Official Journal of the European Union

C 486

English edition

Information and Notices

Volume 64

3 December 2021

Contents

EN

[1] Text with EEA relevance.

([1]) Text with EEA relevance.

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Commission notice regarding application of the Environmental Impact Assessment Directive (Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU) to changes and extension of projects - Annex I.24 and Annex II.13(a), including main concepts and principles related to these

(2021/C 486/01)

Table of contents

1. INTRODUCTION

The aim of this guidance document is to provide clarification to competent authorities and stakeholders on the application of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ([1]), as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment ([2]) (the Environmental Impact Assessment (EIA) Directive), in the light of the latest case law as provided by the European Court of Justice of the European Union (CJEU). In particular, the guidance focuses on changes and extensions, as listed under Annex I and Annex II of the EIA Directive, and dedicates a specific chapter to the nuclear sector.

Point 24 of Annex I and point 13(a) of Annex II concern changes and extensions of projects and have a broad application, as they cover modifications of all project categories under the scope of the EIA Directive. The correct application of the EIA Directive to changes and extensions of projects is key for the overall implementation of the EIA Directive.

Some of the latest case law, and especially the Court ruling in case C-411/17 ([3]) on the life-time extension of the nuclear power plant situated in Doel, Belgium (further referred to as '*the Doel ruling*'), have brought new elements to be considered when dealing with the changes of projects under Annex I and confirmed the main principles for the application of the EIA Directive. Also due to their general procedural character, both project categories related to project change or extension have been subject to numerous requests for information regarding their application from the competent national authorities and other stakeholders.

Based on the abovementioned considerations, the Commission has therefore decided to issue this guidance in order to describe those concepts and principles under the EIA Directive, including definitions and provisions of the EIA Directive. By providing contextualised illustrations of the EIA Directive obligations, promoting a consistent approach and framing the applicable provisions on the changes and extensions of projects, the guidance aims to enhance the implementation of the EIA Directive.

Given that there are numerous practical situations, which are often complex, and that the EIA Directive applies to a great variety of sectors and type of projects, it is not possible to provide an exhaustive list of examples. The competent national authorities may have to apply the EIA Directive requirements on a case-by-case basis and to evaluate each case, taking into account the specific circumstances. To achieve a consistent implementation of the EIA directive, the Commission encourages Member States to initiate, on a voluntary basis, a benchmarking exercise as regards changes and extension of projects. Such an exercise would offer an opportunity to pool expertise and compare examples from each Member State, and could progressively lead to the development of common methodologies at EU level and facilitate practical implementation in specific cases.

1.1 Available sources of information

Only the Court of Justice of the European Union is competent to provide the authoritative interpretation of European Union law. The EIA Directive has often been the subject of cases brought before the Court, and a number of cases have addressed the question of the definitions, description or scope of individual project categories listed in Annex I and II.

The Court rulings contain key general principles that usefully guide the interpretation of project categories listed in the EIA Directive, as well as other concepts, including the interpretation of 'project' itself.

Aside from this guidance document, the Commission services have also prepared and are regularly updating a booklet on the Rulings of the Court of Justice — Environmental Impact Assessment of Projects ([4]).

The EIA Directive explicitly refers to other international agreements such as the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) ([5]) and Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention). ([6]) The EIA

([1]) OJ L 26, 28.1.2012, p. 1.
([2]) OJ L 124, 25.4.2014, p. 1.
([3]) C-411/17, Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen, ECLI:EU:C:2019:622.
([4]) https://ec.europa.eu/environment/eia/pdf/EIA_rulings_web.pdfhttps://ec.europa.eu/environment/eia/pdf/EIA_rulings_web.pdf (this document does not reflect the official opinion of the Commission, is not binding for the Commission and is not being endorsed by this notice).
([5]) OJ C 104, 24.4.1992, p. 7.
([6]) OJ L 124, 17.05.2005, p. 4.

Directive should thus be interpreted in accordance with those Conventions. ([7]) In addition, given the wide range of sectors covered by the EIA Directive, many other legislative instruments at EU level contain definitions of terms included in or deal with activities covered by Annexes I and II. ([8])

In preparing this guidance, the Commission took account of the Guidance document on the applicability of the Espoo Convention to lifetime extension of nuclear power plants developed in the framework of the United Nations Economic Commission for Europe (ECE) ([9]).

2. KEY PRINCIPLES AND DEFINITIONS

2.1 Environmental impact assessment – scope

The EIA Directive lays down procedural obligations relevant to public and private projects within its scope that are likely to have significant effects on the environment. These projects have to be subject to a development consent and undergo an assessment in terms of their effects on the environment before such consent is issued.

Projects falling under the scope of the EIA Directive are divided into categories and listed in Annexes I and II. Projects listed in Annex I are those that are considered as having significant effects on the environment and as a rule are subject to a mandatory assessment (Article 4(1) of the EIA Directive). Pursuant to Articles 2(1) and 4(1) of the EIA Directive, and notwithstanding the exceptional cases referred to in Article 2(4), the environmental effects of projects falling under Annex I to the Directive must, as such and prior to authorisation, be evaluated systematically ([10]). It follows that the Member States have no room for discretion in this respect. Furthermore, most of the project categories as mentioned in Annex I contain thresholds, which are directly related to the scope of application. If thresholds are assigned for Annex I project categories in the national legislation for which such thresholds are not set up in Annex I, this would limit the scope of application of the EIA Directive ([11]).

Projects listed in Annex II do not necessarily have significant effects on the environment in every case. They should undergo a determination process – commonly known under the term 'screening' – to establish if they are likely to have significant effects on the environment. Pursuant to Article 4(2) of the EIA Directive, the determination of the likely significant environmental effects may be carried out through a case-by-case examination, by setting thresholds or criteria, or by a combination of these methods, taking account of the relevant selection criteria in Annex III to the Directive (characteristics of the projects, location of the projects, type and characteristics of the potential impact).

Article 2(1) of the EIA Directive – as a key guiding principle and fundamental objective – limits the discretion of Member States, especially for Annex II projects, by requiring that projects are to be subject to an impact assessment if they are likely, by virtue inter alia of their nature, size or location, to have significant effects on the environment ([12]).

2.2 Key relevant definitions and provisions of the EIA Directive

This following section is outlining the main relevant definitions and provisions related to the projects and their changes or extensions.

([7]) See, to that effect, Opinion of Advocate General Kokott on Case C-411/17, paragraph 105 (*'Because the EIA Directive is intended to implement much of the [Espoo] Convention, it is desirable, however, to interpret it in accordance with the Convention. Furthermore, the EU's powers must be exercised with due regard for international law; consequently, EU secondary law must in principle be interpreted in accordance with the EU's obligations under international law.'*).

([8]) Different acts of legislation may have different objectives that could in turn influence the scope and meaning of project classifications and definitions that they contain. Thus, a certain project classification in one directive may not necessarily precisely prescribe how the same project type is to be interpreted in the context of another directive. As stated by the Court (see for example Case C-227/01, Commission v Spain), EU law is to be interpreted by reference to the purpose and general scheme of the rules of which it forms part.

([9]) https://unece.org/sites/default/files/2021-02/Guidance_on_Conventions%20applicability_to_LTE%20of%20NPPs_As%20endorsed%20and%20edited.pdf

([10]) See, to that effect, Case C-486/04 Commission v. Italy, paragraph 45, and Case C-255/05 Commission v Italy, paragraph 52.

([11]) See C-435/09, Commission v Belgium, paragraphs 86 and 88.

([12]) C-72/95, Kraaijeveld and Others, paragraph 50; C-2/07, Abraham and Others, paragraph 37; C-75/08 Mellor, paragraph 50; C-427/07, Commission v. Ireland, paragraph 41.

2.2.1 *Project*

Article 1(2)(a) of the EIA Directive defines 'project' as:

'- *the execution of construction works or of other installations or schemes,*

- *other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources.*'

Presence of physical works

The Court has consistently confirmed on several occasions ([13]) that the term 'project' refers to works or physical intervention. A renewal of an existing permit (for example to operate an airport as in case C-275/09, Brussels Hoofdstedelijk Gewest and others, paragraph 24, or of a landfill as in case C-121/11, Pro-Braine and Others, paragraph 31) cannot, in the absence of any works or interventions involving alterations to the physical aspect of the site, be classified as a 'project', within the meaning of the Article 1(2)(a). Therefore, the existence of works or physical interventions is a prerequisite for an activity to qualify as a 'project' within the meaning of the EIA Directive.

In the *Doel* ruling, the Court has recalled that: *'It follows from the case law of the Court that the definition of the term "project", specifically in the context of the wording of the first indent of Article 1(2)(a) of the EIA Directive, refers to work or interventions involving alterations to the physical aspect of the site*' (paragraph 62).

The same principle, when applied to Annexes I.24 and II.13(a), means that in order to fall under the scope of the EIA Directive and the definition of project under Article 1(2)(a) changes or extensions of existing projects pre-suppose works or interventions involving alterations to the physical aspects of the original projects ([14]).

2.2.2 *Development consent*

Article 1(2)(c) of the EIA Directive defines 'development consent' as follows:

'(c) "development consent" means the decision of the competent authority or authorities which entitles the developer to proceed with the project'.

The need for development consent

On several occasions the Court has stressed that 'Member States must implement the EIA Directive in a manner which fully corresponds to its requirements, having regard to its fundamental objective which, as is clear from Article 2(1), is that, before development consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location should be made subject to a requirement for development consent and an assessment with regard to their effects' ([15]).

Therefore changes or extensions to projects within the meaning of point 24 of Annex I or point 13(a) of Annex II of the EIA Directive that are likely to have significant effects on the environment, shall be made subject to a requirement for a development consent.

The form of development consent

The EIA Directive defines the development consent as the decision of the competent authority or authorities, which entitles the developer to proceed with the project ([16]).

([13]) Case C-2/07, Abraham and Others, paragraph 23; Case C-275/09, Brussels Hoofdstedelijk Gewest and Others, paragraph 24; C-121/11, Pro-Braine and Others, paragraph 31.

([14]) By analogy, case C-275/09, Brussels Hoofdstedelijk Gewest and others, paragraph 24; case C-121/11, Pro-Braine and Others, paragraph 32.

([15]) C-287/98, Linster, paragraph 52; C-486/04, Commission v Italy, paragraph 36; C-215/06, Commission v Ireland, paragraph 49; C-329/17, Prenninger and Others, paragraph 35.

([16]) The Directive does not require an additional 'consent' to that 'development consent', see C-332/04, Commission v. Spain, paragraph 53.

The term 'development consent' covers thus a wide variety of acts (i.e. decisions, permits and other authorising instruments), depending on the national procedures applicable in the Member States. It is not defined by its title or the procedure of its adoption in accordance with respective national law of a given Member State, but by its legal effect. As pointed out by the Court, the classification of a decision as a 'development consent' within the meaning of Article 1(2)(c) of the EIA Directive must be carried out pursuant to national law in a manner consistent with EU law ([17]).

The EIA Directive does not require a single procedure for consent ([18]) and in accordance with Article 2(2) of the EIA Directive, the EIA *'may be integrated into the existing procedures for development consent to projects in the Member States or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive'*. Therefore differences are observed across Member States when it comes to the terminology related to the development consent. As well as different titles (e.g. construction permit, decision, authorisation), also the procedure leading to adoption of a consent can differ. It is for example possible to adopt development consent through administrative procedure on local, regional or national level, or through a legislative procedure ([19]), as long as relevant provisions of the EIA Directive are complied with. The development consent itself has to be a definite decision giving right to the developer to proceed with the project (the same principle applies in cases of multistage procedures, see next section).

Where changes or extensions of projects within the meaning of point 24 of Annex I or point 13(a) of Annex II of the EIA Directive that are likely to have significant effects on the environment are adopted via legislative procedure, they also need to be made subject to an assessment with respect to their effects on the environment in accordance with Article 2(1) ([20]).

In this context, it is also important to outline the difference between the development consent within the meaning of the EIA Directive and a permit/license related to operation (of an installation/facility/site). Such 'permits', as defined or used in other legislative instruments, for example the Directive on Industrial Emissions ([21]) or the Landfill Directive ([22]) are relevant for certain operating regimes. On the other hand the term 'development consent', as understood in the context of the EIA Directive, entitles, according to the definition, the developer to proceed with the project (e.g. to execute constructions works installations or schemes or other interventions in the natural surroundings and landscape ([23])). The operating permit or license is, based on the relevant legislation ([24]), mostly linked to an authorisation related to the operation of a project and is often based on and implementing a prior decision in the context of a multistage procedure. As mentioned in previous sections, a renewal of an operating permit/license, in the absence of any works or interventions involving alterations to the physical aspect of a site, is to be kept apart from the notion of 'development consent' ([25]).

Changes and extensions to projects in multistage procedures

The authorisation of projects sometimes takes place within complex administrative procedures involving various stages and processes. In cases where a project change or extension is identified ([26]), it is key to determine 'when' the EIA should apply and 'what' should be assessed in each stage. In a consent procedure comprising several stages, that assessment must, in principle, be carried out as soon as it is possible to identify and assess all the effects, which the project may have on the environment ([27]).

([17]) C-290/03, Barker - Crystal Palace, paragraphs 40-41.

([18]) C-50/09, Commission v. Ireland, paragraphs 73-75. *'[Article 2(2)] means that the liberty left to the Member States extends to the determination of the rules of procedure and requirements for the grant of the development consent in question. However, that freedom may be exercised only within the limits imposed by that directive and provided that the choices made by the Member States ensure full compliance with its aims'*.

([19]) For more details see section 4 of the Commission's Guidance document regarding application of exemptions under the EIA Directive (EUR-Lex - 52019XC1114(02) - EN - EUR-Lex (europa.eu)).

([20]) See the Doel case, paragraphs 103-114.

([21]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), (OJ L 334, 17.12.2010, p. 17). Article 3(7) - 'permit' means a written authorisation to operate all or part of an installation or combustion plant, waste incineration plant or waste co-incineration plant.

([22]) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

([23]) The qualification as 'development consent' within the meaning of Art. 1(2)(c) of the Directive does not depend on the name (in national practices, examples of terms used are Construction permit, zoning permit, land use permit, (integrated) environmental permit, planning authorisation, location permit) but rather depends on whether the conditions set out in the directive are fulfilled..

([24]) Other than the Industrial Emissions Directive the permitting regimes can be found for example under the waste legislation - Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste or Directive 1999/31/EC of 26 April 1999 on the landfill of waste. Example of a licensing regime can be found for example in Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC, etc.

([25]) C-275/09, Brussels Hoofdstedelijk Gewest and Others.

([26]) The principle of this section is also applicable to new projects.

([27]) C-201/02, Wells, paragraph 52-53, operative part 1.

In the *Doel* ruling, the Court has recalled the existing case law ([28]). According to Article 2(1) of the EIA Directive, in respect of projects covered by that Directive the environmental impact assessment must be conducted 'before consent is given' (paragraph 82). It has also stated that *'where national law provides that the consent procedure is to be carried out in several stages, the environmental impact assessment in respect of a project must, in principle, be carried out as soon as it is possible to identify and asses all potential effects of the project on the environment'* (paragraph 85).

The Court also pointed to the situations where the consent procedure has several stages and one of the stages is a principal decision, setting the parameters for the other implementing decisions. In these cases, the environmental assessment has to be related to the principal decision, unless some of the effects on the environment are known only at a later stage and are related to the implementing decisions. Then the assessment of additional effects known at a later stage can be done at this later stage ([29]). According to the Court, a 'principal decision' is the one which defines the 'essential characteristics' of a project that would not be discussed or amended at a later stage ([30]). In such cases Member States have to ensure that the environmental impact assessment is related to the principal decision.

Furthermore, the Court has also addressed the need to assess the effects of such projects as a whole. Where a consent procedure comprises more than one stage — one involving a principal decision and another involving an implementing decision that cannot extend beyond the parameters set by the principal decision — the competent authority is, in some circumstances, obliged to carry out an environmental impact assessment in respect of a project even after the grant of outline planning permission, when the reserved matters are subsequently approved ([31]). This assessment must be of a comprehensive nature, so as to relate to all those aspects of the project that have not yet been assessed or which require a fresh assessment. As reiterated by the Court, the EIA Directive adopts an overall assessment of the effects of projects or the alteration thereof on the environment, which must not be limited to only the direct effects of the works envisaged themselves, and to the environmental impact liable to result from the use and exploitation of the end product of those works ([32]). Such an assessment is also irrespective of whether the project might be transboundary in nature ([33]).

2.2.3 *Splitting of projects*

The purpose of the EIA Directive cannot be circumvented by the splitting of projects and the failure to take account of the cumulative effect of several projects must not mean in practice that they all escape the obligation to carry out an assessment when, taken together, they are likely to have significant effects on the environment within the meaning of Article 2(1) of the EIA Directive ([34]). This may be relevant in particular to complex projects developed in stages for which subsequent applications for authorisation may be needed.

Where several projects, taken together, may have significant effects on the environment within the meaning of Article 2(1) of the EIA Directive, their environmental impact should be assessed as a whole and in a cumulative way. In its case law, the Court advocates a broad interpretation of the EIA Directive and has stressed that the Directive seeks *'an overall assessment of the environmental impact of projects or of their modification'* ([35]).

For example in terms of length, the Court found that a long-distance project cannot be split up into successive shorter sections in order to exclude both the project as a whole and the sections resulting from that division from the requirements of the Directive. If that were possible, the effectiveness of the Directive could be seriously compromised, since the authorities concerned would need only to split up a long-distance project into successive shorter sections in order to exclude it from the requirements of the Directive ([36]).

([28]) Case C-201/02, Wells; Case C-508/03, Commission v United Kingdom; Case C-290/03, Barker.

([29]) C-201/02, *Wells*, and C-2/07, *Abraham and Others*.

([30]) See paragraph 88 of the Doel ruling: '*88. Consequently, although further measures are required to implement those acts, in the context of a complex and regulated process designed, inter alia, to ensure compliance with safety and security standards applicable to industrial production of nuclear electricity, and those measures are subject, in particular, to prior approval by the AFCN, as is apparent from the explanatory memorandum to the Law of 28 June 2015, the fact remains that those measures, once adopted by the national legislature, define essential characteristics of the project and, a priori, should no longer be a matter for debate or reconsideration.*'

([31]) In case C-50/09 the Court concluded that 'in order to satisfy the obligation imposed on it by Article 3, the competent environmental authority may not confine itself to identifying and describing a project's direct and indirect effects on certain factors, but must also assess them in an appropriate manner, in the light of each individual case' (paragraph 37). See also case C-508/03, Commission v United Kingdom, paragraphs 103 to 106.

([32]) C-2/07, Abraham and Others – Liège airport, paragraphs 42-43; C-142/07, Ecologistas en Acción-CODA, paragraph 39.

([33]) C-205/08, Umweltanwalt von Kärnten, paragraph 51.

([34]) C-392/96, Commission v. Ireland, paragraphs, 76, 82; C-142/07, Ecologistas en Acción-CODA, paragraph 44; C-205/08, Umweltanwalt von Kärnten, paragraph 53; C-2/07, Abraham and Others – Liège airport, paragraph 27; C-275/09, Brussels Hoofdstedelijk Gewest and Others, paragraph 36; Case C-244/12, Salzburger Flughafen, paragraph 37.

([35]) Case C-2/07, Abraham and Others – Liège airport, paragraph 42.

([36]) Case C-227/01, Commission v Spain, paragraph 53.

The Court has also stressed that, with a view to deciding whether an environmental assessment must be carried out, it can be necessary to take account of the cumulative effect of projects in order to avoid a circumvention of the objective of the European Union legislation by the splitting of projects which, taken together, are likely to have significant effects on the environment. It is for the national authorities to examine, in the light of that case law, whether and to what extent the effects on the environment of the projects at stake and of the projects carried out earlier ([37]).

2.2.4 *Assessment of the overall effects of a project*

The *Doel* ruling confirmed another important principle of the EIA Directive that is the obligation to assess the overall effects of a project and to make a comprehensive EIA. In paragraphs 64-72, the Court considered that the measures set out for the extension of an existing project (the measures restarting a nuclear power plant for 10 years or deferring their shut-down by 10 years, as set out in paragraph 59) cannot be dissociated from the upgrading works to which they are inextricably linked, therefore together constituting a single project. Indeed, the measures contained in the 2015 law (lifetime extension) cannot be artificially dissociated from the works needed from a technical and financial point of view. These works were known to the legislator and were linked to the Law (see paragraphs 67-69). Although the application of the principle was left to the national judge to verify, the Court considered that the measures and the works are part of the same project (paragraph 71).

In addition, the need to assess the overall effects of a project as a whole has to be duly addressed when numerous technical or operational changes are made during the operation of an installation. While it is common that a facility is undergoing continuous maintenance and multitude of safety improvements that would not present a significant risk to the environment if considered individually, in case where such operations would be tangibly linked to constitute a project in the sense of the EIA Directive, their cumulative impact on the environment should then be assessed as a whole.

Therefore, when there is an inextricable link between the multiple minor changes demonstrating that the minor changes are part of one complex activity (undertaken for example with a demonstrable intent to extend the lifetime of the nuclear power plant or the operation of an installation), these might represent a project in the sense of the EIA Directive. Technical documents, management plans, investment plans, administrative acts or laws, as well as explanatory memorandums related to administrative acts or laws can be helpful in establishing whether a series of changes are inextricably linked and are is part of such complex activity (undertaken with a demonstrable intent to extend the lifetime of the nuclear power plant).

The need to consider the project as a whole (as regards both its components as well as its effects) has been further reinforced by the revised EIA Directive ([38]).

2.2.5 *The remediation of the failure to carry out on environmental impact assessment*

Member States must implement the EIA Directive in a manner which fully corresponds to its requirements, having regard to its fundamental objective. It is clear from Article 2(1) that before development consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location should be made subject to a requirement for development consent and an assessment with regard to their effects ([39]). This basic principle of the Directive implies that for projects listed in Annexes I and II of the Directive, respectively an EIA or a screening must be carried out before that project receives development consent.

Otherwise, the developer '*cannot commence the works relating to the project in question, if the requirements of the directive are not to be disregarded*' ([40]).

The EIA Directive does not provide for an *ex post* EIA or screening procedure, nor prescribes it as a possible legal remedy for failures to comply with the EIA Directive. Not carrying out a screening of projects listed in Annex II or an environmental impact assessment procedure of projects listed in Annex I, constitutes a breach of the European Union law ([41]).

([37]) Case C-244/12, Salzburger Flughafen, paragraph 37. In this case the projects at stake were related to the construction of ancillary buildings for an airport (i.e. warehouses, extension of vehicle parking areas and aircraft standing areas) that had to be considered with other projects approved earlier (i.e. construction of an additional terminal).

([38]) See Annexes II.A.1.a, III.1.a and IV.1b, as well recital 22 of Directive 2014/52/EU ('In order to ensure a high level of protection of the environment and human health, screening procedures and environmental impact *assessments should take account of the impact of the whole project in question, including, where relevant, its subsurface and underground, during the construction, operational and, where relevant, demolition phases*').

([39]) C-287/98, Linster, paragraph 52; C-486/04 Commission v. Italy, paragraph 36; C-215/06, Commission v. Ireland, paragraph 49.

([40]) Case C-215/06 Commission v. Ireland, paragraph 51. '[…] Article 2 (1) of that directive must necessarily be understood as meaning that, unless the applicant has applied for and obtained the required development consent and has first carried out the environmental impact assessment when it is required, he cannot commence the works relating to the project in question, if the requirements of the directive are not to be disregarded.'

([41]) In addition, in the event of an omission to carry out an environmental impact assessment or screening, it is for national courts to determine whether the requirements of European Union law applicable to the right to compensation, including the existence of a direct causal link between the breach alleged and the damage sustained, have been satisfied (Case C-420/11, Leth, paragraphs 48).

However, under the principle of sincere cooperation laid down in Article 4(3) TEU, Member States are required to remedy the consequences of a breach of Union law. The obligation to remedy the failure to carry out an EIA stems from the principle of cooperation laid down in the primary EU law and settled case law ([42]). The competent authorities are therefore obliged to take, within the sphere of their competence, the measures necessary to remedy failure to carry out an EIA, for example through the revocation or suspension of a development consent already granted in order to carry out such an assessment, subject to the limits resulting from the procedural autonomy of the Member States ([43]).

The Court has held that EU law does not preclude national rules which, in certain cases, permit the regularisation of operations or measures which are unlawful in the light of EU law and has made it clear that such a possible regularisation would have to be subject to the condition that it does not offer the persons concerned the opportunity to circumvent the rules of EU law or to dispense with their application, and that it should remain the exception ([44]).

Ex post EIA is a possible remedial measure for *de facto* failures to comply with the EIA Directive (e.g. to situations in which development consent had already been granted without carrying out an EIA and works either performed, or about to be executed).

The Court has held that an assessment carried out after a project has been completed and has entered into operation cannot be confined to its future impact on the environment, but must also take into account its environmental impact from the time of the completion of the project. Therefore, in the event of failure to carry out an environmental impact assessment required under the EIA Directive, the EU law, on the one hand, requires Member States to nullify the unlawful consequences of that failure and, on the other hand, does not preclude regularisation through the conducting of an impact assessment, after the project concerned has been completed and has entered into operation, on condition that:

— national rules allowing for that regularisation do not provide the parties concerned with an opportunity to circumvent the rules of EU law or to dispense with applying them, and

— an assessment carried out for regularisation purposes is not conducted solely in respect of the project's future environmental impact, but must also take into account its environmental impact from the time of its completion ([45]).

Ex post EIA procedures should be used exceptionally only and as a remedy to ensure that the objective of the EIA Directive are attained even if the procedure has not been formally carried out and it should not be applied by MS to circumvent the EIA Directive requirements. ([46])

The obligation for Member States to take all measures necessary to remedy the illegal consequences of the absence of EIA is also applicable in cases of failure to carry out and EIA to changes or extensions of projects.

3. **MANAGING CHANGES AND EXTENSIONS OF PROJECTS**

3.1 **Background**

Initially, Council Directive 85/337/EEC ([47]) did not explicitly cover changes or extensions of existing projects, with the exception of the reference in point 12 of Annex II to 'Modifications to development projects included in Annex I and projects in Annex II undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than one year' (Annex II (12)).

([42]) Case C-201/02, Wells, paragraphs 66-70.

([43]) Case C-215/06, Commission *v.* Ireland, paragraph 59, *'[…] The competent authorities are therefore obliged to take the measures necessary to remedy failure to carry out an environmental impact assessment, for example the revocation or suspension of a consent already granted in order to carry out such an assessment, subject to the limits resulting from the procedural autonomy of the Member States'*.

([44]) Cases C-215/06, Commission v Ireland, paragraph 57; C-416/10, Križan and Others, paragraph 87; C-348/15, Stadt WienerNeustadt, paragraph 36; C-411/17, Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen, paragraph 174.

([45]) Cases C-196/16 and C-197/16, Comune di Corridonia, paragraphs 35-41 and 43; C-117/17, Castelbellino, paragraph 30, C-411/17, Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen, paragraph 175.

([46]) C-215/06, Commission v Ireland, paragraph 57; C-416/10, Križan and Others, paragraph 87; C-348/15, Stadt WienerNeustadt, paragraph 36.

([47]) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

Twelve years after the initial Directive, point 13 (a) of Annex II was inserted as the first project category on changes to projects, with the same wording that it has today. Namely, Council Directive 97/11/EC ([48]) amended Directive 85/337/EEC so as to include in Annex II (13): *'any change or extension of projects listed in Annex I or Annex II, already authorised, executed or in the process of being executed, which may have adverse effects on the environment'* ([49]).

Point 24 of Annex I was inserted six years after the insertion of the first project category on project change. The amendments introduced by Directive 2003/35/EC of the European Parliament and of the Council ([50]) in view of aligning the Community legislation with the provisions of the Aarhus Convention made clear that an environmental impact assessment is mandatory for *'any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex'*.

Since the insertion of point 24 of Annex I in the text of the Directive, the Court has delivered only one ruling interpreting this project category, the one in case C-411/17.

3.2 **Concept of change /extension to a project**

The EIA Directive does not define the terms 'change or extension' and does not provide examples. What exactly constitutes a change or extension would depend on the type of project. Some examples of such changes or extensions are presented in Sections 3.3.1 and 3.3.2 below based on the case law of the CJEU.

Point 24 of Annex I and point 13(a) of Annex II are specific project categories, covering changes and extensions of all categories of projects in the scope of the EIA Directive, with all their specificities.

3.3 **Annex I of the EIA Directive - Project category I.24**

> *Annex I.24 - Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.*

Point 24 of Annex I refers explicitly to any change or extension of Annex I projects that meets the thresholds set out, if any, in that Annex ([51]).

The Court in the *Doel* ruling further clarified a key principle triggering the obligation to conduct an environmental impact assessment for changes or extensions of Annex I projects, based on the environmental risk of such change.

The Court recalled that environmental impact assessments must be conducted for projects that are listed in Annex of the Directive if these are likely to have significant effects on the environment, by virtue of its nature, size or location, and continued:

'78. *As regards point 24 of Annex I to the EIA Directive, it is evident from the wording and general scheme of that provision that it applies to any change or extension to a project, which by virtue of, inter alia, its nature or scale, presents risks that are similar, in terms of their effects on the environment, to those posed by the project itself.*

79. *The measures at issue in the main proceedings, which have the effect of extending, by a significant period of 10 years, the duration of consents to produce electricity for industrial purposes with respect to both power stations in question, which had up until then been limited to 40 years by the Law of 31 January 2003, combined with major renovation works necessary due to the ageing of those power stations and the obligation to bring them into line with safety standards, must be found to be of a scale that is comparable, in terms of the risk of environmental effects, to that when those power stations were first put into service.*'

([48]) Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ L 73, 14.3.1997, p. 5).

([49]) As a precursor to the insertion of Annex II.13(a) project category in the text of the Directive, the Court ruled in case C-72/95, Kraaijeveld and others that the Directive applies also to changes to projects. The Court found that the expression canalisation and flood-relief works referred to in point 10(e) of Annex II to Directive 85/337/EEC (before amendments by Directive 97/11/EC) should be interpreted as including not only construction of a new dyke, but also modification of an existing dyke involving its relocation, reinforcement or widening, and replacement of a dyke by constructing a new dyke in situ, whether or not the new dyke is stronger or wider than the old one, or a combination of such works (paragraph 42).

([50]) Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156, 25.6.2003, p. 17).

([51]) For changes/extensions of Annex I projects that are under the threshold but are carrying significant adverse effects on the environment see Annex II point 13(a).

In paragraph 78 of the *Doel* ruling the Court established the key principle triggering the obligation to conduct an EIA in case of change or extension of Annex I projects. The measure of assessment of relevant criteria is the risk in terms of environmental effects. If the risk carried by the change or extension of the project is comparable to risk presented by the original project category itself, the project falls under point 24 of Annex I to the EIA Directive ([52]).

In the case at hand, the Court referred both to the measures, which have the effect of extending the duration of consents to produce electricity and to the scale of the works. In paragraph 79, it referred to the extension of the running of the nuclear power plants by a significant period of time (10 years) and the fact that major renovation works ([53]) are necessary. The Court concluded that the environmental risks of the project are of a scale that is comparable to those when the nuclear power plants were first put into service.

The judgment refers to the nature or scale of the change or extension to a project as non-exhaustive examples for criteria to assess whether the environmental risks are similar to those of the original project. Also, the judgment does not indicate that both criteria have to be met cumulatively. The decisive element seems to be that the overall analysis of a given project shows that there are similar risks compared to the original project (in the case at hand nuclear power stations and nuclear reactors). It follows that nature and scale of the change/extension to a project do not seem to be the only possible criteria. Also, it does not seem necessary that the risks result from both nature and scale of the project, as long as they are, in result, similar to those of the original project. It does not seems excluded that the risk can also result from the nature of a project alone or from its scale (*'by virtue of, inter alia, its nature or scale'* ([54])).

3.3.1 *Annex I – Projects with thresholds*

For more than half of the project categories under Annex I, thresholds are set up. Therefore, for changes or extensions of such projects, which meet or exceed these thresholds, an EIA has to be undertaken, as these changes or extensions present risk similar to the original project category ([55]).

Nevertheless, it is important to note that based on the established case law, for works to modify elements of existing projects for which thresholds are set in Annex I it has to be carefully assessed under which circumstances those thresholds are met. In Case C-2/07, Abraham and Others, the Court held that *'[…] works to modify an airport with a runway length of 2 100 metres or more thus comprise not only works to extend the runway, but all works* ([56]) *relating to the buildings, installations or equipment of that airport where they may be regarded, in particular because of their nature, extent and characteristics, as a modification of the airport itself. That is the case in particular for works aimed at significantly increasing the activity of the airport and air traffic'* (paragraph 36) ([57]).

3.3.2 *Annex I – Projects without thresholds*

As for Annex I projects with thresholds, any change or extension of Annex I projects without thresholds, which by virtue of, inter alia, its nature or scale, presents risks that are similar, in terms of their effects on the environment, to those posed by the project itself, should be considered as falling under point 24 of Annex I. Such projects carry an inherent risk of significant effects on the environment, within the meaning of Article 2(1) of the EIA Directive, and should therefore be subject to an assessment of its environmental impact under Article 4(1) ([58]).

The EIA Directive does not indicate a procedure for establishing the level of risk in terms of environmental effects of the project and it is therefore to the developers and the competent authorities to analyse the project at stake. An important element from the point of developers and competent authorities responsible for environmental impact assessment is to identify at which moment a project change or extension requires an environmental impact assessment. Guidance to EIA practitioners on different approaches that can be used to establish the risk of significant effects on the environment can be found in the Guidance for scoping ([59]) and on the preparation of the EIA report ([60]).

([52]) Case C-411/17, paragraphs 79-80.
([53]) The scale of the renovation was demonstrated by the EUR 700 million investment budget earmarked for those power stations, Case C-411/17, para 64.
([54]) Ibid, para 78.
([55]) Also, based on Annex I.24, an EIA is needed for *'any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex'*.
([56]) The proposed project was for the modification of the airport's infrastructure, the construction of a control tower, new runway exits and aprons, and work to restructure and widen the runways without altering their length.
([57]) The approach was also confirmed Case C-275/09, Brussels Hoofdstedelijk Gewest and Others, and Case C-244/12, Salzburger Flughafen.
([58]) By analogy, Case C-411/17, Doel, paragraph 78.
([59]) https://ec.europa.eu/environment/eia/pdf/EIA_guidance_Scoping_final.pdf (this document does not reflect the official opinion of the Commission, is not binding for the Commission and is not being endorsed by this notice).
([60]) https://ec.europa.eu/environment/eia/pdf/EIA_guidance_EIA_report_final.pdf (this document does not reflect the official opinion of the Commission, is not binding for the Commission and is not being endorsed by this notice).

However in all cases, as mentioned in Section 2.2.2, Member States have to ensure that they implement the EIA Directive in a manner which fully corresponds to its requirements, having regard to its fundamental objective which, as is clear from Article 2(1), is that, before development consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location should be made subject to a requirement for development consent and an assessment with regard to their effects ([61]).

Annex I contains 16 types of projects with no assigned threshold which can be divided in three groups - nuclear-related projects (Annex I.2(b) and Annex I.3), industrial installations (Annex I.4 , I.6, I.9, I.18(a) and 22) and linear projects such as construction of long-distance railway lines, motorways and express roads (Annex I.7(a) – long distance railway traffic ([62]) and I.7(b)).

In case C-411/17, the Court concluded in part 1 of the operative part that the restarting of industrial production of electricity for a period of almost 10 years at a nuclear power station that had previously been shut down, with the effect of deferring by 10 years the deadline initially set by the national legislature for deactivating and ceasing production at that power station, and deferral, also by 10 years, of the date initially set by the legislature for deactivating and ceasing industrial production of electricity at an active power station, measures which entail major ([63]) work to upgrade the power stations in question such as to alter the physical aspect of the sites, constitute a 'project', within the meaning of the EIA Directive, and in principle an environmental impact assessment must be carried out with respect for that project prior to the adoption of these measures.

By analogy, changes or extensions to Annex I projects with no assigned threshold which by virtue of, *inter alia*, their nature or scale, present risks that are similar, in terms of their effects on the environment, to those of the original project itself, shall be subject to an assessment.

3.4 **Annex II of the EIA Directive – Project category II.13 (a)**

Annex II.13(a) - Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I).

The provision refers to any change or extension, which may have significant adverse effects on the environment.

The screening of projects falling in this category is to be done in accordance with the detailed requirements and criteria contained in Article 4, Annex IIA and Annex III of the EIA Directive. Article 4(3) requires that the competent authorities consider relevant criteria when deciding whether EIA is needed, i.e. the characteristics of projects (including the size and design of the whole project), the location of project and the type and characteristics of the potential impacts. These criteria are listed in Annex III to the EIA Directive. The competent authority must issue its decision, on whether a proposed Annex II Project is to be subjected to the EIA procedure or not, based on the information provided by the developer in accordance with the detailed requirements in Annex IIA (including the description of the physical characteristics of the whole project). The authority is also required to take any other relevant assessments, carried out on the effects on the environment pursuant to other EU legislation than the EIA Directive, into account. The screening decision has to be justified, made publicly available (Article 4(5)) and be subject to review as set out in the case law ([64]). Finally, the competent authority must make its decision on whether EIA is required or not within the time period specified in Article 4(6).

The EIA Directive does not provide a definition for 'significant adverse' effects. The general meaning of 'significant' describes how notable or important effects can be. 'Adverse', on the other hand, describes that these effects are unfavourable or harmful. In this respect, the criteria listed in Annex III of the EIA Directive provide a general guidance which can serve as a suitable framework to determine the significance of adverse impacts.

As already pointed out in Section 2.1, when determining whether changes or extensions of certain Annex I and Annex II projects should be subject to an assessment, the competent authorities should take into account the fundamental objective of the EIA Directive, that is, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location should be made subject to a prior assessment with regard to their effects as well as its wide scope and broad purpose.

([61]) Cases C-287/98, Linster, paragraph 52; C-486/04 Commission v. Italy, paragraph 36; C-215/06, Commission v. Ireland, paragraphs 49.
([62]) This category consists of a threshold and non-threshold project types.
([63]) Case C-411/17, Doel, paragraph 79.
([64]) Case C-570/13, paragraphs 44 and 50.

4. APPLICATION OF THE EIA DIRECTIVE TO CHANGES AND EXTENSIONS OF NUCLEAR POWER PLANTS

Introduction

The EIA Directive lists nuclear power stations ([65]) and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors under point 2(b) of Annex I. Additional project categories in point 3 (a) and (b) of Annex I include installations for production and enrichment of nuclear fuel or processing, storage or disposal of irradiated nuclear fuel or radioactive waste. In the light of the latest jurisprudence of the Court related to the nuclear sector, the purpose of this section is to explore when and how the environmental impact assessment procedure applies to the changes to or extensions of existing nuclear category projects.

This guidance also takes account of the latest developments in this field in the framework of the Espoo Convention on the transboundary environmental impact assessment and presents them in the light of the provisions of the EIA Directive and the latest jurisprudence of the CJEU. In particular, in December 2020, the Parties to the Espoo Convention adopted a Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants ([66]). Such extensions can also constitute changes or extensions of projects under the provisions of the EIA Directive and hence are relevant for the present guidance document.

Terminology

Whilst certain terminology used in the EIA Directive and the Espoo Convention is not identical, the concepts are interlinked and the Directive should be interpreted in the light of the Espoo Convention. For example, while the EIA Directive provides a definition of the term 'project', the 1991 Espoo Convention uses the term 'proposed activity'. Regarding the EIA Directive's concept of changes and extensions, the Espoo Convention covers new or planned activities as well as 'any major change to an activity'. As noted in Section 3.2., the EIA Directive does not define the terms 'change or extension' of existing projects; similarly, the Espoo Convention does not define what a 'major change' to an activity is. Despite the difference in terminology, there are similarities in substance.

Similarly in terms of terminology the continuation of the operation of the plant beyond the initially set operating lifetime can be referred to by a multitude of terms, depending for example on the licensing regime and regulatory framework. This way we can refer to a lifetime extension of the operation, a continued or long term operation ([67]), etc.

The Espoo guidance uses the term 'lifetime extension' of NPPs in a pragmatic way, based on a common understanding of the term among the parties and provides description of most common situations in this respect. The present guidance also refers to the term 'long term operation', which is a term used generally by the European Commission and the CJEU (and other international fora, for example the International Atomic Energy Agency (IAEA)).

EIA Directive and Euratom legislation

The EIA Directive is based on the Treaty on the Functioning of the European Union (TFEU). As the CJEU stated in its recent case law, *'the Euratom Treaty and the TFEU have the same legal value, as illustrated by Article 106a(3) of the Euratom Treaty, according to which the provisions of the EU Treaty and the TFEU are not to derogate from the provisions of the Euratom Treaty. […] Since the Euratom Treaty is a sectoral treaty directed at the development of nuclear energy, whereas the TFEU has much more far-reaching aims and confers upon the European Union extensive competences in numerous areas and sectors, the rules of the TFEU apply in the nuclear energy sector when the Euratom Treaty does not contain specific rules'* ([68]). Therefore, the Euratom Treaty does not preclude the application in that sector of the rules of EU law on the environment and the EIA directive applies to nuclear power stations and other nuclear reactors ([69]).

In any case, the Euratom Treaty and the EIA Directive are applicable in parallel. Art. 37 Euratom Treaty includes specific provisions on the safety and protecting against ionising radiations, including radioactive contamination of the water, soil or airspace. The EIA Directive requires that for a project likely to have significant effects on the environment, the direct and

([65]) For the purposes of this guidance the term 'nuclear power stations' is equivalent to the term 'nuclear power plants'.

([66]) https://unece.org/sites/default/files/2021-02/Guidance_on_Conventions%20applicability_to_LTE%20of%20NPPs_As%20endorsed%20and%20edited.pdf

([67]) Long term operation of a nuclear power plant is operation beyond an established time frame defined by the licence term, the original plant design, relevant standards or national regulations. (Ageing Management and development of a Programme for Long Term Operation of Nuclear Power Plants, IAEA Specific Safety Guide SSG-48, IAEA 2018).

([68]) See paragraph 32 of the judgment of 22 September 2020, Austria v Commission, C-594/18 P (ECLI:EU:C:2020:742).

([69]) See paragraphs 41 and 43 of the judgement of 22 September 2020, Austria v Commission, C-594/18 P (ECLI:EU:C:2020:742).

indirect significant effects on the population, human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage and the landscape as well as the interaction between these factors are identified, described and assessed in an appropriate manner.

When applying the provisions of the EIA Directive, the competent authorities have to take into account the '*effet utile*' of the procedures provided for by the Euratom Treaty, as well as the specific set of rights and obligations conferred and imposed on both the Commission and the Member States under the Euratom Treaty ([70]).

4.1 Examples of works or physical interventions related to changes or extensions to the Nuclear Power Plant project category

The EIA Directive does not define further the term 'changes or extensions to existing projects', nor does it provide examples of such. As stated in previous sections, under the case-law of the Court, the presence of works or other physical interventions is a prerequisite for the identification of a project in the sense of the Directive. In the absence of a more detailed definition, this guidance identifies and groups illustrative examples of different possible works or physical interventions at a NPP, involving upgrades, modifications or replacements of equipment and systems that may take place at a plant.

The number and complexity of the technical systems installed at a NPP is very high and it would be impractical to try to list all the different possible interventions. However, the examples of the works or physical interventions implemented at NPPs leading to modifications or replacements of plant structures, systems and components can be summarised as the following three categories:

— Improvement of plant performance/economics

As the reason for building and operating NPPs is to generate electricity and to make a profit from its sale, NPP licensees have an incentive to improve the performance of the plant in terms of its electricity generating capability or by reducing its operating costs. Plant improvements that can reduce maintenance requirements or manual operations, among others, will contribute to reducing operating costs. Increases to the amount of electricity generated are mainly obtained by increasing the reactor power generating capacity or reducing its downtime. Related plant upgrade projects may include turbine, generator, transformer, condenser refurbishment or replacement; changes to fuel design (e.g. higher enrichment) to increase core thermal power or increase fuel residence time in the core (leading to fewer/shorter refuelling outages); changes in the water chemistry regime (e.g. to decrease the generation of corrosion products); refurbishment of selected Balance-Of-Plant systems to achieve higher efficiency of the caloric cycle; modernisation of control systems and human-machine interfaces (e.g. the main control room) to achieve higher plant reliability and availability; etc. These modifications can be implemented at any time during plant lifetime.

— Maintenance of the condition of the plant in accordance with its technical specification/licensing basis

Works or physical interventions performed at a NPP for the purpose of maintaining the condition of the plant in accordance with its technical specification or licensing basis can range from routine maintenance (for example installation of spare parts), through major refurbishments of systems, structures and components, to component replacements, including major components such as steam generators, reactor pressure vessel heads, control rod drive mechanisms or reactor internals. Component replacements may be required due to ageing, wear or damage, or due to obsolescence (e.g. replacement of ageing analogue I&C systems with modern digital systems). In many cases, these are like-for-like replacements, although some may bring improved safety or reliability from improved design or use of more modern technology.

These kinds of works may be necessary implemented at any time during the lifetime of a nuclear power reactor ([71]).

— Safety improvements

Safety improvements typically address issues identified as part of the process of continuous improvement of nuclear safety, for example through periodical safety review (PSR) or operating experience feedback. Such improvements may be necessary at any time during the lifetime of the plant.

([70]) See, inter alia, Chapter 3 'Health and Safety' of the Euratom Treaty, as well as paragraphs 40-41, 43 of the Court judgment of 22 September 2020, Austria v Commission, C-594/18 P (ECLI:EU:C:2020:742).

([71]) Those interventions are not necessarily linked with an long term operation (LTO) process, even if an extended operational lifetime would not be possible had the components not been replaced (for example, a decision to extend the operational lifetime of a NPP after the expiry of its design life of 40 years may not have been possible had the steam generators not been replaced after 30 years of operation).

Typical examples of such safety improvements might include additional alternative construction of new facilities necessary for the continued operation of the NPP; electrical power supplies/generators; filtered containment venting; installation of systems to manage the hydrogen generated during severe accidents (e.g. passive autocatalytic recombiners and/or H_2-burners); strengthening/qualifying systems, structures and components for higher seismic resistance; additional diverse core cooling circuit or other safety system; installation of an alternative ultimate heat sink (e.g. a cooling tower) or introduction of additional cooling water acquisition means (e.g. wells); primary circuit overpressure protection systems; increased flooding protection (for example new dykes, modifications to drainage or similar works to cope with higher flood levels); modifications to water chemistry control; additional fire detection and protection measures; etc.

The examples of works or physical interventions set out in the three categories above may occur individually or in combination and should be considered on a case-by-case basis, in line with the provisions of the EIA Directive and the CJEU case law. Depending on their nature or scale in the respective case, if these interventions qualify as a changes or extensions to a 'project' within the meaning of the EIA Directive, they may trigger either an EIA (Annex I point 24) or a screening (under Annex II point 13(a)); in certain cases, they may fall outside the scope of the EIA Directive. It is for the competent authorities to assess if any works represent a project according the EIA Directive and how they should be considered based on the principles of the EIA Directive.

4.2 **Authorisation of changes or extensions of NPP projects**

All NPPs are subject to an authorization regime and their construction and operation are only possible on the basis of a decision issued by a competent authority. The approach to authorising the operation of NPPs in Member States differs, notably, as authorisations for such operation are given either for a specific time-limited authorisation term (for example 10 years) or for an indefinite duration.

Once in operation, NPPs undergo continuous safety assessments, monitoring (including environmental monitoring) and inspections throughout their entire lifecycle overseen by the relevant competent authority/authorities. The competent authorities are also responsible for verifying that the operation of NPPs complies with the conditions of the relevant authorization and that the operators take any required action to ensure this compliance and nuclear safety ([72]). Depending on the specific national procedure, the operator under the control of a competent authority has to carry out additional assessments and evaluate the operation of a NPP at various points, inter alia, in the context of a periodic safety review, thematic reviews (external hazards, specific operating experience feed-back) or an extension of operating lifetime ([73]). Such considerations would most likely include the question of whether the plant will be allowed to continue its operation unchanged (or without any major changes); whether an intervention, such as measures related to improving nuclear safety, are required in order for the operation to continue; whether the plant has to be definitively shut-down (e.g. if the necessary safety upgrades cannot ultimately be implemented or if the operator deems that the implementation of such measures is not justified based on his future operation strategy).

As a consequence of the full framework of inspections, safety evaluations and the principle of continuous improvement under the Nuclear Safety Directive, safety upgrades are regularly identified and their implementation is planned in due time. Usually, safety upgrades fit and comply with the conditions of the existing authorisation to run a NPP (commonly grouped in the license of the NPP).

If the changes required constitute a project within the meaning of the EIA Directive and have already been assessed by an earlier EIA, that assessment will not have to be repeated, unless the circumstances have changed in the meantime (see below section 4.4).

The authorities of the Member States have the responsibility to assess what acts in their national legislation constitute a development consent on change or extension of operating lifetime of NPPs , i.e the decision giving right to the operator to proceed with the project – to ensure that the provisions of the EIA Directive are met/complied with (to this end see Section 2.2.2).

([72]) Directive 2009/71/Euratom of 25 June 2009 (OJ L 172, 2.7.2009, p. 18), as amended by Directive 2014/87/Euratom of 8 July 2014 (OJ L 219, 25.7.2014, p. 42), establishing a Community framework for the nuclear safety of nuclear installations . The general principle of the continuous improvement requirement is that the operator, under the supervision of the national safety authorities, implement, on a continuous basis all identified reasonable safety improvement. This approach is complemented by inspection, specific regular safety analysis (like stress test, human intervention…) or periodical safety review which review in depth the safety cases basis.

([73]) Originally NPPs were typically designed for a specific operating lifetime (for example 30 to 40 years for the so-called generation II nuclear power plants that are operating today, and many of which are approaching or have already passed their original design lifetime). This initial lifetime can be influenced by many factors (for example continuous maintenance and replacement of components) and it is common for the plant to operate beyond this original lifetime, based on a systematic and comprehensive demonstration that it is safe to do so.

What counts when determining what is such a development consent is not the title (e.g. 'license' or 'permit') but rather the authorizing function with regard to the rights or duties of the operator.. For example internal procedures or considerations of a competent authority not followed by an authorization to proceed with works would therefore not be considered as a development consent in terms of the EIA Directive.

4.2.1 *The specific cases of lifetime extension (LTE) and long term operation (LTO)*

The present guidance addresses all types of changes and extensions. LTE and LTO are specific cases. Theoretically, both could occur without works but, in practice, in the Members States of the EU, it can be expected that they are accompanied by works.

The Guidance on the applicability of the Espoo Convention to the lifetime extension of nuclear power plants provided useful examples and factors to take into account.

The example of the Periodic Safety Review

Operators may use ongoing processes to identify the existence of a project and the need for a development consent in the sense of the EIA Directive. The NPPs within the EU are subject to specific nuclear safety review regime, in line with the relevant Euratom legislation, called also a periodic safety review (PSR). Article 8c of Council Directive 2009/71/Euratom ([74]) requires from the operator to *'re-assesses systematically and regularly, at least every 10 years, the safety of the nuclear installation'*. The PSR *'aims at ensuring compliance with the current design basis and identifies further safety improvements by taking into account ageing issues, operational experience, most recent research results and developments in international standards'*. Hence, the PSR is an in-depth review, which shall identify and evaluate the safety significance of deviations from applicable current safety standards and internationally recognised good practices taking into account operating experience, relevant research findings, and the current state of technology. This process contributes to the assessment of the capacity of the NPP to continue operation in a safe manner and further on to improve the level of safety. Based on an analysis of the operator's review results, the competent authority can for example authorise the continued operation of the plant up to the end of the next periodic safety review cycle (usually 10 years).

It is important to note that due to its nature and purpose, the PSR itself is in general not *per se* a decision on an extension or change of the operating regime (e.g. LTO). However, in certain cases the findings of the review may lead to issuance of a decision by a competent authority, in order to implement the findings of that review (for example, the need of safety improvements at the plant before continuing its operation or in parallel with its continued operation). Also, in some cases, a PSR is used in support of the decision-making process for a licence extension or renewal or can be part of a multistage decision-making procedure (see also Section 2.2.2). However, a periodic safety review does not as such require an EIA.

If the outcome of the PSR results in works, they may require an EIA and development consent where they constitute a change or extension in the sense of Annex I point 24 of the EIA-Directive, or where they constitute a change or extension in the sense of Annex II point 13(a) the EIA-Directive and Member States have determined, in accordance with Art. 2(1) and 4(2) of the EIA Directive that an EIA is needed.

4.3 **Guiding principles for assessing changes or extensions of NPP projects in the light of the Doel ruling**

As stated in Section 3.3, the Court concluded that the EIA Directive must be interpreted as meaning that restarting or deferring the shut-down of a nuclear power station ([75]), each for a period of 10 years ('measures'), measures which entail works costing approximatively EUR 700 million ([76]) to upgrade the power stations in question such as to alter the physical aspect of the sites, constitute a 'project', within the meaning of that directive, and an environmental impact assessment must, in principle, be carried out with respect to that project prior to the adoption of those measures ([77]). To arrive to that conclusion, the Court had held that the nature of the works ([78]) is such as to alter the physical aspect of the sites in question,

([74]) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18), as amended by Council Directive 2014/87/Euratom of 8 July 2014 (OJ L 219, 25.7.2014, p. 42).

([75]) Under the Belgian Law, the nuclear power stations had to be deactivated 40 years after the date on which they were brought into service for industrial purposes.

([76]) As regards the amounts involved, it is worth recalling that investments of approximatively EUR 700 million were at stake in the Doel case. Beyond that, the Court has stressed that the scale or nature of works are decisive.

([77]) C-411/17, Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen, EU:C:2019:622, para. 94.

([78]) Ibid, paragraph 66 - […] upgrading the containment structures of the Doel 1 and Doel 2 power stations, renewal of the spent fuel pools, building a new pumping station and adaptation of the base to offer better protection to the power stations against flooding; […] work would not be limited to improvements to existing structures, but would also involve the construction of three buildings, two to host ventilation systems and a third as a fire protection structure.

within the meaning of the Court's case law, and therefore the measures cannot be artificially dissociated from the works to which they are inextricably linked when assessing whether they constitute a project within the meaning of the Directive. It therefore held that the measures and the works together constitute a single project within the meaning of that provision ([79]).

Paragraph 78 of the *Doel* ruling establishes the key principle triggering the obligation to conduct an EIA in case of change or extension of Annex I projects. The measure of assessment of relevant criteria is the risk in terms of environmental effects. If the risk carried by the change or extension of the project is comparable to risk presented by the original project category itself, the project falls under point 24 of Annex I to the EIA Directive. The wording of the judgment suggests that the nature or scale of the change or extension to a project are non-exhaustive examples for criteria to assess whether the environmental risks are similar to those of the original project and do not necessarily have to be met cumulatively.

Therefore, it can be concluded from the judgment that measures which have the effect of extending, by a significant period, the duration of consents of NPPs to produce electricity and which entail major renovation works inextricably linked to the measures to upgrade/modify the power stations in question such as to alter the physical aspect of the sites, fall within the scope of point 24 of Annex I to the EIA Directive, as they present risks that are similar, in terms of their effects on the environment, to those when the power stations were first put into service. This is in particular the case where the long-term extension of the operating time and the renovation works are of a similar importance as those in Case C-411/17.

Apart from the abovementioned guiding principle, the *Doel* ruling has confirmed other important principles of the EIA Directive, which are also relevant when applying the Directive to changes and extensions of NPP (see above the sections on the assessment of the overall effects of a project and multistage decision-making).

4.4 **Determination of the risk and the need for an EIA**

While the EIA Directive does not provide criteria for assessing the risk of works qualifying as changes or extensions of projects nor offers examples of such works qualifying as changes or extensions for Annex II projects, it provides criteria to determine whether they should be subject to an environmental impact assessment (selection criteria referred to in Article 4(3) of the EIA Directive and requirements of Annex II.A and Annex III to the Directive, as presented in Section 3.4). These selection criteria can therefore be used to determine the possible risk and subsequently the need for an EIA. Where works or physical interventions are of a scale that does not present a similar risk to the environment as the activity itself but constitute changes or extensions of a NPP already authorised, executed or in the process of being executed which may have significant adverse effects, these fall under point 13(a) of Annex II of the EIA Directive and are subject to a screening.

In that regard, the Espoo guidance on the lifetime extension of nuclear power plants should also be taken into account. Under the Espoo Convention, one of the parameters that has to be considered in order to subject a modification of an activity to a transboundary impact assessment is its classification as a major change of an activity. The Espoo guidance therefore presents a non-exhaustive list of illustrative factors ([80]) that may be relevant to be considered by the competent authorities when they determine whether a lifetime extension amounts to a major change. These factors are the following:

— Increased use of natural resources as compared to the limits envisaged in the initial licence;

— Increased production of waste or spent fuel as compared to the limits envisaged in the initial licence;

— Increased emissions, including of radionuclides and discharge of cooling water, as compared to the limits envisaged in the initial licence;

— Extent of upgrading works and/or safety upgrades or improvements, in particular those requiring significant alteration of the physical aspects of the site or substantial improvements arising from ageing components and/or obsolescence;

— Changes in the surrounding environment, such as those arising from climate change;

— Climate change adaptation and mitigation measures.

Another important factor to consider is whether the lifetime extension in question, taking account of its specific features, may cause significant adverse transboundary environmental impact ([81]).

([79]) Ibid, paragraph 71.
([80]) Espoo Guidance, Annex II.
([81]) Espoo Guidance, part C, Lifetime extension as a major activity.

The possible impacts of the works or physical interventions on the environmental factors are another selection criterion to determine the possible risk and the need for an EIA. According to Article 3 of the EIA Directive, a variety of environmental factors ([82]) have to be taken into account when a project is subject to a screening or an EIA. Different environmental factors may be affected in a different scale and duration depending on the possible changes or extensions to a NPP to allow its operation (to this end – see the categories of works described under Section 4.1).

Safety improvements to NPPs and works to maintain the condition of the plant in accordance with its technical specification/licensing basis in the majority of cases are intended to have overall positive environmental effects because the reason behind their implementation is to reduce the risk of an accident, reduce normal operational emissions or reduce radioactive waste generation. Most of these improvements are undertaken to achieve reduced radiological or other emissions to the environment in normal operation or in case of accidents, or both, and/or reduce occupational dose uptake of the workers in long term ([83]).

Improvements however may also have adverse environmental impact during plant normal operation such as increased use of resources like water or energy, or conventional emissions, e.g. from testing or occasional operation of additional emergency backup diesel generators. Other safety improvements could also potentially have an impact on the environment under specific conditions, for example an improvement aimed at enhanced flooding protection (e.g. new dykes, modifications to drainage or similar works) could have the potential to alter the natural flow of water courses during flood conditions, which may have an impact on the extent of flooding downstream where the water course may pass through or close to populated areas, or impact sites of special significance. Moreover, it cannot be excluded that some safety improvements may result in adverse environmental impacts during construction or installation phase (e.g. noise, nuisance, temporarily increased radiological and/or conventional waste generation, industrial/radiological emissions, use of resources such as construction materials, water, energy).

Changes to water chemistry control ([84]) in nuclear reactors are important from at least six different perspectives: material integrity, plant radiation levels, deposit build-up, fuel performance, environmental impact and safety. Such changes may bring improvements, for example, to safety, to component ageing degradation, or may allow better control of or reduce corrosion rates (which may also improve radiological dose uptake by workers and simplify maintenance). However, a change to one chemistry based parameter to improve safety can be to the detriment of another hazard or risk and careful balance is required. Consequently, while safety improvements are undertaken to make an overall positive environmental impact, some adverse environmental impacts are also possible.

Works or any physical interventions related to the improvement of performance of power units have a greater potential than safety improvements for significant environmental impact of the plant, both radiological (due to a different core radiological inventory for example) as well as other impacts (for example increased flow or temperature of cooling water discharges).

4.5 **Benchmarking in implementing the EIA Directive in the nuclear field**

Benchmarking exercises were launched on a regular basis in the nuclear safety field more than 20 years ago and provided successful outcomes in harmonising the practical implementation of safety principles. Their key role in ensuring a high level of safety, harmonised at EU level, was endorsed by the Nuclear Safety Directive ([85]), in particular through the provision concerning the topical peer reviews.

The implementation of this guidance and of the EIA Directive could be fostered by initiating such a benchmarking exercise by Members States, on a voluntary basis, as regards changes and extensions of NPP. The benchmarking could result in common methodologies at EU level and facilitate practical implementation in specific cases. For instance when considering changes or extensions to NPP, and in the light of the Section 4.2, benchmarking could be relevant in order to

([82]) Population and human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage, landscape as well as the interaction between these.

([83]) It is to be noted that any change or extension to a NPP having the potential for increased radiological emissions would trigger a notification to the European Commission under Article 37 of the Euratom Treaty, which requires that each Member State is to provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form as will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or air of another Member State.

([84]) Water chemistry control is essential for the safe operation of a nuclear power plant and may be used to minimize the harmful effects of chemicals, chemical impurities and corrosion on plant structures and components for its extension of operating lifetime.

([85]) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18), as amended by Council Directive 2014/87/Euratom of 8 July 2014 (OJ L 219, 25.7.2014, p. 42).

assess whether the radiological releases during normal operation or in case of accidents have changed, and to which extent it implies a need to review any existing EIA (if such an EIA was performed). Such a benchmarking exercise may also help to evaluate whether the changes and extensions of projects would create additional risks of impact to neighbouring Member States and identify to which Member States.

5. **SUMMARY OF THE MAIN POINTS**

— Where construction works or interventions, that involve alterations to the physical aspects of the original projects listed in Annex I or II of the Environmental Impact Assessment Directive, meet the requirements of Annex I point 24 or Annex II point 13(a) thereof, they constitute 'projects' within the meaning of the EIA Directive and be subject either to a screening or and EIA.

— Those projects that are likely to have significant effects on the environment shall be made subject to a requirement for a development consent.

— A change or extension of projects in the sense of Annex I point 24 to the Environmental Impact Assessment Directive, pre-suppose that there are risks similar, in terms of their effects on the environment, to the original project. In that respect, extending duration of consents of original projects by significant periods of time as well as the significance of works inextricably linked to the scale of changes or extensions of projects are key criteria that should be used by competent authorities.

Non-opposition to a notified concentration

(Case M.10247 – CVC / COOPER)

(Text with EEA relevance)

(2021/C 486/02)

On 22 October 2021, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 [1]. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the 'Competition policy' website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/homepage.html?locale=en) under document number 32021M10247. EUR-Lex is the online point of access to European Union law.

[1] OJ L 24, 29.1.2004, p. 1.

Non-opposition to a notified concentration

(Case M.10449 – KIA / ALMAVIVA)

(Text with EEA relevance)

(2021/C 486/03)

On 19 November 2021, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ([1]). The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the 'Competition policy' website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/homepage.html?locale=en) under document number 32021M10449. EUR-Lex is the online point of access to European Union law.

([1]) OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Notice for the attention of persons subject to the restrictive measures provided for in Council Decision 2012/642/CFSP, as implemented by Council Implementing Decision (CFSP) 2021/2125 and in Council Regulation (EC) No 765/2006, as implemented by Council Implementing Regulation (EU) 2021/2124 concerning restrictive measures against Belarus

(2021/C 486/04)

The following information is brought to the attention of the persons that appear in the Annex to Council Decision 2012/642/CFSP ([1]), as implemented by Council Implementing Decision (CFSP) 2021/2125 ([2]), and in Annex I to Council Regulation (EC) No 765/2006 ([3]) as implemented by Council Implementing Regulation (EU) 2021/2124 ([4]), concerning restrictive measures against Belarus.

The Council of the European Union has decided that those persons should be included on the list or persons subject to restrictive measures provided for in Decision 2012/642/CFSP and Regulation (EC) No 765/2006. The grounds for designations of those persons appear in the relevant entries in those Annexes.

The attention of the persons concerned is drawn to the possibility of making an application to the competent authorities of the relevant Member State(s) as indicated in the websites in Annex II to Regulation (EC) No 765/2006, in order to obtain an authorisation to use frozen funds for basic needs or specific payments (cf. Article 3 of the Regulation).

The persons concerned may submit a request to the Council before 31 December 2021, together with supporting documentation that the decision to include them on the above-mentioned list should be reconsidered, to the following address:

Council of the European Union
General Secretariat
RELEX.1.C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: sanctions@consilium.europa.eu

Any observations received will be taken into account for the purpose of the Council's periodic review, pursuant to Article 8(2) of Decision 2012/642/CFSP and Article 8a(4) of Regulation (EC) No 765/2006, of the list of designated persons and entities.

([1]) OJ L 285, 17.10.2012, p. 1.
([2]) OJ L 430 I, 2.12.2021, p. 16.
([3]) OJ L 134, 20.5.2006, p. 1.
([4]) OJ L 430 I, 2.12.2021, p. 1.

Notice for the attention of the data subjects to whom the restrictive measures provided for in Council Decision 2012/642/CFSP and Council Regulation (EC) No 765/2006 concerning restrictive measures against Belarus apply

(2021/C 486/05)

The attention of data subjects is drawn to the following information in accordance with Article 16 of Regulation (EU) 2018/1725 of the European Parliament and of the Council [1].

The legal basis for this processing operation are Council Decision 2012/642/CFSP [2], as implemented by Council Implementing Decision (CFSP) 2021/2125 [3], and Council Regulation (EC) No 765/2006 [4], as implemented by Council Implementing Regulation (EU) 2021/2124 [5].

The controller of this processing operation is the Council of the European Union represented by the Director General of RELEX (External Relations) of the General Secretariat of the Council and the department entrusted with the processing operation is RELEX.1.C that can be contacted at:

Council of the European Union
General Secretariat
RELEX.1.C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: sanctions@consilium.europa.eu

The GSC's Data Protection Officer can be contacted at:

Data Protection Officer

data.protection@consilium.europa.eu

The purpose of the processing operation is the establishment and updating of the list of persons subject to restrictive measures in accordance with Decision 2012/642/CFSP, as implemented by Implementing Decision (CFSP) 2021/2125, and Regulation (EC) No 765/2006, as implemented by Implementing Regulation (EU) 2021/2124.

The data subjects are the natural persons who fulfil the listing criteria as laid down in Decision 2012/642/CFSP and Regulation (EC) No 765/2006.

The personal data collected includes data necessary for the correct identification of the person concerned, the statement of reasons and any other data related thereto.

The personal data collected may be shared as necessary with the European External Action Service and the Commission.

Without prejudice to restrictions pursuant to Article 25 of Regulation (EU) 2018/1725, the exercise of the rights of the data subjects such as the right of access, as well as the rights to rectification or to object will be answered in accordance with Regulation (EU) 2018/1725.

Personal data will be retained for 5 years from the moment the data subject has been removed from the list of persons subject to the restrictive measures or the validity of the measure has expired, or for the duration of court proceedings in the event they had been started.

[1] OJ L 295, 21.11.2018, p. 39.
[2] OJ L 285, 17.10.2012, p. 1.
[3] OJ L 430 I, 2.12.2021, p. 16.
[4] OJ L 134, 20.5.2006, p. 1.
[5] OJ L 430 I, 2.12.2021, p. 1.

Without prejudice to any judicial, administrative or non-judicial remedy, data subjects may lodge a complaint with the European Data Protection Supervisor in accordance with Regulation (EU) 2018/1725 (edps@edps.europa.eu).

EUROPEAN COMMISSION

Euro exchange rates ([1])

2 December 2021

(2021/C 486/06)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,1339	CAD	Canadian dollar	1,4526
JPY	Japanese yen	127,94	HKD	Hong Kong dollar	8,8375
DKK	Danish krone	7,4362	NZD	New Zealand dollar	1,6662
GBP	Pound sterling	0,85135	SGD	Singapore dollar	1,5501
SEK	Swedish krona	10,2658	KRW	South Korean won	1 333,57
CHF	Swiss franc	1,0414	ZAR	South African rand	17,9652
ISK	Iceland króna	146,80	CNY	Chinese yuan renminbi	7,2297
NOK	Norwegian krone	10,2962	HRK	Croatian kuna	7,5245
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	16 342,16
CZK	Czech koruna	25,420	MYR	Malaysian ringgit	4,7964
HUF	Hungarian forint	362,44	PHP	Philippine peso	57,320
PLN	Polish zloty	4,5953	RUB	Russian rouble	83,5138
RON	Romanian leu	4,9488	THB	Thai baht	38,413
TRY	Turkish lira	15,2937	BRL	Brazilian real	6,3935
AUD	Australian dollar	1,5975	MXN	Mexican peso	24,1963
			INR	Indian rupee	85,0520

([1]) *Source*: reference exchange rate published by the ECB.

NOTICES FROM MEMBER STATES

Update of reference amounts for the crossing of the external borders, as referred to in Article 6(4) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)

(2021/C 486/07)

The publication of reference amounts for the crossing of the external borders, as referred to in Article 6(4) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), is based on the information communicated by the Member States to the Commission in conformity with Article 39 of the Schengen Borders Code.

In addition to the publication in the Official Journal, a monthly update is available on the website of the Directorate-General for Migration and Home Affairs.

REFERENCE AMOUNTS REQUIRED FOR THE CROSSING OF THE EXTERNAL BORDER FIXED BY NATIONAL AUTHORITIES

SPAIN

Replacement of the information published in OJ C 102, 24.3.2021, p. 8.

Article 1 of Order PRE/1282/2007, of 10 May 2007, on the financial means that foreign nationals must prove in order to be able to enter Spain, establishes that 'the amount to be proved must reach an amount that represents in euros 10 % of the gross minimum interprofessional gross salary or its legal equivalent in foreign currency multiplied by the number of days they intend to stay in Spain and by the number of persons travelling in their charge'.

Royal Decree 817/2021 of 28 September 2021, which sets the minimum interprofessional wage, published in the Official State Gazette number 233 of 29 September 2021, establishes the amount of the minimum interprofessional wage that is in force as of 1 September 2021, setting it at 32,17 EUR/day or 965 EUR/month, depending on whether the wage is fixed by days or by months.

According to the update of the amount of the minimum interprofessional wage fixed by RD 817/2021 of 28 September 2021, foreigners who intend to enter the national territory must continue to prove, that they have a minimum amount of 96,50 EUR per person per day, who intend to stay in Spain with a minimum of 868,50 EUR or its legal equivalent in foreign currency, provided that they are required by the officials in charge of carrying out the control of entry into Spanish territory, and under the terms established in the aforementioned Order.

List of previous publications

OJ C 247, 13.10.2006, p. 19.
OJ C 77, 5.4.2007, p. 11.
OJ C 153, 6.7.2007, p. 22.
OJ C 164, 18.7.2007, p. 45.
OJ C 182, 4.8.2007, p. 18.
OJ C 57, 1.3.2008, p. 38.
OJ C 134, 31.5.2008, p. 19.
OJ C 331, 31.12.2008, p. 13.
OJ C 33, 10.2.2009, p. 1.
OJ C 36, 13.2.2009, p. 100.
OJ C 37, 14.2.2009, p. 8.
OJ C 98, 29.4.2009, p. 11.
OJ C 35, 12.2.2010, p. 7.
OJ C 304, 10.11.2010, p. 5.
OJ C 24, 26.1.2011, p. 6.
OJ C 157, 27.5.2011, p. 8.
OJ C 203, 9.7.2011, p. 16.
OJ C 11, 13.1.2012, p. 13.
OJ C 72, 10.3.2012, p. 44.
OJ C 199, 7.7.2012, p. 8.
OJ C 298, 4.10.2012, p. 3.
OJ C 56, 26.2.2013, p. 13.
OJ C 98, 5.4.2013, p. 3.
OJ C 269, 18.9.2013, p. 2.
OJ C 57, 28.2.2014, p. 2.
OJ C 152, 20.5.2014, p. 25.
OJ C 224, 15.7.2014, p. 31.
OJ C 434, 4.12.2014, p. 3.
OJ C 447, 13.12.2014, p. 32.
OJ C 38, 4.2.2015, p. 20.

OJ C 96, 11.3.2016, p. 7.
OJ C 146, 26.4.2016, p. 12.
OJ C 248, 8.7.2016, p. 12.
OJ C 111, 8.4.2017, p. 11.
OJ C 21, 20.1.2018, p. 3.
OJ C 93, 12.3.2018, p. 4.
OJ C 153, 2.5.2018, p. 8.
OJ C 186, 31.5.2018, p. 10.
OJ C 264, 26.7.2018, p. 6.
OJ C 366, 10.10.2018, p. 12.
OJ C 459, 20.12.2018, p. 38.
OJ C 140, 16.4.2019, p. 7.
OJ C 178, 28.5.2020, p. 3.
OJ C 102, 24.3.2021, p. 8.

Commission information notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community

Repeal of public service obligations in respect of scheduled air services

(Text with EEA relevance)

(2021/C 486/08)

Member State	Italy
Routes concerned	Comiso-Roma Fiumicino and viceversa Comiso-Milano Linate and viceversa (the imposition of the Public Service Obligation on the routes Comiso-Milano Malpensa and vice versa and Comiso-Bergamo Orio al Serio and vice versa has expired)
Original date of entry into force of the public service obligations	OJ C 69 of 3.3.2020 OJ C 204 of 18.6.2020
Date of repeal	18 October 2021
Address where the text and any relevant information and/or documentation relating to the public service obligation can be obtained	Ministry of Sustainable Infrastructures and Mobility Department of Sustainable Mobility Directorate-General for Airports, Air Transport and Satellite Services Via Giuseppe Caraci, 36 00157 Roma ITALIA Tel. +39 0644127190 Email: dg.ta@pec.mit.gov.it Internet: http://www.mit.gov.it

V

(Announcements)

OTHER ACTS

EUROPEAN COMMISSION

Publication of a communication of approval of a standard amendment to the product specification for a name in the wine sector referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33

(2021/C 486/09)

This communication is published in accordance with Article 17(5) of Commission Delegated Regulation (EU) 2019/33 ([1]).

COMMUNICATION OF STANDARD AMENDMENT MODIFYING THE SINGLE DOCUMENT

'Murfatlar'

PDO-RO-A0030-AM01

Date of communication: 14 September 2021

DESCRIPTION OF AND REASONS FOR THE APPROVED AMENDMENT

1. **Introduction of new wine grape varieties, as main production varieties**

The specification has been amended to include the following wine grape varieties: Traminer roz for white wines and Mamaia for red wines.

Thanks to the pedo-climatic conditions in the Murfatlar PDO, determined by soil quality and plentiful solar radiation, Traminer roz grapes accumulate large quantities of sugar, improving the quality of the aromas specific to this variety.

The wine is intensely aromatic, suggesting an aroma of rose petals, and is creamy and velvety, with a slightly spicy flavour reminiscent of various spices. Well-balanced, with a well-defined minerality, the wine may vary in shade from yellowish white to pink.

The Mamaia variety, a newer grape variety approved in 1991 at SCDVV Murfatlar, is characterised by high sugar accumulation (210 – 230 g/l), medium acidity and good colour intensity.

Thanks to the interactions between the temperature/humidity/solar radiation and terrain/soil (carbonate chernozems on loessial substrates), the Mamaia variety produces an aromatic, velvety, full wine with a slightly spicy flavour reminiscent of various spices.

Introducing these two varieties in the Murfatlar area extends the range of products, diversifies the production of wines obtained in the area from native winemaking varieties well-adapted to the climate, and consolidates the reputation of the Murfatlar area.

Chapter IV of the product specification and points 5.2 and 7 of the single document have been amended.

([1]) OJ L 9, 11.1.2019, p. 2.

2. **Modification to the geographical area of production, conformity with the administrative organisation**

We request that the demarcated area for obtaining wines with the Murfatlar PDO be supplemented with the municipality of Cobadin and the village of Viișoara, both located in Constanța County.

The municipality of Cobadin and the village of Viișoara border the localities of Peștera and Ciocârlia to the north and Chirnogeni to the south (localities which belong to the Murfatlar area).

Climate conditions in the localities of Cobadin and Viișoara: the sea, salt, solar radiation, light energy (the main source for the synthesis of organic substances) lead to a high concentration of sugars in the grapes, and therefore in the must, producing still wines that are full and rich, yet at the same time fresh, round and velvety, with a complex aroma and organoleptic characteristics similar to those of still wines of the Murfatlar PDO.

The vineyards are located in exposed areas, mostly on slopes, with very good sun exposure, the grapes being caressed by sunlight.

The pedo-climatic conditions in the Cobadin and Viișoara localities are identical to those in the Murfatlar PDO demarcated area, and are specific for the production of fresh still wines with diverse aromas, fruity or floral, full-bodied, with nuances specific to the aromatic varieties.

For the demarcated geographical area, a correction should be made regarding the village of Cuza Vodă, which belongs to the Cuza Vodă municipality and not to the Castelu municipality. This is because, following the administrative reorganisation of regional divisions, the village of Cuza Vodă now belongs to a municipality of the same name, which consists only of that single village.

Chapter III of the product specification and point 6 of the single document have been amended.

3. **Additional information concerning the link of the product to the geographical area**

The product specification has been supplemented with information concerning the link to the geographical area. It was necessary to add details about the area, the product, and the causal link between the product and the area, so that they were presented adequately.

Chapter II of the product specification and point 8 of the single document have been amended.

4. **Introducing a new type of wine which may be obtained - ice wine**

The product specification has been supplemented with a new type of wine - ice wine to be produced under the Murfatlar PDO: a still wine obtained through high sugar accumulation when grapes are harvested late, for varieties with an accentuated aromatic profile, the climatic conditions (humidity, overripening) in the area being favourable to sugar accumulation during the late harvest period.

Chapters V, VI, X and XI of the product specification have been amended, no changes to the single document.

5. **Indicating the analytical/organoleptic characteristics of the ice wine**

Along with introducing this type of still wine into the product specification, its analytical and organoleptic characteristics have also been detailed in order to ensure compliance with legislation in the case of a PDO.

Chapter XI of the product specification has been amended.

6. **Adding specific technological practices for certain wines**

Conditions referring to certain technological procedures (practices) have been introduced into the product specification - for producing rosé wines, orange wines made from white grapes, white wines obtained by maceration, red wines obtained by means of white vinification, and ice wine.

Chapter X of the product specification has been amended, no changes to the single document.

7. **Clarification of some aspects of marketing conditions**

For compliance with legislation, certain aspects of the product specification concerning the wine labelling and bottling conditions (for grape production in the area) have been systematised/clarified.

Chapter XII of the product specification has been amended, no changes to the single document.

8. **Clear indication for production conditions in the case of non-compliance**

The product specification has been amended with regard to wine production conditions which might represent a non-compliance. Situations in which an appropriate classification can be granted have been clearly indicated.

Chapter XIV of the product specification has been amended, no changes to the single document.

SINGLE DOCUMENT

1. **Name(s)**

Murfatlar

2. **Geographical indication type**

PDO - Protected Designation of Origin

3. **Categories of grapevine products**

1. Wine

4. **Description of the wine(s)**

1. *Analytical and organoleptic characteristics - white/rosé wines*

CONCISE TEXTUAL DESCRIPTION

Still Murfatlar wines are full-bodied and creamy; those obtained from aromatic and semi-aromatic white varieties have pronounced varietal characteristics, while the red wines contain velvety tannins that temper the harshness and astringency specific to the varieties.

Pleasant wines, with plenty of ripe (yellow or red) fruit, dense and fleshy, boldly expressive, almost 'exhibitionist', with well-integrated acidity and a glyceric alcoholic volume, imparting slightly sweet sensations to the wine.

Still white wines are yellow-greenish to golden yellow in colour, have olfactory aromas of exotic fruit, citrus fruit, floral aromas of vine flowers, mown hay, jasmine and Robinia pseudoacacia. The flavour of the wines is fresh, fruity, velvety, and during aging, the aroma of some varieties transforms into a complex bouquet.

Still rosé wines, pink in colour (subdued or intense), with aromas of exotic fruit, citrus fruit, with a fresh, invigorating flavour, balanced, with a fruity aftertaste.

GENERAL ANALYTICAL CHARACTERISTICS

Maximum total alcoholic strength (in % volume):

15,00

Minimum actual alcoholic strength (in % volume):

11,00

Minimum total acidity:

3,5 in grams per litre expressed as tartaric acid

Maximum volatile acidity (in milliequivalents per litre):

18

Maximum total sulphur dioxide (in milligrams per litre):

350

2. *Analytical and organoleptic characteristics - red wines*

CONCISE TEXTUAL DESCRIPTION

Still red wines are velvety, complex, with colours varying from ruby red to bright red. Identifiable aromas are those of ripe red fruits, prunes, black forest fruits, with a full-bodied flavour, ample, with well-integrated acidity and tannins. During aging, the wines acquire olfactory nuances of spices and chocolate.

GENERAL ANALYTICAL CHARACTERISTICS

Maximum total alcoholic strength (in % volume):

15,00

Minimum actual alcoholic strength (in % volume):

11,00

Minimum total acidity:

3,5 in grams per litre expressed as tartaric acid

Maximum volatile acidity (in milliequivalents per litre):

20

Maximum total sulphur dioxide (in milligrams per litre):

200

3. *Analytical and organoleptic characteristics - ice wine*

CONCISE TEXTUAL DESCRIPTION

White ice wine is clear, with a crystalline shine, golden yellow in colour, characterised by a fresh scent, the scent of overripe and succulent white-fleshed fruit, and a creamy flavour of oranges, apricots, candied exotic fruits and pineapple.

Rosé ice wine is clear, with a bright crystalline shine, pink in colour, characterised by a fresh scent of berries, overripe apples, and a creamy flavour.

Red ice wine is clear, with a crystalline shine, mauvish red in colour, characterised by a scent of ripe forest fruit and a full creamy flavour.

GENERAL ANALYTICAL CHARACTERISTICS

Maximum total alcoholic strength (in % volume):

15,00

Minimum actual alcoholic strength (in % volume):

11,00

Minimum total acidity:

4,5 in grams per litre expressed as tartaric acid

Maximum volatile acidity (in milliequivalents per litre):

20

Maximum total sulphur dioxide (in milligrams per litre):

350

5. **Winemaking practices**

5.1. *Specific winemaking practices*

Specific winemaking practice

Production of white wines from red varieties

Technological diversification - obtaining white wines from red grapes, the result being called 'blanc de noirs' - a technology for white vinification of red grapes, taking advantage of the potential of red grape varieties, yielding full-bodied wines, characterised by a fine, slightly vegetal, elegant flavour with floral and fruity notes. The acidity of the wines accentuates their freshness, and the mineral tone makes them more complex.

Still white wines produced using maceration; rosé wines from white grapes.

Pinot Gris and Traminer Roz grapes, with skins in shades of mauve, mauvish grey and greyish blue (Pinot Gris) and pearly pink and greyish pink (Traminer Roz), yield still wines with a crystalline appearance, in shades of yellowish white, straw yellow to pink. Depending on the choice of the winemaker, both still white wines and rosé wines may be obtained.

Still orange wine from white grapes - with attractive colours, from yellow-orange to amber, with a complex structure, a fresh and expressive aromatic bouquet, with accents of walnut, honey, honeycomb, much richer in tannins than still white wines.

The technology for obtaining these wines differs from the usual technology for obtaining still white wines by a process of maceration of white grape must on skins, with the maceration period depending on the wine colour intensity desired by the winemaker.

Specific winemaking practice

Ice wine

The pedo-climatic conditions in the area (large quantity of solar radiation, temperature difference between night and day, late fogs, high humidity) lead to a high accumulation of sugars in the grapes, even to overripening, and are optimal for ice wine production. The wine is produced without additives, from healthy grapes not affected by disease or noble rot, left on the vine to freeze for several consecutive days and harvested at the end of November/December.

If the climatic conditions do not allow for the natural freezing of grapes on the vine without the grapes being affected by fungus, they may be harvested by hand in crates and kept at negative temperatures in cold storage.

Chardonnay, Pinot Gris, Riesling Italian, Muscat Ottonel, Tămâioasă Românească, Traminer Roz grapes and red Pinot Noir grapes are renowned within the Murfatlar PDO for their high accumulation of sugar and their aromatic profile, which is why they can be used to obtain ice wine.

Through dehydration, freezing and defrosting of the grapes (naturally on the vine or artificially in cold storage), water is lost and the sugar concentration increases. Through freezing and defrosting, grapes acquire aromas of apples, apricots, mangos, citrus fruits, figs, raspberries and berries, and accumulate more sweetness, which they retain if they are pressed while frozen.

5.2. *Maximum yields*

1. *at full ripeness of the harvest - Sauvignon, Riesling italian, Riesling de Rhin, Fetească regală, Fetească albă*

15 000 kilograms of grapes per hectare

2. *at full ripeness of the harvest - Tămâioasă românească, Crâmpoșie, Columna, Traminer roz*

15 000 kilograms of grapes per hectare

3. *at full ripeness of the harvest - Muscat Ottonel, Pinoit noir, Syrah, Burgund mare*

14 300 kilograms of grapes per hectare

4. *at full ripeness of the harvest - Chardonnay, Pinot gris*

13 600 kilograms of grapes per hectare

5. *at full ripeness of the harvest - Cabernet Sauvignon*

12 900 kilograms of grapes per hectare

6. *at full ripeness of the harvest - Mamaia*

12 000 kilograms of grapes per hectare

7. *ice wine*

6 000 kilograms of grapes per hectare

8. *at full ripeness of the harvest - Sauvignon, Riesling Italian, Riesling de Rhin, Fetească regală, Fetească albă*

105 hectolitres per hectare

9. *at full ripeness of the harvest - Tămâioasă românească, Crâmpoșie, Columna, Traminer roz*

105 hectolitres per hectare

10. *at full ripeness of the harvest - Merlot, Fetească neagră*

105 hectolitres per hectare

11. *at full ripeness of the harvest - Muscat Ottonel, Pinot noir, Syrah, Burgund mare*

100 hectolitres per hectare

12. *at full ripeness of the harvest - Chardonnay, Pinot gris*

95 hectolitres per hectare

13. *at full ripeness of the harvest - Cabernet Sauvignon*

90 hectolitres per hectare

14. *at full ripeness of the harvest - Mamaia*

84 hectolitres per hectare

15. *ice wine*

18 hectolitres per hectare

6. **Demarcated geographical area**

The area demarcated for winegrowing, conditioning and bottling of wines with the Murfatlar controlled designation of origin shall consist of the following localities situated in the Constanța County:

'Murfatlar' controlled designation of origin:

— Murfatlar Town - Murfatlar, Siminoc villages;

— Valu lui Traian municipality - Valu lui Traian village;

— Poarta Albă municipality - Poarta Albă, Nazarcea villages;

— Ovidiu Town - Ovidiu municipality, Poiana village;

— Ciocârlia municipality - Ciocârlia village;

— Cobadin municipality - Viișoara village.

'Medgidia' sub-designation of origin, which may or may not accompany the controlled designation of origin:

— Medgidia Town - Medgidia, Remus Opreanu, Valea Dacilor localities;

— Castelu municipality - Castelu, Nisipari villages;

— Cuza Vodă municipality - Cuza Vodă village;

— Siliştea municipality - Siliştea village;

— Tortoman municipality - Tortoman village;

— Peștera municiplality - Peștera, Ivrinezu Mic villages;

— Mircea Vodă municiplality - Mircea Vodă, Satu Nou, Țibrinu, Gherghina villages;

— Saligny municipality - Saligny, Ștefan Cel Mare villages.

'Cernavodă' sub-designation of origin, which may or may not accompany the controlled designation of origin:

— Cernavodă Town - Cernavodă municipality;

— Seimeni municipality - Seimeni, Seimenii Mici villages;

— Rasova municipality - Rasova, Cochirleni.

7. **Main wine grape variety(-ies)**

Burgund Mare N - Grosser burgunder, Grossburgunder, Blaufrankisch, Kekfrankos, Frankovka, Limberger

Cabernet Sauvignon N - Petit Vidure, Burdeos tinto

Chardonnay B - Gentil blanc, Pinot blanc Chardonnay

Columna B

Crâmpoșie B

Fetească albă B - Păsărească albă, Poama fetei, Mädchentraube, Leanyka, Leanka

Fetească neagră N - Schwarze Mädchentraube, Poama fetei neagră, Păsărească neagră, Coada rândunicii

Fetească regală B - Königliche Mädchentraube, Königsast, Kiralyleanka, Dănășană, Galbenă de Ardeal

Mamaia N

Merlot N - Bigney rouge

Muscat Ottonel B - Muscat Ottonel blanc

Pinot Gris G - Affumé, Grauer Burgunder, Grauburgunder, Grauer Mönch, Pinot cendré, Pinot Grigio, Ruländer

Pinot Noir N - Blauer Spätburgunder, Burgund mic, Burgunder roter, Klävner Morillon Noir

Riesling de Rhin B - Weisser Riesling, White Riesling

Riesling italian B - Olasz Riesling, Olaszriesling, Welschriesling

Sauvignon B - Green sauvignon

Syrah N - Shiraz, Petit Syrah

Traminer Rose Rs - Rosetraminer, Savagnin Rose, Gewürztraminer

Tămâioasă românească B - Rumänische Weihrauchtraube, Tamianka

8. **Description of the link(s)**

8.1. *Details of the geographical area*

The Murfatlar area is located on the plateau of South Dobrogea, on both sides of the Carasu Valley and of the 44°15' North parallel. Geographically, the Murfatlar demarcated geographical area is located in south-eastern Romania, between the Danube and the Black Sea, in the centre of the Dobrogea Plateau.

The area benefits from a high quantity of solar radiation and rich heliothermal resources, while the average precipitation is the lowest in the country. The soil, consisting mainly of shelly limestone, rich in calcium carbonate, is an important factor determining the quality of the wines.

All the conditions offered by the natural environment, especially the pedological and heliothermal conditions, are extremely propitious for winegrowing and for the production of high quality products. The humidity deficit may be addressed by means of a well-organised irrigation system.

The geological substrate consists of loess and loessial sediments that cover the Mesozoic and Tertiary limestones and limey sandstones of the South Dobrogea platform, and diluvial-colluvial materials.

The relief is tabular-structural, with absolute altitudes of 100-130 m, composed mostly of Cretaceous and Sarmatian limestones resting on top of a Precambrian base and covered with a 400-metre-thick layer of Quaternary loess, fragmented by valleys with very steep slopes (15°-30°) of cuesta type (the left slope of the asymmetrical valley of Carasu) or relatively symmetrical of canyon type, affected by intense slope processes, locally stemmed by terracing and other anti-erosion anthropic measures aimed at agriculture development (especially winegrowing).

The climate is continental, with torrid and dry summers, moderate winters, early springs and late autumns, ideal for grape maturation and overripening. The heliothermal potential is among the highest in Romania, expressed by solar radiation of 130 kcal/cm^2, 2 220-2 300 hours of sunshine, and positive temperatures of 4 200 °C/year.

The sub-climate is mainly influenced by the Danube-Black Sea Canal, which cuts through the vineyard in the West-East direction and reflects sunlight, and by thermic inertia transmitted to the neighbouring areas. The slopes of the Danube-Black Sea Canal and the temperature differences between the soil and the water mass create air flows that overlap with the movement of the winds from Central Dobrogea. Annual average daily maximum temperatures are close to 0 °C in winter and around 28 °C in summer.

The representative soils are steppe chernozem mollisols (carbonate chernozems, typical chernozems) on loessial substrates, typical and lithic rendzinas, regosols and erodisols on slopes that are highly degraded naturally or by anthropogenic and zoogenic action.

8.2. *Product details*

Depending on the variety, the specific conditions of the wine year and the moment when the grapes are harvested, a variety of wines can be obtained under the Murfatlar protected designation of origin, ranging from dry to sweet, which gives an image of the qualitative diversity of wine production. Wines with the 'Murfatlar' controlled designation of origin may be white, red or rosé.

The white wines have a clear, glossy appearance and are greenish-yellow to golden yellow in colour. They have a velvety taste and a nose typical for the varieties from which they are produced.

The red wines have a clear, glossy appearance, and are ruby red to intensely purple in colour. They have a full-bodied taste and a nose typical for the varieties from which they are produced. Depending on the sugar content at the time of grape harvest, the wines may use the traditional terms permitted by legislation (harvested at full maturity, late harvest, harvested when the grapes have noble rot).

The specificity of the wine with the Murfatlar PDO comes from the characteristics of the grape must from which it is made. These characteristics are related to the vine varieties, which benefit from long periods of sunshine, with heliothermal resources among the highest in the country and low amounts of rainfall. These factors contribute to a better ripening of the grapes, which results in a sugar-rich must. The influence of the sea can be felt in this area. The sea is especially beneficial in the autumn, because it acts as a thermal regulator. The Danube also has an influence at Cernavodă, in particular in the neighbouring plantations. The soil, which is rich in calcium carbonate, is an important factor that determines the quality of the wines.

8.3. *Causal interaction*

In the area of the Murfatlar PDO, varieties are carefully selected to produce high-quality wines. The cultivation methods aim to make maximum use of sunlight through cluster thinning, and efficiently manage harvest quality through the verification of sugar, acidity and aroma levels. The winemaking practices used and the winemaker's skill, together with the soil and climate, make it possible to produce quality wines. The resulting wines are full, fruity, and easily recognisable - especially the white wines with aromas of ripe fruits, fresh citrus, the pale pink rosé wines and the red wines with their mild tannins.

The combination of the climate (freshness and ripening), soil (carbonate chernozems and typical chernozems on top of loessial substrates, for a good balance of nutrients), cultivation (selection of varieties, vine density, foliage management, harvest decisions), winemaking practices and the winemaker's skills ensures: freshness and a full, fruity aroma for white and rosé wines, and mild tannins and a full, velvety aroma for red wines.

Dry soils based on limestone (which is visible in many places), a markedly continental climate, with very hot summers, long autumns, sparse and unequally distributed rainfall (it rains in the spring and late autumn), but most of all with the sun radiating plentiful heat and light, make this area a paradise for the cultivation of noble vine varieties. In some years, this even allows the grapes to overripen and to be enhanced by noble rot (Botrytis cinerea).

8.4. *Human factors involved*

Written documents on the tradition of Murfatlar wine production were left by the famous Roman poet, Publius Ovidius Naso, who lived in exile in Tomis between 9 and 17 AD.

Vasile Pârvan stated that '… a number of secular and religious monuments found in this area show mythical figures crowned with sprouts and grapes, which indicate the existence of worship of Dionysus (Bacchus)'.

In the Middle Ages, vineyards continued to be a large and invaluable asset for Romanian countries, and the wine growers and cellarmen were deemed to be a superior category of farmers, as described in the documents from that time. This explains the special attention the noble courts gave to vine and wine preparation, punishing wine growers who left the vineyards unworked.

Vine has been replanted in the village of Viișoara as a reward for the good local people who spoke well of the noble wine grower profession, which they have not forgotten and which was developing before the Communist period. Viișoara therefore once again became exactly what it used to be: the village among the vines. The village was given the name 'Viișoara' in 1926. Until then, it was called Valea Caceamac, which is a name dating back to the time when Dobrogea was under Ottoman rule. There are two possible translations of the name in Turkish, depending on the dialect.

After the First World War, the Romanian State ordered a renovation of roads across the whole country, but especially in Dobrogea, which had been destroyed and still bore the bloody scars of the war's violence. At the time of this renovation, the Roman road leading from the city of Tomis (now Constanța) to Tropaeum Traiani (in Adamclisi) was restored as well. Because of the new road, the villagers of Caceamac moved 2 kilometres further towards the east, on either side of the Roman road. For a time, the village was also known as Satul dintre Vii (the village among the vines), which is where the new name of Viișoara came from as well, vine cultivation being the main occupation of the villagers.

In the Murfatlar region, in 1907, a number of vine varieties such as Chardonnay, Pinot Gris, Pinot Noir and Muscat Ottonel were planted for experimental purposes, upon the initiative of two Romanian wine producers, Gheorghe Nicoleanu and Vasile Brezeanu. The results were extraordinary.

Moreover, indigenous Romanian varieties (such as Fetească Regală and Fetească Neagră) were also planted in the vineyards later, after the experimental research institutes had selected and developed robust hybrids with potential for high quality from grafts of Romanian varieties. Here, these varieties found an optimal area to develop, with less rainfall and sunnier days, ensuring better sugar and aroma accumulation. The establishment of the Murfatlar Wine Research and Development Station in 1927 resulted in a considerable expansion of varieties: Sauvignon, Muscat Ottonel, Traminer Rose, Riesling Italian, Cabernet Sauvignon and Merlot.

9. **Essential further conditions (packaging, labelling, other requirements)**

Marketing conditions

Legal framework:

In national legislation

Type of further condition:

Additional provisions relating to labelling

Description of the condition:

One of the following single vineyard designations may be added to the Murfatlar protected designation of origin, depending on the wishes of producers:

a) for the 'Murfatlar' controlled designation of origin: BASARABI, VALUL ROMAN, BISERICA VECHE, POARTA ALBĂ, SIMINOC, CIOCÂRLIA, PIATRA ROŞIE, NAZARCEA;

b) for the 'Medgidia' sub-designation of origin: VALEA DACILOR, CETATE, MIRCEA VODĂ, SATU NOU, CUZA VODĂ, TORTOMAN, SILIŞTEA, ȚIBRINU;

c) for the 'Cernavodă' sub-designation of origin: DEALU VIFORUL, DEALU HINOG, COCHIRLENI, RASOVA, SEIMENI.

Link to the product specification

https://www.onvpv.ro/sites/default/files/caiet_de_sarcini_doc_murfatlar_modif_cf_cererii_683_19.04.2021_no_track_changes_4.pdf

Publication of a communication of approval of a standard amendment to a product specification for a name in the wine sector as referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33

(2021/C 486/10)

This communication is published in accordance with Article 17(5) of Commission Delegated Regulation (EU) 2019/33 ([1]).

COMMUNICATION OF STANDARD AMENDMENT MODIFYING THE SINGLE DOCUMENT

'Côtes de Duras'

PDO-FR-A0165-AM01

Date of communication: 1 October 2021

DESCRIPTION OF AND REASONS FOR THE APPROVED AMENDMENT

1. **Official Geographic Code**

The municipalities making up the geographical area and the area in immediate proximity have been updated in line with the Official Geographic Code.

The boundaries of the area remain unchanged.

In the single document, points 6 and 9 have been amended.

2. **Rosé wines**

The grape varieties Sémillon B, Sauvignon B, Sauvignon Gris G and Muscadelle B have been added to the list of secondary varieties that may be used in the production of rosé wines.

The proportion of secondary grape varieties must not exceed 20 % of a holding's vines.

Together, the secondary varieties must not account for more than 20 % of the varieties used in the blend; the combined proportion of the Sauvignon B and Sauvignon Gris G varieties must not exceed 10 %, and the proportion of the Muscadelle B variety must not exceed 10 %.

The addition of white grape varieties to rosé wines ensures the wines' freshness and organoleptic profile, which may be threatened by certain fluctuations in the climate (in particular, by high temperatures after the onset of ripening).

This does not affect the quality of the product.

This amendment requires no changes to the single document.

3. **Average maximum crop load per parcel**

The average maximum crop load per parcel for dry white wines has been revised downwards to match that of red and rosé wines so as to facilitate checks.

This amendment requires no changes to the single document.

4. **Oenological charcoal**

Use of oenological charcoal was not permitted previously, but limited, regulated use is now allowed: 'The use of oenological charcoal is permitted for musts in the production of rosé wines, in a proportion not exceeding 20 % of the volume of rosé wine produced by the winemaker concerned for the harvest in question.' The aim is to ensure that any such use is targeted towards batches of lower organoleptic or analytical quality (particularly batches whose aroma has changed as a result of oxidation), but does not alter the product's typical characteristics.

Point 5.1 of the single document has been amended accordingly.

([1]) OJ L 9, 11.1.20119, p. 2.

5. **Reference to the inspection body**

The reference to the inspection body has been reworded to align it with the wording of other product specifications. It is a purely formal amendment.

This amendment does not require any changes to the single document.

SINGLE DOCUMENT

1. **Name(s)**

Côtes de Duras

2. **Geographical indication type**

PDO – Protected Designation of Origin

3. **Categories of grapevine product**

1. Wine

4. **Description of the wine(s)**

1. *Red and rosé wines*

BRIEF WRITTEN DESCRIPTION

The red and rosé wines are still, dry wines. At the packing stage, the red wines have a malic acid content not exceeding 0,4 grams per litre. The red and rosé wines have a fermentable sugar content (glucose plus fructose) of not more than 3 grams per litre.

After enrichment, the red and rosé wines' total alcoholic strength by volume must not exceed 13 %. Their total volatile acidity and total sulphur dioxide content are as laid down in EU legislation. The red and rosé wines have a minimum natural alcoholic strength by volume of 10,5 %. The red wines are generally characterised by the suppleness and roundness of the Merlot N variety and by the secondary Cot N variety, combined with the tannic power of the Cabernet Franc N and Cabernet Sauvignon N varieties. In order to limit their natural acidity, malolactic fermentation must be carried out before packaging.

The rosé wines, usually made from blends, are dry and have a pleasant fruitiness and an attractive freshness. The use of certain materials is prohibited in order to preserve the grapes before making wine or to prevent the extraction of astringent tannins.

GENERAL ANALYTICAL CHARACTERISTICS

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	
Minimum total acidity	
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

2. *White wines*

BRIEF WRITTEN DESCRIPTION

The still white wines can be dry, semi-sweet or sweet.

The dry white wines have a fermentable sugar content of no more than 3 grams per litre. The other white wines have a fermentable sugar content of more than 12 grams per litre and an actual alcoholic strength by volume of no less than 10,5 %. After enrichment, the total alcoholic strength by volume for dry white wines must not exceed 13 %, while for the other white wines it must not exceed 14 %.

The wines have a minimum natural alcoholic strength of 10,5 % for dry white wines and 11,5 % for the other white wines.

Their total volatile acidity and total sulphur dioxide content are as laid down in EU legislation.

For dry white wines, the range of varieties and the rules on blending favour the development of two styles of wine: a very fruity and fresh dry white with dominant aromas of boxwood or blackcurrant buds, usually produced from Sauvignon B, and a more complex dry white, in which varieties such as Muscadelle B and Sémillon B bring a little roundness and body. For both types of wine, the term 'dry' must appear on the label.

The vast majority of the sweet white wines are produced from Semillon B, and secondarily from Muscadelle B. They are generally fatty and concentrated, although not excessively so, with aromas of ripe fruit and sometimes candied fruit. The other grape varieties provide freshness in the mouth and thus age better.

GENERAL ANALYTICAL CHARACTERISTICS

General analytical characteristics	
Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	
Minimum total acidity	
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

5. **Wine-making practices**

5.1. *Specific oenological practices*

1. Specific oenological practice

Subtractive enrichment techniques are permitted for the red wines up to a maximum concentration rate of 10 %. For the batch undergoing the process, the increase in the natural alcoholic strength by volume is less than or equal to 1 % vol. The use of oenological charcoal is permitted for musts in the production of rosé wines, in a proportion not exceeding 20 % of the volume of rosé wine produced by the winemaker concerned for the harvest in question. After enrichment, the wines' total alcoholic strength by volume does not exceed 13 % for the reds, rosés and dry whites and 14 % for the other whites. In addition to the above provisions, all wine-making practices followed must also comply with the requirements laid down at EU level and in the Rural and Maritime Fishing Code.

2. Cultivation method

The minimum vine planting density is 4 000 plants per hectare. The spacing between the rows is 2,50 metres or less. The area available for each plant is up to 2,50 m^2. This area is obtained by multiplying the distances between rows and the space between plants in the same row. This planting density may be reduced to 3 300 plants per hectare for plantations of vines to be used to produce dry white wine. In this case, the spacing between the rows must not exceed 3 m and the spacing between plants in the same row must be more than 0,85 m.

The vines are pruned using the following techniques:

— single or double Guyot;

— spur pruning (Cordon de Royat or fan pruning);

— cane (long) pruning.

After debudding, each plant has a maximum of 15 buds for the Sauvignon B and Sauvignon G varieties and 13 buds for the other varieties.

For vines with a density of less than 4 000 plants per hectare, after debudding, each plant has a maximum of 18 buds for the Sauvignon B and Sauvignon G varieties and 15 buds for the other varieties.

Irrigation is not permitted.

5.2. *Maximum yields*

1. *Red and rosé wines*

66 hectolitres per hectare

2. *Dry white wines*

72 hectolitres per hectare

3. *White wines other than dry*

66 hectolitres per hectare

6. **Demarcated geographical area**

The grapes are harvested and the wines made and developed in the following municipalities of the department of Lot-et-Garonne (based on the Official Geographic Code in force on 26 February 2020): Auriac-sur-Dropt, Baleyssagues, Duras, Esclottes, Loubès-Bernac, Moustier, Pardaillan, Saint-Astier, Saint-Jean-de-Duras, Saint-Sernin, Sainte-Colombe-de-Duras, La Sauvetat-du-Dropt, Savignac-de-Duras, Soumensac and Villeneuve-de-Duras.

7. **Main wine grape variety(-ies)**

Cabernet Franc N

Cabernet Sauvignon N

Chenin B

Colombard B

Mauzac B

Merlot N

Muscadelle B

Ondenc B

Sémillon B

Ugni Blanc B

8. **Description of the link(s)**

8.1. *Description of the natural factors relevant to the link*

Bordered to the south by the Dropt valley, the geographical area is an extension of the 'Entre-Deux-Mers' plateau 70 km east of Bordeaux and halfway between the Garonne and Dordogne valleys. The north of the geographical area is marked by the watershed between the Dordogne and Garonne basins. The plateau, which is exposed to the south, has been strongly influenced by the hydrographic network of streams consisting of the Dousset to the west, the Dourdèze in the middle and the Escourrou to the east. The geographical area comprises the 15 municipalities of the canton of Duras.

The landscape is characterised by a succession of hills and valleys of varying steepness. The irregular terrain is linked to the brittle nature of the molasse outcrops and the karstification of the underlying limestone. In the middle and upper part of the slopes, hard limestone outcrops form small cliffs which are clearly visible in the landscape.

The most brittle geological formations are composed of 'Fronsadais' molasse in the lower part of the slopes and 'Agenais' molasse at the hill summits. The middle part of the slopes contains 'Castillon' limestone, which is white, chalky and contains cracks of varying size. Above the 'Agenais' molasse there are very occasional outcrops of white 'Agenais' limestone. This limestone, which is white, hard and cavernous, peaks in the form of a plateau in the municipalities of Loubès-Bernac and Soumensac and bears clays resulting from decalcification. The 'Fronsadais' molasse has produced brown clay soils, sometimes clay-gravel soils, which are used for vine-growing only in the parts of the Dropt valley not susceptible to frost action. The outcrops of 'Castillon' limestone bear very poor rendzinas that are difficult to cultivate. Such outcrops are dominated by juniper heathland. Where the soil becomes slightly thicker, the vines can benefit from a lean and perfectly drained soil. The 'Agenais' molasse bears decarbonised and often very leached soils. Wind-blown silt covers the ground to form fine, siliceous soils known locally as '*boulbènes*'. The demarcated parcel area, with an area of 9 871 hectares, covers only half of the geographical area.

Due to the ocean climate, rainfall is spread throughout the year, peaking in winter and again in May. Temperatures are mild in spring and encourage the vines to start growing early. The late seasons are sunny, sometimes following a rainy period around the equinox. The varieties traditional to Aquitaine have developed naturally in this area as they are well adapted to the environment.

8.2. *Description of the human factors relevant to the link*

During the period of English rule in Guyenne, from the eleventh to the fourteenth century, the wine economy in Duras flourished, as wines from the 'Haut-Pays', a designation covering all vineyards located upstream of Bordeaux and trading via Dordogne and Garonne, were exported to England. Under the Ancien Régime, the protectionism introduced by Bordeaux was relaxed. The wines from the 'Haut-Pays' thus paid a '*double marque*' ['double mark'] duty, whereas those from the Duras region paid only a '*demi-marque*' ['half-mark'] duty. In the seventeenth century, the Duke of Duras even received authorisation to have 1 000 casks of 'Duras' wine per year placed in Bordeaux barrels.

At the beginning of the twentieth century, 'Côtes de Duras' production was focused mainly on sweet white wines, such as that produced in Bergerac, which was popular in Paris. However, after the Second World War, consumers lost interest in this type of product, causing the local community to change its production.

In 1924, the association for the protection of wines from the canton of Duras was set up with the objective of securing recognition of the designation of origin 'Vin du canton de Duras'. When the designation was challenged by a broker, the case was ruled on by the Civil Court of Agen on 28 June 1927. The judgment stated as follows: 'While the terroir of the hills of the canton of Duras does not give its wines the characteristic bouquets of the *grands crus*, it does make it possible to produce wines of the highest order, which are universally appreciated by consumers.' The court defined 'Duras' wines as 'fruity and full-bodied wines, bearing a seal that indicates their origin'. The controlled designation of origin 'Côtes de Duras' was recognised on 16 February 1937 for white and red wines. By the beginning of the 1960s, conversion to red varieties and Sauvignon B varieties was well under way in Bordeaux, and, given the growing economic prospects, the Duras economy followed suit. From 1970, dry white wines made with the Sauvignon B variety became the region's flagship products. Advances in temperature control during winemaking, in particular through cooperative investments, made it possible to produce wines from the Sauvignon B variety, with their characteristic aromas that can be easily identified by consumers.

The Duras cooperative wine cellar was created at that time, while a neighbouring cellar in Gironde was already producing 20 % of the wines under the controlled designation of origin. In 1985, the Interprofessional Union began to promote the wines, and in 1998 the two cellars merged. At the same time, the mastery of red wine production by Bordeaux winemakers benefited operators in the neighbouring Duras region, and the production of rosé wines developed naturally.

In 2009, an average of 65 000 hectolitres of red wine was produced, while for rosé wine the figure was 5 000 hectolitres. Dry white wine production reached 40 000 hectolitres, while the production of sweet white wines was limited to less than 2 000 hectolitres, marketed directly in bottles. For dry white wines, the range of varieties, the rules on the proportion of varieties in the vineyard and the rules on blending have favoured the development of two styles of wine: a very fruity and fresh dry white with dominant aromas of boxwood or blackcurrant buds, usually produced from Sauvignon B as the sole variety, and a more complex dry white, in which varieties such as Muscadelle B and Sémillon B bring a little roundness and body. For both types of wine, the term 'dry' must appear on the label.

The vast majority of the semi-sweet white wines are produced from the Semillon B variety, and secondarily from the Muscadelle B variety. They are generally soft and full and concentrated, although not excessively so, with aromas of ripe fruit and sometimes candied fruit. The other grape varieties in the blend provide freshness in the mouth and thus age better.

The red wines are generally characterised by the suppleness and roundness of the Merlot N variety and by the secondary Cot N variety, combined with the tannic power of the Cabernet Franc N and Cabernet Sauvignon N varieties. In order to limit their natural acidity, malolactic fermentation must be carried out before packaging.

8.3. *Factor*

The rosé wines, usually made from blends, are dry and have a pleasant fruitiness and an attractive freshness. The use of certain materials is prohibited in order to preserve the grapes before making wine or to prevent the extraction of astringent tannins. The Dropt and its tributary valleys have carved out rounded hilltops, enhancing the well-oriented slopes. The demarcated parcel area thus takes topographical criteria into account, and the best parcels are often in competition with well-developed tree crops. The production of sweet white wine is justified by the fact that the Semillon B variety is being grown in an ocean climate, in which the early morning autumnal humidity and the sunny afternoons are conducive to overripening and the possible development of noble rot caused by *Botrytis cinerea*.

The various molassic levels, which are leached to varying degrees, and the variable levels of clay content present in the *boulbènes* support the cultivation of the Sauvignon B variety, helping it to develop its aromatic potential which is essential for the production of expressive dry white wines.

The clays resulting from decalcification and the favourable conditions created by the sunny late season help the red grape varieties to ripen, thus providing the red wines with a good tannic base.

Producers have been able to exploit their land's potential by selecting the parcels most suitable for vine-growing and by developing techniques for controlling fermentation temperatures for white wines and tannin extraction techniques for red wines.

At the beginning of the sixteenth century, wines referred to as 'Bordeaux' included those from 'Graves', 'Médoc', 'Blayais', etc., as well as those from the region known as '*Pays de la nouvelle conquête*' [Land of new conquest]. This 'conquest' concerned the conversion of the downtrodden populace, and was based on several influential parishes and jurisdictions, such as Montravel, Sainte-Foy and even the Duchy of Duras. Francis I encouraged the planting of vines on the hills of the Duras region, and the Valois Court relished it as a 'nectar'.

Since then, the Duras region has been hit by a string of crises (wars, trade restrictions and phylloxera, with the exception of the 'Haut-Pays'), but wine-growing has resisted and adapted. Production is divided almost equally between cooperatives and independent cellars. The development of agro-tourism has made it possible for direct sales to become the predominant marketing avenue, accounting for 60 % of the volume sold. With 15 % of sales going to northern Europe, the wines' reputation goes far beyond Aquitaine or Île-de-France, which is where the reputation of wines with the controlled designation of origin 'Duras' was built.

9. **Essential further conditions (packaging, labelling, other requirements)**

Legal framework:

National legislation

Type of further condition:

Additional provisions relating to labelling

Description of the condition:

The word 'sec' [dry] must feature on the labelling of white wines with a fermentable sugar content (glucose + fructose) less than or equal to 3 grams per litre.

Wines with the 'Côtes de Duras' protected designation of origin may specify the broader geographical unit 'Sud-Ouest' ['south-west'] on their labels. This broader geographical unit may also feature on any leaflets or containers. The size of the letters for the broader geographical unit must not be larger, in either height or width, than the size of the letters forming the name of the protected designation of origin.

Legal framework:

National legislation

Type of further condition:

Derogation concerning production in the demarcated geographical area

Description of the condition:

The area in immediate proximity, defined by derogation for vinification and the development of wines, comprises the territory of the following municipalities (based on the Official Geographic Code in force on 26 February 2020):

— Department of Dordogne:

Entire municipalities: Sadillac, Thénac.

Municipality partially included: Saint-Julien-Innocence-Eulalie for the sole territory of the former municipality of Sainte-Eulalie-d'Eymet, which became a delegated municipality within Saint-Julien-Innocence-Eulalie on 1 January 2019.

— Department of Gironde: Dieulivol, Landerrouat, Les Lèves-et-Thoumeyragues, Margueron, Monségur, Pellegrue, Riocaud, Saint-Avit-Saint-Nazaire.

— Department of Lot-et-Garonne: Lévignac-de-Guyenne, Mauvezin-sur-Gupie, Monteton, Roumagne.

Link to the product specification

http://info.agriculture.gouv.fr/gedei/site/bo-agri/document_administratif-918e1e36-8c05-4755-8ea3-a2acdf360f18

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN