory authorities in assessing whether processing falling within the scope of this Regulation, for existing and new technologies used for the purpose set out in Article 3(1), point (a)(i), of this Regulation, complies with Regulation (EU) 2016/679.

Article 5

Effective judicial remedies

In accordance with Article 79 of Regulation (EU) 2016/679 and Article 15(2) of Directive 2002/58/EC, users shall have the right to an effective judicial remedy where they consider that their rights have been infringed as a result of the processing of personal and other data for the purpose set out in Article 3(1), point (a)(i), of this Regulation.

Article 6

Supervisory authorities

The supervisory authorities designated pursuant to Chapter VI, Section 1, of Regulation (EU) 2016/679 shall monitor the processing falling within the scope of this Regulation in accordance with their competences and powers under that Chapter.

Article 7

Public list of organisations acting in the public interest against child sexual abuse

1. By 3 September 2021, providers shall communicate to the Commission a list of the names of organisations acting in the public interest against child sexual abuse to which they report online child sexual abuse under this Regulation. Providers shall communicate any changes to that list to the Commission on a regular basis.

2. By 3 October 2021, the Commission shall make public a list of the names of organisations acting in the public interest against child sexual abuse communicated to it under the paragraph 1. The Commission shall keep that public list up to date.

Article 8

Statistics

1. By 3 August 2022, and on an annual basis thereafter, the Member States shall make publicly available and submit to the Commission reports with statistics on the following:

(a) the total number of reports of detected online child sexual abuse that have been submitted by providers and organisations acting in the public interest against child sexual abuse to the competent national law enforcement authorities, differentiating, where such information is available, between the absolute number of cases and those cases reported several times and the type of provider on whose service the online child sexual abuse was detected;

(b) the number of children identified through actions pursuant to Article 3, differentiated by gender;

(c) the number of perpetrators convicted.

2. The Commission shall aggregate the statistics referred to in paragraph 1 of this Article and shall take them into account when preparing the implementation report pursuant to Article 9.

Article 9

Implementation report

1. On the basis of the reports submitted pursuant to Article 3(1), point (g)(vii), and the statistics provided pursuant to Article 8, the Commission shall, by 3 August 2023, prepare a report on the implementation of this Regulation and submit and present it to the European Parliament and to Council.

2. In the implementation report, the Commission shall consider, in particular:

(a) the conditions for the processing of personal data and other data set out in Article 3(1), point (a)(ii), and points (b), (c) and (d);

(b) the proportionality of the derogation provided for by this Regulation, including an assessment of the statistics submitted by the Member States pursuant to Article 8;

(c) developments in technological progress regarding the activities covered by this Regulation, and the extent to which such developments improve accuracy and reduce the numbers and ratios of errors (false positives).

Article 10

Entry into force and application

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

It shall apply until 3 August 2024.

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

Done at Brussels, 14 July 2021.

For the European Parliament	*For the Council*
The President	*The President*
D. M. SASSOLI	A. LOGAR

DIRECTIVES

DIRECTIVE (EU) 2021/1233 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 July 2021

amending Directive (EU) 2017/2397 as regards the transitional measures for the recognition of third-country certificates

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

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

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

After consulting the Committee of the Regions,

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

Whereas:

(1) Directive (EU) 2017/2397 of the European Parliament and of the Council ([3]) sets out transitional measures in order to ensure the continued validity of certificates of qualification, service record books and logbooks issued before the end of its transposition period, and to give skilled crew members reasonable time in which to apply for a Union certificate of qualification, or another certificate recognised as equivalent. However, with the exception of the Rhine navigation licences referred to in Article 1(5) of Council Directive 96/50/EC ([4]), those transitional measures do not apply to the certificates of qualification, service record books and logbooks issued by third countries that are currently recognised by Member States under their national requirements, or international agreements, applicable before the entry into force of Directive (EU) 2017/2397.

(2) Article 10(3), (4) and (5) of Directive (EU) 2017/2397 lays down the procedure and the conditions for the recognition of certificates, service record books or logbooks issued by the authorities of a third country.

(3) Given that the procedure for recognition of third-country documents is based on the assessment of the certification systems in the requesting third country with the aim of determining whether the issuing of the certificates, service record books or logbooks specified in the request is subject to requirements that are identical to those laid down in Directive (EU) 2017/2397, it is unlikely that the recognition procedure will be completed before 17 January 2022.

([1]) OJ C 220, 9.6.2021, p. 87.
([2]) Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal) and decision of the Council of 13 July 2021.
([3]) Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC (OJ L 345, 27.12.2017, p. 53).
([4]) Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community (OJ L 235, 17.9.1996, p. 31).

(4) In order to ensure a smooth transition to the system of the recognition of third-country documents provided for in Article 10 of Directive (EU) 2017/2397, it is necessary to provide for transitional measures which allow the time needed for third countries to align their requirements to those laid down in that Directive, as well as for the Commission to assess their certification systems and, where appropriate to adopt an implementing act under Article 10(5) of that Directive. Those measures would also ensure legal certainty to the individuals and economic operators active in the inland waterway transport sector. In the light of those objectives, it is appropriate to set the cut-off date for third-country documents falling within the scope of those transitional measures by reference to the period for the transposition of that Directive, extended by two years.

(5) To ensure consistency with the transitional measures applicable to the Member States pursuant to Article 38 of Directive (EU) 2017/2397, the transitional measures applicable to certificates of qualification, service record books and logbooks issued by third countries and recognised by the Member States should not apply beyond 17 January 2032. Moreover, the recognition of such certificates of qualification, service record books and logbooks should be restricted to the Union inland waterways situated in the Member State concerned.

(6) In order to ensure consistency with the transitional measures applicable to certificates of qualification issued by Member States, it is appropriate to clarify that as regards third-country certificates, the requirements referred to in Article 10(3) of Directive (EU) 2017/2397 also include the requirements for the exchange of the existing certificates set out in Article 38(1) and (3) of that Directive.

(7) Therefore, in order to provide inland waterway transport companies and workers with legal clarity and certainty, Directive (EU) 2017/2397 should be amended accordingly.

(8) In accordance with Article 39(4) of Directive (EU) 2017/2397, Member States where inland waterway navigation is not technically possible are not obliged to transpose that Directive. That derogation should apply to this Directive, *mutatis mutandis*.

(9) Since the objective of this Directive, namely setting out transitional measures for the recognition of third-country certificates, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(10) In order to enable Member States to promptly proceed with the transposition of the measures for which this Directive provides, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive (EU) 2017/2397 is amended as follows:

(1) in Article 10, paragraph 3 is replaced by the following:

‘3. Without prejudice to paragraph 2 of this Article, any certificate of qualification, service record book or logbook that has been issued in accordance with the national rules of a third country laying down requirements that are identical to those of this Directive, including those set out in Article 38(1) and (3), shall be valid on all Union inland waterways, subject to the procedure and the conditions set out in paragraphs 4 and 5 of this Article.’;

(2) in Article 38, the following paragraph is added:

‘7. Until 17 January 2032, Member States may continue to recognise, on the basis of their national requirements, or international agreements, applicable before 16 January 2018, certificates of qualification, service record books and logbooks that have been issued by a third country before 18 January 2024. The recognition shall be limited to the inland waterways on the territory of the Member State concerned.’.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 January 2022. They shall immediately inform the Commission thereof.

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

The derogation laid down in Article 39(4) of Directive (EU) 2017/2397 shall apply to this Directive, *mutatis mutandis*.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 14 July 2021.

For the European Parliament	*For the Council*
The President	*The President*
D. M. SASSOLI	A. LOGAR

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2021/1234

of 13 July 2021

on the conclusion of the Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with point (a)(v) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ([1]),

Whereas:

(1) On 15 June 2018 the Council authorised the Commission to open negotiations with the Kingdom of Thailand for an agreement relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the Union.

(2) The negotiations have been concluded, and the Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union ('the Agreement') was initialled on 7 January 2021.

(3) In accordance with Council Decision (EU) 2021/373 ([2]), the Agreement was signed on 7 May 2021.

(4) The Agreement should be approved,

([1]) Consent of 23 June 2021 (not yet published in the Official Journal).

([2]) Council Decision (EU) 2021/373 of 22 February 2021 on the signing, on behalf of the Union, of the Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union (OJ L 72, 3.3.2021, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and the Kingdom of Thailand pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby approved on behalf of the Union ([3]).

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 4(1) of the Agreement ([4]).

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 13 July 2021.

For the Council

The President

A. ŠIRCELJ

([3]) See page … of this Official Journal.

([4]) The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT BETWEEN THE EUROPEAN UNION AND THE KINGDOM OF THAILAND PURSUANT TO ARTICLE XXVIII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) 1994 RELATING TO THE MODIFICATION OF CONCESSIONS ON ALL THE TARIFF-RATE QUOTAS INCLUDED IN THE EU SCHEDULE CLXXV AS A CONSEQUENCE OF THE UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION

THE EUROPEAN UNION, of the one part,

and

THE KINGDOM OF THAILAND, of the other part,

hereinafter jointly referred to as the "Parties",

CONSIDERING that the Parties have successfully concluded the negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff-rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union as communicated to members of the World Trade Organization ("WTO Members") in Document G/SECRET/42/Add.2,

HAVE AGREED AS FOLLOWS:

Article 1

Objective

The objective of this Agreement is to agree on the apportionment volumes in respect of all the tariff-rate quotas and the resulting quantitative commitments of the European Union that no longer includes the United Kingdom where the Kingdom of Thailand has negotiation and consultation rights under Article XXVIII of the GATT 1994 as specified in the letter from the European Union dated 25 February 2019.

Article 2

Principle and methodology of the apportionment of the tariff-rate quotas

The Kingdom of Thailand agrees with the principle and methodology of apportioning the scheduled quantitative commitments in the form of tariff-rate quotas of the European Union that included the United Kingdom whereby there is an apportioned quantity taken on by the European Union that no longer includes the United Kingdom with the remainder of the quantity taken on by the United Kingdom.

Article 3

Tariff-rate quotas of the European Union that no longer includes the United Kingdom

1. The Parties agree on the quantity for certain tariff-rate quotas of the European Union that no longer includes the United Kingdom as from 1 January 2021 or from the date when the United Kingdom ceases to be covered by the schedule of concessions and commitments of the European Union CLXXV, as detailed in the last column of the Annex to this Agreement.

2. This Agreement does not prejudice negotiations between the European Union and other WTO Members with rights under Article XXVIII of the GATT 1994 as regards the *erga omnes* tariff-rate quotas concerned. The European Union undertakes to consult with the Kingdom of Thailand if the result of those negotiations would change the shares set out in the document G/SECRET/42/Add.2.

3. The Annex to this Agreement shall form an integral part thereof.

Article 4

Final clauses

1. This Agreement shall enter into force on the first day after the date on which the Parties have notified each other of the completion of their internal procedures. It shall apply from that date.

2. This arrangement constitutes an agreement between the Parties for the purposes of Article XXVIII:3(a) and (b) of the GATT 1994.

3. This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorised to this effect, have signed this Agreement.

Съставено в Брюксел на седми май две хиляди двадесет и първа година.

Hecho en Bruselas, el siete de mayo de dos mil veintiuno.

V Bruselu dne sedmého května dva tisíce dvacet jedna.

Udfærdiget i Bruxelles den syvende maj to tusind og enogtyve.

Geschehen zu Brüssel am siebten Mai zweitausendeinundzwanzig.

Kahe tuhande kahekümne esimese aasta maikuu seitsmendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις εφτά Μαΐου δύο χιλιάδες είκοσι ένα.

Done at Brussels on the seventh day of May in the year two thousand and twenty one.

Fait à Bruxelles, le sept mai deux mille vingt et un.

Sastavljeno u Bruxellesu sedmog svibnja godine dvije tisuće dvadeset prve.

Fatto a Bruxelles, addì sette maggio duemilaventuno.

Briselē, divi tūkstoši divdesmit pirmā gada septītajā maijā.

Priimta du tūkstančiai dvidešimt pirmų metų gegužės septintą dieną Briuselyje.

Kelt Brüsszelben, a kétezer-huszonegyedik év május havának hetedik napján.

Magħmul fi Brussell, fis-seba jum ta’ Mejju fis-sena elfejn u wieħed u għoxrin.

Gedaan te Brussel, zeven mei tweeduizend eenentwintig.

Sporządzono w Brukseli dnia siódmego maja roku dwa tysiące dwudziestego pierwszego.

Feito em Bruxelas, em sete de maio de dois mil e vinte e um.

Întocmit la Bruxelles la șapte mai două mii douăzeci și unu.

V Bruseli siedmeho mája dvetisícdvadsaťjeden.

V Bruslju, sedmega maja dva tisoč enaindvajset.

Tehty Brysselissä seitsemäntenä päivänä toukokuuta vuonna kaksituhattakaksikymmentäyksi.

Utfärdat i Bryssel den sjunde maj år tjugohundratjugoett.

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαική Ενωση
For the European Union
Pour l'Union européenne
Za Europsku uniju
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európa Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen

За Кралство Тайланд
Por el Reino de Tailandia
Za Thajské království
For Kongeriget Thailand
Für das Königreich Thailand
Tai Kuningriigi nimel
Για το Βασίλειο της Ταϊλάνδης
For the Kingdom of Thailand
Pour le Royaume de Thaïlande
Za Kraljevinu Tajland
Per il Regno di Thailandia
Taizemes Karalistes vārdā —
Tailando Karalystės vardu
a Thaiföldi Királyság részéről
Għar-Renju tat-Tajlandja
Voor het Koninkrijk Thailand
W imieniu Królestwa Tajlandii
Pelo Reino da Tailândia
Pentru Regatul Thailandei
Za Thajské kráľovstvo
Za Kraljevino Tajsko
Thaimaan kuningaskunnan puolesta
För Konungariket Thailand

ANNEX

LIST OF EU'S TARIFF-RATE QUOTAS FOR THE KINGDOM OF THAILAND AFTER THE WITHDRAWAL OF THE UNITED KINGDOM (AS OF 1 JANUARY 2021)

	Number as per EU notification G/SECRET/42/Add.2	HS code	Description	Current concession in EU Schedule CLXXV (EU 28)	Supplying country	Final concession for the EU (tonnes)
1	029	0210 99 39	Salted poultry meat	92 610	Kingdom of Thailand	81 968
2	052	0714 10 00	Manioc (cassava)	5 750 000	Kingdom of Thailand	3 096 027
3	055	0714 20 90	Sweet potatoes, other than for human consumption	5 000	Other than China	4 985
4	074	1006 10	Paddy Rice	7	*Erga omnes*	5
5	075	1006 20	Husked or brown rice	1 634	*Erga omnes*	1 416
6	076	1006 30	Semi-milled or wholly milled rice	63 000	*Erga omnes*	36 731
7	077	1006 30	Semi-milled or wholly milled rice	4 313	Kingdom of Thailand	3 663
8	078	1006 30	Semi-milled or wholly milled rice	1 200	Kingdom of Thailand	1 019
9	078	1006 30	Semi-milled or wholly milled rice	25 516	*Erga omnes*	22 442
10	079	1006 40 00	Broken rice	1 000	*Erga omnes*	1 000
11	080	1006 40 00	Broken rice	31 788	*Erga omnes*	26 581
12	081	1006 40 00	Broken rice	100 000	*Erga omnes*	93 709
13	085	1108 14 00	Manioc starch	8 000	*Erga omnes*	6 632
14	086	1108 14 00	Manioc starch	2 000	*Erga omnes*	1 658
15	089	1602 32 11	Processed chicken meat, uncooked, containing 57 % or more by weight of poultry meat or offal	340	Other than Brazil	236
16	090	1602 32 19	Cooked meat of fowls of the species *Gallus domesticus*	160 033	Kingdom of Thailand	53 866
17	091	1602 32 30	Processed chicken meat, containing 25 % or more but less than 57 % by weight of poultry meat or offal	14 000	Kingdom of Thailand	2 435
18	092	1602 32 90	Processed chicken meat, containing less than 25 % by weight of poultry meat or offal	2 100	Kingdom of Thailand	1 940

	Number as per EU notification G/SECRET/42/Add.2	HS code	Description	Current concession in EU Schedule CLXXV (EU 28)	Supplying country	Final concession for the EU (tonnes)
19	093	1602 39 21	Processed duck, geese, guinea fowl meat, uncooked, containing 57 % or more by weight of poultry meat or offal	10	Kingdom of Thailand	10
20	094	1602 39 29	Processed duck, geese, guinea fowl meat, cooked, containing 57 % or more by weight of poultry meat or offal	13 500	Kingdom of Thailand	8 572
21	095	1602 39 85	Processed duck, geese, guinea fowl meat, cooked, containing 25 % or more but less than 57 % by weight of poultry meat or offal	600	Kingdom of Thailand	300
22	096	1602 39 85	Processed duck, geese, guinea fowl meat, cooked, containing less than 25 % by weight of poultry meat or offal	600	Kingdom of Thailand	278
23	105	1901 90 99 1904 30 00 1904 90 80 1905 90 20	Food preparations with cereals	191	*Erga omnes*	191
24	106	1902 11 00 1902 19 10 1902 19 90 1902 20 91 1902 20 99 1902 30 10 1902 30 90 1902 40 10 1902 40 90	Pasta	532	*Erga omnes*	497
25	107	1905 90 10 1905 90 20 1905 90 30 1905 90 45 1905 90 55 1905 90 60 1905 90 90	Biscuits	409	*Erga omnes*	409
26	005	0304 89 90	Fish of the genus *Allocyttus* and of the species *Pseudocyttus maculatus*	200	*Erga omnes*	200
27	007	1604 20 50	Prepared or preserved fish (excl. whole or in pieces): of sardines, bonito, mackerel of the species *Scomber scombrus* and *Scomber japonicas*, fish of the species *Orcynopsis unicolor*	865	*Erga omnes*	631

	Number as per EU notification G/SECRET/42/Add.2	HS code	Description	Current concession in EU Schedule CLXXV (EU 28)	Supplying country	Final concession for the EU (tonnes)
28	008	1604 20 50	Prepared or preserved fish (excl. whole or in pieces): of sardines, bonito, mackerel of the species *Scomber scombrus* and *Scomber japonicas*, fish of the species *Orcynopsis unicolor*	1 410	Kingdom of Thailand	423
29	009	1604 20 70	Prepared or preserved fish (excl. whole or in pieces): of tuna, skipjack or other fish of the genus *Euthynnus*	742	*Erga omnes*	742
30	010	1604 20 70	Prepared or preserved fish (excl. whole or in pieces): of tuna, skipjack or other fish of the genus *Euthynnus*	1 816	Kingdom of Thailand	1 816
31	011	1605 21 10	Shrimps and prawns, prepared or preserved, in immediate packings of a net content of <= 2 kg (excl. merely smoked, and in airtight containers)	500	*Erga omnes*	474
		1605 21 90	Shrimps and prawns, prepared or preserved, in immediate packings of a net content of > 2 kg (excl. merely smoked, and in airtight containers)			
		1605 29 00	Shrimps and prawns, prepared or preserved, in airtight containers (excl. smoked)			

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