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[1] Text with EEA relevance

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

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

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) No 524/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies are to ensure a high level of consumer protection.

(2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. In order for consumers to have confidence in and benefit from the digital dimension of the internal market, it is necessary that they have access to simple, efficient, fast and low-cost ways of resolving disputes which arise from the sale of goods or the supply of services online. This is particularly important when consumers shop cross-border.

(3) In its Communication of 13 April 2011 entitled 'Single Market Act — Twelve levers to boost growth and strengthen confidence — "Working together to create new growth"', the Commission identified legislation on alternative dispute resolution (ADR) which includes an electronic commerce dimension as one of the twelve levers to boost growth and strengthen confidence in the Single Market.

(4) Fragmentation of the internal market impedes efforts to boost competitiveness and growth. Furthermore, the uneven availability, quality and awareness of simple, efficient, fast and low-cost means of resolving disputes arising from the sale of goods or provision of services across the Union constitutes a barrier within the internal market which undermines consumers' and traders' confidence in shopping and selling across borders.

(5) In its conclusions of 24-25 March and 23 October 2011, the European Council invited the European Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market.

(6) The internal market is a reality for consumers in their daily lives, when they travel, make purchases and make payments. Consumers are key players in the internal market and should therefore be at its heart. The digital dimension of the internal market is becoming vital for both consumers and traders. Consumers increasingly make purchases online and an increasing number of traders sell online. Consumers and traders should feel confident in carrying out transactions online so it is essential to dismantle existing barriers and to boost consumer confidence. The availability of reliable and efficient online dispute resolution (ODR) could greatly help achieve this goal.

[1] OJ C 181, 21.6.2012, p. 99.

[2] Position of the European Parliament of 12 March 2013 (not yet published in the Official Journal) and Decision of the Council of 22 April 2013.

(7) Being able to seek easy and low-cost dispute resolution can boost consumers' and traders' confidence in the digital Single Market. Consumers and traders, however, still face barriers to finding out-of-court solutions in particular to their disputes arising from cross-border online transactions. Thus, such disputes currently are often left unresolved.

(8) ODR offers a simple, efficient, fast and low-cost out-of-court solution to disputes arising from online transactions. However, there is currently a lack of mechanisms which allow consumers and traders to resolve such disputes through electronic means; this leads to consumer detriment, acts as a barrier, in particular, to cross-border online transactions, and creates an uneven playing field for traders, and thus hampers the overall development of online commerce.

(9) This Regulation should apply to the out-of-court resolution of disputes initiated by consumers resident in the Union against traders established in the Union which are covered by Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (Directive on consumer ADR) [1].

(10) In order to ensure that the ODR platform can also be used for ADR procedures which allow traders to submit complaints against consumers, this Regulation should also apply to the out-of-court resolution of disputes initiated by traders against consumers where the relevant ADR procedures are offered by ADR entities listed in accordance with Article 20(2) of Directive 2013/11/EU. The application of this Regulation to such disputes should not impose any obligation on Member States to ensure that the ADR entities offer such procedures.

(11) Although in particular consumers and traders carrying out cross-border online transactions will benefit from the ODR platform, this Regulation should also apply to domestic online transactions in order to allow for a true level playing field in the area of online commerce.

(12) This Regulation should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters [2].

(13) The definition of 'consumer' should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person's trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.

(14) The definition of 'online sales or service contract' should cover a sales or service contract where the trader, or the trader's intermediary, has offered goods or services through a website or by other electronic means and the consumer has ordered those goods or services on that website or by other electronic means. This should also cover cases where the consumer has accessed the website or other information society service through a mobile electronic device such as a mobile telephone.

(15) This Regulation should not apply to disputes between consumers and traders that arise from sales or service contracts concluded offline and to disputes between traders.

(16) This Regulation should be considered in conjunction with Directive 2013/11/EU which requires Member States to ensure that all disputes between consumers resident and traders established in the Union which arise from the sale of goods or provisions of services can be submitted to an ADR entity.

(17) Before submitting their complaint to an ADR entity through the ODR platform, consumers should be encouraged by Member States to contact the trader by any appropriate means, with the aim of resolving the dispute amicably.

(18) This Regulation aims to create an ODR platform at Union level. The ODR platform should take the form of an interactive website offering a single point of entry to consumers and traders seeking to resolve disputes out-of-court which have arisen from online transactions. The ODR platform should provide general information regarding the out-of-court resolution of contractual disputes between traders and consumers arising from online sales and service contracts. It should allow consumers and traders to submit complaints by filling in an electronic complaint form available in all the official languages of the institutions of the Union and to attach relevant documents. It should transmit complaints to an ADR entity competent to deal with the dispute concerned. The ODR platform should offer, free of charge, an electronic case management tool which enables ADR entities to conduct the dispute resolution procedure with the parties through the ODR platform. ADR entities should not be obliged to use the case management tool.

[1] See page 63 of this Official Journal.
[2] OJ L 136, 24.5.2008, p. 3.

(19) The Commission should be responsible for the development, operation and maintenance of the ODR platform and provide all technical facilities necessary for the functioning of the platform. The ODR platform should offer an electronic translation function which enables the parties and the ADR entity to have the information which is exchanged through the ODR platform and is necessary for the resolution of the dispute translated, where appropriate. That function should be capable of dealing with all necessary translations and should be supported by human intervention, if necessary. The Commission should also provide, on the ODR platform, information for complainants about the possibility of requesting assistance from the ODR contact points.

(20) The ODR platform should enable the secure interchange of data with ADR entities and respect the underlying principles of the European Interoperability Framework adopted pursuant to Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC) [1].

(21) The ODR platform should be made accessible, in particular, through the 'Your Europe portal' established in accordance with Annex II to Decision 2004/387/EC, which provides access to pan-European, multilingual online information and interactive services to businesses and citizens in the Union. The ODR platform should be given prominence on the 'Your Europe portal'.

(22) An ODR platform at Union level should build on existing ADR entities in the Member States and respect the legal traditions of the Member States. ADR entities to which a complaint has been transmitted through the ODR platform should therefore apply their own procedural rules, including rules on cost. However, this Regulation intends to establish some common rules applicable to those procedures that will safeguard their effectiveness. This should include rules ensuring that such dispute resolution does not require the physical presence of the parties or their representatives before the ADR entity, unless its procedural rules provide for that possibility and the parties agree.

(23) Ensuring that all ADR entities listed in accordance with Article 20(2) of Directive 2013/11/EU are registered with the ODR platform should allow for full coverage in online out-of-court resolution for disputes arising from online sales or service contracts.

(24) This Regulation should not prevent the functioning of any existing dispute resolution entity operating online or of any ODR mechanism within the Union. It should not prevent dispute resolution entities or mechanisms from dealing with online disputes which have been submitted directly to them.

(25) ODR contact points hosting at least two ODR advisors should be designated in each Member State. The ODR contact points should support the parties involved in a dispute submitted through the ODR platform without being obliged to translate documents relating to that dispute. Member States should have the possibility to confer the responsibility for the ODR contact points on their centres of the European Consumer Centres Network. Member States should make use of that possibility in order to allow ODR contact points to fully benefit from the experience of the centres of the European Consumer Centres Network in facilitating the settlement of disputes between consumers and traders. The Commission should establish a network of ODR contact points to facilitate their cooperation and work and provide, in cooperation with Member States, appropriate training for ODR contact points.

(26) The right to an effective remedy and the right to a fair trial are fundamental rights laid down in Article 47 of the Charter of Fundamental Rights of the European Union. ODR is not intended to and cannot be designed to replace court procedures, nor should it deprive consumers or traders of their rights to seek redress before the courts. This Regulation should not, therefore, prevent parties from exercising their right of access to the judicial system.

(27) The processing of information under this Regulation should be subject to strict guarantees of confidentiality and should comply with the rules on the protection of personal data laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [2] and in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [3]. Those rules should apply to the processing of personal data carried out under this Regulation by the various actors of the ODR platform, whether they act alone or jointly with other such actors.

(28) Data subjects should be informed about, and give their consent to, the processing of their personal data in the ODR platform, and should be informed about their rights with regard to that processing, by means of a comprehensive privacy notice to be made publicly available by the Commission and explaining, in clear and simple language, the processing operations performed under the responsibility of the various actors of the platform, in accordance with Articles 11 and 12 of Regulation (EC) No 45/2001 and with national legislation adopted pursuant to Articles 10 and 11 of Directive 95/46/EC.

[1] OJ L 144, 30.4.2004, p. 62.

[2] OJ L 281, 23.11.1995, p. 31.

[3] OJ L 8, 12.1.2001, p. 1.

(29) This Regulation should be without prejudice to provisions on confidentiality in national legislation relating to ADR.

(30) In order to ensure broad consumer awareness of the existence of the ODR platform, traders established within the Union engaging in online sales or service contracts should provide, on their websites, an electronic link to the ODR platform. Traders should also provide their email address so that consumers have a first point of contact. A significant proportion of online sales and service contracts are concluded using online marketplaces, which bring together or facilitate online transactions between consumers and traders. Online marketplaces are online platforms which allow traders to make their products and services available to consumers. Such online marketplaces should therefore have the same obligation to provide an electronic link to the ODR platform. This obligation should be without prejudice to Article 13 of Directive 2013/11/EU concerning the requirement that traders inform consumers about the ADR procedures by which those traders are covered and about whether or not they commit to use ADR procedures to resolve disputes with consumers. Furthermore, that obligation should be without prejudice to point (t) of Article 6(1) and to Article 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights [1]. Point (t) of Article 6(1) of Directive 2011/83/EU stipulates for consumer contracts concluded at a distance or off premises, that the trader is to inform the consumer about the possibility of having recourse to an out-of-court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the contract. For the same consumer awareness reasons, Member States should encourage consumer associations and business associations to provide an electronic link to the website of the ODR platform.

(31) In order to take into account the criteria by which the ADR entities define their respective scopes of application the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to adapt the information which a complainant is to provide in the electronic complaint form made available on the ODR platform. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(32) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission in respect of the functioning of the ODR platform, the modalities for the submission of a complaint and cooperation within the network of ODR contact points. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers [2]. The advisory procedure should be used for the adoption of implementing acts relating to the electronic complaint form given its purely technical nature. The examination procedure should be used for the adoption of the rules concerning the modalities of cooperation between the ODR advisors of the network of ODR contact points.

(33) In the application of this Regulation, the Commission should consult, where appropriate, the European Data Protection Supervisor.

(34) Since the objective of this Regulation, namely to set up a European ODR platform for online disputes governed by common rules, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(35) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Articles 7, 8, 38 and 47 thereof.

(36) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 12 January 2012 [3],

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The purpose of this Regulation is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market, and in particular of its digital dimension by providing a European ODR platform ('ODR platform') facilitating the independent, impartial, transparent, effective, fast and fair out-of-court resolution of disputes between consumers and traders online.

[1] OJ L 304, 22.11.2011, p. 64.

[2] OJ L 55, 28.2.2011, p. 13.

[3] OJ C 136, 11.5.2012, p. 1.

Article 2

Scope

1. This Regulation shall apply to the out-of-court resolution of disputes concerning contractual obligations stemming from online sales or service contracts between a consumer resident in the Union and a trader established in the Union through the intervention of an ADR entity listed in accordance with Article 20(2) of Directive 2013/11/EU and which involves the use of the ODR platform.

2. This Regulation shall apply to the out-of-court resolution of disputes referred to in paragraph 1, which are initiated by a trader against a consumer, in so far as the legislation of the Member State where the consumer is habitually resident allows for such disputes to be resolved through the intervention of an ADR entity.

3. Member States shall inform the Commission about whether or not their legislation allows for disputes referred to in paragraph 1, which are initiated by a trader against a consumer, to be resolved through the intervention of an ADR entity. Competent authorities shall, when they notify the list referred to in Article 20(2) of Directive 2013/11/EU, inform the Commission about which ADR entities deal with such disputes.

4. The application of this Regulation to disputes referred to in paragraph 1, which are initiated by a trader against a consumer, shall not impose any obligation on Member States to ensure that ADR entities offer procedures for the out-of-court resolution of such disputes.

Article 3

Relationship with other Union legal acts

This Regulation shall be without prejudice to Directive 2008/52/EC.

Article 4

Definitions

1. For the purposes of this Regulation:

(a) 'consumer' means a consumer as defined in point (a) of Article 4(1) of Directive 2013/11/EU;

(b) 'trader' means a trader as defined in point (b) of Article 4(1) of Directive 2013/11/EU;

(c) 'sales contract' means a sales contract as defined in point (c) of Article 4(1) of Directive 2013/11/EU;

(d) 'service contract' means a service contract as defined in point (d) of Article 4(1) of Directive 2013/11/EU;

(e) 'online sales or service contract' means a sales or service contract where the trader, or the trader's intermediary, has offered goods or services on a website or by other electronic means and the consumer has ordered such goods or services on that website or by other electronic means;

(f) 'online marketplace' means a service provider, as defined in point (b) of Article 2 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') [1], which allows consumers and traders to conclude online sales and service contracts on the online marketplace's website;

(g) 'electronic means' means electronic equipment for the processing (including digital compression) and storage of data which is entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;

(h) 'alternative dispute resolution procedure' ('ADR procedure') means a procedure for the out-of-court resolution of disputes as referred to in Article 2 of this Regulation;

(i) 'alternative dispute resolution entity' ('ADR entity') means an ADR entity as defined in point (h) of Article 4(1) of Directive 2013/11/EU;

(j) 'complainant party' means the consumer who or the trader that has submitted a complaint through the ODR platform;

(k) 'respondent party' means the consumer against whom or the trader against whom a complaint has been submitted through the ODR platform;

(l) 'competent authority' means a public authority as defined in point (i) of Article 4(1) of Directive 2013/11/EU;

(m) 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to that person's physical, physiological, mental, economic, cultural or social identity.

2. The place of establishment of the trader and of the ADR entity shall be determined in accordance with Article 4(2) and (3) of Directive 2013/11/EU, respectively.

[1] OJ L 178, 17.7.2000, p. 1.

CHAPTER II

ODR PLATFORM

Article 5

Establishment of the ODR platform

1. The Commission shall develop the ODR platform (and be responsible for its operation, including all the translation functions necessary for the purpose of this Regulation, its maintenance, funding and data security. The ODR platform shall be user-friendly. The development, operation and maintenance of the ODR platform shall ensure that the privacy of its users is respected from the design stage ('privacy by design') and that the ODR platform is accessible and usable by all, including vulnerable users ('design for all'), as far as possible.

2. The ODR platform shall be a single point of entry for consumers and traders seeking the out-of-court resolution of disputes covered by this Regulation. It shall be an interactive website which can be accessed electronically and free of charge in all the official languages of the institutions of the Union.

3. The Commission shall make the ODR platform accessible, as appropriate, through its websites which provide information to citizens and businesses in the Union and, in particular, through the 'Your Europe portal' established in accordance with Decision 2004/387/EC.

4. The ODR platform shall have the following functions:

(a) to provide an electronic complaint form which can be filled in by the complainant party in accordance with Article 8;

(b) to inform the respondent party about the complaint;

(c) to identify the competent ADR entity or entities and transmit the complaint to the ADR entity, which the parties have agreed to use, in accordance with Article 9;

(d) to offer an electronic case management tool free of charge, which enables the parties and the ADR entity to conduct the dispute resolution procedure online through the ODR platform;

(e) to provide the parties and ADR entity with the translation of information which is necessary for the resolution of the dispute and is exchanged through the ODR platform;

(f) to provide an electronic form by means of which ADR entities shall transmit the information referred to in point (c) of Article 10;

(g) to provide a feedback system which allows the parties to express their views on the functioning of the ODR platform and on the ADR entity which has handled their dispute;

(h) to make publicly available the following:

(i) general information on ADR as a means of out-of-court dispute resolution;

(ii) information on ADR entities listed in accordance with Article 20(2) of Directive 2013/11/EU which are competent to deal with disputes covered by this Regulation;

(iii) an online guide about how to submit complaints through the ODR platform;

(iv) information, including contact details, on ODR contact points designated by the Member States in accordance with Article 7(1) of this Regulation;

(v) statistical data on the outcome of the disputes which were transmitted to ADR entities through the ODR platform.

5. The Commission shall ensure that the information referred to in point (h) of paragraph 4 is accurate, up to date and provided in a clear, understandable and easily accessible way.

6. ADR entities listed in accordance with Article 20(2) of Directive 2013/11/EU which are competent to deal with disputes covered by this Regulation shall be registered electronically with the ODR platform.

7. The Commission shall adopt measures concerning the modalities for the exercise of the functions provided for in paragraph 4 of this Article through implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(3) of this Regulation.

Article 6

Testing of the ODR platform

1. The Commission shall, by 9 January 2015 test the technical functionality and user-friendliness of the ODR platform and of the complaint form, including with regard to translation. The testing shall be carried out and evaluated in cooperation with experts in ODR from the Member States and consumer and trader representatives. The Commission shall submit a report to the European Parliament and the Council of the result of the testing and take the appropriate measures to address potential problems in order to ensure the effective functioning of the ODR platform.

2. In the report referred to in paragraph 1 of this Article, the Commission shall also describe the technical and organisational measures it intends to take to ensure that the ODR platform meets the privacy requirements set out in Regulation (EC) No 45/2001.

Article 7

Network of ODR contact points

1. Each Member State shall designate one ODR contact point and communicate its name and contact details to the Commission. The Member States may confer responsibility for the ODR contact points on their centres of the European Consumer Centres Network, on consumer associations or on any other body. Each ODR contact point shall host at least two ODR advisors.

2. The ODR contact points shall provide support to the resolution of disputes relating to complaints submitted through the ODR platform by fulfilling the following functions:

(a) if requested, facilitating communication between the parties and the competent ADR entity, which may include, in particular:

(i) assisting with the submission of the complaint and, where appropriate, relevant documentation;

(ii) providing the parties and ADR entities with general information on consumer rights in relation to sales and service contracts which apply in the Member State of the ODR contact point which hosts the ODR advisor concerned;

(iii) providing information on the functioning of the ODR platform;

(iv) providing the parties with explanations on the procedural rules applied by the ADR entities identified;

(v) informing the complainant party of other means of redress when a dispute cannot be resolved through the ODR platform;

(b) submitting, based on the practical experience gained from the performance of their functions, every two years an activity report to the Commission and to the Member States.

3. The ODR contact point shall not be obliged to perform the functions listed in paragraph 2 in the case of disputes where the parties are habitually resident in the same Member State.

4. Notwithstanding paragraph 3, the Member States may decide, taking into account national circumstances, that the ODR contact point performs one or more functions listed in paragraph 2 in the case of disputes where the parties are habitually resident in the same Member State.

5. The Commission shall establish a network of contact points ('ODR contact points network') which shall enable cooperation between contact points and contribute to the performance of the functions listed in paragraph 2.

6. The Commission shall at least twice a year convene a meeting of members of the ODR contact points network in order to permit an exchange of best practice, and a discussion of any recurring problems encountered in the operation of the ODR platform.

7. The Commission shall adopt the rules concerning the modalities of the cooperation between the ODR contact points through implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(3).

Article 8

Submission of a complaint

1. In order to submit a complaint to the ODR platform the complainant party shall fill in the electronic complaint form. The complaint form shall be user-friendly and easily accessible on the ODR platform.

2. The information to be submitted by the complainant party shall be sufficient to determine the competent ADR entity. That information is listed in the Annex to this Regulation. The complainant party may attach documents in support of the complaint.

3. In order to take into account the criteria by which the ADR entities, that are listed in accordance with Article 20(2) of Directive 2013/11/EU and that deal with disputes covered by this Regulation, define their respective scopes of application, the Commission shall be empowered to adopt delegated acts in accordance with Article 17 of this Regulation to adapt the information listed in the Annex to this Regulation.

4. The Commission shall lay down the rules concerning the modalities for the electronic complaint form by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 16(2).

5. Only data which are accurate, relevant and not excessive in relation to the purposes for which they are collected shall be processed through the electronic complaint form and its attachments.

Article 9

Processing and transmission of a complaint

1. A complaint submitted to the ODR platform shall be processed if all the necessary sections of the electronic complaint form have been completed.

2. If the complaint form has not been fully completed, the complainant party shall be informed that the complaint cannot be processed further, unless the missing information is provided.

3. Upon receipt of a fully completed complaint form, the ODR platform shall, in an easily understandable way and without delay, transmit to the respondent party, in one of the official languages of the institutions of the Union chosen by that party, the complaint together with the following data:

(a) information that the parties have to agree on an ADR entity in order for the complaint to be transmitted to it, and that, if no agreement is reached by the parties or no competent ADR entity is identified, the complaint will not be processed further;

(b) information about the ADR entity or entities which are competent to deal with the complaint, if any are referred to in the electronic complaint form or are identified by the ODR platform on the basis of the information provided in that form;

(c) in the event that the respondent party is a trader, an invitation to state within 10 calendar days:

— whether the trader commits to, or is obliged to use, a specific ADR entity to resolve disputes with consumers, and

— unless the trader is obliged to use a specific ADR entity, whether the trader is willing to use any ADR entity or entities from those referred to in point (b);

(d) in the event that the respondent party is a consumer and the trader is obliged to use a specific ADR entity, an invitation to agree within 10 calendar days on that ADR entity or, in the event that the trader is not obliged to use a specific ADR entity, an invitation to select one or more ADR entities from those referred to in point (b);

(e) the name and contact details of the ODR contact point in the Member State where the respondent party is established or resident, as well as a brief description of the functions referred to in point (a) of Article 7(2).

4. Upon receipt from the respondent party of the information referred to in point (c) or point (d) of paragraph 3, the ODR platform shall in an easily understandable way and without delay communicate to the complainant party, in one of the official languages of the institutions of the Union chosen by that party, the following information:

(a) the information referred to in point (a) of paragraph 3;

(b) in the event that the complainant party is a consumer, the information about the ADR entity or entities stated by the trader in accordance with point (c) of paragraph 3 and an invitation to agree within 10 calendar days on an ADR entity;

(c) in the event that the complainant party is a trader and the trader is not obliged to use a specific ADR entity, the information about the ADR entity or entities stated by the consumer in accordance with point (d) of paragraph 3 and an invitation to agree within 10 calendar days on an ADR entity;

(d) the name and contact details of the ODR contact point in the Member State where the complainant party is established or resident, as well as a brief description of the functions referred to in point (a) of Article 7(2).

5. The information referred to in point (b) of paragraph 3 and in points (b) and (c) of paragraph 4 shall include a description of the following characteristics of each ADR entity:

(a) the name, contact details and website address of the ADR entity;

(b) the fees for the ADR procedure, if applicable;

(c) the language or languages in which the ADR procedure can be conducted;

(d) the average length of the ADR procedure;

(e) the binding or non-binding nature of the outcome of the ADR procedure;

(f) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4) of Directive 2013/11/EU.

6. The ODR platform shall automatically and without delay transmit the complaint to the ADR entity that the parties have agreed to use in accordance with paragraphs 3 and 4.

7. The ADR entity to which the complaint has been transmitted shall without delay inform the parties about whether it agrees or refuses to deal with the dispute in accordance with Article 5(4) of Directive 2013/11/EU. The ADR entity which has agreed to deal with the dispute shall also inform the parties of its procedural rules and, if applicable, of the costs of the dispute resolution procedure concerned.

8. Where the parties fail to agree within 30 calendar days after submission of the complaint form on an ADR entity, or the ADR entity refuses to deal with the dispute, the complaint shall not be processed further. The complainant party shall be informed of the possibility of contacting an ODR advisor for general information on other means of redress.

Article 10

Resolution of the dispute

An ADR entity which has agreed to deal with a dispute in accordance with Article 9 of this Regulation shall:

(a) conclude the ADR procedure within the deadline referred to in point (e) of Article 8 of Directive 2013/11/EU;

(b) not require the physical presence of the parties or their representatives, unless its procedural rules provide for that possibility and the parties agree;

(c) without delay transmit the following information to the ODR platform:

(i) the date of receipt of the complaint file;

(ii) the subject-matter of the dispute;

(iii) the date of conclusion of the ADR procedure;

(iv) the result of the ADR procedure;

(d) not be required to conduct the ADR procedure through the ODR platform.

Article 11

Database

The Commission shall take the necessary measures to establish and maintain an electronic database in which it shall store the information processed in accordance with Article 5(4) and point (c) of Article 10 taking due account of Article 13(2).

Article 12

Processing of personal data

1. Access to information, including personal data, related to a dispute and stored in the database referred to in Article 11 shall be granted, for the purposes referred to in Article 10, only to the ADR entity to which the dispute was transmitted in accordance with Article 9. Access to the same information shall be granted also to ODR contact points, in so far as it is necessary, for the purposes referred to in Article 7(2) and (4).

2. The Commission shall have access to information processed in accordance with Article 10 for the purposes of monitoring the use and functioning of the ODR platform and drawing up the reports referred to in Article 21. It shall process personal data of the users of the ODR platform in so far as it is necessary for the operation and maintenance of the ODR platform, including for the purposes of monitoring the use of the ODR platform by ADR entities and ODR contact points.

3. Personal data related to a dispute shall be kept in the database referred to in paragraph 1 of this Article only for the time necessary to achieve the purposes for which they were collected and to ensure that data subjects are able to access their personal data in order to exercise their rights, and shall be automatically deleted, at the latest, six months after the date of conclusion of the dispute which has been transmitted to the ODR platform in accordance with point (iii) of point (c) of Article 10. That retention period shall also apply to personal data kept in national files by the ADR entity or the ODR contact point which dealt with the dispute concerned, except if the procedural rules applied by the ADR entity or any specific provisions of national law provide for a longer retention period.

4. Each ODR advisor shall be regarded as a controller with respect to its data processing activities under this Regulation, in accordance with point (d) of Article 2 of Directive 95/46/EC, and shall ensure that those activities comply with national legislation adopted pursuant to Directive 95/46/EC in the Member State of the ODR contact point hosting the ODR advisor.

5. Each ADR entity shall be regarded as a controller with respect to its data processing activities under this Regulation, in accordance with point (d) of Article 2 of Directive 95/46/EC, and shall ensure that those activities comply with national legislation adopted pursuant to Directive 95/46/EC in the Member State where the ADR entity is established.

6. In relation to its responsibilities under this Regulation and the processing of personal data involved therein, the Commission shall be regarded as a controller in accordance with point (d) of Article 2 of Regulation (EC) No 45/2001.

Article 13

Data confidentiality and security

1. ODR contact points shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in the legislation of the Member State concerned.

2. The Commission shall take the appropriate technical and organisational measures to ensure the security of information processed under this Regulation, including appropriate data access control, a security plan and a security incident management, in accordance with Article 22 of Regulation (EC) No 45/2001.

Article 14

Consumer information

1. Traders established within the Union engaging in online sales or service contracts, and online marketplaces established within the Union, shall provide on their websites an electronic link to the ODR platform. That link shall be easily accessible for consumers. Traders established within the Union engaging in online sales or service contracts shall also state their e-mail addresses.

2. Traders established within the Union engaging in online sales or service contracts, which are committed or obliged to use one or more ADR entities to resolve disputes with consumers, shall inform consumers about the existence of the ODR platform and the possibility of using the ODR platform for resolving their disputes. They shall provide an electronic link to the ODR platform on their websites and, if the offer is made by e-mail, in that e-mail. The information shall also be provided, where applicable, in the general terms and conditions applicable to online sales and service contracts.

3. Paragraphs 1 and 2 of this Article shall be without prejudice to Article 13 of Directive 2013/11/EU and the provisions on consumer information on out-of-court redress procedures contained in other Union legal acts, which shall apply in addition to this Article.

4. The list of ADR entities referred to in Article 20(4) of Directive 2013/11/EU and its updates shall be published in the ODR platform.

5. Member States shall ensure that ADR entities, the centres of the European Consumer Centres Network, the competent authorities defined in Article 18(1) of Directive 2013/11/EU, and, where appropriate, the bodies designated in accordance with Article 14(2) of Directive 2013/11/EU provide an electronic link to the ODR platform.

6. Member States shall encourage consumer associations and business associations to provide an electronic link to the ODR platform.

7. When traders are obliged to provide information in accordance with paragraphs 1 and 2 and with the provisions referred to in paragraph 3, they shall, where possible, provide that information together.

Article 15

Role of the competent authorities

The competent authority of each Member State shall assess whether the ADR entities established in that Member State comply with the obligations set out in this Regulation.

CHAPTER III

FINAL PROVISIONS

Article 16

Committee procedure

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

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

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

4. Where the opinion of the committee under paragraphs 2 and 3 is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 17

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Article 8(3) shall be conferred for an indeterminate period of time from 8 July 2013.

3. The delegation of power referred to in Article 8(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 8(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 18

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 19

Amendment to Regulation (EC) No 2006/2004

In the Annex to Regulation (EC) No 2006/2004 of the European Parliament and of the Council [1] the following point is added:

'21. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1): Article 14.'

Article 20

Amendment to Directive 2009/22/EC

Directive 2009/22/EC of the European Parliament and of the Council [2] is amended as follows:

(1) in Article 1(1) and (2) and point (b) of Article 6(2), the words 'Directives listed in Annex I' are replaced with the words 'Union acts listed in Annex I';

(2) in the heading of Annex I, the words 'LIST OF DIRECTIVES' are replaced by the words 'LIST OF UNION ACTS';

(3) in Annex I, the following point is added:

'15. Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1): Article 14.'

Article 21

Reports

1. The Commission shall report to the European Parliament and the Council on the functioning of the ODR platform on a yearly basis and for the first time one year after the ODR platform has become operational.

2. By 9 July 2018 and every three years thereafter the Commission shall submit to the European Parliament and the Council a report on the application of this Regulation, including in particular on the user-friendliness of the complaint form and the possible need for adaptation of the information listed in the Annex to this Regulation. That report shall be accompanied, if necessary, by proposals for adaptations to this Regulation.

3. Where the reports referred to in paragraphs 1 and 2 are to be submitted in the same year, only one joint report shall be submitted.

Article 22

Entry into force

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

2. This Regulation shall apply from 9 January 2016, except for the following provisions:

— Article 2(3) and Article 7(1) and (5), which shall apply from 9 July 2015,

— Article 5(1) and (7), Article 6, Article 7(7), Article 8(3) and (4) and Articles 11, 16 and 17, which shall apply from 8 July 2013.

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

Done at Strasbourg, 21 May 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

[1] OJ L 364, 9.12.2004, p. 1.
[2] OJ L 110, 1.5.2009, p. 30.

ANNEX

Information to be provided when submitting a complaint

(1) Whether the complainant party is a consumer or a trader;

(2) The name and e-mail and geographical address of the consumer;

(3) The name and e-mail, website and geographical address of the trader;

(4) The name and email and geographical address of the complainant party's representative, if applicable;

(5) The language(s) of the complainant party or representative, if applicable;

(6) The language of the respondent party, if known;

(7) The type of good or service to which the complaint relates;

(8) Whether the good or service was offered by the trader and ordered by the consumer on a website or by other electronic means;

(9) The price of the good or service purchased;

(10) The date on which the consumer purchased the good or service;

(11) Whether the consumer has made direct contact with the trader;

(12) Whether the dispute is being or has previously been considered by an ADR entity or by a court;

(13) The type of complaint;

(14) The description of the complaint;

(15) If the complainant party is a consumer, the ADR entities the trader is obliged to or has committed to use in accordance with Article 13(1) of Directive 2013/11/EU, if known;

(16) If the complainant party is a trader, which ADR entity or entities the trader commits to or is obliged to use.

REGULATION (EU) No 525/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the Committee of the Regions ([2]),

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

Whereas:

(1) Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol ([4]) established a framework for monitoring anthropogenic greenhouse gas emissions by sources and greenhouse gas removals by sinks, evaluating progress towards meeting commitments in respect of those emissions and implementing monitoring and reporting requirements under the United Nations Framework Convention on Climate Change (UNFCCC) ([5]) and the Kyoto Protocol ([6]) in the Union. In order to take into account recent and future developments at international level relating to the UNFCCC and the Kyoto Protocol, and in order to implement new monitoring and reporting requirements provided for in Union law, Decision No 280/2004/EC should be replaced.

(2) Decision No 280/2004/EC should be replaced by a Regulation on account of the broader scope of Union law, the inclusion of additional categories of persons to which obligations are addressed, the more complex and highly technical nature of provisions introduced, the increased need for uniform rules applicable throughout the Union, and in order to facilitate implementation.

(3) The ultimate objective of the UNFCCC is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2 °C above pre-industrial levels.

(4) There is a need for thorough monitoring and reporting, and for regular assessment of Union and Member States' greenhouse gas emissions and of their efforts to address climate change.

(5) Decision 1/CP.15 of the Conference of the Parties to the UNFCCC (Decision 1/CP.15) and Decision 1/CP.16 of the Conference of the Parties to the UNFCCC (Decision 1/CP.16) contributed significantly to progress in addressing the challenges raised by climate change in a balanced manner. Those Decisions introduced new monitoring and reporting requirements that apply to the implementation of ambitious emission reductions to which the Union and its Member States have committed themselves, and provided support to developing countries. Those Decisions also recognised the importance of addressing adaptation with the same priority as mitigation. Decision 1/CP.16 also requires that developed countries develop low-carbon development strategies or plans. Such strategies or plans are expected to contribute towards building a low-carbon society and ensure continued high growth and sustainable development, as well as moving in a cost-effective manner towards the long-term climate target, giving due consideration to the intermediary stages. This Regulation should facilitate the implementation of those monitoring and reporting requirements.

([1]) OJ C 181, 21.6.2012, p. 169.
([2]) OJ C 277, 13.9.2012, p. 51.
([3]) Position of the European Parliament of 12 March 2013 (not yet published in the Official Journal) and decision of the Council of 22 April 2013.
([4]) OJ L 49, 19.2.2004, p. 1.
([5]) Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (OJ L 33, 7.2.1994, p. 11).
([6]) Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1).

(6) The set of Union legal acts, adopted in 2009, collectively referred to as the 'Climate and Energy package' in particular Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 [1] and Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community [2], marks another firm commitment by the Union and the Member States to significantly reduce their greenhouse gas emissions. The Union's system for monitoring and reporting emissions should also be updated in the light of new requirements under those two legal acts.

(7) Under the UNFCCC, the Union and its Member States are required to develop, regularly update, publish and report to the Conference of the Parties national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol of 1987 on substances that deplete the ozone layer to the Vienna Convention for the Protection of the Ozone Layer [3] (the Montreal Protocol) using comparable methodologies agreed by the Conference of the Parties.

(8) Article 5(1) of the Kyoto Protocol requires the Union and the Member States to establish and maintain a national system for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, with a view to ensuring the implementation of other provisions of the Kyoto Protocol. In doing so, the Union and the Member States should apply the guidelines for national systems set out in the Annex to Decision 19/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol (Decision 19/CMP.1). In addition, Decision 1/CP.16 requires the establishment of national arrangements to estimate anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. This Regulation should enable both of those requirements to be implemented.

(9) Cyprus and Malta are included in Annex I to the UNFCCC pursuant to Decision 10/CP.17 of the Conference of the Parties to the UNFCCC, effective from 9 January 2013, and Decision 3/CP.15 of the Conference of the Parties to the UNFCCC, effective from 26 October 2010, respectively.

(10) The experience gained in implementing Decision No 280/2004/EC has shown the need to increase synergies and coherence with reporting under other legal instruments, in particular with Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community [4], with Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register [5], with Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants [6], with Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases [7], and with Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics [8]. While streamlining reporting requirements will require the amendment of individual legal instruments, the use of consistent data to report greenhouse gas emissions is essential to ensuring the quality of emissions reporting.

(11) The Fourth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC) identified a global warming potential (GWP) for nitrogen trifluoride (NF_3) which is approximately 17 000 times that of carbon dioxide (CO_2). NF_3 is increasingly being used in the electronics industry to replace perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6). In accordance with Article 191(2) of the Treaty on the Functioning of the European Union (TFEU), Union environment policy must be based on the precautionary principle. That principle requires the monitoring of NF_3 to assess the level of emissions in the Union and, if required, to define mitigation action.

(12) Data currently reported in the national greenhouse gas inventories and the national and Union registries are not sufficient to determine, at Member State level, the CO_2 civil aviation emissions at national level that are not covered by Directive 2003/87/EC. In adopting reporting obligations, the Union should not impose upon Member States and small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO_2 emissions from flights not covered by Directive 2003/87/EC represent only a very minor part of the total greenhouse gas emissions, and establishing a reporting system for these emissions would be unduly

[1] OJ L 140, 5.6.2009, p. 136.
[2] OJ L 140, 5.6.2009, p. 63.
[3] Council Decision 88/540/EEC of 14 October 1988 concerning the conclusion of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer (OJ L 297, 31.10.1988, p. 8).
[4] OJ L 275, 25.10.2003, p. 32.
[5] OJ L 33, 4.2.2006, p. 1.
[6] OJ L 309, 27.11.2001, p. 22.
[7] OJ L 161, 14.6.2006, p. 1.
[8] OJ L 304, 14.11.2008, p. 1.

burdensome in the light of existing requirements for the wider sector pursuant to Directive 2003/87/EC. Therefore, CO_2 emissions from IPCC source category '1.A.3.A civil aviation' should be treated as being equal to zero for the purposes of Article 3 and Article 7(1) of Decision No 406/2009/EC.

(13) In order to ensure the effectiveness of the arrangements for monitoring and reporting greenhouse gas emissions, it is necessary to avoid further adding to the financial and administrative burden already being borne by the Member States.

(14) Whilst emissions and removals of greenhouse gases relating to land use, land-use change and forestry (LULUCF) count towards the Union's emissions reduction target under the Kyoto Protocol, they are not part of the 20 % target for 2020 under the Climate and Energy package. Article 9 of Decision No 406/2009/EC requires the Commission to assess modalities for the inclusion of emissions and removals from activities relating to LULUCF in the Union's greenhouse gas emission reduction commitment, ensuring permanence and the environmental integrity of the contribution of LULUCF, and providing for accurate monitoring and accounting of the relevant emissions and removals. It also requires the Commission to submit a legislative proposal, as appropriate, with the aim of it entering into force as from 2013. On 12 March 2012, the Commission submitted to the European Parliament and to the Council a proposal as a first step towards the inclusion of the LULUCF sector in the Union's emission reduction commitment, which resulted in the adoption of Decision No 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities ([1]).

(15) The Union and the Member States should strive to provide the most up-to-date information on their greenhouse gas emissions, in particular under the framework of the Europe 2020 strategy and its specified timelines. This Regulation should enable such estimates to be prepared in the shortest timeframes possible by using statistical and other information, such as, where appropriate, space-based data provided by the Global Monitoring for Environment and Security programme and other satellite systems.

(16) Since the Commission has announced that it intends to propose new monitoring and reporting requirements for emissions from maritime transport, including amendments to this Regulation as appropriate, this Regulation should not prejudge any such proposal, and therefore provisions on the monitoring and reporting of emissions from maritime transport should not be included in this Regulation at this time.

(17) The experience gained in implementing Decision No 280/2004/EC demonstrated the need to improve transparency, accuracy, consistency, completeness and comparability of information reported on policies and measures and on projections. Decision No 406/2009/EC requires that Member States report their projected progress towards meeting their obligations under that Decision, including information on national policies and measures and on national projections. The Europe 2020 strategy set an integrated economic policy agenda requiring the Union and the Member States to make further efforts on the timely reporting of climate change policies and measures and their projected effects on emissions. Creating systems at Union and Member State level coupled with better guidance on reporting should significantly contribute towards those goals. In order to ensure that the Union meets its international and internal reporting requirements on greenhouse gas projections and to evaluate its progress towards meeting its international and internal commitments and obligations, the Commission should also be able to prepare and use greenhouse gas projection estimates.

(18) Improved information from Member States is needed to monitor their progress and action in adapting to climate change. This information is needed to devise a comprehensive Union adaptation strategy pursuant to the Commission White Paper of 1 April 2009 entitled 'Adapting to climate change: Towards a European framework for action'. The reporting of information on adaptation will enable Member States to exchange best practices and evaluate their needs and level of preparedness to deal with climate change.

(19) Under Decision 1/CP.15, the Union and the Member States committed to providing substantial climate financing to support adaptation and mitigation action in developing countries. In accordance with paragraph 40 of Decision 1/CP.16, each developed country Party to the UNFCCC must enhance reporting on the provision of financial, technological and capacity-building support to developing country Parties. Enhanced reporting is essential to recognising the efforts made by the Union and Member States to meet their commitments. Decision 1/CP.16 also established a new 'Technology Mechanism' to enhance international technology transfer. This Regulation should ensure reporting of up-to-date information on technology transfer activities to developing countries based on the best data available.

([1]) See page 80 of this Official Journal.

(20) Directive 2008/101/EC of the European Parliament and of the Council [1] amended Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Union. Directive 2003/87/EC contains provisions on the use of auctioning revenue, on reporting on the use of auctioning revenue by Member States, and on the action taken pursuant to Article 3d of that Directive. Directive 2003/87/EC, as amended by Directive 2009/29/EC, now also contains provisions on the use of auctioning revenue, and states that at least 50 % of such revenue should be used for the purpose of one or more of the activities referred to in Article 10(3) of Directive 2003/87/EC. Transparency on the use of revenue generated from the auctioning of allowances under Directive 2003/87/EC is key to underpinning Union commitments.

(21) Under the UNFCCC, the Union and its Member States are required to develop, regularly update, publish and report to the Conference of the Parties national communications and biennial reports using the guidelines, methodologies and formats agreed upon by the Conference of the Parties. Decision 1/CP.16 calls for enhanced reporting on mitigation targets and on the provision of financial, technological and capacity-building support to developing country Parties.

(22) Decision No 406/2009/EC converted the current annual reporting cycle into an annual commitment cycle requiring a comprehensive review of Member States' greenhouse gas inventories within a shorter time frame than the current UNFCCC inventory review, to enable the use of flexibilities and the application of corrective action, where necessary, at the end of each relevant year. Setting up at Union-level a review process of the greenhouse gas inventories submitted by Member States is necessary to ensure that compliance with Decision No 406/2009/EC is assessed in a credible, consistent, transparent and timely manner.

(23) A number of technical elements relating to the reporting of greenhouse gas emissions from sources and removals by sinks, such as GWPs, the scope of greenhouse gases reported and methodological guidance from the IPCC to be used to prepare national greenhouse gas inventories, are currently being discussed under the UNFCCC process. Revisions of those methodological elements in the context of the UNFCCC process and subsequent recalculations of the time-series of greenhouse gas emissions may change the level and trends of greenhouse gas emissions. The Commission should monitor such developments at international level and, where necessary, propose revising this Regulation to ensure consistency with the methodologies used in the context of the UNFCCC process.

(24) In accordance with the current UNFCCC greenhouse gas reporting guidelines, the calculation and reporting of methane emissions is based on GWPs relating to a 100-year time horizon. Given the high GWP and relatively short atmospheric lifetime of methane, the Commission should analyse the implications for policies and measures of adopting a 20-year time horizon for methane.

(25) Taking into consideration the European Parliament resolution of 14 September 2011 on a comprehensive approach to non-CO_2 climate-relevant anthropogenic emissions and once there is agreement under the UNFCCC to use agreed and published IPCC guidelines on monitoring and reporting of black carbon emissions, the Commission should analyse the implications for policies and measures and, if appropriate, amend Annex I to this Regulation.

(26) Greenhouse gas emissions across reported time-series should be estimated using the same methods. The underlying activity data and emission factors should be obtained and used in a consistent manner, ensuring that changes in emission trends are not introduced as a result of changes in estimation methods or assumptions. Recalculations of greenhouse gas emissions should be performed in accordance with agreed guidelines and should be carried out with a view to improving the consistency, accuracy and completeness of the reported time-series, and the implementation of more detailed methods. Where the methodology or manner in which underlying activity data and emission factors are gathered has changed, Member States should recalculate inventories for the reported time-series and evaluate the need for recalculations based on the reasons provided in the agreed guidelines, in particular for key categories. This Regulation should lay down whether and under what conditions the effects of such recalculations should be taken into account for the purpose of determining annual emission allocations.

(27) Aviation has impacts on the global climate as a result of the release of CO_2 as well as of other emissions, including nitrogen oxides emissions, and mechanisms, such as cirrus cloud enhancement. In the light of the rapidly developing scientific understanding of those impacts, an updated assessment of the non-CO_2 impacts of aviation on the global climate should be performed regularly in the context of this Regulation. The modelling used in this respect should be adapted to scientific progress. Based on its assessments of such impacts, the Commission could consider relevant policy options for addressing them.

[1] OJ L 8, 13.1.2009, p. 3.

(28) The European Environment Agency aims to support sustainable development and to help achieve significant and measurable improvement in Europe's environment by providing timely, targeted, relevant and reliable information to policy-makers, public institutions and the public. The European Environment Agency should assist the Commission, as appropriate, with monitoring and reporting work, especially in the context of the Union's inventory system and its system for policies and measures and projections; in conducting an annual expert review of Member States' inventories; in evaluating progress towards the Union's emission reduction commitments; in maintaining the European Climate Adaptation Platform relating to impacts, vulnerabilities and adaptation to climate change; and in communicating sound climate information to the public.

(29) All requirements concerning the provision of information and data under this Regulation should be subject to Union rules on data protection and commercial confidentiality.

(30) Information and data gathered under this Regulation may also contribute to future Union climate change policy formulation and assessment.

(31) The Commission should follow the implementation of monitoring and reporting requirements under this Regulation and future developments under the UNFCCC and the Kyoto Protocol to ensure consistency. In this respect, the Commission should submit, if appropriate, a legislative proposal to the European Parliament and to the Council.

(32) In order to ensure uniform conditions for the implementation of Article 5(4), Article 7(7) and (8), Article 8(2), Article 12(3), Article 17(4) and Article 19(5) and (6) of this Regulation, implementing powers should be conferred on the Commission. With the exception of Article 19(6), those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([1]).

(33) In order to establish harmonised reporting requirements to monitor greenhouse gas emissions and other information relevant to climate change policy, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in order to amend Annex I and Annex III to this Regulation in accordance with decisions taken within the framework of the UNFCCC and the Kyoto Protocol; take account of changes in the GWPs and internationally agreed inventory guidelines; set substantive requirements for the Union inventory system; and set up the Union registry. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(34) Since the objectives of this Regulation, namely establishing a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation establishes a mechanism for:

(a) ensuring the timeliness, transparency, accuracy, consistency, comparability and completeness of reporting by the Union and its Member States to the UNFCCC Secretariat;

(b) reporting and verifying information relating to commitments of the Union and its Member States pursuant to the UNFCCC, to the Kyoto Protocol and to decisions adopted thereunder and evaluating progress towards meeting those commitments;

(c) monitoring and reporting all anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol on substances that deplete the ozone layer in the Member States;

([1]) OJ L 55, 28.2.2011, p. 13.

(d) monitoring, reporting, reviewing and verifying greenhouse gas emissions and other information pursuant to Article 6 of Decision No 406/2009/EC;

(e) reporting the use of revenue generated by auctioning allowances under Article 3d(1) or (2) or Article 10(1) of Directive 2003/87/EC, pursuant to Article 3d(4) and Article 10(3) of that Directive;

(f) monitoring and reporting on the actions taken by Member States to adapt to the inevitable consequences of climate change in a cost-effective manner;

(g) evaluating progress by the Member States towards meeting their obligations under Decision No 406/2009/EC.

Article 2

Scope

This Regulation shall apply to:

(a) reporting on the Union's and its Member States' low-carbon development strategies and any updates thereof in accordance with Decision 1/CP.16;

(b) emissions of greenhouse gases listed in Annex I to this Regulation from sectors and sources and the removals by sinks covered by the national greenhouse gas inventories pursuant to Article 4(1)(a) of the UNFCCC and emitted within the territories of the Member States;

(c) greenhouse gas emissions falling within the scope of Article 2(1) of Decision No 406/2009/EC;

(d) the non-CO_2 related climate impacts, which are associated with emissions from civil aviation;

(e) the Union's and its Member States' projections of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, and the Member States' policies and measures relating thereto;

(f) aggregate financial and technological support to developing countries in accordance with requirements under the UNFCCC;

(g) the use of revenue from auctioning allowances pursuant to Article 3d(1) and (2) and Article 10(1) of Directive 2003/87/EC;

(h) Member States' actions to adapt to climate change.

Article 3

Definitions

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

(1) 'global warming potential' or 'GWP' of a gas means the total contribution to global warming resulting from the emission of one unit of that gas relative to one unit of the reference gas, CO_2, which is assigned a value of 1;

(2) 'national inventory system' means a system of institutional, legal and procedural arrangements established within a Member State for estimating anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, and for reporting and archiving inventory information in accordance with Decision 19/CMP.1 or other relevant decisions of UNFCCC or Kyoto Protocol bodies;

(3) 'competent inventory authorities' means authorities entrusted under a national inventory system with the task of compiling the greenhouse gas inventory;

(4) 'quality assurance' or 'QA' means a planned system of review procedures to ensure that data quality objectives are met and that the best possible estimates and information are reported to support the effectiveness of the quality control programme and to assist Member States;

(5) 'quality control' or 'QC' means a system of routine technical activities to measure and control the quality of the information and estimates compiled with the purpose of ensuring data integrity, correctness and completeness, identifying and addressing errors and omissions, documenting and archiving data and other material used, and recording all QA activities;

(6) 'indicator' means a quantitative or qualitative factor or variable that contributes to better understanding progress in implementing policies and measures and greenhouse gas emission trends;

(7) 'assigned amount unit' or 'AAU' means a unit issued pursuant to the relevant provisions in the Annex to Decision 13/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol (Decision 13/CMP.1) or in other relevant decisions of UNFCCC or Kyoto Protocol bodies;

(8) 'removal unit' or 'RMU' means a unit issued pursuant to the relevant provisions in the Annex to Decision 13/CMP.1 or in other relevant decisions of UNFCCC or Kyoto Protocol bodies;

(9) 'emission reduction unit' or 'ERU' means a unit issued pursuant to the relevant provisions in the Annex to Decision 13/CMP.1 or in other relevant decisions of UNFCCC or Kyoto Protocol bodies;

(10) 'certified emission reduction' or 'CER' means a unit issued pursuant to Article 12 of the Kyoto Protocol and requirements thereunder, as well as the relevant provisions in the Annex to Decision 13/CMP.1 or in other relevant decisions of UNFCCC or Kyoto Protocol bodies;

(11) 'temporary certified emission reduction' or 'tCER' means a unit issued pursuant to Article 12 of the Kyoto Protocol and requirements thereunder, as well as the relevant provisions in the Annex to Decision 13/CMP.1, or in other relevant decisions of UNFCCC or Kyoto Protocol bodies, that is to say credits given for emission removals which are certified for an afforestation or reforestation clean development mechanism (CDM) project, to be replaced upon expiry at end of the second commitment period;

(12) 'long-term certified emission reduction' or 'lCER' means a unit issued pursuant to Article 12 of the Kyoto Protocol and requirements thereunder, as well as the relevant provisions in the Annex to Decision 13/CMP.1, or in other relevant decisions of UNFCCC or Kyoto Protocol bodies, that is to say credits given for long-term emission removals which are certified for an afforestation or reforestation CDM project, to be replaced upon expiry at end of the project's crediting period or in event of storage reversal or non-submission of a certification report;

(13) 'national registry' means a registry in the form of a standardised electronic database which includes data on the issue, holding, transfer, acquisition, cancellation, retirement, carry-over, replacement or change of expiry date, as relevant, of AAUs, RMUs, ERUs, CERs, tCERs and lCERs;

(14) 'policies and measures' means all instruments which aim to implement commitments under Article 4(2)(a) and (b) of the UNFCCC, which may include those that do not have the limitation and reduction of greenhouse gas emissions as a primary objective;

(15) 'system for policies and measures and projections' means a system of institutional, legal and procedural arrangements established for reporting policies and measures and projections of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol as required by Article 12 of this Regulation;

(16) '*ex ante* assessment of policies and measures' means an evaluation of the projected effects of a policy or measure;

(17) '*ex post* assessment of policies and measures' means an evaluation of the past effects of a policy or measure;

(18) 'projections without measures' means projections of anthropogenic greenhouse gas emissions by sources and removals by sinks that exclude the effects of all policies and measures which are planned, adopted or implemented after the year chosen as the starting point for the relevant projection;

(19) 'projections with measures' means projections of anthropogenic greenhouse gas emissions by sources and removals by sinks that encompass the effects, in terms of greenhouse gas emissions reductions, of policies and measures that have been adopted and implemented;

(20) 'projections with additional measures' means projections of anthropogenic greenhouse gas emissions by sources and removals by sinks that encompass the effects, in terms of greenhouse gas emissions reductions, of policies and measures which have been adopted and implemented to mitigate climate change as well as policies and measures which are planned for that purpose;

(21) 'sensitivity analysis' means an investigation of a model algorithm or an assumption to quantify how sensitive or stable the model output data are in relation to variations in the input data or underlying assumptions. It is carried out by varying input values or model equations and by observing how the model output varies correspondingly;

(22) 'climate change mitigation-related support' means support for activities in developing countries that contribute to the objective of stabilising greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system;

(23) 'climate change adaptation-related support' means support for activities in developing countries that are intended to reduce the vulnerability of human or natural systems to the impact of climate change and climate-related risks, by maintaining or increasing developing countries' adaptive capacity and resilience;

(24) 'technical corrections' means adjustments to the national greenhouse gas inventory estimates made in the context of the review carried out pursuant to Article 19 when the submitted inventory data are incomplete or are prepared in a way that is not consistent with relevant international or Union rules or guidelines and that are intended to replace originally submitted estimates;

(25) 'recalculations', in accordance with the UNFCCC reporting guidelines on annual inventories, means a procedure for re-estimating anthropogenic greenhouse gas emissions by sources and removals by sinks of previously submitted inventories as a consequence of changes in methodologies or in the manner in which emission factors and activity data are obtained and used; the inclusion of new source and sink categories or of new gases; or changes in the GWP of greenhouse gases.

CHAPTER 2

LOW-CARBON DEVELOPMENT STRATEGIES

Article 4

Low-carbon development strategies

1. Member States, and the Commission on behalf of the Union, shall prepare their low-carbon development strategies in accordance with any reporting provisions agreed internationally in the context of the UNFCCC process, to contribute to:

(a) the transparent and accurate monitoring of the actual and projected progress made by Member States, including the contribution made by Union measures, in fulfilling the Union's and the Member States' commitments under the UNFCCC to limit or reduce anthropogenic greenhouse gas emissions;

(b) meeting the greenhouse gas emission reduction commitments of Member States under Decision No 406/2009/EC and achieving long-term emission reductions and enhancements of removals by sinks in all sectors in line with the Union's objective, in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80 to 95 % by 2050 compared to 1990 levels in a cost-effective manner.

2. Member States shall report to the Commission on the status of implementation of their low-carbon development strategy by 9 January 2015 or in accordance with any timetable agreed internationally in the context of the UNFCCC process.

3. The Commission and the Member States shall make available to the public forthwith their respective low-carbon development strategies and any updates thereof.

CHAPTER 3

REPORTING ON HISTORICAL GREENHOUSE GAS EMISSIONS AND REMOVALS

Article 5

National inventory systems

1. Member States shall establish, operate and seek to continuously improve national inventory systems, in accordance with UNFCCC requirements on national systems, to estimate anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex I to this Regulation and to ensure the timeliness, transparency, accuracy, consistency, comparability and completeness of their greenhouse gas inventories.

2. Member States shall ensure that their competent inventory authorities have access to:

(a) data and methods reported for activities and installations under Directive 2003/87/EC for the purpose of preparing national greenhouse gas inventories in order to ensure consistency of the reported greenhouse gas emissions under the Union's emissions trading scheme and in the national greenhouse gas inventories;

(b) where relevant, data collected through the reporting systems on fluorinated gases in the various sectors, set up pursuant to Article 6(4) of Regulation (EC) No 842/2006 for the purpose of preparing national greenhouse gas inventories;

(c) where relevant, emissions, underlying data and methodologies reported by facilities under Regulation (EC) No 166/2006 for the purpose of preparing national greenhouse gas inventories;

(d) data reported under Regulation (EC) No 1099/2008.

3. Member States shall ensure that their competent inventory authorities, where relevant:

(a) make use of reporting systems established pursuant to Article 6(4) of Regulation (EC) No 842/2006 to improve the estimation of fluorinated gases in the national greenhouse gas inventories;

(b) are able to undertake the annual consistency checks referred to in points (l) and (m) of Article 7(1).

4. The Commission shall adopt implementing acts to set out rules on the structure, format and submission process of the information relating to national inventory systems and to requirements on the establishment, operation and functioning of national inventory systems in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

Article 6

Union inventory system

1. A Union inventory system to ensure the timeliness, transparency, accuracy, consistency, comparability and completeness of national inventories with regard to the Union greenhouse gas inventory is hereby established. The Commission shall administer, maintain and seek to continuously improve that system, which shall include:

(a) a quality assurance and quality control programme, which shall include setting quality objectives and drafting an inventory quality assurance and quality control plan. The Commission shall assist Member States in implementing their quality assurance and quality control programmes;

(b) a procedure to estimate, in consultation with the Member State concerned, any data missing from its national inventory;

(c) the reviews of Member States' greenhouse gas inventories referred to in Article 19.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 25 concerning the substantive requirements for a Union inventory system in order to fulfil the obligations pursuant to Decision 19/CMP.1. The Commission shall not adopt provisions pursuant to paragraph 1 that are more onerous for Member States to comply with than provisions of acts adopted pursuant to Article 3(3) and Article 4(2) of Decision No 280/2004/EC.

Article 7

Greenhouse gas inventories

1. By 15 January each year (year X), Member States shall determine and report the following to the Commission:

(a) their anthropogenic emissions of greenhouse gases listed in Annex I to this Regulation and the anthropogenic emissions of greenhouse gases referred to in Article 2(1) of Decision No 406/2009/EC for the year X-2, in accordance with UNFCCC reporting requirements. Without prejudice to the reporting of the greenhouse gases listed in Annex I to this Regulation, the CO_2 emissions from IPCC source category '1.A.3.A civil aviation' shall be considered equal to zero for the purposes of Article 3 and Article 7(1) of Decision No 406/2009/EC;

(b) data in accordance with UNFCCC reporting requirements on their anthropogenic emissions of carbon monoxide (CO), sulphur dioxide (SO_2), nitrogen oxides (NO_x) and volatile organic compounds, consistent with data already reported pursuant to Article 7 of Directive 2001/81/EC and the UNECE Convention on Long-Range Transboundary Pollution, for the year X-2;

(c) their anthropogenic greenhouse gas emissions by sources and removals of CO_2 by sinks resulting from LULUCF, for the year X-2, in accordance with UNFCCC reporting requirements;

(d) their anthropogenic greenhouse gas emissions by sources and removals of CO_2 by sinks resulting from LULUCF activities pursuant to Decision No 529/2013/EU and the Kyoto Protocol and information on the accounting of these greenhouse gas emissions and removals from LULUCF activities, in accordance with Decision No 529/2013/EU and with Article 3(3) and (4) of the Kyoto Protocol, and relevant decisions thereunder, for the years between 2008 or other applicable years and the year X-2. Where Member States account for cropland management, grazing land management, revegetation or wetland drainage and rewetting, they shall in addition report greenhouse gas emissions by sources and removals by sinks for each such activity for the relevant base year or period specified in Annex VI to Decision No 529/2013/EU and in the Annex to Decision 13/CMP.1. In complying with their reporting obligations pursuant to this point, and in particular when submitting information on emissions and removals relating to their accounting obligations set out in Decision No 529/2013/EU, Member States shall submit information taking fully into account applicable IPCC good practice guidance for LULUCF;

(e) any changes to the information referred to in points (a) to (d) for the years between the relevant base year or period and the year X-3, indicating the reasons for these changes;

(f) information on indicators, as set out in Annex III, for the year X-2;

(g) information from their national registry on the issue, acquisition, holding, transfer, cancellation, retirement and carry-over of AAUs, RMUs, ERUs, CERs, tCERs and lCERs for the year X-1;

(h) summary information on concluded transfers pursuant to Article 3(4) and (5) of Decision No 406/2009/EC, for the year X-1;

(i) information on the use of joint implementation, of the CDM and of international emissions trading, pursuant to Articles 6, 12 and 17 of the Kyoto Protocol, or any other flexible mechanism provided for in other instruments adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol, to meet

their quantified emission limitation or reduction commitments pursuant to Article 2 of Decision 2002/358/EC and the Kyoto Protocol or any future commitments under the UNFCCC or the Kyoto Protocol, for the year X-2;

(j) information on the steps taken to improve inventory estimates, in particular in areas of the inventory that have been subject to adjustments or recommendations following expert reviews;

(k) the actual or estimated allocation of the verified emissions reported by installations and operators under Directive 2003/87/EC to the source categories of the national greenhouse gas inventory, where possible, and the ratio of those verified emissions to the total reported greenhouse gas emissions in those source categories, for the year X-2;

(l) where relevant, the results of the checks performed on the consistency of the emissions reported in the greenhouse gas inventories, for the year X-2, with the verified emissions reported under Directive 2003/87/EC;

(m) where relevant, the results of the checks performed on the consistency of the data used to estimate emissions in preparation of the greenhouse gas inventories, for the year X-2, with:

(i) the data used to prepare inventories of air pollutants under Directive 2001/81/EC;

(ii) the data reported pursuant to Article 6(1) of Regulation (EC) No 842/2006;

(iii) the energy data reported pursuant to Article 4 of, and Annex B to, Regulation (EC) No 1099/2008;

(n) a description of changes to their national inventory system;

(o) a description of changes to the national registry;

(p) information on their quality assurance and quality control plans, a general uncertainty assessment, a general assessment of completeness and, where available, other elements of the national greenhouse gas inventory report needed to prepare the Union greenhouse gas inventory report.

In the first reporting year under this Regulation, Member States shall inform the Commission of any intention to make use of Article 3(4) and (5) of Decision No 406/2009/EC.

2. Member States shall report to the Commission preliminary data by 15 January and final data by 15 March of the second year after the end of each accounting period specified in Annex I to Decision No 529/2013/EU, as prepared for their LULUCF accounts for that accounting period in accordance with Article 4(6) of that Decision.

3. By 15 March each year, Member States shall communicate to the Commission a complete and up-to-date national inventory report. Such report shall contain all the information listed in paragraph 1 and any subsequent updates to that information.

4. By 15 April each year, Member States shall submit to the UNFCCC Secretariat national inventories containing information submitted to the Commission in accordance with paragraph 3.

5. The Commission shall, in cooperation with the Member States, annually compile a Union greenhouse gas inventory and prepare a Union greenhouse gas inventory report and shall submit them, by 15 April each year, to the UNFCCC Secretariat.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 25 to:

(a) add or delete substances to or from the list of greenhouse gases in Annex I to this Regulation or add, delete or amend indicators in Annex III to this Regulation in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them;

(b) take account of changes in the GWPs and internationally agreed inventory guidelines in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them.

7. The Commission shall adopt implementing acts to set out the structure, format and process for the Member States' submission of greenhouse gas inventories pursuant to paragraph 1 in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them. Those implementing acts shall also specify the timescales for cooperation and coordination between the Commission and the Member States in preparing the Union greenhouse gas inventory report. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

8. The Commission shall adopt implementing acts to set out the structure, format and process for Member States' submission of greenhouse gas emissions and removals in accordance with Article 4 of Decision No 529/2013/EU. In adopting those implementing acts, the Commission shall ensure compatibility of Union and UNFCCC timetables for the monitoring and reporting of that information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

Article 8

Approximated greenhouse gas inventories

1. By 31 July each year (year X), Member States shall, where possible, submit to the Commission approximated greenhouse gas inventories for the year X-1. The Commission shall, on the basis of the Member States' approximated greenhouse gas inventories or, if a Member State has not communicated its approximated inventories by that date, on the basis of its own estimates, annually compile a Union approximated greenhouse gas inventory. The Commission shall make this information available to the public each year by 30 September.

2. The Commission shall adopt implementing acts to set out the structure, format and submission process for Member States' approximated greenhouse gas inventories pursuant to paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

Article 9

Procedures for completing emission estimates to compile the Union inventory

1. The Commission shall perform an initial check of the data submitted by Member States pursuant to Article 7(1) for accuracy. It shall send the results of that check to Member States within six weeks of the submission deadline. Member States shall respond to any relevant questions raised by the initial check by 15 March, together with the final inventory submission for the year X-2.

2. Where a Member State does not submit the inventory data required to compile the Union inventory by 15 March, the Commission may prepare estimates to complete the data submitted by the Member State, in consultation and close cooperation with the Member State concerned. The Commission shall use, for this purpose, the guidelines applicable for preparing the national greenhouse gas inventories.

CHAPTER 4

REGISTRIES

Article 10

Establishment and operation of registries

1. The Union and the Member States shall set up and maintain registries to accurately account for the issue, holding, transfer, acquisition, cancellation, retirement, carry-over, replacement or change of expiry date, as relevant, of AAUs, RMUs, ERUs, CERs, tCERs and lCERs. Member States may also use these registries to accurately account for the units referred to in Article 11a(5) of Directive 2003/87/EC.

2. The Union and the Member States may maintain their registries in a consolidated system, together with one or more other Member States.

3. The data referred to in paragraph 1 of this Article shall be made available to the central administrator designated pursuant to Article 20 of Directive 2003/87/EC.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 25 in order to set up the Union registry referred to in paragraph 1 of this Article.

Article 11

Retirement of units under the Kyoto Protocol

1. Member States shall, following the completion of the review of their national inventories under the Kyoto Protocol for each year of the first commitment period under the Kyoto Protocol, including the resolution of any implementation issues, retire from the registry AAUs, RMUs, ERUs, CERs, tCERs and lCERs equivalent to their net emissions during that year.

2. In respect of the last year of the first commitment period under the Kyoto Protocol, Member States shall retire units from the registry prior to the end of the additional period for fulfilling commitments set out in Decision 11/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol.

CHAPTER 5

REPORTING ON POLICIES AND MEASURES AND ON PROJECTIONS OF ANTHROPOGENIC GREENHOUSE GAS EMISSIONS BY SOURCES AND REMOVALS BY SINKS

Article 12

National and Union systems for policies and measures and projections

1. By 9 July 2015, Member States and the Commission shall set up, operate and seek to continuously improve national and Union systems respectively, for reporting on policies and measures and for reporting on projections of anthropogenic greenhouse gas emissions by sources and removals by sinks. Those systems shall include the relevant institutional, legal and procedural arrangements established within a Member State and the Union for evaluating policy and making projections of anthropogenic greenhouse gas emissions by sources and removals by sinks.

2. Member States and the Commission shall aim to ensure the timeliness, transparency, accuracy, consistency, comparability and completeness of the information reported on policies and measures and projections of anthropogenic greenhouse gas emissions by sources and removals by sinks, as referred to in Articles 13 and 14, including, where relevant, the use and application of data, methods and models, and the implementation of quality assurance and quality control activities and sensitivity analysis.

3. The Commission shall adopt implementing acts on the structure, format and submission process of information on national and Union systems for policies and measures and projections pursuant to paragraphs 1 and 2 of this Article, Article 13 and Article 14(1), and in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them. The Commission shall ensure consistency with internationally agreed reporting requirements as well as the compatibility of Union and international timetables for monitoring and reporting of that information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

Article 13

Reporting on policies and measures

1. By 15 March 2015, and every two years thereafter, Member States shall provide the Commission with the following:

(a) a description of their national system for reporting on policies and measures, or groups of measures, and for reporting on projections of anthropogenic greenhouse gas emissions by sources and removals by sinks pursuant to Article 12(1), where such description has not already been provided, or information on any changes made to that system where such a description has already been provided;

(b) updates relevant to their low-carbon development strategies referred to in Article 4 and progress in implementing those strategies;

(c) information on national policies and measures, or groups of measures, and on implementation of Union policies and measures, or groups of measures, that limit or reduce greenhouse gas emissions by sources or enhance removals by sinks, presented on a sectoral basis and organised by gas or group of gases (HFCs and PFCs) listed in Annex I. That information shall refer to applicable and relevant national or Union policies and shall include:

(i) the objective of the policy or measure and a short description of the policy or measure;

(ii) the type of policy instrument;

(iii) the status of implementation of the policy or measure or group of measures;

(iv) where used, indicators to monitor and evaluate progress over time;

(v) where available, quantitative estimates of the effects on emissions by sources and removals by sinks of greenhouse gases broken down into:

— the results of *ex ante* assessments of the effects of individual or groups of policies and measures on the mitigation of climate change. Estimates shall be provided for a sequence of four future years ending with 0 or 5 immediately following the reporting year, with a distinction between greenhouse gas emissions covered by Directive 2003/87/EC and those covered by Decision No 406/2009/EC;

— the results of *ex post* assessments of the effects of individual or groups of policies and measures on the mitigation of climate change, with a distinction between greenhouse gas emissions covered by Directive 2003/87/EC and those covered by Decision No 406/2009/EC;

(vi) where available, estimates of the projected costs and benefits of policies and measures, as well as estimates, as appropriate, of the realised costs and benefits of policies and measures;

(vii) where available, all references to the assessments and the underpinning technical reports referred to in paragraph 3;

(d) the information referred to in point (d) of Article 6(1) of Decision No 406/2009/EC;

(e) information on the extent to which the Member State's action constitutes a significant element of the efforts undertaken at national level as well as the extent to which the projected use of joint implementation, of the CDM and of international emissions trading is supplemental to domestic action in accordance with the relevant provisions of the Kyoto Protocol and the decisions adopted thereunder.

2. A Member State shall communicate to the Commission any substantial changes to the information reported pursuant to this Article during the first year of the reporting period, by 15 March of the year following the previous report.

3. Member States shall make available to the public, in electronic form, any relevant assessment of the costs and effects of national policies and measures, where available, and any relevant information on the implementation of Union policies and measures that limit or reduce greenhouse gas emissions by sources or enhance removals by sinks along with any existing technical reports that underpin those assessments. Those assessments should include descriptions of the models and methodological approaches used, definitions and underlying assumptions.

Article 14

Reporting on projections

1. By 15 March 2015, and every two years thereafter, Member States shall report to the Commission national projections of anthropogenic greenhouse gas emissions by sources and removals by sinks, organised by gas or group of gases (HFCs and PFCs) listed in Annex I and by sector. Those projections shall include quantitative estimates for a sequence of four future years ending with 0 or 5 immediately following the reporting year. National projections shall take into consideration any policies and measures adopted at Union level and shall include:

(a) projections without measures where available, projections with measures, and, where available, projections with additional measures;

(b) total greenhouse gas projections and separate estimates for the projected greenhouse gas emissions for the emission sources covered by Directive 2003/87/EC and by Decision No 406/2009/EC;

(c) the impact of policies and measures identified pursuant to Article 13. Where such policies and measures are not included, this shall be clearly stated and explained;

(d) results of the sensitivity analysis performed for the projections;

(e) all relevant references to the assessment and the technical reports that underpin the projections referred to in paragraph 4.

2. Member States shall communicate to the Commission any substantial changes to the information reported pursuant to this Article during the first year of the reporting period, by 15 March of the year following the previous report.

3. Member States shall report the most up-to-date projections available. Where a Member State does not submit complete projection estimates by 15 March every second year, and the Commission has established that gaps in the estimates cannot be filled by that Member State once identified through the Commission's QA or QC procedures, the Commission may prepare estimates as required to compile Union projections, in consultation with the Member State concerned.

4. Member States shall make available to the public, in electronic form, their national projections of greenhouse gas emissions by sources and removals by sinks along with relevant technical reports that underpin those projections. Those projections should include descriptions of the models and methodological approaches used, definitions and underlying assumptions.

CHAPTER 6

REPORTING ON OTHER INFORMATION RELEVANT FOR CLIMATE CHANGE

Article 15

Reporting on national adaptation actions

By 15 March 2015, and every four years thereafter, aligned with the timings for reporting to the UNFCCC, Member States shall report to the Commission information on their national adaptation planning and strategies, outlining their implemented or planned actions to facilitate adaptation to climate change. That information shall include the main objectives and the climate-change impact category addressed, such as flooding, sea level rise, extreme temperatures, droughts, and other extreme weather events.

Article 16

Reporting on financial and technology support provided to developing countries

1. Member States shall cooperate with the Commission to allow timely coherent reporting by the Union and its Member States on support provided to developing countries in accordance with the relevant provisions of the UNFCCC, as applicable, including any common format agreed under the UNFCCC, and to ensure annual reporting by 30 September.

2. Where relevant or applicable under the UNFCCC, Member States shall endeavour to provide information on financial flows based on the so-called 'Rio markers' for climate change mitigation-related support and climate change adaptation-related support introduced by the OECD Development Assistance Committee and methodological information concerning the implementation of the climate change Rio markers methodology.

3. Where information is reported on private financial flows mobilised, it shall include information on the definitions and methodologies used to determine any figures.

4. In accordance with decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them, information on support provided shall include information on support for mitigation, adaptation, capacity-building and technology transfer and, if possible, information as to whether financial resources are new and additional.

Article 17

Reporting on the use of auctioning revenue and project credits

1. By 31 July each year (year X), Member States shall submit to the Commission for the year X-1:

(a) a detailed justification as referred to in Article 6(2) of Decision No 406/2009/EC;

(b) information on the use of revenues during the year X-1 generated by the Member State by auctioning allowances pursuant to Article 10(1) of Directive 2003/87/EC, including information on such revenue that has been used for one or more of the purposes specified in Article 10(3) of that Directive, or the equivalent in financial value of that revenue, and the actions taken pursuant to that Article;

(c) information on the use, as determined by the Member State, of all revenue generated by the Member State by auctioning aviation allowances pursuant to Article 3d(1) or (2) of Directive 2003/87/EC; that information shall be provided in accordance with Article 3d(4) of that Directive;

(d) information referred to in point (b) of Article 6(1) of Decision No 406/2009/EC and information on how their purchasing policy enhances the achievement of an international agreement on climate change;

(e) information regarding the application of Article 11b(6) of Directive 2003/87/EC as regards hydroelectric power production project activities with a generating capacity exceeding 20 MW.

2. Auctioning revenue not disbursed at the time a Member State submits a report to the Commission pursuant to this Article shall be quantified and reported in reports for subsequent years.

3. Member States shall make available to the public the reports submitted to the Commission pursuant to this Article. The Commission shall make aggregate Union information available to the public in an easily accessible form.

4. The Commission shall adopt implementing acts to set out the structure, format and submission processes for Member States' reporting of information pursuant to this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

Article 18

Biennial reports and national communications

1. The Union and the Member States shall submit biennial reports in accordance with Decision 2/CP.17 of the Conference of the Parties to the UNFCCC (Decision 2/CP.17), or subsequent relevant decisions adopted by the bodies of the UNFCCC, and national communications in accordance with Article 12 of the UNFCCC to the UNFCCC Secretariat.

2. Member States shall provide the Commission with copies of the national communications and biennial reports submitted to the UNFCCC Secretariat.

CHAPTER 7

UNION EXPERT REVIEW OF GREENHOUSE GAS EMISSIONS

Article 19

Inventory review

1. The Commission shall carry out a comprehensive review of the national inventory data submitted by Member States pursuant to Article 7(4) of this Regulation to determine the annual emission allocation provided in the fourth subparagraph of Article 3(2) of Decision No 406/2009/EC, for the application of Articles 20 and 27 of this Regulation and with a view to monitoring Member States' achievement of their greenhouse gas emission reduction or limitation targets pursuant to Articles 3 and 7 of Decision No 406/2009/EC in the years when a comprehensive review is carried out.

2. Starting with the data reported for the year 2013, the Commission shall conduct an annual review of the national inventory data submitted by Member States pursuant to Article 7(1) of this Regulation that are relevant to monitor Member States' greenhouse gas emission reduction or limitation pursuant to Articles 3 and 7 of Decision No 406/2009/EC, and any other greenhouse gas emission reduction or limitation targets set out in Union legislation. Member States shall participate fully in that process.

3. The comprehensive review referred to in paragraph 1 shall involve:

(a) checks to verify the transparency, accuracy, consistency, comparability and completeness of information submitted;

(b) checks to identify cases where inventory data is prepared in a manner which is inconsistent with UNFCCC guidance documentation or Union rules; and

(c) where appropriate, calculating the resulting technical corrections necessary, in consultation with the Member States.

4. The annual reviews shall involve the checks set out in point (a) of paragraph 3. Where requested by a Member State in consultation with the Commission or where those checks identify significant issues, such as:

(a) recommendations from earlier Union or UNFCCC reviews which have not been implemented, or questions that have not been explained by a Member State; or

(b) overestimations or underestimations relating to a key category in a Member State's inventory,

the annual review for the Member State concerned shall also involve the checks set out in point (b) of paragraph 3 in order for the calculations set out in point (c) of paragraph 3 to be carried out.

5. The Commission shall adopt implementing acts to determine the timing and steps for the conduct of the comprehensive review and annual review referred to in paragraphs 1 and 2 respectively of this Article, including the tasks set out in paragraphs 3 and 4 of this Article and ensuring due consultation of the Member States with regard to the conclusions of the reviews. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

6. The Commission shall, by means of an implementing act, determine the total sum of emissions for the relevant year arising from the corrected inventory data for each Member State upon completion of the relevant review.

7. The data for each Member State as recorded in the registries set up pursuant to Article 11 of Decision No 406/2009/EC and Article 19 of Directive 2003/87/EC as at the date falling four months from the date of publication of an implementing act adopted pursuant to paragraph 6 of this Article, shall be relevant for the application of Article 7(1) of Decision No 406/2009/EC. This includes changes to such data arising as a result of that Member State making use of the flexibilities by that Member State pursuant to Articles 3 and 5 of Decision No 406/2009/EC.

Article 20

Addressing the effects of recalculations

1. When the comprehensive review of inventory data relating to the year 2020 has been completed pursuant to Article 19, the Commission shall calculate, in accordance with the formula set out in Annex II, the sum of the effects of the recalculated greenhouse gas emissions for each Member State.

2. Without prejudice to Article 27(2) of this Regulation, the Commission shall use, inter alia, the sum referred to in paragraph 1 of this Article when proposing the targets for emission reductions or limitations for each Member State for the period after 2020 pursuant to Article 14 of Decision No 406/2009/EC.

3. The Commission shall forthwith publish the results of calculations made pursuant to paragraph 1.

CHAPTER 8

REPORTING ON PROGRESS TOWARDS UNION AND INTERNATIONAL COMMITMENTS

Article 21

Reporting on progress

1. The Commission shall annually assess, based on information reported under this Regulation, and in consultation with the Member States, the progress made by the Union and its Member States to meet the following, with a view to determining whether sufficient progress has been made:

(a) commitments under Article 4 of the UNFCCC and Article 3 of the Kyoto Protocol as further set out in decisions adopted by the Conference of the Parties to the UNFCCC, or by the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol. Such assessment shall be based on the information reported in accordance with Articles 7, 8, 10 and 13 to 17;

(b) obligations set out in Article 3 of Decision No 406/2009/EC. Such assessment shall be based on the information reported in accordance with Articles 7, 8, 13 and 14.

2. The Commission shall biennially assess aviation's overall impact on the global climate including through non-CO_2 emissions or effects, based on the emission data provided by Member States pursuant to Article 7, and improve that assessment by reference to scientific advancements and air traffic data, as appropriate.

3. By 31 October each year, the Commission shall submit a report summarising the conclusions of the assessments provided for in paragraphs 1 and 2 to the European Parliament and to the Council.

Article 22

Report on the additional period for fulfilling commitments under the Kyoto Protocol

The Union and each Member State shall submit a report to the UNFCCC Secretariat on the additional period for fulfilling commitments referred to in paragraph 3 of Decision 13/CMP.1 upon the expiry of that period.

CHAPTER 9

COOPERATION AND SUPPORT

Article 23

Cooperation between the Member States and the Union

Member States and the Union shall cooperate and coordinate fully with each other in relation to obligations under this Regulation concerning:

(a) compiling the Union greenhouse gas inventory and preparing the Union greenhouse gas inventory report, pursuant to Article 7(5);

(b) preparing the Union national communication pursuant to Article 12 of the UNFCCC and the Union biennial report pursuant to Decision 2/CP.17 or subsequent relevant decisions adopted by the bodies of the UNFCCC;

(c) review and compliance procedures under the UNFCCC and the Kyoto Protocol in accordance with any applicable decision under the UNFCCC or the Kyoto Protocol as well as the Union's procedure to review Member States greenhouse gas inventories referred to in Article 19 of this Regulation;

(d) any adjustments pursuant to Article 5(2) of the Kyoto Protocol or following the Union review process referred to in Article 19 of this Regulation or other changes to inventories and inventory reports submitted, or to be submitted, to the UNFCCC Secretariat;

(e) compiling the Union approximated greenhouse gas inventory, pursuant to Article 8;

(f) reporting in relation to the retirement of AAUs, RMUs, ERUs, CERs, tCERs and lCERs, after the additional period referred to in paragraph 14 of Decision 13/CMP.1 for fulfilling commitments pursuant to Article 3(1) of the Kyoto Protocol.

Article 24

Role of the European Environment Agency

The European Environment Agency shall assist the Commission in its work to comply with Articles 6 to 9, 12 to 19, 21 and 22 in accordance with its annual work programme. This shall include assistance with:

(a) compiling the Union greenhouse gas inventory and preparing the Union greenhouse gas inventory report;

(b) performing quality assurance and quality control procedures to prepare the Union greenhouse gas inventory;

(c) preparing estimates for data not reported in the national greenhouse gas inventories;

(d) conducting the reviews;

(e) compiling the Union approximated greenhouse gas inventory;

(f) compiling the information reported by Member States on policies and measures and projections;

(g) performing quality assurance and quality control procedures on the information reported by Member States on projections and policies and measures;

(h) preparing estimates for data on projections not reported by the Member States;

(i) compiling data as required for the annual report to the European Parliament and the Council prepared by the Commission;

(j) disseminating information collected under this Regulation, including maintaining and updating a database on Member States' mitigation policies and measures and the European Climate Adaptation Platform relating to impacts, vulnerabilities and adaptation to climate change.

CHAPTER 10

DELEGATION

Article 25

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Articles 6, 7 and 10 shall be conferred on the Commission for a period of five years from 8 July 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The

delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 6, 7 and 10 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Articles 6, 7 and 10 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

CHAPTER 11

FINAL PROVISIONS

Article 26

Committee procedure

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

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

Article 27

Review

1. The Commission shall regularly review the conformity of the monitoring and reporting provisions under this Regulation with future decisions relating to the UNFCCC and the Kyoto Protocol or other Union legislation. The Commission shall also regularly assess whether developments within the framework of the UNFCCC give rise to a situation where the obligations pursuant to this Regulation are no longer necessary, not proportionate to the corresponding benefits, need adjusting or are not consistent with, or are duplicative of, reporting requirements under the UNFCCC, and shall submit, if appropriate, a legislative proposal to the European Parliament and to the Council.

2. By December 2016, the Commission shall examine if the impact of the use of the 2006 IPCC guidelines for National Greenhouse Gas Inventories, or a significant change to UNFCCC methodologies used, in determining the greenhouse gas inventories leads to a difference of more than 1 % in a Member State's total greenhouse gas emissions relevant for Article 3 of Decision No 406/2009/EC and may revise Member States' annual emissions allocations as provided in the fourth subparagraph of Article 3(2) of Decision No 406/2009/EC.

Article 28

Repeal

Decision No 280/2004/EC is hereby repealed. References to the repealed Decision shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex IV.

Article 29

Entry into force

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

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

Done at Strasbourg, 21 May 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

ANNEX I

GREENHOUSE GASES

Carbon dioxide (CO_2)

Methane (CH_4)

Nitrous Oxide (N_2O)

Sulphur hexafluoride (SF_6)

Nitrogen trifluoride (NF_3)

Hydrofluorocarbons (HFCs):

— HFC-23 CHF_3

— HFC-32 CH_2F_2

— HFC-41 CH_3F

— HFC-125 CHF_2CF_3

— HFC-134 CHF_2CHF_2

— HFC-134a CH_2FCF_3

— HFC-143 CH_2FCHF_2

— HFC-143a CH_3CF_3

— HFC-152 CH_2FCH_2F

— HFC-152a CH_3CHF_2

— HFC-161 CH_3CH_2F

— HFC-227ea CF_3CHFCF_3

— HFC-236cb $CF_3CF_2CH_2F$

— HFC-236ea $CF_3CHFCHF_2$

— HFC-236fa $CF_3CH_2CF_3$

— HFC-245fa $CHF_2CH_2CF_3$

— HFC-245ca $CH_2FCF_2CHF_2$

— HFC-365mfc $CH_3CF_2CH_2CF_3$

— HFC-43-10mee $CF_3CHFCHFCF_2CF_3$ or ($C_5H_2F_{10}$)

Perfluorocarbons (PFCs):

— PFC-14, Perfluoromethane, CF_4

— PFC-116, Perfluoroethane, C_2F_6

— PFC-218, Perfluoropropane, C_3F_8

— PFC-318, Perfluorocyclobutane, c-C_4F_8

— Perfluorocyclopropane c-C_3F_6

— PFC-3-1-10, Perfluorobutane, C_4F_{10}

— PFC-4-1-12, Perfluoropentane, C_5F_{12}

— PFC-5-1-14, Perfluorohexane, C_6F_{14}

— PFC-9-1-18, $C_{10}F_{18}$

ANNEX II

The sum of the effects of recalculated greenhouse gas emissions by Member State as referred to in Article 20(1)

The sum of the effects of recalculated greenhouse gas emissions by Member State shall be calculated using the following formula:

$$\Sigma_{i=2013}^{2020}[t_{i,2022} - e_{i,2022} - (t_{i,} - e_{i,i+2})]$$

Where:

— t_i, is the Member State's annual emission allocation for year i as determined pursuant to the fourth paragraph of Article 3(2) and Article 10 of Decision No 406/2009/EC either as determined in 2012 or, if applicable, as determined in 2016 on the basis of the revision carried out in accordance with Article 27(2) of this Regulation and pursuant to Article 3(2) of Decision No 406/2009/EC;

— $t_{i,2022}$ is the Member State's annual emission allocation for year i pursuant to the fourth paragraph of Article 3(2) and Article 10 of Decision No 406/2009/EC as it would have been calculated if reviewed inventory data submitted in 2022 had been used as an input;

— $e_{i,j}$ is the Member State's greenhouse gas emissions for year i as established pursuant to acts adopted by the Commission pursuant to Article 19(6) following the expert inventory review in year j.

ANNEX III

LIST OF ANNUAL INDICATORS

Table 1: list of priority indicators [1]

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions [2] [3]
1	MACRO	Total CO_2 intensity of GDP, t/million euro	Total CO_2 emissions, kt	Total CO_2 emissions (excluding LULUCF) as reported in the CRF.
			GDP, billion euro (EC95)	Gross domestic product at constant 1995 prices (source: National Accounts).
2	MACRO B0	Energy-related CO_2 intensity of GDP, t/million euro	CO_2 emissions from energy consumption, kt	CO_2 emissions from combustion of fossil fuels (IPCC source category 1A, sectoral approach).
			GDP, billion euro (EC95)	Gross domestic product at constant 1995 prices (source: National Accounts)
3	TRANSPORT C0	CO_2 emissions from passenger cars, kt		CO_2 emissions from the combustion of fossil fuels for all transport activity with passenger cars (automobiles designated primarily for transport of persons and having capacity of 12 persons or fewer; gross vehicle weight rating of 3 900 kg or less — IPCC source category 1A3bi).
		Number of kilometres by passenger cars, Mkm		Number of vehicle kilometres by passenger cars (source: transport statistics). *Note*: activity data should be consistent with the emission data, if possible.
4	INDUSTRY A1	Energy-related CO_2 intensity of industry, t/million euro	CO_2 emissions from industry, kt	Emissions from combustion of fossil fuels in manufacturing industries, construction and mining and quarrying (except coal mines and oil and gas extraction) including combustion for the generation of electricity and heat (IPCC source category 1A2). Energy used for transport by industry should not be included here but in the transport indicators. Emissions arising from off-road and other mobile machinery in industry should be included in this sector.
			Gross value-added total industry, billion euro (EC95)	Gross value added at constant 1995 prices in manufacturing industries (NACE 15-22, 24-37), construction (NACE 45) and mining and quarrying (except coal mines and oil and gas extraction) (NACE 13-14) (source: National Accounts).

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions (2) (3)
5	HOUSEHOLDS A.1	Specific CO_2 emissions of households, t/dwelling	CO_2 emissions from fossil fuel consumption households, kt	CO_2 emissions from fossil fuel combustion in households (IPCC source category 1A4b).
			Stock of permanently occupied dwellings, 1 000	Stock of permanently occupied dwellings.
6	SERVICES A0	CO_2 intensity of the commercial and institutional sector, t/million euro	CO_2 emissions from fossil fuel consumption in commercial and institutional sector, kt	CO_2 emissions from fossil fuel combustion in commercial and institutional buildings in the public and private sectors (IPCC source category 1A4a). Energy used for transport by services should not be included here but in the transport indicators.
			Gross value-added services, billion euro (EC95)	Gross value added at constant 1995 prices in services (NACE 41, 50, 51, 52, 55, 63, 64, 65, 66, 67, 70, 71, 72, 73, 74, 75, 80, 85, 90, 91, 92, 93, 99) (source: National Accounts).
7	TRANSFORMATION B0	Specific CO_2 emissions of public and autoproducer power plants, t/TJ	CO_2 emissions from public and autoproducer thermal power stations, kt	CO_2 emissions from all fossil fuel combustion for gross electricity and heat production by public and autoproducer thermal power and combined heat and power plants. Emissions from heat only plants are not included.
			All products — output by public and autoproducer thermal power stations, PJ	Gross electricity produced and any heat sold to third parties (combined heat and power plants — CHP) by public and autoproducer thermal power and combined heat and power plants. Output from heat only plants is not included. Public thermal plants generate electricity (and heat) for sale to third parties, as their primary activity. They may be privately or publicly owned. Autoproducer thermal power stations generate electricity (and heat) wholly or partly for their use as an activity, which supports their primary activity. The gross electricity generation is measured at the outlet of the main transformers, i.e. the consumption of electricity in the plant auxiliaries and in transformers is included. (source: energy balance).

(1) Member States shall report numerator and denominator, if not included in the common reporting format (CRF).
(2) Member States should follow this guidance. If they cannot follow exactly this guidance or if numerator and denominator are not entirely consistent, Member States should clearly indicate this.
(3) The references to IPCC source categories refer to IPCC (1996) Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories.

Table 2: list of additional priority indicators [1]

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions [2]
1	TRANSPORT D0	CO_2 emissions from freight transport on road, kt		CO_2 emissions from the combustion of fossil fuel for all transport activity with light duty trucks (vehicles with a gross vehicle weight of 3 900 kg or less designated primarily for transportation of light-weight cargo or which are equipped with special features such as four-wheel drive for off-road operation — IPCC source category 1A3bii) and heavy duty trucks (any vehicle rated at more than 3 900 kg gross vehicle weight designated primarily for transportation of heavy-weight cargo — IPCC source category 1A3biii excluding buses).
		Freight transport on road, Mtkm		Number of tonne-kilometres transported in light and heavy duty trucks on road; one tonne-kilometre represents the transport of one tonne by road over one kilometre (source: transport statistics). *Note*: activity data should be consistent with the emission data, if possible.
2	INDUSTRY A1.1	Total CO_2 intensity — iron and steel industry, t/million euro	Total CO_2 emissions from iron and steel, kt	CO_2 emissions from combustion of fossil fuels in manufacture of iron and steel including combustion for the generation of electricity and heat (IPCC source category 1A2a), from the iron and steel production process (IPCC source category 2C1) and from ferroalloys production process (IPCC source category 2C2).
			Gross value-added — iron and steel industry, billion euro (EC95)	Gross value added at constant 1995 prices in manufacture of basic iron and steel and of ferro-alloys (NACE 27.1), manufacture of tubes (NACE 27.2), other first processing of iron and steel (NACE (27.3), casting of iron (NACE 27.51) and casting of steel (NACE 27.52) (source: National Accounts).
3	INDUSTRY A1.2	Energy-related CO_2 intensity — chemical industry, t/million euro	Energy-related CO_2 emissions chemical industries, kt	CO_2 emissions from combustion of fossil fuels in manufacture of chemicals and chemical products including combustion for the generation of electricity and heat (IPCC source category 1A2c).
			Gross value-added chemical industry, billion euro (EC95)	Gross value added at constant 1995 prices in manufacture of chemicals and chemical products (NACE 24) (source: National Accounts).
4	INDUSTRY A1.3	Energy-related CO_2 intensity — glass, pottery and building materials industry, t/million euro	Energy-related CO_2 emissions glass, pottery and building materials, kt	CO_2 emissions from combustion of fuels in manufacture of non-metallic mineral products (NACE 26) including combustion for the generation of electricity and heat.
			Gross value-added — glass, pottery and buildings materials industry, billion euro (EC95)	Gross value added at constant 1995 prices in manufacture of non-metallic mineral products (NACE 26) (source: National Accounts).

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions ([2])
5	INDUSTRY C0.1	Specific CO_2 emissions of iron and steel industry, t/t	Total CO_2 emissions from iron and steel, kt	CO_2 emissions from combustion of fossil fuels in manufacture of iron and steel including combustion for the generation of electricity and heat (IPCC source category 1A2a), from the iron and steel production process (IPCC source category 2C1) and from ferroalloys production process (IPCC source category 2C2).
			Production of oxygen steel, kt	Production of oxygen steel (NACE 27) (source: production statistics).
6	INDUSTRY C0.2	Specific energy-related CO_2 emissions of cement industry, t/t	Energy-related CO_2 emissions from glass, pottery and building materials, kt	CO_2 emissions from combustion of fuels in manufacture of non-metallic mineral products (NACE 26) including combustion for the generation of electricity and heat.
			Cement production, kt	Cement production (NACE 26) (source: production statistics).

([1]) Member States shall report numerator and denominator, if not included in the CRF.
([2]) Member States should follow this guidance. If they cannot follow exactly this guidance or if numerator and denominator are not entirely consistent, Member States should clearly indicate this.

Table 3: list of supplementary indicators

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions
1	TRANSPORT B0	Specific diesel related CO_2 emissions of passenger cars, g/100 km	CO_2 emissions of diesel-driven passenger cars, kt	CO_2 emissions from the combustion of diesel for all transport activity with passenger cars (automobiles designated primarily for transport of persons and having capacity of 12 persons or fewer; gross vehicle weight rating of 3 900 kg or less — IPCC source category 1A3bi only diesel).
			Number of kilometres of diesel-driven passenger cars, million km	Number of vehicle kilometres of total diesel-driven passenger cars licensed to use roads open to public traffic (source: transport statistics).
2	TRANSPORT B0	Specific petrol related CO_2 emissions of passenger cars, g/100 km	CO_2 emissions of petrol-driven passenger cars, kt	CO_2 emissions from the combustion of petrol for all transport activity with passenger cars (automobiles designated primarily for transport of persons and having capacity of 12 persons or fewer; gross vehicle weight rating of 3 900 kg or less — IPCC source category 1A3bi only petrol).
			Number of kilometres of petrol-driven passenger cars, million km	Number of vehicle kilometres of total petrol-driven passenger cars licensed to use roads open to public traffic (source: transport statistics).

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions
3	TRANSPORT C0	Specific CO_2 emissions of passenger cars, t/pkm	CO_2 emissions from passenger cars, kt	CO_2 emissions from the combustion of fossil fuels for all transport activity with passenger cars (automobiles designated primarily for transport of persons and having capacity of 12 persons or fewer; gross vehicle weight rating of 3 900 kg or less — IPCC source category 1A3bi).
			Passenger transport by cars, Mpkm	Number of passenger-kilometres travelled in passenger cars; one passenger-kilometre is the transport of one passenger over one kilometre (source: transport statistics). *Note*: activity data should be consistent with the emission data, if possible.
4	TRANSPORT E1	Specific air-transport emissions, t/passenger	CO_2 emissions from domestic air transport, kt	CO_2 emissions from domestic air transport (commercial, private, agricultural, etc.), including take-offs and landings (IPCC source category 1A3aii). Exclude use of fuel at airports for ground transport. Also exclude fuel for stationary combustion at airports.
			Domestic air-passengers, million	Number of persons, excluding on-duty members of the flight and cabin crews, making a journey by air (domestic aviation only) (source: transport statistics). *Note*: activity data should be consistent with the emission data, if possible.
5	INDUSTRY A1.4	Energy-related CO_2 intensity — food, drink and tobacco industry, t/million euro	Energy-related CO_2 emissions food industries, kt	CO_2 emissions from combustion of fossil fuels in manufacture of food products and beverages and tobacco products including combustion for the generation of electricity and heat (IPCC source category 1A2e).
			Gross value-added — food, drink and tobacco industry, million euro (EC95)	Gross value added at constant 1995 prices in manufacture of food products and beverages (NACE 15) and tobacco products (NACE 16) (source: National Accounts).
6	INDUSTRY A1.5	Energy-related CO_2 intensity — paper and printing industry, t/million euro	Energy-related CO_2 emissions paper and printing, kt	CO_2 emissions from combustion of fossil fuels in manufacture of pulp, paper and paper products and publishing, printing and reproduction of recorded media including emissions from combustion for the generation of electricity and heat (IPCC source category 1A2d).
			Gross value-added — paper and printing industry, million euro (EC95)	Gross value added at constant 1995 prices in manufacture of pulp, paper and paper products (NACE 21) and publishing, printing and reproduction of recorded media (NACE 22) (source: National Accounts).

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions
7	HOUSEHOLDS A0	Specific CO_2 emissions of households for space heating, t/m^2	CO_2 emissions for space heating in households, kt	CO_2 emissions from fuel combustion for space heating in households.
			Surface area of permanently occupied dwellings, million m^2	Total surface area of permanently occupied dwellings.
8	SERVICES B0	Specific CO_2 emissions of commercial and institutional sector for space heating, kg/m^2	CO_2 emissions from space heating in commercial and institutional, kt	CO_2 emissions from fossil fuel combustion for space heating in commercial and institutional buildings in the public and private sectors.
			Surface area of services buildings, million m^2	Total surface area of services buildings (NACE 41, 50, 51, 52, 55, 63, 64, 65, 66, 67, 70, 71, 72, 73, 74, 75, 80, 85, 90, 91, 92, 93, 99).
9	TRANSFORMATION D0	Specific CO_2 emissions of public power plants, t/TJ	CO_2 emissions from public thermal power stations, kt	CO_2 emissions from all fossil fuel combustion for gross electricity and heat production by public thermal power and combined heat and power plants (IPCC source categories 1A1ai and 1A1aii). Emissions from heat only plants are not included.
			All products output by public thermal power stations, PJ	Gross electricity produced and any heat sold to third parties (combined heat and power plants — CHP) by public thermal power and combined heat and power plants. Output from heat only plants is not included. Public thermal plants generate electricity (and heat) for sale to third parties, as their primary activity. They may be privately or publicly owned. The gross electricity generation is measured at the outlet of the main transformers, i.e. the consumption of electricity in the plant auxiliaries and in transformers is included (source: energy balance).
10	TRANSFORMATION E0	Specific CO_2 emissions of autoproducer plants, t/TJ	CO_2 emissions from autoproducers, kt	CO_2 emissions from all fossil fuel combustion for gross electricity and heat production by autoproducer thermal power and combined heat and power plants.
			All products output by autoproducer thermal power stations, PJ	Gross electricity produced and any heat sold to third parties (combined heat and power — CHP) by autoproducer thermal power and combined heat and power plants. Autoproducer thermal power stations generate electricity (and heat) wholly or partly for their use as an activity, which supports their primary activity. The gross electricity generation is measured at the outlet of the main transformers, i.e. the consumption of electricity in the plant auxiliaries and in transformers is included (source: energy balance).
11	TRANSFORMATION	Carbon intensity of total power generation, t/TJ	CO_2 emissions from classical power production, kt	CO_2 emissions from all fossil fuel combustion for gross electricity and heat production by public thermal power and combined heat and power plants

No	Nomenclature in Eurostat energy efficiency indicators	Indicator	Numerator/denominator	Guidance/definitions
				and by autoproducer thermal power and combined heat and power plants. Emissions from heat only plants are not included.
			All products output by public and auto-producer power stations, PJ	Gross electricity produced and any heat sold to third parties (combined heat and power — CHP) by public and autoproducer power and combined heat and power plants. Includes electricity production from renewable sources and nuclear power (source: energy balance).
12	TRANSPORT	Carbon intensity of transport, t/TJ	CO_2 emissions from transport, kt	CO_2 emissions from fossil fuels for all transport activity (IPCC source category 1A3).
			Total final energy consumption from transport, PJ	Includes total final energy consumption of transport from all energy sources (including biomass and electricity consumption) (source: energy balance).
13	INDUSTRY C0.3	Specific energy-related CO_2 emissions of paper industry, t/t	Energy-related CO_2 emissions paper and printing industries, kt	CO_2 emissions from combustion of fossil fuels in manufacture of pulp, paper and paper products and publishing, printing and reproduction of recorded media including emissions from combustion for the generation of electricity and heat (IPCC source category 1A2d).
			Physical output of paper, kt	Physical output of paper (NACE 21) (source: production statistics).
14	INDUSTRY	CO_2 emissions from the industry sector, kt		Emissions from combustion of fossil fuels in manufacturing industries, construction and mining and quarrying (except coal mines and oil and gas extraction) including combustion for the generation of electricity and heat (IPCC source category 1A2). Energy used for transport by industry should not be included here but in the transport indicators. Emissions arising from off-road and other mobile machinery in industry should be included in this sector.
		Total final energy consumption from industry, PJ		Includes total final energy consumption of industry from all energy sources (including biomass and electricity consumption) (source: energy balance).
15	HOUSEHOLDS	CO_2 emissions from households, kt		CO_2 emissions from fossil fuel combustion in households (IPCC source category 1A4b).
		Total final energy consumption from households, PJ		Includes total final energy consumption of households from all energy sources (including biomass and electricity consumption) (source: energy balance).

ANNEX IV

CORRELATION TABLE

Decision No 280/2004/EC	This Regulation
Article 1	Article 1
Article 2(1)	Article 4(1)
Article 2(2)	—
Article 2(3)	Article 4(3)
Article 3(1)	Article 7(1) and Article 7(3)
Article 3(2)	Article 13(1) and Article 14(1)
Article 3(3)	Article 12(3)
Article 4(1)	Article 6
Article 4(2)	—
Article 4(3)	Article 24
Article 4(4)	Article 5(1)
Article 5(1)	Article 21(1)
Article 5(2)	Article 21(3)
Article 5(3)	—
Article 5(4)	—
Article 5(5)	Article 22
Article 5(6)	—
Article 5(7)	Article 24
Article 6(1)	Article 10(1)
Article 6(2)	Article 10(3)
Article 7(1)	—
Article 7(2)	Article 11(1) and Article 11(2)
Article 7(3)	—
Article 8(1)	Article 23
Article 8(2)	Article 7(4)
Article 8(3)	—
Article 9(1)	Article 26
Article 9(2)	—
Article 9(3)	—
Article 10	—
Article 11	Article 28
Article 12	Article 29

Commission statements

"The Commission takes note of the deletion of Article 10 of its original proposal. However, in order to improve data quality and transparency on CO_2 emissions and on other climate-relevant information relating to maritime transport, the Commission agrees to instead address this issue as part of its upcoming initiative on monitoring, reporting and verification of shipping emissions that the Commission undertakes to adopt during the first half of 2013. The Commission intends to propose an amendment to this Regulation in that context."

"The Commission notes that supplementary rules concerning the establishment, maintenance and modification of the Union system for policies, measures and projections as well as the preparation of approximated greenhouse gas inventories may be required in order to ensure the proper functioning of the Regulation. As of early 2013, the Commission will examine the matter in close cooperation with Member States and will, if appropriate, make a proposal to amend the Regulation."

REGULATION (EU) No 526/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

concerning the European Union Agency for Network and Information Security (ENISA) and repealing Regulation (EC) No 460/2004

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Electronic communications, infrastructure and services are essential factors, both directly and indirectly, in economic and societal development. They play a vital role for society and have in themselves become ubiquitous utilities in the same way as electricity or water supplies, and also constitute vital factors in the delivery of electricity, water and other critical services. Communications networks function as social and innovation catalysts, multiplying the impact of technology and shaping consumer behaviours, business models, industries, as well as citizenship and political participation. Their disruption has the potential to cause considerable physical, social and economic damage, underlining the importance of measures to increase protection and resilience aimed at ensuring continuity of critical services. The security of electronic communications, infrastructure and services, in particular their integrity, availability and confidentiality, faces continuously expanding challenges which relate, inter alia, to the individual components of the communications infrastructure and the software controlling those components, the infrastructure overall and the services provided through that infrastructure. This is of increasing concern to society not least because of the possibility of problems due to system complexity, malfunctions, systemic failures, accidents, mistakes and attacks that may have consequences for the electronic and physical infrastructure which delivers services critical to the well-being of European citizens.

(2) The threat landscape is continuously changing and security incidents can undermine the trust that users have in technology, networks and services, thereby affecting their ability to exploit the full potential of the internal market and widespread use of information and communications technologies (ICT).

(3) Regular assessment of the state of network and information security in the Union, based on reliable Union data, as well as systematic forecast of future developments, challenges and threats, both at Union and global level, is therefore important for policy makers, industry and users.

(4) By Decision 2004/97/EC, Euratom [3], adopted at the meeting of the European Council on 13 December 2003, the representatives of the Member States decided that the European Network and Information Security Agency (ENISA), that was to be established on the basis of the proposal submitted by the Commission, would have its seat in a town in Greece to be determined by the Greek Government. Following that Decision, the Greek Government determined that ENISA should have its seat in Heraklion, Crete.

(5) On 1 April 2005, a Headquarters Agreement ('Seat Agreement') was concluded between the Agency and the host Member State.

(6) The Agency's host Member State should ensure the best possible conditions for the smooth and efficient operation of the Agency. It is imperative for the proper and efficient performance of its tasks, for staff recruitment and retention and to enhance the efficiency of networking activities that the Agency be based in an appropriate location, among other things providing appropriate transport connections and facilities for spouses and children accompanying members of staff of the Agency. The necessary arrangements should be laid down in an agreement between the Agency and the host Member State concluded after obtaining the approval of the Management Board of the Agency.

[1] OJ C 107, 6.4.2011, p. 58.

[2] Position of the European Parliament of 16 April 2013 (not yet published in the Official Journal) and decision of the Council of 13 May 2013.

[3] Decision 2004/97/EC, Euratom taken by common agreement between the Representatives of the Member States, meeting at Head of State or Government level, of 13 December 2003 on the location of the seats of certain offices and agencies of the European Union (OJ L 29, 3.2.2004, p. 15).

(7) In order to improve the operational efficiency of the Agency, the Agency has established a branch office in the metropolitan area of Athens, which should be maintained with the agreement and support of the host Member State, and where the operational staff of the Agency should be located. Staff primarily engaged in the administration of the Agency (including the Executive Director), finance, desk research and analysis, IT and facilities management, human resources, training, and communications and public affairs, should be based in Heraklion.

(8) The Agency has the right to determine its own organisation in order to ensure the proper and efficient performance of its tasks, while respecting the provisions on the seat and Athens branch office laid down in this Regulation. In particular, in order to carry out tasks involving interaction with key stakeholders such as the Union institutions, the Agency should make the necessary practical arrangements to enhance such operational efficiency.

(9) In 2004 the European Parliament and the Council adopted Regulation (EC) No 460/2004 [1] establishing ENISA with the purpose of contributing to the goals of ensuring a high level of network and information security within the Union and developing a culture of network and information security for the benefit of citizens, consumers, enterprises and public administrations. In 2008, the European Parliament and the Council adopted Regulation (EC) No 1007/2008 [2] extending the mandate of the Agency until March 2012. Regulation (EC) No 580/2011 [3] extends the mandate of the Agency until 13 September 2013.

(10) The Agency should succeed ENISA as established by Regulation (EC) No 460/2004. Within the framework of the Decision of the Representatives of the Member States, meeting in the European Council of 13 December 2003, the host Member State should maintain and further develop the current practical arrangements in order to ensure the smooth and efficient operation of the Agency, including its Athens branch office, and facilitate the recruitment and retention of highly qualified staff.

(11) Since ENISA was set up, the challenges of network and information security have changed with technology, market and socioeconomic developments and have been the subject of further reflection and debate. In response to the changing challenges, the Union has updated its priorities for network and information security policy. This Regulation aims to strengthen the Agency to successfully contribute to the efforts of the Union institutions and the Member States to develop a European capacity to cope with network and information security challenges.

(12) Internal market measures in the field of security of electronic communications and, more generally, network and information security require different forms of technical and organisational applications by the Union institutions and the Member States. The heterogeneous application of those requirements can lead to inefficiencies and can create obstacles to the internal market. This makes a centre of expertise at Union level necessary, providing guidance, advice and assistance on issues related to network and information security, which may be relied upon by the Union institutions and the Member States. The Agency can respond to those needs by developing and maintaining a high level of expertise and assisting the Union institutions, the Member States, and the business community in order to help them meet the legal and regulatory requirements of network and information security and to determine and address network and information security issues, thereby contributing to the proper functioning of the internal market.

(13) The Agency should carry out the tasks conferred on it by legal acts of the Union in the field of electronic communications and, in general, contribute to an enhanced level of security of electronic communications as well as of privacy and personal data protection by, among other things, providing expertise and advice, and promoting the exchange of best practices, and offering policy suggestions.

(14) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) [4] requires that providers of public electronic communications networks or publicly available electronic communications services take appropriate measures to safeguard the integrity and security thereof, and introduces an obligation for the national regulatory authorities, where appropriate, to inform, inter alia, the Agency about any security breach or integrity loss that has had a significant impact on the operation of networks or services and to submit to the Commission and to the Agency an annual

[1] Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency (OJ L 77, 13.3.2004, p. 1).

[2] Regulation (EC) No 1007/2008 of the European Parliament and of the Council of 24 September 2008 amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration (OJ L 293, 31.10.2008, p. 1).

[3] Regulation (EU) No 580/2011 of the European Parliament and of the Council of 8 June 2011 amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration (OJ L 165, 24.6.2011, p. 3).

[4] OJ L 108, 24.4.2002, p. 33.

summary report on the notifications received and the action taken. Directive 2002/21/EC further calls on the Agency, by providing opinions, to contribute to the harmonisation of appropriate technical and organisational security measures.

(15) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) [1] requires a provider of a publicly available electronic communications service to take appropriate technical and organisational measures to safeguard the security of its services and also requires that the confidentiality of the communications and related traffic data be maintained. Directive 2002/58/EC introduces personal data breach information and notification requirements for electronic communication services providers. It also requires the Commission to consult the Agency on any technical implementing measures to be adopted concerning the circumstances or format of and procedures applicable to information and notification requirements. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [2] requires Member States to provide that the controller must implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network and against all other unlawful forms of processing.

(16) The Agency should contribute to a high level of network and information security, to better protection of privacy and personal data, and to the development and promotion of a culture of network and information security for the benefit of citizens, consumers, businesses and public sector organisations in the Union, thus contributing to the proper functioning of the internal market. In order to achieve this, the necessary budgetary funds should be allocated to the Agency.

(17) Given the increasing significance of electronic networks and communications, which now constitute the backbone of the European economy, and the actual size of the digital economy, the financial and human resources allocated to the Agency should be increased to reflect its enhanced role and tasks, and its critical position in defending the European digital ecosystem.

(18) The Agency should operate as a point of reference establishing trust and confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in carrying out its tasks. The Agency should build on national and Union efforts and therefore carry out its tasks in full cooperation with the Union institutions, bodies, offices and agencies and the Member States, and be open to contacts with industry and other relevant stakeholders. In addition, the Agency should build on input from and cooperation with the private sector, which plays an important role in securing electronic communications, infrastructures and services.

(19) A set of tasks should indicate how the Agency is to accomplish its objectives while allowing flexibility in its operations. The tasks carried out by the Agency should include the collection of appropriate information and data needed to carry out analyses of the risks to the security and resilience of electronic communications, infrastructure and services and to assess, in cooperation with Member States, the Commission and, where appropriate, with relevant stakeholders, the state of network and information security in the Union. The Agency should ensure coordination and collaboration with the Union institutions, bodies, offices and agencies and Member States, and enhance cooperation between stakeholders in Europe, in particular by involving in its activities competent national and Union bodies and high-level private sector experts in relevant areas, in particular providers of electronic communications networks and services, network equipment manufacturers and software vendors, taking into account that network and information systems comprise combinations of hardware, software and services. The Agency should provide assistance to the Union institutions and to the Member States in their dialogue with industry to address security-related problems in hardware and software products, thereby contributing to a collaborative approach to network and information security.

(20) Network and information security strategies made public by a Union institution, body, office or agency or a Member State should be provided to the Agency for its information and to avoid duplication of effort. The Agency should analyse the strategies and promote their presentation in a format that facilitates comparability. It should make the strategies and its analyses available to the public through electronic means.

(21) The Agency should assist the Commission by means of advice, opinions and analyses on all the Union matters related to policy development in the area of network and information security, including Critical Information Infrastructure Protection and resilience. The Agency should

[1] OJ L 201, 31.7.2002, p. 37.
[2] OJ L 281, 23.11.1995, p. 31.

also assist the Union institutions, bodies, offices and agencies and where relevant, the Member States, at their request, in their efforts to develop network and information security policy and capability.

(22) The Agency should take full account of the ongoing research, development, and technological assessment activities, in particular those carried out by the various Union research initiatives to advise the Union institutions, bodies, offices and agencies and where relevant, the Member States, at their request, on research needs in the area of network and information security.

(23) The Agency should assist the Union institutions, bodies, offices and agencies as well as the Member States in their efforts to build and enhance cross-border capability and preparedness to prevent, detect and respond to network and information security problems and incidents. In this regard, the Agency should facilitate cooperation among the Member States and between the Commission and other Union institutions, bodies, offices and agencies and the Member States. To this end, the Agency should support the Member States in their continuous efforts to improve their response capability and to organise and run European exercises on security incidents and, at the request of a Member State, national exercises.

(24) To understand better the challenges in the network and information security field, the Agency needs to analyse current and emerging risks. For that purpose the Agency should, in cooperation with Member States and, as appropriate, with statistical bodies and others, collect relevant information. Furthermore, the Agency should assist the Union institutions, bodies, offices and agencies and the Member States and in their efforts to collect, analyse and disseminate network and information security data. The collection of appropriate statistical information and data needed to carry out analyses of the risks to the security and resilience of electronic communications, infrastructure and services should take place on the basis of the information provided by the Member States and the Agency's insight to the Union institutions' ICT infrastructures in accordance with Union provisions and national provisions in compliance with Union law. On the basis of that information, the Agency should maintain awareness of the latest state of network and information security and related trends in the Union for the benefit of Union institutions, bodies, offices and agencies and the Member States.

(25) In performing its tasks, the Agency should facilitate cooperation between the Union and the Member States to improve awareness of the state of network and information security in the Union.

(26) The Agency should facilitate cooperation among the Member States' competent independent regulatory authorities, in particular supporting the development, promotion and exchange of best practices and standards for education programmes and awareness-raising schemes. Increased information exchange between Member States will facilitate such action. The Agency should contribute towards raising the awareness of individual users of electronic communications, infrastructure and services, including by assisting Member States, where they have chosen to use the public interest information platform provided for in Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) [1], to produce relevant public interest information regarding network and information security, and also by assisting in the development of such information to be included with the supply of new devices intended for use on public communications networks. The Agency should also support cooperation between stakeholders at Union level, partly by promoting information sharing, awareness-raising campaigns and education and training programmes.

(27) The Agency should, inter alia, assist the relevant Union institutions, bodies, offices and agencies and the Member States in public education campaigns to end users, aiming at promoting safer individual online behaviour and raising awareness of potential threats in cyberspace, including cybercrimes such as phishing attacks, botnets, financial and banking fraud, as well as promoting basic authentication and data protection advice.

(28) To ensure that it fully achieves its objectives, the Agency should liaise with relevant bodies, including those dealing with cybercrime such as Europol, and privacy protection authorities to exchange know-how and best practices and provide advice on network and information security aspects that might have an impact on their work. The Agency should aim to achieve synergies between the efforts of those bodies and its own efforts to promote advanced network and information security. Representatives of national and Union law enforcement and privacy protection authorities should be eligible to be represented in the Agency's Permanent Stakeholders Group. In liaising with law enforcement bodies regarding network and information security aspects that might have an impact on their work, the Agency should respect existing channels of information and established networks.

(29) The Commission has launched a European Public-Private Partnership for Resilience as a flexible Union-wide cooperation platform for resilience of ICT infrastructure, in which the Agency should play a facilitating role, bringing together stakeholders to discuss public policy priorities, economic and market dimensions of challenges and measures for the resilience of ICT.

[1] OJ L 108, 24.4.2002, p. 51.

(30) In order to promote network and information security and its visibility, the Agency should facilitate cooperation among the Member States' competent public bodies, in particular by supporting the development and exchange of best practices and awareness-raising schemes and by enhancing their outreach activities. The Agency should also support cooperation between stakeholders and the Union institutions, partly by promoting information sharing and awareness-raising activities.

(31) In order to enhance an advanced level of network and information security in the Union, the Agency should promote cooperation and the exchange of information and best practices between relevant organisations, such as Computer Security Incident Response Teams (CSIRTs) and Computer Emergency Response Teams (CERTs).

(32) A Union system of properly functioning CERTs should constitute a cornerstone of the Union's network and information security infrastructure. The Agency should support Member State CERTs and the Union CERT in the operation of a network of CERTs, including the members of the European Governmental CERTs Group. In order to assist in ensuring that each of the CERTs has sufficiently advanced capabilities and that those capabilities correspond as far as possible to the capabilities of the most developed CERTs, the Agency should promote the establishment and operation of a peer-review system. Furthermore, the Agency should promote and support cooperation between the relevant CERTs in the event of incidents, attacks on or disruptions of networks or infrastructure managed or protected by the CERTs and involving or potentially involving at least two CERTs.

(33) Efficient network and information security policies should be based on well-developed risk assessment methods, both in the public and private sector. Risk assessment methods and procedures are used at different levels with no common practice regarding how to apply them efficiently. Promoting and developing best practices for risk assessment and for interoperable risk management solutions in public- and private-sector organisations will increase the security level of networks and information systems in the Union. To this end, the Agency should support cooperation between stakeholders at Union level, facilitating their efforts relating to the establishment and take-up of European and international standards for risk management and for measurable security of electronic products, systems, networks and services which, together with software, comprise the network and information systems.

(34) Where appropriate and useful for fulfilling its objectives and tasks, the Agency should share experience and general information with Union institutions, bodies, offices and agencies dealing with network and information security. The Agency should contribute to identifying research priorities, at Union level, in the areas of network resilience and network and information security, and should convey knowledge of industry needs to relevant research institutions.

(35) The Agency should encourage Member States and service providers to raise their general security standards so that all internet users take the necessary steps to ensure their own personal cyber security.

(36) Network and information security problems are global issues. There is a need for closer international cooperation to improve security standards, including the definition of common norms of behaviour and codes of conduct, and information sharing, promoting swifter international collaboration in response to, as well as a common global approach to, network and information security issues. To that end, the Agency should support further Union involvement and cooperation with third countries and international organisations by providing, where appropriate, the necessary expertise and analysis to the relevant Union institutions, bodies, offices and agencies.

(37) The Agency should operate in accordance with the principle of subsidiarity, ensuring an appropriate degree of coordination between the Member States on matters relating to network and information security and improving the effectiveness of national policies, thus adding value to them and in accordance with the principle of proportionality, not going beyond what is necessary in order to achieve the objectives set out by this Regulation. The exercise of the Agency's tasks should reinforce, but not interfere with, the competences, nor should it pre-empt, impede or overlap with the relevant powers and tasks, of the national regulatory authorities as set out in the Directives relating to electronic communications networks and services, as well as those of the Body of European Regulators for Electronic Communications (BEREC) established by Regulation (EC) No 1211/2009 ([1]) and the Communications Committee referred to in Directive 2002/21/EC, of the European standardisation bodies, the national standardisation bodies and the Standing Committee as set out in Directive 98/34/EC ([2]) and the independent supervisory authorities of the Member States as set out in Directive 95/46/EC.

([1]) Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ L 337, 18.12.2009, p. 1).

([2]) Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L 204, 21.7.1998, p. 37).

(38) It is necessary to implement certain principles regarding the governance of the Agency in order to comply with the Joint Statement and Common Approach agreed upon in July 2012 by the Inter-Institutional Working Group on EU decentralised agencies, the purpose of which statement and approach is to streamline the activities of agencies and improve their performance.

(39) The Joint Statement and Common Approach should also be reflected, as appropriate, in the Agency's Work Programmes, evaluations of the Agency, and the Agency's reporting and administrative practice.

(40) In order for the Agency to function properly, the Commission and the Member States should ensure that persons to be appointed to the Management Board have appropriate professional expertise. The Commission and the Member States should also make efforts to limit the turnover of their respective Representatives on the Management Board, in order to ensure continuity in its work.

(41) It is essential that the Agency establish and maintain a reputation for impartiality, integrity and high professional standards. Accordingly, the Management Board should adopt comprehensive rules covering the entire Agency for the prevention and management of conflicts of interest.

(42) Given the unique circumstances of the Agency and the difficult challenges facing it, the organisational structure of the Agency should be simplified and strengthened to ensure greater efficiency and effectiveness. Therefore, among other things, an Executive Board should be established in order to enable the Management Board to focus on issues of strategic importance.

(43) The Management Board should appoint an Accounting Officer in accordance with rules adopted under Regulation (EU, Euratom) No 966/2012 [1] (the 'Financial Regulation').

(44) In order to ensure that the Agency is effective, the Member States and the Commission should be represented on the Management Board, which should define the general direction of the Agency's operations and ensure that it carries out its tasks in accordance with this Regulation. The Management Board should be entrusted with the powers necessary to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency, adopt the Agency's work programme, adopt its own rules of procedure and the Agency's internal rules of operation, appoint the Executive Director, decide on the extension of the Executive Director's term of office after obtaining the views of the European Parliament, and decide on the termination thereof. The Management Board should set up an Executive Board to assist it with its administrative and budgetary tasks.

(45) The smooth functioning of the Agency requires that its Executive Director be appointed on grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security, and that the duties of the Executive Director be carried out with complete independence as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare a proposal for the Agency's work programme, after prior consultation with the Commission, and take all necessary steps to ensure the proper execution of the work programme of the Agency. The Executive Director should prepare an annual report to be submitted to the Management Board, draw up a draft statement of estimates of revenue and expenditure for the Agency, and implement the budget.

(46) The Executive Director should have the option of setting up ad hoc Working Groups to address specific matters, in particular of a scientific, technical or legal or socioeconomic nature. In setting up ad hoc Working Groups the Executive Director should seek input from and draw on the relevant external expertise needed to enable the Agency to have access to the most up-to-date information available regarding security challenges posed by the developing information society. The Executive Director should ensure that the ad hoc Working Groups' members are selected according to the highest standards of expertise, taking due account of a representative balance, as appropriate according to the specific issues in question, between the public administrations of the Member States, the Union institutions and the private sector, including industry, users, and academic experts in network and information security. The Executive Director should be able, as appropriate, to invite individual experts recognised as competent in the relevant field to participate in the Working Groups' proceedings, on a case-by-case basis. Their expenses should be met by the Agency in accordance with its internal rules and in accordance with rules adopted under the Financial Regulation.

(47) The Agency should have a Permanent Stakeholders' Group as an advisory body, to ensure regular dialogue with the private sector, consumers' organisations and other relevant stakeholders. The Permanent Stakeholders'

[1] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

Group, set up by the Management Board on a proposal by the Executive Director, should focus on issues relevant to stakeholders and bring them to the attention of the Agency. The Executive Director should, where appropriate and according to the agenda of the meetings, be able to invite representatives of the European Parliament and other relevant bodies to take part in meetings of the Group.

(48) Since there is provision for ample representation of stakeholders in the Permanent Stakeholders Group, and that group is to be consulted in particular regarding the draft Work Programme, there is no longer any need to provide for representation of stakeholders in the Management Board.

(49) The Agency should apply the relevant Union provisions concerning public access to documents as set out in Regulation (EC) No 1049/2001 of the European Parliament and of the Council [1]. The information processed by the Agency for purposes relating to its internal functioning as well as the information processed in carrying out its tasks should be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [2].

(50) The Agency should comply with the provisions applicable to the Union institutions, and with national legislation regarding the treatment of sensitive documents.

(51) In order to guarantee the full autonomy and independence of the Agency and to enable it to perform additional and new tasks, including unforeseen emergency tasks, the Agency should be granted a sufficient and autonomous budget whose revenue comes primarily from a contribution from the Union and contributions from third countries participating in the Agency's work. The majority of the Agency staff should be directly engaged in the operational implementation of the Agency's mandate. The host Member State, or any other Member State, should be allowed to make voluntary contributions to the revenue of the Agency. The Union's budgetary procedure should remain applicable as far as any subsidies chargeable to the general budget of the European Union are concerned. Moreover, the Court of Auditors should audit the Agency's accounts to ensure transparency and accountability.

(52) In view of the continually changing threat landscape and the evolution of Union policy on network and information security, and in order to align to the multi-annual financial framework, the duration of the mandate of the Agency should be set to a limited period of seven years with a possibility of extending the duration.

(53) The Agency's operations should be evaluated independently. The evaluation should have regard to the Agency's effectiveness in achieving its objectives, its working practices and the relevance of its tasks, in order to determine the continuing validity, or otherwise, of the objectives of the Agency and, based thereon, whether and for what period the duration of its mandate should be further extended.

(54) If, towards the end of the duration of the mandate of the Agency, the Commission has not introduced a proposal for an extension of the mandate, the Agency and the Commission should take the relevant measures, addressing in particular issues relating to staff contracts and budget arrangements.

(55) Since the objective of this Regulation, namely to establish a European Union Agency for Network and Information Security for the purpose of contributing to a high level of network and information security within the Union and in order to raise awareness and develop and promote a culture of network and information security in society for the benefit of citizens, consumers, enterprises and public sector organisations in the Union, thus contributing to the establishment and proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(56) Regulation (EC) No 460/2004 should be repealed.

(57) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and adopted his opinion on 20 December 2010 [3],

[1] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

[2] OJ L 8, 12.1.2001, p. 1.

[3] OJ C 101, 1.4.2011, p. 20.

HAVE ADOPTED THIS REGULATION:

SECTION 1

SCOPE OBJECTIVES AND TASKS

Article 1

Subject matter and Scope

1. This Regulation establishes a European Union Agency for Network and Information Security (ENISA, hereinafter 'the Agency') to undertake the tasks assigned to it for the purpose of contributing to a high level of network and information security within the Union and in order to raise awareness of network and information security and to develop and promote a culture, of network and information security in society for the benefit of citizens, consumers, enterprises and public sector organisations in the Union, thus contributing to the establishment and proper functioning of the internal market.

2. The objectives and the tasks of the Agency shall be without prejudice to the competences of the Member States regarding network and information security and in any case to activities concerning public security, defence, national security (including the economic well-being of the state when the issues relate to national security matters) and the activities of the state in areas of criminal law.

3. For the purposes of this Regulation 'network and information security' means the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data and the related services offered by or accessible via those networks and systems.

Article 2

Objectives

1. The Agency shall develop and maintain a high level of expertise.

2. The Agency shall assist the Union institutions, bodies, offices and agencies in developing policies in network and information security.

3. The Agency shall assist the Union institutions, bodies, offices and agencies and the Member States in implementing the policies necessary to meet the legal and regulatory requirements of network and information security under existing and future legal acts of the Union, thus contributing to the proper functioning of the internal market.

4. The Agency shall assist the Union and the Member States in enhancing and strengthening their capability and preparedness to prevent, detect and respond to network and information security problems and incidents.

5. The Agency shall use its expertise to stimulate broad cooperation between actors from the public and private sectors.

Article 3

Tasks

1. Within the purpose set out in Article 1, and in order to attain the objectives set out in Article 2, whilst respecting Article 1(2), the Agency shall perform the following tasks:

(a) support the development of Union policy and law, by:

(i) assisting and advising on all matters relating to Union network and information security policy and law;

(ii) providing preparatory work, advice and analyses relating to the development and update of Union network and information security policy and law;

(iii) analysing publicly available network and information security strategies and promoting their publication;

(b) support capability building by:

(i) supporting Member States, at their request, in their efforts to develop and improve the prevention, detection and analysis of and the capability to respond to network and information security problems and incidents, and providing them with the necessary knowledge;

(ii) promoting and facilitating voluntary cooperation among the Member States and between the Union institutions, bodies, offices and agencies and the Member States in their efforts to prevent, detect and respond to network and information security problems and incidents where these have an impact across borders;

(iii) assisting the Union institutions, bodies, offices and agencies in their efforts to develop the prevention, detection and analysis of and the capability to respond to network and information security problems and incidents, in particular by supporting the operation of a Computer Emergency Response Team (CERT) for them;

(iv) supporting the raising of the level of capabilities of national/governmental and Union CERTs, including by promoting dialogue and exchange of information, with a view to ensuring that, with regard to the state of the art, each CERT meets a common set of minimum capabilities and operates according to best practices;

(v) supporting the organisation and running of Union network and information security exercises, and, at their request, advising Member States on national exercises;

(vi) assisting the Union institutions, bodies, offices and agencies and the Member States in their efforts to collect, analyse and, in line with Member States' security requirements, disseminate relevant network and information security data; and on the basis of information provided by the Union institutions, bodies, offices and agencies and the Member States in accordance with provisions of Union law and national provisions in compliance with Union law, maintaining the awareness, on the part of the Union institutions, bodies, offices and agencies as well as the Member States of the latest state of network and information security in the Union for their benefit;

(vii) supporting the development of a Union early warning mechanism that is complementary to Member States' mechanisms;

(viii) offering network and information security training for relevant public bodies, where appropriate in cooperation with stakeholders;

(c) support voluntary cooperation among competent public bodies, and between stakeholders, including universities and research centres in the Union, and support awareness raising, inter alia, by:

(i) promoting cooperation between national and governmental CERTs or Computer Security Incident Response Teams (CSIRTs), including the CERT for the Union institutions, bodies, offices and agencies;

(ii) promoting the development and sharing of best practices with the aim of attaining an advanced level of network and information security;

(iii) facilitating dialogue and efforts to develop and exchange best practices;

(iv) promoting best practices in information sharing and awareness raising;

(v) supporting the Union institutions, bodies, offices and agencies and, at their request, the Member States and their relevant bodies in organising awareness raising, including at the level of individual users, and other outreach activities to increase network and information security and its visibility by providing best practices and guidelines;

(d) support research and development and standardisation, by:

(i) facilitating the establishment and take-up of European and international standards for risk management and for the security of electronic products, networks and services;

(ii) advising the Union and the Member States on research needs in the area of network and information security with a view to enabling effective responses to current and emerging network and information security risks and threats, including with respect to new and emerging information and communications technologies, and to using risk-prevention technologies effectively;

(e) cooperate with Union institutions, bodies, offices and agencies, including those dealing with cybercrime and the protection of privacy and personal data, with a view to addressing issues of common concern, including by:

(i) exchanging know-how and best practices;

(ii) providing advice on relevant network and information security aspects in order to develop synergies;

(f) contribute to the Union's efforts to cooperate with third countries and international organisations to promote international cooperation on network and information security issues, including by:

(i) being engaged, where appropriate, as an observer and in the organisation of international exercises, and analysing and reporting on the outcome of such exercises;

(ii) facilitating exchange of best practices of relevant organisations;

(iii) providing the Union institutions with expertise.

2. Union institutions, bodies, offices and agencies and Member State bodies may request advice from the Agency in the event of breach of security or loss of integrity with a significant impact on the operation of networks and services.

3. The Agency shall carry out tasks conferred on it by legal acts of the Union.

4. The Agency shall express independently its own conclusions, guidance and advice on matters within the scope and objectives of this Regulation.

SECTION 2

ORGANISATION

Article 4

Composition of the Agency

1. The Agency shall comprise:

(a) a Management Board;

(b) an Executive Director and staff; and

(c) a Permanent Stakeholders' Group.

2. In order to contribute to enhancing effectiveness and efficiency of the operation of the Agency, the Management Board shall establish an Executive Board.

Article 5

Management Board

1. The Management Board shall define the general direction of the operation of the Agency and ensure that the Agency works in accordance with the rules and principles laid down in this Regulation. It shall also ensure consistency of the Agency's work with activities conducted by the Member States as well as at Union level.

2. The Management Board shall adopt the Agency's annual and multiannual work programme.

3. The Management Board shall adopt an annual report on the Agency's activities and send it, by 1 July of the following year, to the European Parliament, the Council, the Commission and the Court of Auditors. The annual report shall include the accounts and describe how the Agency has met its performance indicators. The annual report shall be made public.

4. The Management Board shall adopt an anti-fraud strategy that is proportionate to the fraud risks having regard to a cost-benefit analysis of the measures to be implemented.

5. The Management Board shall ensure adequate follow-up to the findings and recommendations resulting from investigations of the European Anti-fraud Office (OLAF) and the various internal or external audit reports and evaluations.

6. The Management Board shall adopt rules for the prevention and management of conflicts of interest.

7. The Management Board shall exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (the 'Staff Regulations' and the 'Conditions of Employment of Other Servants'), laid down in Regulation (EEC, Euratom, ECSC) No 259/68 [1] on the Appointing Authority and on the Authority Empowered to Conclude Contract of Employment, respectively.

The Management Board shall adopt, in accordance with the procedure under Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant Appointing Authority powers to the Executive Director. The Executive Director may sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may revoke the delegation of the powers of the Appointing Authority to the Executive Director and those sub-delegated by the Executive Director. In such a case, the Management Board may delegate them, for a limited period to one of its members or to a staff member other than the Executive Director.

8. The Management board shall adopt appropriate rules implementing the Staff Regulations and the Conditions of Employment of Other Servants in accordance with the procedure provided for in Article 110 of the Staff Regulations.

9. The Management Board shall appoint the Executive Director and may extend his term of office or remove him from office in accordance with Article 24 of this Regulation.

10. The Management Board shall adopt the rules of procedure for itself and for the Executive Board after consulting the Commission. The rules of procedure shall provide for expedited decisions through either written procedure or by remote conferencing.

11. The Management Board shall adopt the Agency's internal rules of operation after consulting the Commission services. Those rules shall be made public.

12. The Management Board shall adopt the financial rules applicable to the Agency. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities [2], unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.

[1] OJ L 56, 4.3.1968, p. 1.
[2] OJ L 357, 31.12.2002, p. 72.

13. The Management Board shall adopt a Multiannual Staff Policy Plan, after consulting the Commission services and having duly informed the European Parliament and the Council.

Article 6

Composition of the Management Board

1. The Management Board shall be composed of one representative of each Member State, and two representatives appointed by the Commission. All representatives shall have voting rights.

2. Each member of the Management Board shall have an alternate to represent the member in their absence.

3. Members of the Management Board and their alternates shall be appointed in light of their knowledge of the Agency's tasks and objectives, taking into account the managerial, administrative and budgetary skills relevant to fulfil the tasks listed in Article 5. The Commission and the Member States should make efforts to limit turnover of their representatives in the Management Board, in order to ensure continuity of that board's work. The Commission and the Member States shall aim to achieve a balanced representation between men and women on the Management Board.

4. The term of office of members of the Management Board and of their alternates shall be four years. That term shall be renewable.

Article 7

Chairperson of the Management Board

1. The Management Board shall elect its Chairperson and a Deputy Chairperson from among its members for a period of three years, which shall be renewable. The Deputy Chairperson shall *ex officio* replace the Chairperson if the latter is unable to attend to his or her duties.

2. The Chairperson may be invited to make a statement before the relevant committee(s) of the European Parliament and answer Members' questions.

Article 8

Meetings

1. Meetings of the Management Board shall be convened by its Chairperson.

2. The Management Board shall hold an ordinary meeting at least once a year. It shall also hold extraordinary meetings at the request of the Chairperson or of at least a third of its members.

3. The Executive Director shall take part, without voting rights, in the meetings of the Management Board.

Article 9

Voting

1. The Management Board shall take its decisions by an absolute majority of its members.

2. A two-thirds majority of all Management Board members shall be required for the adoption of the Management Board's rules of procedure, the Agency's internal rules of operation, the budget, the annual and multiannual work programme, the appointment, extension of the term of office or removal of the Executive Director, and the designation of the Chairperson of the Management Board.

Article 10

Executive Board

1. The Management Board shall be assisted by an Executive Board.

2. The Executive Board shall prepare decisions to be adopted by the Management Board on administrative and budgetary matters only.

Together with the Management Board, it shall ensure adequate follow-up to the findings and recommendations stemming from investigations of OLAF and the various internal or external audit reports and evaluations.

Without prejudice to the responsibilities of the Executive Director, as set out in Article 11, the Executive Board shall assist and advise the Executive Director in implementing the decisions of the Management Board on administrative and budgetary matters.

3. The Executive Board shall be made up of five members appointed from among the members of the Management Board amongst whom the Chairperson of the Management Board, who may also chair the Executive Board, and one of the representatives of the Commission.

4. The term of office of members of the Executive Board shall be the same as that of members of the Management Board set out in Article 6(4).

5. The Executive Board shall meet at least once every three months. The chairperson of the Executive Board shall convene additional meetings at the request of its members.

Article 11

Duties of the Executive Director

1. The Agency shall be managed by its Executive Director, who shall be independent in the performance of his/her duties.

2. The Executive Director shall be responsible for:

(a) the day-to-day administration of the Agency;

(b) implementing the decisions adopted by the Management Board;

(c) after consultation with the Management Board, preparing the annual work programme and the multiannual work programme and submitting them to the Management Board after consulting the Commission;

(d) implementing the annual work programme and the multi-annual work programme and reporting to the Management Board thereon;

(e) preparing the annual report on the Agency's activities and presenting it to the Management Board for approval;

(f) preparing an action plan following-up on the conclusions of the retrospective evaluations and reporting on progress every two years to the Commission;

(g) protecting the financial interests of the Union by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties;

(h) preparing an anti-fraud strategy for the Agency and presenting it to the Management Board for approval;

(i) ensuring that the Agency performs its activities in accordance with the requirements of those using its services, in particular with regard to the adequacy of the services provided;

(j) developing and maintaining contact with the Union institutions, bodies, offices and agencies;

(k) developing and maintaining contact with the business community and consumers' organisations to ensure regular dialogue with relevant stakeholders;

(l) other tasks assigned to the Executive Director by this Regulation.

3. Where necessary and within the Agency's objectives and tasks, the Executive Director may set up ad hoc Working Groups composed of experts, including from the Member States' competent authorities. The Management Board shall be informed in advance. The procedures regarding in particular the composition, the appointment of the experts by the Executive Director and the operation of the ad hoc Working Groups shall be specified in the Agency's internal rules of operation.

4. The Executive Director shall make administrative support staff and other resources available to the Management Board and the Executive Board whenever necessary.

Article 12

Permanent Stakeholders' Group

1. The Management Board, acting on a proposal by the Executive Director, shall set up a Permanent Stakeholders' Group composed of recognised experts representing the relevant stakeholders, such as the ICT industry, providers of electronic communications networks or services available to the public, consumer groups, academic experts in network and information security, and representatives of national regulatory authorities notified under Directive 2002/21/EC as well as of law enforcement and privacy protection authorities.

2. Procedures for, in particular, the number, composition, and the appointment of the members of the Permanent Stakeholders' Group by the Management Board, the proposal by the Executive Director and the operation of the Group shall be specified in the Agency's internal rules of operation and shall be made public.

3. The Permanent Stakeholders' Group shall be chaired by the Executive Director or by any person the Executive Director appoints on a case-by-case basis.

4. The term of office of the Permanent Stakeholders' Group's members shall be two-and-a-half years. Members of the Management Board may not be members of the Permanent Stakeholders' Group. Experts from the Commission and the Member States shall be entitled to be present at the meetings of the Permanent Stakeholders' Group and to participate in its work. Representatives of other bodies deemed relevant by the Executive Director, who are not members of the Permanent Stakeholders' Group, may be invited to be present at the meetings of the Permanent Stakeholders' Group and to participate in its work.

5. The Permanent Stakeholders' Group shall advise the Agency in respect of the performance of its activities. It shall in particular advise the Executive Director on drawing up a proposal for the Agency's work programme, and on ensuring communication with the relevant stakeholders on all issues related to the work programme.

SECTION 3

OPERATION

Article 13

Work Programme

1. The Agency shall carry out its operations in accordance with its annual and multiannual work programme, which shall contain all of its planned activities.

2. The work programme shall include tailored performance indicators allowing for effective assessment of the results achieved in terms of objectives.

3. The Executive Director shall be responsible for drawing up the Agency's draft work programme after prior consultation with the Commission services. By 15 March each year the Executive Director shall submit the draft work programme for the following year to the Management Board.

4. By 30 November each year, the Management Board shall adopt the Agency's work programme for the following year, after having received the opinion of the Commission. The work programme shall include a multiannual outlook. The Management Board shall ensure that the work programme is consistent with the Agency's objectives and with the Union's legislative and policy priorities in the area of network and information security.

5. The work programme shall be organised in accordance with the activity-based management principle. The work programme shall be in line with the statement of estimates of the Agency's revenue and expenditure and the Agency's budget for the same financial year.

6. The Executive Director shall, following adoption by the Management Board, forward the work programme to the European Parliament, the Council, the Commission and the Member States and shall publish it. At the invitation of the relevant committee of the European Parliament, the Executive Director shall present and hold an exchange of views on the adopted annual work programme.

Article 14

Requests to the Agency

1. Requests for advice and assistance falling within the Agency's objectives and tasks shall be addressed to the Executive Director and accompanied by background information explaining the issue to be addressed. The Executive Director shall inform the Management Board and Executive Board of the requests received, the potential resource implications, and, in due course, of the follow-up to the requests. If the Agency refuses a request, it shall give a justification.

2. Requests referred to in paragraph 1 may be made by:

(a) the European Parliament;

(b) the Council;

(c) the Commission;

(d) any competent body appointed by a Member State, such as a national regulatory authority defined in Article 2 of Directive 2002/21/EC.

3. The practical arrangements for applying paragraphs 1 and 2, regarding in particular submission, prioritisation, follow-up and information to the Management and Executive Board on the requests to the Agency, shall be laid down by the Management Board in the Agency's internal rules of operation.

Article 15

Declaration of interest

1. Members of the Management Board, the Executive Director and officials seconded by Member States on a temporary basis shall each make a declaration of commitments and a declaration indicating the absence or presence of any direct or indirect interest which might be considered prejudicial to their independence. The declarations shall be accurate and complete, made annually in writing and updated whenever necessary.

2. Members of the Management Board, the Executive Director, and external experts participating in ad hoc Working Groups shall each accurately and completely declare, at the latest at the start of each meeting, any interest which might be considered prejudicial to their independence in relation to the items on the agenda, and shall abstain from participating in the discussion of and voting upon such points.

3. The Agency shall lay down, in its internal rules of operation, the practical arrangements for the rules on declarations of interest referred to in paragraphs 1 and 2.

Article 16

Transparency

1. The Agency shall ensure that it carries out its activities with a high level of transparency and in accordance with Articles 17 and 18.

2. The Agency shall ensure that the public and any interested parties are given appropriate, objective, reliable and easily accessible information, in particular with regard to the results of its work. It shall also make public the declarations of interest made in accordance with Article 15.

3. The Management Board, acting on a proposal from the Executive Director, may authorise interested parties to observe the proceedings of some of the Agency's activities.

4. The Agency shall lay down, in its internal rules of operation, the practical arrangements for implementing the transparency rules referred to in paragraphs 1 and 2.

Article 17

Confidentiality

1. Without prejudice to Article 18, the Agency shall not divulge to third parties information that it processes or receives in relation to which a reasoned request for confidential treatment, in whole or in part, has been made.

2. Members of the Management Board, the Executive Director, the members of the Permanent Stakeholders Group, external experts participating in ad hoc Working Groups, and members of the staff of the Agency including officials seconded by Member States on a temporary basis shall comply with the confidentiality requirements under Article 339 of the Treaty on the Functioning of the European Union (TFEU), even after their duties have ceased.

3. The Agency shall lay down, in its internal rules of operation, the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

4. If required for the performance of the Agency's tasks, the Management Board shall decide to allow the Agency to handle classified information. In that case the Management Board shall, in agreement with the Commission services, adopt internal rules of operation applying the security principles set out in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure [1]. Those rules shall cover, inter alia, provisions for the exchange, processing and storage of classified information.

Article 18

Access to documents

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.

2. The Management Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001 within six months of the establishment of the Agency.

3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman under Article 228 TFEU or of an action before the Court of Justice of the European Union under Article 263 TFEU.

SECTION 4

FINANCIAL PROVISIONS

Article 19

Adoption of the budget

1. The revenues of the Agency shall consist of a contribution from the Union budget, contributions from third countries participating in the work of the Agency as provided for in Article 30, and voluntary contributions from Member States in money or in kind. Member States that provide voluntary contributions may not claim any specific right or service as a result thereof.

2. The expenditure of the Agency shall include staff, administrative and technical support, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties.

3. By 1 March each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, and shall forward it to the Management Board, together with a draft establishment plan.

4. Revenue and expenditure shall be in balance.

5. Each year, the Management Board shall, on the basis of a draft statement of estimates of revenue and expenditure drawn up by the Executive Director, produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.

6. The Management Board shall, by 31 March each year, send that statement of estimates, which shall include a draft establishment plan together with the draft work programme, to the Commission and the third countries with which the Union has concluded agreements in accordance with Article 30.

7. The Commission shall forward that statement of estimates to the European Parliament and the Council together with the draft general budget of the Union.

8. On the basis of that statement of estimates, the Commission shall enter in the draft budget of the Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall submit to the European Parliament and the Council in accordance with Article 314 TFEU.

9. The European Parliament and the Council shall authorise the appropriations for the subsidy to the Agency.

[1] OJ L 317, 3.12.2001, p. 1.

10. The European Parliament and the Council shall adopt the establishment plan for the Agency.

11. Together with the work programme, the Management Board shall adopt the Agency's budget. It shall become final following definitive adoption of the general budget of the Union. Where appropriate, the Management Board shall adjust the Agency's budget and work programme in accordance with the general budget of the Union. The Management Board shall forward the budget without delay to the European Parliament, the Council and the Commission.

Article 20

Combating fraud

1. In order to facilitate the combating of fraud, corruption and other unlawful activities under Regulation (EC) No 1073/1999 [1], the Agency shall, within six months from the day it becomes operational, accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) [2] and shall adopt the appropriate provisions applicable to all the employees of the Agency, using the template set out in the Annex to that Agreement.

2. The Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.

3. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities [3] with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency.

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 21

Implementation of the budget

1. The Executive Director shall be responsible for the implementation of the Agency's budget.

2. The Commission's internal auditor shall exercise the same powers over the Agency as over Commission departments.

3. By 1 March following each financial year (1 March of year N + 1), the Agency's accounting officer shall send the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of the Financial Regulation.

4. By 31 March of year N + 1, the Commission's accounting officer shall send the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be sent to the European Parliament and the Council.

5. On receipt of the Court of Auditor's observations on the Agency's provisional accounts, pursuant to Article 148 of the Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and send them to the Management Board for an opinion.

6. The Management Board shall deliver an opinion on the Agency's final accounts.

7. The Executive Director shall, by 1 July of year N + 1, transmit the final accounts, including the report on the budgetary and financial management for that financial year and the Court of Auditor's observations, to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

8. The Executive Director shall publish the final accounts.

9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September of year N + 1 and shall also send to the Management Board a copy of that reply.

[1] Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 1).

[2] Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 15).

[3] OJ L 292, 15.11.1996, p. 2.

10. The Executive Director shall submit to the European Parliament, at the latter's request, all the information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 165(3) of the Financial Regulation.

11. The European Parliament, acting on a recommendation from the Council, shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for the year N.

SECTION 5

STAFF

Article 22

General provisions

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the Union institutions for giving effect to those Staff Regulations shall apply to the staff of the Agency.

Article 23

Privileges and immunity

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the Treaty on European Union and to the TFEU shall apply to the Agency and its staff.

Article 24

Executive Director

1. The Executive Director shall be engaged as a temporary agent of the Agency under Article 2(a) of the Conditions of Employment of Other Servants.

2. The Executive Director shall be appointed by the Management Board from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

For the purpose of concluding the contract of the Executive Director, the Agency shall be represented by the Chairperson of the Management Board.

Before appointment, the candidate selected by the Management Board shall be invited to make a statement before the relevant committee of the European Parliament and to answer Members' questions.

3. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment which takes into account the evaluation of the performance of the Executive Director and the Agency's future tasks and challenges.

4. The Management Board may, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3 and after obtaining the views of the European Parliament, extend once the term of office of the Executive Director for no more than five years.

5. The Management Board shall inform the European Parliament about its intention to extend the Executive Director's term of office. Within three months before any such extension, the Executive Director shall, if invited, make a statement before the relevant committee of the European Parliament and answer Members' questions.

6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post.

7. The Executive Director may be removed from office only by decision of the Management Board.

Article 25

Seconded national experts and other staff

1. The Agency may make use of seconded national experts or other staff not employed by the Agency. The Staff Regulations and the Conditions of Employment of Other Servants shall not apply to such staff.

2. The Management Board shall adopt a decision laying down rules on the secondment to the agency of national experts.

SECTION 6

GENERAL PROVISIONS

Article 26

Legal status

1. The Agency shall be a body of the Union. It shall have legal personality.

2. In each of the Member States the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.

3. The Agency shall be represented by its Executive Director.

4. A branch office established in the metropolitan area of Athens shall be maintained in order to improve the operational efficiency of the Agency.

Article 27

Liability

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties.

The Court of Justice of the European Union shall have jurisdiction in any dispute relating to compensation for such damage.

3. The personal liability of its servants towards the Agency shall be governed by the relevant conditions applying to the staff of the Agency.

Article 28

Languages

1. Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community [1] shall apply to the Agency. The Member States and the other bodies appointed by them may address the Agency and receive a reply in the official language of the institutions of the Union of their choice.

2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union.

Article 29

Protection of personal data

1. When processing data relating to individuals, in particular while performing its tasks, the Agency shall observe the principles of personal data protection in, and be subject to, the provisions of Regulation (EC) No 45/2001.

2. The Management Board shall adopt implementing measures referred to in Article 24(8) of Regulation (EC) No 45/2001. The Management Board may adopt additional measures necessary for the application of Regulation (EC) No 45/2001 by the Agency.

[1] OJ 17, 6.10.1958, p. 385/58.

Article 30

Participation of third countries

1. The Agency shall be open to the participation of third countries which have concluded agreements with the European Union by virtue of which they have adopted and applied Union legal acts in the field covered by this Regulation.

2. Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which those countries will participate in the Agency's work, including provisions relating to participation in the initiatives undertaken by the Agency, financial contributions and staff.

Article 31

Security Rules on the protection of classified information

The Agency shall apply the security principles contained in the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Annex to Decision 2001/844/EC, ECSC, Euratom. This shall cover, inter alia, provisions for the exchange, processing and storage of such information.

SECTION 7

FINAL PROVISIONS

Article 32

Evaluation and review

1. By 20 June 2018 the Commission shall commission an evaluation to assess, in particular, the impact, effectiveness and efficiency of the Agency and its working practices. The evaluation shall also address the possible need to modify the mandate of the Agency and the financial implications of any such modification.

2. The evaluation referred to in paragraph 1 shall take into account any feedback made to the Agency in response to its activities.

3. The Commission shall forward the evaluation report together with its conclusions to the European Parliament, the Council and the Management Board. The findings of the evaluation shall be made public.

4. As part of the evaluation, there shall also be an assessment of the results achieved by the Agency, having regard to its objectives, mandate and tasks. If the Commission considers that the continuation of the Agency is justified with regard to its assigned objectives, mandate and tasks, it may propose that the duration of the mandate of the Agency set out in Article 36 be extended.

Article 33

Cooperation of the host Member State

The Agency's host Member State shall provide the best possible conditions to ensure the proper functioning of the Agency, including the accessibility of the location, the existence of adequate education facilities for the children of staff members, appropriate access to the labour market, social security and medical care for both children and spouses.

Article 34

Administrative control

The operations of the Agency shall be supervised by the Ombudsman in accordance with Article 228 TFEU.

Article 35

Repeal and succession

1. Regulation (EC) No 460/2004 is repealed.

References to Regulation (EC) No 460/2004 and to ENISA shall be construed as references to this Regulation and to the Agency.

2. The Agency succeeds the Agency that was established by Regulation (EC) No 460/2004 as regards all ownership, agreements, legal obligations, employment contracts, financial commitments and liabilities.

Article 36

Duration

The Agency shall be established for a period of seven years from 19 June 2013.

Article 37

Entry into force

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

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

Done at Strasbourg, 21 May 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

REGULATION (EU) No 527/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

amending Council Regulation (EC) No 1528/2007 as regards the exclusion of a number of countries from the list of regions or states which have concluded negotiations

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

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

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

Whereas:

(1) Negotiations on the Economic Partnership Agreements ('the Agreements') between:

the CARIFORUM states, of the one part, and the European Community and its Member States, of the other part, were concluded on 16 December 2007;

the European Community and its Member States, of the one part, and the Central Africa Party, of the other part, were concluded on 17 December 2007 (the Republic of Cameroon);

Ghana, of the one part, and the European Community and its Member States, of the other part, were concluded on 13 December 2007;

Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part, were concluded on 7 December 2007;

the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part, were concluded on 28 November 2007 (the Republic of Seychelles and the Republic of Zimbabwe), on 4 December 2007 (the Republic of Mauritius), on 11 December 2007 (the Union of the Comoros and the Republic of Madagascar) and 30 September 2008 (the Republic of Zambia);

the European Community and its Member States, of the one part, and the SADC EPA states, of the other part, were concluded on 23 November 2007 (the Republic of Botswana, the Kingdom of Lesotho, the Kingdom of Swaziland, the Republic of Mozambique) and 3 December 2007 (the Republic of Namibia);

the European Community and its Member States, of the one part, and the East African Community Partner States, of the other part, were concluded on 27 November 2007;

the European Community, of the one part, and the Pacific States, of the other part, were concluded on 23 November 2007.

(2) The conclusion of negotiations on the Agreements by Antigua and Barbuda, the Commonwealth of the Bahamas, Barbados, Belize, the Republic of Botswana, the Republic of Burundi, the Republic of Cameroon, the Union of the Comoros, the Republic of Côte d'Ivoire, the Commonwealth of Dominica, the Dominican Republic, the Republic of Fiji, the Republic of Ghana, Grenada, the Cooperative Republic of Guyana, the Republic of Haiti, Jamaica, the Republic of Kenya, the Kingdom of Lesotho, the Republic of Madagascar, the Republic of Mauritius, the Republic of Mozambique, the Republic of Namibia, the Independent State of Papua New Guinea, the Republic of Rwanda, the Federation of Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, the Republic of Seychelles, the Republic of Suriname, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe permitted their inclusion in Annex I to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements [2].

(3) The Republic of Botswana, the Republic of Burundi, the Republic of Cameroon, the Union of the Comoros, the Republic of Côte d'Ivoire, the Republic of Fiji, the Republic of Ghana, the Republic of Haiti, the Republic of Kenya, the Kingdom of Lesotho, the Republic of Mozambique, the Republic of Namibia, the Republic of Rwanda, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Uganda and the Republic of Zambia have not taken the necessary steps towards ratification of their respective Agreements.

[1] Position of the European Parliament of 13 September 2012 (not yet published in the Official Journal) and position of the Council at first reading of 11 December 2012 (OJ C 39 E, 12.2.2013, p. 1). Position of the European Parliament of 16 April 2013.

[2] OJ L 348, 31.12.2007, p. 1.

(4) Consequently, in accordance with Article 2(3) of Regulation (EC) No 1528/2007, and in particular point (b) thereof, Annex I to that Regulation should be amended to remove those countries from that Annex.

(5) In order to ensure that those countries can swiftly be reinstated in Annex I to Regulation (EC) No 1528/2007 as soon as they have taken the necessary steps towards ratification of their respective Agreements, and pending entry into force thereof, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to reinstate the countries removed from Annex I to Regulation (EC) No 1528/2007 pursuant to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1528/2007 is hereby amended as follows:

(1) the following Articles are inserted:

'*Article 2a*

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 2b to amend Annex I to this Regulation by reinstating those regions or states from the ACP Group of States which were removed from that Annex pursuant to Regulation (EU) No 527/2013 of the European Parliament and of the Council (*), and which have, since such removal, taken the necessary steps towards ratification of their respective agreements.

Article 2b

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Article 2a shall be conferred on the Commission for a period of five years from 21 June 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five- year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 2a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

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

5. A delegated act adopted pursuant to Article 2a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 165, 18.6.2013, p. 59.';

(2) Annex I is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply as from 1 October 2014.

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

Done at Strasbourg, 21 May 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

ANNEX

'ANNEX I

List of regions or states which have concluded negotiations within the meaning of Article 2(2)

ANTIGUA AND BARBUDA

THE COMMONWEALTH OF THE BAHAMAS

BARBADOS

BELIZE

THE COMMONWEALTH OF DOMINICA

THE DOMINICAN REPUBLIC

GRENADA

THE COOPERATIVE REPUBLIC OF GUYANA

JAMAICA

THE REPUBLIC OF MADAGASCAR

THE REPUBLIC OF MAURITIUS

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

FEDERATION OF SAINT KITTS AND NEVIS

SAINT LUCIA

SAINT VINCENT AND THE GRENADINES

THE REPUBLIC OF SEYCHELLES

THE REPUBLIC OF SURINAME

THE REPUBLIC OF TRINIDAD AND TOBAGO

THE REPUBLIC OF ZIMBABWE'

REGULATION (EU) No 528/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 June 2013

amending Regulation (EC) No 450/2008 laying down the Community Customs Code (Modernised Customs Code) as regards the date of its application

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33, 114 and 207 thereof,

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) [3] is intended to replace Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [4]. Regulation (EC) No 450/2008 entered into force on 24 June 2008, but is to be applicable, in accordance with Article 188(2) thereof, only once its implementing provisions are applicable, and on 24 June 2013 at the latest.

(2) On 20 February 2012, the Commission submitted to the European Parliament and the Council a proposal for a Regulation laying down the Union Customs Code, in the form of a recast of Regulation (EC) No 450/2008, in order to replace it before its final date of application of 24 June 2013. However, the ordinary legislative procedure cannot be completed in time for the adoption and entry into force of that proposed Regulation before that date. In the absence of any corrective legislative action, Regulation (EC) No 450/2008 would therefore apply on 24 June 2013 and Regulation (EEC) No 2913/92 would be repealed. That would generate legal uncertainty about the customs legislation actually applicable as from that date, and would be an obstacle to maintaining a comprehensive and consistent Union legal framework for customs matters pending the adoption of the proposed Regulation.

(3) In order to prevent such serious difficulties relating to the customs legislation of the Union and to provide the European Parliament and the Council with adequate time to complete the process of adoption of the recast of the Union Customs Code, the final date of application of Regulation (EC) No 450/2008, as laid down in the second subparagraph of Article 188(2) thereof, should be postponed. The new date of application considered appropriate for that purpose is 1 November 2013.

(4) In view of the urgency of the matter, an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, should apply.

(5) Regulation (EC) No 450/2008 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In the second subparagraph of Article 188(2) of Regulation (EC) No 450/2008, the date of '24 June 2013' is replaced by that of '1 November 2013'.

Article 2

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

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

Done at Strasbourg, 12 June 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
L. CREIGHTON

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[1] Opinion of 22 May 2013 (not yet published in the Official Journal).
[2] Position of the European Parliament of 23 May 2013 (not yet published in the Official Journal) and decision of the Council of 10 June 2013.
[3] OJ L 145, 4.6.2008, p. 1.
[4] OJ L 302, 19.10.1992, p. 1.

DIRECTIVES

DIRECTIVE 2013/11/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

(Directive on consumer ADR)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

Whereas:

(1) Article 169(1) and point (a) of Article 169(2) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies are to ensure a high level of consumer protection.

(2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. The internal market should provide consumers with added value in the form of better quality, greater variety, reasonable prices and high safety standards for goods and services, which should promote a high level of consumer protection.

(3) Fragmentation of the internal market is detrimental to competitiveness, growth and job creation within the Union. Eliminating direct and indirect obstacles to the proper functioning of the internal market and improving citizens' trust is essential for the completion of the internal market.

(4) Ensuring access to simple, efficient, fast and low-cost ways of resolving domestic and cross-border disputes which arise from sales or service contracts should benefit consumers and therefore boost their confidence in the market. That access should apply to online as well as to offline transactions, and is particularly important when consumers shop across borders.

(5) Alternative dispute resolution (ADR) offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, ADR is not yet sufficiently and consistently developed across the Union. It is regrettable that, despite Commission Recommendations 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes [3] and 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes [4], ADR has not been correctly established and is not running satisfactorily in all geographical areas or business sectors in the Union. Consumers and traders are still not aware of the existing out-of-court redress mechanisms, with only a small percentage of citizens knowing how to file a complaint with an ADR entity. Where ADR procedures are available, their quality levels vary considerably in the Member States and cross-border disputes are often not handled effectively by ADR entities.

(6) The disparities in ADR coverage, quality and awareness in Member States constitute a barrier to the internal market and are among the reasons why many consumers abstain from shopping across borders and why they lack confidence that potential disputes with traders can be resolved in an easy, fast and inexpensive way. For the same reasons, traders might abstain from

[1] OJ C 181, 21.6.2012, p. 93.
[2] Position of the European Parliament of 12 March 2013 (not yet published in the Official Journal) and decision of the Council of 22 April 2013.
[3] OJ L 115, 17.4.1998, p. 31.
[4] OJ L 109, 19.4.2001, p. 56.

selling to consumers in other Member States where there is no sufficient access to high-quality ADR procedures. Furthermore, traders established in a Member State where high-quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and more cheaply.

(7) In order for consumers to exploit fully the potential of the internal market, ADR should be available for all types of domestic and cross-border disputes covered by this Directive, ADR procedures should comply with consistent quality requirements that apply throughout the Union, and consumers and traders should be aware of the existence of such procedures. Due to increased cross-border trade and movement of persons, it is also important that ADR entities handle cross-border disputes effectively.

(8) As advocated by the European Parliament in its resolutions of 25 October 2011 on alternative dispute resolution in civil, commercial and family matters and of 20 May 2010 on delivering a single market to consumers and citizens, any holistic approach to the single market which delivers results for its citizens should as a priority develop simple, affordable, expedient and accessible system of redress.

(9) In its Communication of 13 April 2011 entitled 'Single Market Act — Twelve levers to boost growth and strengthen confidence — "Working together to create new growth"', the Commission identified legislation on ADR which includes an electronic commerce (e-commerce) dimension, as one of the twelve levers to boost growth, strengthen confidence and make progress towards completing the Single Market.

(10) In its conclusions of 24-25 March and 23 October 2011, the European Council invited the European Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market. Moreover, in its Conclusions of 30 May 2011 on the Priorities for relaunching the Single Market, the Council of the European Union highlighted the importance of e-commerce and agreed that consumer ADR schemes can offer low-cost, simple and quick redress for both consumers and traders. The successful implementation of those schemes requires sustained political commitment and support from all actors, without compromising the affordability, transparency, flexibility, speed and quality of decision-making by the ADR entities falling within the scope of this Directive.

(11) Given the increasing importance of online commerce and in particular cross-border trade as a pillar of Union economic activity, a properly functioning ADR infrastructure for consumer disputes and a properly integrated online dispute resolution (ODR) framework for consumer disputes arising from online transactions are necessary in order to achieve the Single Market Act's aim of boosting citizens' confidence in the internal market.

(12) This Directive and Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes [1] are two interlinked and complementary legislative instruments. Regulation (EU) No 524/2013 provides for the establishment of an ODR platform which offers consumers and traders a single point of entry for the out-of-court resolution of online disputes, through ADR entities which are linked to the platform and offer ADR through quality ADR procedures. The availability of quality ADR entities across the Union is thus a precondition for the proper functioning of the ODR platform.

(13) This Directive should not apply to non-economic services of general interest. Non-economic services are services which are not performed for economic consideration. As a result, non-economic services of general interest performed by the State or on behalf of the State, without remuneration, should not be covered by this Directive irrespective of the legal form through which those services are provided.

(14) This Directive should not apply to health care services as defined in point (a) of Article 3 of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare [2].

(15) The development within the Union of properly functioning ADR is necessary to strengthen consumers' confidence in the internal market, including in the area of online commerce, and to fulfil the potential for and opportunities of cross-border and online trade. Such development should build on existing ADR procedures in the Member States and respect their legal traditions. Both existing and newly established properly functioning dispute resolution entities that comply with the quality requirements set out in this Directive should be considered as 'ADR entities' within the meaning of this Directive. The dissemination of ADR can also prove to be important in those Member States in which there is a substantial backlog of cases pending before the courts, preventing Union citizens from exercising their right to a fair trial within a reasonable time.

(16) This Directive should apply to disputes between consumers and traders concerning contractual obligations stemming from sales or services contracts, both online and offline, in all economic sectors, other than the

[1] See page 1 of this Official Journal.
[2] OJ L 88, 4.4.2011, p. 45.

exempted sectors. This should include disputes arising from the sale or provision of digital content for remuneration. This Directive should apply to complaints submitted by consumers against traders. It should not apply to complaints submitted by traders against consumers or to disputes between traders. However, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.

(17) Member States should be permitted to maintain or introduce national provisions with regard to procedures not covered by this Directive, such as internal complaint handling procedures operated by the trader. Such internal complaint handling procedures can constitute an effective means for resolving consumer disputes at an early stage.

(18) The definition of 'consumer' should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person's trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.

(19) Some existing Union legal acts already contain provisions concerning ADR. In order to ensure legal certainty, it should be provided that, in the event of conflict, this Directive is to prevail, except where it explicitly provides otherwise. In particular, this Directive should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters [1], which already sets out a framework for systems of mediation at Union level for cross-border disputes, without preventing the application of that Directive to internal mediation systems. This Directive is intended to apply horizontally to all types of ADR procedures, including to ADR procedures covered by Directive 2008/52/EC.

(20) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis, offers the resolution of a dispute between a consumer and a trader through an ADR procedure and is listed in accordance with this Directive. This Directive may also cover, if Member States so decide, dispute resolution entities which impose solutions which are binding on the parties. However, an out-of-court procedure which is created on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.

[1] OJ L 136, 24.5.2008, p. 3.

(21) Also ADR procedures are highly diverse across the Union and within Member States. They can take the form of procedures where the ADR entity brings the parties together with the aim of facilitating an amicable solution, or procedures where the ADR entity proposes a solution or procedures where the ADR entity imposes a solution. They can also take the form of a combination of two or more such procedures. This Directive should be without prejudice to the form which ADR procedures take in the Member States.

(22) Procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or receive any form of remuneration exclusively from the trader are likely to be exposed to a conflict of interest. Therefore, those procedures should, in principle, be excluded from the scope of this Directive, unless a Member State decides that such procedures can be recognised as ADR procedures under this Directive and provided that those entities are in complete conformity with the specific requirements on independence and impartiality laid down in this Directive. ADR entities offering dispute resolution through such procedures should be subject to regular evaluation of their compliance with the quality requirements set out in this Directive, including the specific additional requirements ensuring their independence.

(23) This Directive should not apply to procedures before consumer-complaint handling systems operated by the trader, nor to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.

(24) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity which complies with the requirements set out in this Directive and is listed in accordance with it. Member States should have the possibility of fulfilling this obligation by building on existing properly functioning ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not preclude the functioning of existing dispute resolution entities operating within the framework of national consumer protection authorities of Member States where State officials are in charge of dispute resolution. State officials should be regarded as representatives of both consumers' and traders' interests. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. When necessary, in order to ensure full sectoral and geographical coverage by and access to ADR, Member States should have the possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific ADR entity is competent. Residual ADR entities are intended to be a safeguard for consumers and traders by ensuring that there are no gaps in access to an ADR entity.

(25) This Directive should not prevent Member States from maintaining or introducing legislation on procedures for out-of-court resolution of consumer contractual disputes which is in compliance with the requirements set out in this Directive. Furthermore, in order to ensure that ADR entities can operate effectively, those entities should have the possibility of maintaining or introducing, in accordance with the laws of the Member State in which they are established, procedural rules that allow them to refuse to deal with disputes in specific circumstances, for example where a dispute is too complex and would therefore be better resolved in court. However, procedural rules allowing ADR entities to refuse to deal with a dispute should not impair significantly consumers' access to ADR procedures, including in the case of cross-border disputes. Thus, when providing for a monetary threshold, Member States should always take into account that the real value of a dispute may vary among Member States and, consequently, setting a disproportionately high threshold in one Member State could impair access to ADR procedures for consumers from other Member States. Member States should not be required to ensure that the consumer can submit his complaint to another ADR entity, where an ADR entity to which the complaint was first submitted has refused to deal with it because of its procedural rules. In such cases Member States should be deemed to have fulfilled their obligation to ensure full coverage of ADR entities.

(26) This Directive should allow traders established in a Member State to be covered by an ADR entity which is established in another Member State. In order to improve the coverage of and consumer access to ADR across the Union, Member States should have the possibility of deciding to rely on ADR entities established in another Member State or regional, transnational or pan-European ADR entities, where traders from different Member States are covered by the same ADR entity. Recourse to ADR entities established in another Member State or to transnational or pan-European ADR entities should, however, be without prejudice to Member States' responsibility to ensure full coverage by and access to ADR entities.

(27) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. Comprehensive impact assessments should be carried out on collective out-of-court settlements before such settlements are proposed at Union level. The existence of an effective system for collective claims and easy recourse to ADR should be complementary and they should not be mutually exclusive procedures.

(28) The processing of information relating to disputes covered by this Directive should comply with the rules on the protection of personal data laid down in the laws, regulations and administrative provisions of the Member States adopted pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1].

(29) Confidentiality and privacy should be respected at all times during the ADR procedure. Member States should be encouraged to protect the confidentiality of ADR procedures in any subsequent civil or commercial judicial proceedings or arbitration.

(30) Member States should nevertheless ensure that ADR entities make publicly available any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard could be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices.

(31) Member States should ensure that ADR entities resolve disputes in a manner that is fair, practical and proportionate to both the consumer and the trader, on the basis of an objective assessment of the circumstances in which the complaint is made and with due regard to the rights of the parties.

(32) The independence and integrity of ADR entities is crucial in order to gain Union citizens' trust that ADR mechanisms will offer them a fair and independent outcome. The natural person or collegial body in charge of ADR should be independent of all those who might have an interest in the outcome and should have no conflict of interest which could impede him or it from reaching a decision in a fair, impartial and independent manner.

(33) The natural persons in charge of ADR should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. In order to ensure the independence of their actions, those persons should also be appointed for a sufficient duration, and should not be subject to any instructions from either party or their representative.

(34) In order to ensure the absence of any conflict of interest, natural persons in charge of ADR should disclose any circumstances that might affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. This could be any financial interest, direct or indirect, in the outcome of the ADR procedure or any personal or business relationship with one or more of the parties during the three years prior to assuming the post, including any capacity other than for the purposes of ADR in which the person concerned has acted for one or more of the parties, for a professional organisation or a business association of which one of the parties is a member or for any other member thereof.

[1] OJ L 281, 23.11.1995, p. 31.

(35) There is a particular need to ensure the absence of such pressure where the natural persons in charge of ADR are employed or receive any form of remuneration from the trader. Therefore, specific requirements should be provided for in the event that Member States decide to allow dispute resolution procedures in such cases to qualify as ADR procedures under this Directive. Where natural persons in charge of ADR are employed or receive any form of remuneration exclusively from a professional organisation or a business association of which the trader is a member, they should have at their disposal a separate and dedicated budget sufficient to fulfil their tasks.

(36) It is essential for the success of ADR, in particular in order to ensure the necessary trust in ADR procedures, that the natural persons in charge of ADR possess the necessary expertise, including a general understanding of law. In particular, those persons should have sufficient general knowledge of legal matters in order to understand the legal implications of the dispute, without being obliged to be a qualified legal professional.

(37) The applicability of certain quality principles to ADR procedures strengthens both consumers' and traders' confidence in such procedures. Such quality principles were first developed at Union level in Recommendations 98/257/EC and 2001/310/EC. By making some of the principles established in those Commission Recommendations binding, this Directive establishes a set of quality requirements which apply to all ADR procedures carried out by an ADR entity which has been notified to the Commission.

(38) This Directive should establish quality requirements of ADR entities, which should ensure the same level of protection and rights for consumers in both domestic and cross-border disputes. This Directive should not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.

(39) ADR entities should be accessible and transparent. In order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive the clear and accessible information they need in order to take an informed decision before engaging in an ADR procedure. The provision of such information to traders should not be required where their participation in ADR procedures is mandatory under national law.

(40) A properly functioning ADR entity should conclude online and offline dispute resolution proceedings expeditiously within a timeframe of 90 calendar days starting on the date on which the ADR entity has received the complete complaint file including all relevant documentation pertaining to that complaint, and ending on the date on which the outcome of the ADR procedure is made available. The ADR entity which has received a complaint should notify the parties after receiving all the documents necessary to carry out the ADR procedure. In certain exceptional cases of a highly complex nature, including where one of the parties is unable, on justified grounds, to take part in the ADR procedure, ADR entities should be able to extend the timeframe for the purpose of undertaking an examination of the case in question. The parties should be informed of any such extension, and of the expected approximate length of time that will be needed for the conclusion of the dispute.

(41) ADR procedures should preferably be free of charge for the consumer. In the event that costs are applied, the ADR procedure should be accessible, attractive and inexpensive for consumers. To that end, costs should not exceed a nominal fee.

(42) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an ADR procedure. ADR entities should inform consumers of their rights before they agree to or follow a proposed solution. Both parties should also be able to submit their information and evidence without being physically present.

(43) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute. Furthermore, in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed should be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader should not be required if national rules provide that such solutions are binding on traders.

(44) In ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, in a situation where there is no conflict of laws, the solution imposed should not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident. In a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 6(1) and (2) of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to

contractual obligations (Rome I) ([1]), the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which the consumer is habitually resident. In a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 5(1) to (3) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations ([2]), the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded to the consumer by the mandatory rules of the law of the Member State in which the consumer is habitually resident.

(45) The right to an effective remedy and the right to a fair trial are fundamental rights laid down in Article 47 of the Charter of Fundamental Rights of the European Union. Therefore, ADR procedures should not be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts. This Directive should not prevent parties from exercising their right of access to the judicial system. In cases where a dispute could not be resolved through a given ADR procedure whose outcome is not binding, the parties should subsequently not be prevented from initiating judicial proceedings in relation to that dispute. Member States should be free to choose the appropriate means to achieve this objective. They should have the possibility to provide, inter alia, that limitation or prescription periods do not expire during an ADR procedure.

(46) In order to function efficiently, ADR entities should have sufficient human, material and financial resources at their disposal. Member States should decide on an appropriate form of funding for ADR entities on their territories, without restricting the funding of entities that are already operational. This Directive should be without prejudice to the question of whether ADR entities are publicly or privately funded or funded through a combination of public and private funding. However, ADR entities should be encouraged to specifically consider private forms of funding and to utilise public funds only at Member States' discretion. This Directive should not affect the possibility for businesses or for professional organisations or business associations to fund ADR entities.

(47) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders who commit to use ADR entities to resolve disputes with consumers should inform consumers of the address and website of the ADR entity or entities by which they are covered. That information should be provided in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and if applicable in the general terms and conditions of sales or service contracts between the trader and the consumer. Traders should have the possibility of including on their websites, and in the terms and conditions of the relevant contracts, any additional information on their internal complaint handling procedures or on any other ways of directly contacting them with a view to settling disputes with consumers without referring them to an ADR entity. Where a dispute cannot be settled directly, the trader should provide the consumer, on paper or another durable medium, with the information on relevant ADR entities and specify if he will make use of them.

(48) The obligation on traders to inform consumers about the ADR entities by which those traders are covered should be without prejudice to provisions on consumer information on out-of-court redress procedures contained in other Union legal acts, which should apply in addition to the relevant information obligation provided for in this Directive.

(49) This Directive should not require the participation of traders in ADR procedures to be mandatory or the outcome of such procedures to be binding on traders, when a consumer has lodged a complaint against them. However, in order to ensure that consumers have access to redress and that they are not obliged to forego their claims, traders should be encouraged as far as possible to participate in ADR procedures. Therefore, this Directive should be without prejudice to any national rules making the participation of traders in such procedures mandatory or subject to incentives or sanctions or making their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as provided for in Article 47 of the Charter of Fundamental Rights of the European Union.

(50) In order to avoid an unnecessary burden being placed on ADR entities, Member States should encourage consumers to contact the trader in an effort to solve the problem bilaterally before submitting a complaint to an ADR entity. In many cases, doing so would allow consumers to settle their disputes swiftly and at an early stage.

(51) Member States should involve the representatives of professional organisations, business associations and consumer organisations when developing ADR, in particular in relation to the principles of impartiality and independence.

(52) Member States should ensure that ADR entities cooperate on the resolution of cross-border disputes.

([1]) OJ L 177, 4.7.2008, p. 6.
([2]) OJ L 266, 9.10.1980, p. 1.

(53) Networks of ADR entities, such as the financial dispute resolution network 'FIN-NET' in the area of financial services, should be strengthened within the Union. Member States should encourage ADR entities to become part of such networks.

(54) Close cooperation between ADR entities and national authorities should strengthen the effective application of Union legal acts on consumer protection. The Commission and the Member States should facilitate cooperation between the ADR entities, in order to encourage the exchange of best practice and technical expertise and to discuss any problems arising from the operation of ADR procedures. Such cooperation should be supported, inter alia, through the Union's forthcoming Consumer Programme.

(55) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. For that purpose, each Member States should designate a competent authority or competent authorities which should perform that function. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Member States should ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with this Directive publish that list on their website by providing a link to the Commission's website, and whenever possible on a durable medium at their premises. Furthermore, Member States should also encourage relevant consumer organisations and business associations to publish the list. Member States should also ensure the appropriate dissemination of information on what consumers should do if they have a dispute with a trader. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities in their Member States. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU of 12 May 2010 on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries ([1]).

(56) It is necessary for Member States to lay down rules on penalties for infringements of the national provisions adopted to comply with this Directive and to ensure that those rules are implemented. The penalties should be effective, proportionate and dissuasive.

(57) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) ([2]) should be amended to include a reference to this Directive in its Annex so as to reinforce cross-border cooperation on enforcement of this Directive.

(58) Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests ([3]) (Injunctions Directive) should be amended to include a reference to this Directive in its Annex so as to ensure that the consumers' collective interests laid down in this Directive are protected.

(59) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ([4]), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(60) Since the objective of this Directive, namely to contribute, through the achievement of a high level of consumer protection and without restricting consumers' access to the courts, to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(61) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Articles 7, 8, 38 and 47 thereof.

(62) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([5]) and delivered an opinion on 12 January 2012 ([6]),

([1]) OJ L 136, 2.6.2010, p. 1.

([2]) OJ L 364, 9.12.2004, p. 1.
([3]) OJ L 110, 1.5.2009, p. 30.
([4]) OJ C 369, 17.12.2011, p. 14.
([5]) OJ L 8, 12.1.2001, p. 1.
([6]) OJ C 136, 11.5.2012, p. 1.

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent, impartial, transparent, effective, fast and fair alternative dispute resolution procedures. This Directive is without prejudice to national legislation making participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

Article 2

Scope

1. This Directive shall apply to procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations stemming from sales contracts or service contracts between a trader established in the Union and a consumer resident in the Union through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.

2. This Directive shall not apply to:

(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader, unless Member States decide to allow such procedures as ADR procedures under this Directive and the requirements set out in Chapter II, including the specific requirements of independence and transparency set out in Article 6(3), are met;

(b) procedures before consumer complaint-handling systems operated by the trader;

(c) non-economic services of general interest;

(d) disputes between traders;

(e) direct negotiation between the consumer and the trader;

(f) attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute;

(g) procedures initiated by a trader against a consumer;

(h) health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices;

(i) public providers of further or higher education.

3. This Directive establishes harmonised quality requirements for ADR entities and ADR procedures in order to ensure that, after its implementation, consumers have access to high-quality, transparent, effective and fair out-of-court redress mechanisms no matter where they reside in the Union. Member States may maintain or introduce rules that go beyond those laid down by this Directive, in order to ensure a higher level of consumer protection.

4. This Directive acknowledges the competence of Member States to determine whether ADR entities established on their territories are to have the power to impose a solution.

Article 3

Relationship with other Union legal acts

1. Save as otherwise set out in this Directive, if any provision of this Directive conflicts with a provision laid down in another Union legal act and relating to out-of-court redress procedures initiated by a consumer against a trader, the provision of this Directive shall prevail.

2. This Directive shall be without prejudice to Directive 2008/52/EC.

3. Article 13 of this Directive shall be without prejudice to provisions on consumer information on out-of-court redress procedures contained in other Union legal acts which shall apply in addition to that Article.

Article 4

Definitions

1. For the purposes of this Directive:

(a) ‘consumer’ means any natural person who is acting for purposes which are outside his trade, business, craft or profession;

(b) ‘trader’ means any natural persons, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession;

(c) 'sales contract' means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;

(d) 'service contract' means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;

(e) 'domestic dispute' means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in the same Member State as that in which the trader is established;

(f) 'cross-border dispute' means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;

(g) 'ADR procedure' means a procedure, as referred to in Article 2, which complies with the requirements set out in this Directive and is carried out by an ADR entity;

(h) 'ADR entity' means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that is listed in accordance with Article 20(2);

(i) 'competent authority' means any public authority designated by a Member State for the purposes of this Directive and established at national, regional or local level.

2. A trader is established:

— if the trader is a natural person, where he has his place of business,

— if the trader is a company or other legal person or association of natural or legal persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment.

3. An ADR entity is established:

— if it is operated by a natural person, at the place where it carries out ADR activities,

— if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out ADR activities or has its statutory seat,

— if it is operated by an authority or other public body, at the place where that authority or other public body has its seat.

CHAPTER II

ACCESS TO AND REQUIREMENTS APPLICABLE TO ADR ENTITIES AND ADR PROCEDURES

Article 5

Access to ADR entities and ADR procedures

1. Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories can be submitted to an ADR entity which complies with the requirements set out in this Directive.

2. Member States shall ensure that ADR entities:

(a) maintain an up-to-date website which provides the parties with easy access to information concerning the ADR procedure, and which enables consumers to submit a complaint and the requisite supporting documents online;

(b) provide the parties, at their request, with the information referred to in point (a) on a durable medium;

(c) where applicable, enable the consumer to submit a complaint offline;

(d) enable the exchange of information between the parties via electronic means or, if applicable, by post;

(e) accept both domestic and cross-border disputes, including disputes covered by Regulation (EU) No 524/2013; and

(f) when dealing with disputes covered by this Directive, take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC in the Member State in which the ADR entity is established.

3. Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in that paragraph for the resolution of which no existing ADR entity is competent. Member States may also fulfil that obligation by relying on ADR entities established in another Member State or regional, transnational or pan-European dispute resolution entities, where traders from different Member States are covered by the same ADR entity, without prejudice to their responsibility to ensure full coverage and access to ADR entities.

4. Member States may, at their discretion, permit ADR entities to maintain and introduce procedural rules that allow them to refuse to deal with a given dispute on the grounds that:

(a) the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to resolve the matter directly with the trader;

(b) the dispute is frivolous or vexatious;

(c) the dispute is being or has previously been considered by another ADR entity or by a court;

(d) the value of the claim falls below or above a pre-specified monetary threshold;

(e) the consumer has not submitted the complaint to the ADR entity within a pre-specified time limit, which shall not be set at less than one year from the date upon which the consumer submitted the complaint to the trader;

(f) dealing with such a type of dispute would otherwise seriously impair the effective operation of the ADR entity.

Where, in accordance with its procedural rules, an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide both parties with a reasoned explanation of the grounds for not considering the dispute within three weeks of receiving the complaint file.

Such procedural rules shall not significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes.

5. Member States shall ensure that, when ADR entities are permitted to establish pre-specified monetary thresholds in order to limit access to ADR procedures, those thresholds are not set at a level at which they significantly impair the consumers' access to complaint handling by ADR entities.

6. Where, in accordance with the procedural rules referred to in paragraph 4, an ADR entity is unable to consider a complaint that has been submitted to it, a Member State shall not be required to ensure that the consumer can submit his complaint to another ADR entity.

7. Where an ADR entity dealing with disputes in a specific economic sector is competent to consider disputes relating to a trader operating in that sector but which is not a member of the organisation or association forming or funding the ADR entity, the Member State shall be deemed to have fulfilled its obligation under paragraph 1 also with respect to disputes concerning that trader.

Article 6

Expertise, independence and impartiality

1. Member States shall ensure that the natural persons in charge of ADR possess the necessary expertise and are independent and impartial. This shall be guaranteed by ensuring that such persons:

(a) possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law;

(b) are appointed for a term of office of sufficient duration to ensure the independence of their actions, and are not liable to be relieved from their duties without just cause;

(c) are not subject to any instructions from either party or their representatives;

(d) are remunerated in a way that is not linked to the outcome of the procedure;

(e) without undue delay disclose to the ADR entity any circumstances that may, or may be seen to, affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. The obligation to disclose such circumstances shall be a continuing obligation throughout the ADR procedure. It shall not apply where the ADR entity comprises only one natural person.

2. Member States shall ensure that ADR entities have in place procedures to ensure that in the case of circumstances referred to in point (e) of paragraph 1:

(a) the natural person concerned is replaced by another natural person that shall be entrusted with conducting the ADR procedure; or failing that

(b) the natural person concerned refrains from conducting the ADR procedure and, where possible, the ADR entity proposes to the parties to submit the dispute to another ADR entity which is competent to deal with the dispute; or failing that

(c) the circumstances are disclosed to the parties and the natural person concerned is allowed to continue to conduct the ADR procedure only if the parties have not objected after they have been informed of the circumstances and their right to object.

This paragraph shall be without prejudice to point (a) of Article 9(2).

Where the ADR entity comprises only one natural person, only points (b) and (c) of the first subparagraph of this paragraph shall apply.

3. Where Member States decide to allow procedures referred to in point (a) of Article 2(2) as ADR procedures under this Directive, they shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, those procedures comply with the following specific requirements:

(a) the natural persons in charge of dispute resolution are nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader and are appointed as result of a transparent procedure;

(b) the natural persons in charge of dispute resolution are granted a period of office of a minimum of three years to ensure the independence of their actions;

(c) the natural persons in charge of dispute resolution commit not to work for the trader or a professional organisation or business association of which the trader is a member for a period of three years after their position in the dispute resolution entity has ended;

(d) the dispute resolution entity does not have any hierarchical or functional link with the trader and is clearly separated from the trader's operational entities and has a sufficient budget at its disposal, which is separate from the trader's general budget, to fulfil its tasks.

4. Where the natural persons in charge of ADR are employed or remunerated exclusively by a professional organisation or a business association of which the trader is a member, Member States shall ensure that, in addition to the general requirements set out in paragraphs 1 and 5, they have a separate and dedicated budget at their disposal which is sufficient to fulfil their tasks.

This paragraph shall not apply where the natural persons concerned form part of a collegial body composed of an equal number of representatives of the professional organisation or business association by which they are employed or remunerated and of consumer organisations.

5. Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.

6. For the purposes of point (a) of paragraph 1, Member States shall encourage ADR entities to provide training for natural persons in charge of ADR. If such training is provided, competent authorities shall monitor the training schemes established by ADR entities, on the basis of information communicated to them in accordance with point (g) of Article 19(3).

Article 7

Transparency

1. Member States shall ensure that ADR entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, clear and easily understandable information on:

(a) their contact details, including postal address and e-mail address;

(b) the fact that ADR entities are listed in accordance with Article 20(2);

(c) the natural persons in charge of ADR, the method of their appointment and the length of their mandate;

(d) the expertise, impartiality and independence of the natural persons in charge of ADR, if they are employed or remunerated exclusively by the trader;

(e) their membership in networks of ADR entities facilitating cross-border dispute resolution, if applicable;

(f) the types of disputes they are competent to deal with, including any threshold if applicable;

(g) the procedural rules governing the resolution of a dispute and the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4);

(h) the languages in which complaints can be submitted to the ADR entity and in which the ADR procedure is conducted;

(i) the types of rules the ADR entity may use as a basis for the dispute resolution (for example legal provisions, considerations of equity, codes of conduct);

(j) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, including the requirement that an attempt be made by the consumer to resolve the matter directly with the trader;

(k) whether or not the parties can withdraw from the procedure;

(l) the costs, if any, to be borne by the parties, including any rules on awarding costs at the end of the procedure;

(m) the average length of the ADR procedure;

(n) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance in the case of a decision having binding effect on the parties, if applicable;

(o) the enforceability of the ADR decision, if relevant.

2. Member States shall ensure that ADR entities make publicly available on their websites, on a durable medium upon request, and by any other means they consider appropriate, annual activity reports. Those reports shall include the following information relating to both domestic and cross-border disputes:

(a) the number of disputes received and the types of complaints to which they related;

(b) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders; such information may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices;

(c) the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of grounds for such refusal as referred to in Article 5(4);

(d) in the case of procedures referred to in point (a) of Article 2(2), the percentage shares of solutions proposed or imposed in favour of the consumer and in favour of the trader, and of disputes resolved by an amicable solution;

(e) the percentage share of ADR procedures which were discontinued and, if known, the reasons for their discontinuation;

(f) the average time taken to resolve disputes;

(g) the rate of compliance, if known, with the outcomes of the ADR procedures;

(h) cooperation of ADR entities within networks of ADR entities which facilitate the resolution of cross-border disputes, if applicable.

Article 8

Effectiveness

Member States shall ensure that ADR procedures are effective and fulfil the following requirements:

(a) the ADR procedure is available and easily accessible online and offline to both parties irrespective of where they are;

(b) the parties have access to the procedure without being obliged to retain a lawyer or a legal advisor, but the procedure shall not deprive the parties of their right to independent advice or to be represented or assisted by a third party at any stage of the procedure;

(c) the ADR procedure is free of charge or available at a nominal fee for consumers;

(d) the ADR entity which has received a complaint notifies the parties to the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;

(e) the outcome of the ADR procedure is made available within a period of 90 calendar days from the date on which the ADR entity has received the complete complaint file. In the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the 90 calendar days' time period. The parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.

Article 9

Fairness

1. Member States shall ensure that in ADR procedures:

(a) the parties have the possibility, within a reasonable period of time, of expressing their point of view, of being provided by the ADR entity with the arguments, evidence, documents and facts put forward by the other party, any statements made and opinions given by experts, and of being able to comment on them;

(b) the parties are informed that they are not obliged to retain a lawyer or a legal advisor, but they may seek independent advice or be represented or assisted by a third party at any stage of the procedure;

(c) the parties are notified of the outcome of the ADR procedure in writing or on a durable medium, and are given a statement of the grounds on which the outcome is based.

2. In ADR procedures which aim at resolving the dispute by proposing a solution, Member States shall ensure that:

(a) The parties have the possibility of withdrawing from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure. They shall be informed of that right before the procedure commences. Where national rules provide for mandatory participation by the trader in ADR procedures, this point shall apply only to the consumer.

(b) The parties, before agreeing or following a proposed solution, are informed that:

(i) they have the choice as to whether or not to agree to or follow the proposed solution;

(ii) participation in the procedure does not preclude the possibility of seeking redress through court proceedings;

(iii) the proposed solution may be different from an outcome determined by a court applying legal rules.

(c) The parties, before agreeing to or following a proposed solution, are informed of the legal effect of agreeing to or following such a proposed solution.

(d) The parties, before expressing their consent to a proposed solution or amicable agreement, are allowed a reasonable period of time to reflect.

3. Where, in accordance with national law, ADR procedures provide that their outcome becomes binding on the trader once the consumer has accepted the proposed solution, Article 9(2) shall be read as applicable only to the consumer.

Article 10

Liberty

1. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.

2. Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader is not required if national rules provide that solutions are binding on traders.

Article 11

Legality

1. Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer:

(a) in a situation where there is no conflict of laws, the solution imposed shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident;

(b) in a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 6(1) and (2) of Regulation (EC) No 593/2008, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which he is habitually resident;

(c) in a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 5(1) to (3) of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the Member State in which he is habitually resident.

2. For the purposes of this Article, 'habitual residence' shall be determined in accordance with Regulation (EC) No 593/2008.

Article 12

Effect of ADR procedures on limitation and prescription periods

1. Member States shall ensure that parties who, in an attempt to settle a dispute, have recourse to ADR procedures the outcome of which is not binding, are not subsequently prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods during the ADR procedure.

2. Paragraph 1 shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Member States are party.

CHAPTER III

INFORMATION AND COOPERATION

Article 13

Consumer information by traders

1. Member States shall ensure that traders established on their territories inform consumers about the ADR entity or ADR entities by which those traders are covered, when those traders commit to or are obliged to use those entities to resolve disputes with consumers. That information shall include the website address of the relevant ADR entity or ADR entities.

2. The information referred to in paragraph 1 shall be provided in a clear, comprehensible and easily accessible way on the traders' website, where one exists, and, if applicable, in the general terms and conditions of sales or service contracts between the trader and a consumer.

3. Member States shall ensure that, in cases where a dispute between a consumer and a trader established in their territory could not be settled further to a complaint submitted directly by the consumer to the trader, the trader provides the consumer with the information referred to in paragraph 1, specifying whether he will make use of the relevant ADR entities to settle the dispute. That information shall be provided on paper or on another durable medium.

Article 14

Assistance for consumers

1. Member States shall ensure that, with regard to disputes arising from cross-border sales or service contracts, consumers can obtain assistance to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.

2. Member States shall confer responsibility for the task referred to in paragraph 1 on their centres of the European Consumer Centre Network, on consumer organisations or on any other body.

Article 15

General information

1. Member States shall ensure that ADR entities, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 14(2) make publicly available on their websites, by providing a link to the Commission's website, and whenever possible on a durable medium at their premises, the list of ADR entities referred to in Article 20(4).

2. Member States shall encourage relevant consumer organisations and business associations to make publicly available on their websites, and by any other means they consider appropriate, the list of ADR entities referred to in Article 20(4).

3. The Commission and Member States shall ensure appropriate dissemination of information on how consumers can access ADR procedures for resolving disputes covered by this Directive.

4. The Commission and the Member States shall take accompanying measures to encourage consumer organisations and professional organisations, at Union and at national level, to raise awareness of ADR entities and their procedures and to promote ADR take-up by traders and consumers. Those bodies shall also be encouraged to provide consumers with information about competent ADR entities when they receive complaints from consumers.

Article 16

Cooperation and exchanges of experience between ADR entities

1. Member States shall ensure that ADR entities cooperate in the resolution of cross-border disputes and conduct regular exchanges of best practices as regards the settlement of both cross-border and domestic disputes.

2. The Commission shall support and facilitate the networking of national ADR entities and the exchange and dissemination of their best practices and experiences.

3. Where a network of ADR entities facilitating the resolution of cross-border disputes exists in a sector-specific area within the Union, Member States shall encourage ADR entities that deal with disputes in that area to become a member of that network.

4. The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 3. The Commission shall, when necessary, update this list.

Article 17

Cooperation between ADR entities and national authorities enforcing Union legal acts on consumer protection

1. Member States shall ensure cooperation between ADR entities and national authorities entrusted with the enforcement of Union legal acts on consumer protection.

2. This cooperation shall in particular include mutual exchange of information on practices in specific business sectors about which consumers have repeatedly lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes and is already available.

3. Member States shall ensure that cooperation and mutual information exchanges referred to in paragraphs 1 and 2 comply with the rules on the protection of personal data laid down in Directive 95/46/EC.

4. This Article shall be without prejudice to provisions on professional and commercial secrecy which apply to the national authorities enforcing Union legal acts on consumer protection. ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in the legislation of the Member States where they are established.

CHAPTER IV

THE ROLE OF COMPETENT AUTHORITIES AND THE COMMISSION

Article 18

Designation of competent authorities

1. Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 19 and 20. Each Member State may designate more than one competent authority. If a Member State does so, it shall determine which of the competent authorities designated is the single point of contact for the Commission. Each Member State shall communicate the competent authority or, where appropriate, the competent authorities, including the single point of contact it has designated, to the Commission.

2. The Commission shall establish a list of the competent authorities including, where appropriate, the single point of contact communicated to it in accordance with paragraph 1, and publish that list in the *Official Journal of the European Union*.

Article 19

Information to be notified to competent authorities by dispute resolution entities

1. Member States shall ensure that dispute resolution entities established on their territories, which intend to qualify as ADR entities under this Directive and be listed in accordance with Article 20(2), notify to the competent authority the following:

(a) their name, contact details and website address;

(b) information on their structure and funding, including information on the natural persons in charge of dispute resolution, their remuneration, term of office and by whom they are employed;

(c) their procedural rules;

(d) their fees, if applicable;

(e) the average length of the dispute resolution procedures;

(f) the language or languages in which complaints can be submitted and the dispute resolution procedure conducted;

(g) a statement on the types of disputes covered by the dispute resolution procedure;

(h) the grounds on which the dispute resolution entity may refuse to deal with a given dispute in accordance with Article 5(4);

(i) a reasoned statement on whether the entity qualifies as an ADR entity falling within the scope of this Directive and complies with the quality requirements set out in Chapter II.

In the event of changes to the information referred to in points (a) to (h), ADR entities shall without undue delay notify those changes to the competent authority.

2. Where Member States decide to allow procedures as referred to in point (a) of Article 2(2), they shall ensure that ADR entities applying such procedures notify to the competent authority, in addition to the information and statements referred to in paragraph 1, the information necessary to assess their compliance with the specific additional requirements of independence and transparency set out in Article 6(3).

3. Member States shall ensure that ADR entities communicate to the competent authorities every two years information on:

(a) the number of disputes received and the types of complaints to which they related;

(b) the percentage share of ADR procedures which were discontinued before an outcome was reached;

(c) the average time taken to resolve the disputes received;

(d) the rate of compliance, if known, with the outcomes of the ADR procedures;

(e) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;

(f) where applicable, an assessment of the effectiveness of their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;

(g) where applicable, the training provided to natural persons in charge of ADR in accordance with Article 6(6);

(h) an assessment of the effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.

Article 20

Role of the competent authorities and of the Commission

1. Each competent authority shall assess, in particular on the basis of the information it has received in accordance with Article 19(1), whether the dispute resolution entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the quality requirements set out in Chapter II and in national provisions implementing it, including national provisions going beyond the requirements of this Directive, in conformity with Union law.

2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, list all the ADR entities that have been notified to it and fulfil the conditions set out in paragraph 1.

That list shall include the following:

(a) the name, the contact details and the website addresses of the ADR entities referred to in the first subparagraph;

(b) their fees, if applicable;

(c) the language or languages in which complaints can be submitted and the ADR procedure conducted;

(d) the types of disputes covered by the ADR procedure;

(e) the sectors and categories of disputes covered by each ADR entity;

(f) the need for the physical presence of the parties or of their representatives, if applicable, including a statement by the ADR entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;

(g) the binding or non-binding nature of the outcome of the procedure; and

(h) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4).

Each competent authority shall notify the list referred to in the first subparagraph of this paragraph to the Commission. If any changes are notified to the competent authority in accordance with the second subparagraph of Article 19(1), that list shall be updated without undue delay and the relevant information notified to the Commission.

If a dispute resolution entity listed as ADR entity under this Directive no longer complies with the requirements referred to in paragraph 1, the competent authority concerned shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to comply with and requesting it to ensure compliance immediately. If the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in paragraph 1, the competent authority shall remove the dispute resolution entity from the list referred to in the first subparagraph of this paragraph. That list shall be updated without undue delay and the relevant information notified to the Commission.

3. If a Member State has designated more than one competent authority, the list and its updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact referred to in Article 18(1). That list and those updates shall relate to all ADR entities established in that Member State.

4. The Commission shall establish a list of the ADR entities notified to it in accordance with paragraph 2 and update that list whenever changes are notified to the Commission. The Commission shall make publicly available that list and its updates on its website and on a durable medium. The Commission shall transmit that list and its updates to the competent authorities. Where a Member State has designated a single point of contact in accordance with Article 18(1), the Commission shall transmit that list and its updates to the single point of contact.

5. Each competent authority shall make publicly available the consolidated list of ADR entities referred to in paragraph 4 on its website by providing a link to the relevant Commission website. In addition, each competent authority shall make publicly available that consolidated list on a durable medium.

6. By 9 July 2018, and every four years thereafter, each competent authority shall publish and send to the Commission a report on the development and functioning of ADR entities. That report shall in particular:

(a) identify best practices of ADR entities;

(b) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;

(c) make recommendations on how to improve the effective and efficient functioning of ADR entities, where appropriate.

7. If a Member State has designated more than one competent authority in accordance with Article 18(1), the report referred to in paragraph 6 of this Article shall be published by the single point of contact referred to in Article 18(1). That report shall relate to all ADR entities established in that Member State.

CHAPTER V

FINAL PROVISIONS

Article 21

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted in particular pursuant to Article 13 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 22

Amendment to Regulation (EC) No 2006/2004

In the Annex to Regulation (EC) No 2006/2004, the following point is added:

'20. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13.'.

Article 23

Amendment to Directive 2009/22/EC

In Annex I to Directive 2009/22/EC the following point is added:

'14. Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13.'.

Article 24

Communication

1. By 9 July 2015, Member States shall communicate to the Commission:

(a) where appropriate, the names and contact details of the bodies designated in accordance with Article 14(2); and

(b) the competent authorities including, where appropriate, the single point of contact, designated in accordance with Article 18(1).

Member States shall inform the Commission of any subsequent changes to this information.

2. By 9 January 2016, Member States shall communicate to the Commission the first list referred to in Article 20(2).

3. The Commission shall transmit to the Member States the information referred to in point (a) of paragraph 1.

Article 25

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 9 July 2015. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 26

Report

By 9 July 2019, and every four years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. That report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders, in particular on the awareness of consumers and the level of adoption by traders. That report shall be accompanied, where appropriate, by proposals for amendment of this Directive.

Article 27

Entry into force

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

Article 28

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 21 May 2013.

For the European Parliament	*For the Council*
The President	*The President*
M. SCHULZ	L. CREIGHTON

DECISIONS

DECISION No 529/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 May 2013

on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

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

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

After consulting the Committee of the Regions,

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

Whereas:

(1) The land use, land-use change and forestry ('LULUCF') sector in the Union is a net sink that removes from the atmosphere an amount of greenhouse gases that is equivalent to a significant share of total Union emissions of greenhouse gases. LULUCF activities cause anthropogenic emissions and removals of greenhouse gases as a consequence of changes in the quantity of carbon stored in vegetation and soils, as well as emissions of non-CO_2 greenhouse gases. The increased sustainable use of harvested wood products can substantially limit emissions into and enhance removals of greenhouse gases from the atmosphere. Emissions and removals of greenhouse gases resulting from the LULUCF sector are not counted towards the Union's 20 % greenhouse gas emission reduction targets for 2020 pursuant to Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 ([3]), and Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community ([4]), though they count in part towards the Union's quantified emission limitation and reduction commitments pursuant to Article 3(3) of the Kyoto Protocol ('Kyoto Protocol') to the United Nations Framework Convention on Climate Change ('UNFCCC'), approved by Council Decision 2002/358/EC ([5]).

(2) In the context of moving to a competitive low-carbon economy in 2050, all land use should be considered in a holistic manner and LULUCF should be addressed within the Union's climate policy.

(3) Decision No 406/2009/EC requires the Commission to assess modalities to include greenhouse gas emissions and removals resulting from activities relating to LULUCF into the Union's greenhouse gas emission reduction commitment, whilst ensuring the permanence and environmental integrity of the contribution of the sector, and providing for accurate monitoring and accounting of the relevant emissions and removals. This Decision should, therefore, as a first step, set out accounting rules applicable to greenhouse gas emissions and removals from the LULUCF sector and thereby contribute to policy development towards the inclusion of the LULUCF sector in the Union's emission reduction commitment, as appropriate, while taking into account environmental conditions in the various regions of the Union, including inter alia richly forested countries. To ensure the preservation and enhancement of carbon stocks in the interim, this Decision should also provide for submission of information by Member States on their LULUCF actions to limit or reduce emissions, and to maintain or increase removals, from the LULUCF sector.

([1]) OJ C 351, 15.11.2012, p. 85.
([2]) Position of the European Parliament of 12 March 2013 (not yet published in the Official Journal) and decision of the Council of 22 April 2013.
([3]) OJ L 140, 5.6.2009, p. 136.
([4]) OJ L 275, 25.10.2003, p. 32.
([5]) Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1).

(4) This Decision should lay down the obligations of Member States in implementing those accounting rules and for providing information on their LULUCF actions. It should not lay down any accounting or reporting obligations for private parties.

(5) Decision 16/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, adopted by the 11th Conference of the Parties of the UNFCCC meeting in Montreal in December 2005, and Decision 2/CMP.7 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, adopted by the 17th Conference of the Parties of the UNFCCC meeting in Durban in December 2011, set out accounting rules for the LULUCF sector as of a second commitment period under the Kyoto Protocol. This Decision should be fully consistent with those Decisions to ensure coherence between the Union's internal rules and definitions, modalities, rules and guidelines agreed within the UNFCCC in order to avoid any duplication of national reporting. This Decision should also reflect the particularities of the Union LULUCF sector and the obligations arising from the Union as a separate Party to the UNFCCC and the Kyoto Protocol.

(6) The accounting rules applicable to the Union LULUCF sector should not generate an additional administrative burden. There should, therefore, be no obligation to include in the reports submitted in accordance with those rules information that is not required pursuant to the decisions of the Conference of the Parties to the UNFCCC and the Meeting of the Parties to the Kyoto Protocol.

(7) The LULUCF sector can contribute to climate change mitigation in several ways in particular by reducing emissions, and maintaining and enhancing sinks and carbon stocks. In order for measures aiming in particular at increasing carbon sequestration to be effective, the long-term stability and adaptability of carbon pools is essential.

(8) The LULUCF accounting rules should reflect efforts made in the agriculture and forestry sectors to enhance the contribution of changes made to the use of land resources to reducing emissions. This Decision should provide for accounting rules applicable on a mandatory basis to the activities of afforestation, reforestation, deforestation and forest management, as well as to the activities of grazing land management and cropland management, subject to specific provisions with a view to improving Member States' reporting and accounting systems during the first accounting period. This Decision should also provide for accounting rules applicable on a voluntary basis to revegetation and wetland drainage and rewetting activities. To this effect, the Commission should streamline and improve the outputs of Union databases (Eurostat-Lucas, EEA- Corine Land Cover, etc.) dealing with relevant information, with a view to assisting Member States in meeting their accounting obligations, particularly regarding cropland management and grazing land management and, where available, the voluntary accounting of revegetation as well as wetland drainage and rewetting activities.

(9) To ensure the environmental integrity of the accounting rules applicable to the Union LULUCF sector, these rules should be based on the accounting principles laid down in Decision 2/CMP.7, Decision 2/CMP.6 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, adopted by the 16th Conference of the Parties of the UNFCCC meeting in Cancun in December 2010 and Decision 16/CMP.1. Member States should prepare and maintain their accounts ensuring the accuracy, completeness, consistency, comparability and transparency of relevant information used in estimating emissions and removals from the LULUCF sector in line with guidance provided in relevant Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories, including on methodologies for accounting for non-CO_2 greenhouse gas emissions adopted under the UNFCCC framework.

(10) Accounting rules based on Decisions 2/CMP.7 and 16/CMP.1 do not allow for accounting of the substitution effect of using harvested wood products for energy and material purposes, since this would lead to double accounting. However, such use can make an important contribution to climate change mitigation and therefore the information on LULUCF actions provided by Member States may include measures to substitute greenhouse gas intensive materials and energy feedstocks with biomass. That would increase policy coherence.

(11) To provide a solid basis for future policy-making and the optimisation of land use in the Union, there is a need for appropriate investments. To ensure that these investments can be prioritised to key categories, Member States should initially be allowed to exclude certain carbon pools from accounting. However, in the long-run, a move towards more comprehensive sector accounting including all land, pools and gases should be pursued.

(12) The accounting rules should ensure that accounts accurately reflect human-induced changes in emissions and removals. In that regard, this Decision should provide for the use of specific methodologies in respect of different LULUCF activities. Emissions and removals relating to afforestation, reforestation and deforestation are the result of direct human-induced conversion of land and should therefore be accounted for in their entirety. Emissions and removals relating to grazing land management, cropland management, revegetation

and wetland drainage and rewetting are all accounted for by applying a base year to calculate changes in emissions and removals. However, emissions and removals from forest management depend on a number of natural circumstances, age-class structure, as well as past and present management practices. The use of a base year does not make it possible to reflect those factors and resulting cyclical impacts on emissions and removals or their interannual variation. The relevant accounting rules for calculating changes in emissions and removals should instead provide for the use of reference levels to exclude the effects of natural and country-specific characteristics. Reference levels constitute estimates of the annual net emissions or removals resulting from forest management within the territory of a Member State for the years included in each accounting period, and should be set transparently in accordance with Decisions 2/CMP.6 and 2/CMP.7. The reference levels referred to in this Decision should be identical to those approved through the UNFCCC processes. If improvements to methodologies or data relating to the establishment of the reference level become available to a Member State, the Member State should carry out the appropriate technical corrections to include the impact of recalculations in the accounting for forest management.

The accounting rules should provide for an upper limit applicable to net removals for forest management that may be entered into accounts. In the event of developments regarding accounting rules for forest activities in the context of the relevant international processes, updating the accounting rules for forest activities in this Decision should be considered in order to ensure consistency with those developments.

(13) The accounting rules should appropriately reflect the positive contribution of greenhouse gas storage in wood and wood-based products and should contribute to greater use of forests as a resource, within a framework of sustainable forest management, and to increased use of wood products.

(14) According to Chapter 4.1.1 of the IPCC Good Practice Guidance for Land Use, Land-Use Change and Forestry, it is good practice that countries specify the minimum width that they will apply to define forest and units of land subject to afforestation, reforestation and deforestation activities in addition to the minimum area of forest. Consistency should be ensured between the definition used by each Member State in the reporting under the UNFCCC and the Kyoto Protocol and this Decision.

(15) The accounting rules should ensure that Member States accurately reflect in accounts the changes in the harvested wood products pool when they take place, to provide incentives for the use of harvested wood products with long life cycles. The first-order decay function applicable to emissions resulting from harvested wood products should therefore correspond to equation 12.1 of the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, and the relevant default half-life values should be based on Table 3a.1.3 of the 2003 IPCC Good Practice Guidance for Land Use, Land-Use Change and Forestry. Member States should have the possibility to use country-specific methodologies and half-life values instead, provided that they are in accordance with the most recently adopted IPCC Guidelines.

(16) Since inter-annual fluctuations in greenhouse gas emissions and removals resulting from agricultural activities are much smaller than those related to forestry activities, Member States should account for greenhouse gas emissions and removals from cropland management and grazing land management activities relative to its base year or period.

(17) Wetland drainage and rewetting cover emissions from peatlands which store very large amounts of carbon. Emissions from degrading and draining peatlands correspond to approximately 5 % of global greenhouse gas emissions and represented between 3,5 and 4 % of the Union's emissions in 2010. Therefore, as soon as relevant IPCC guidelines are internationally agreed, the Union should endeavour to advance the issue at the international level with a view to reaching an agreement within the bodies of the UNFCCC or of the Kyoto Protocol on the obligation to prepare and maintain annual accounts of emissions and removals from activities falling within the categories of wetland drainage and rewetting and with a view to including this obligation in the global climate agreement to be concluded no later than 2015.

(18) Natural disturbances, such as wildfires, insect and disease infestations, extreme weather events and geological disturbances that are beyond the control of, and not materially influenced by, a Member State, may result in greenhouse gas emissions of a temporary nature in the LULUCF sector, or may cause the reversal of previous removals. As reversal can also be the result of management decisions, such as decisions to harvest or plant trees, this Decision should ensure that human-induced reversals of removals are always accurately reflected in LULUCF accounts. Moreover, this Decision should provide Member States with a limited possibility to exclude emissions resulting from disturbances in afforestation, reforestation and forest management that are beyond their control from their LULUCF accounts through the use of background levels and margins in accordance with Decision 2/CMP.7. However, the manner in which Member States apply those provisions should not lead to undue under-accounting.

(19) Reporting rules on greenhouse gas emissions and other information relevant to climate change, including information on the LULUCF sector, fall within the scope of Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change [1], and therefore are not within the scope of this Decision. Member States should comply with those monitoring and reporting rules in view of their accounting obligations set out in this Decision.

(20) Completing LULUCF accounts on an annual basis would make those accounts inaccurate and unreliable due to inter-annual fluctuations in emissions and removals, the frequent need to recalculate certain reported data, and the long time required for changed management practices in agriculture and forestry to have an effect on the quantity of carbon stored in vegetation and soils. This Decision should therefore provide for accounting on the basis of a longer period.

(21) Member States should provide information on their current and future LULUCF actions, setting out nationally appropriate measures to limit or reduce emissions and to maintain or increase removals from the LULUCF sector. This information should contain certain elements as specified in this Decision. Moreover, to promote best practice and synergies with other policies and measures relating to forests and agriculture, an indicative list of measures that may also be included in the information provided should be set out in an Annex to this Decision. The Commission may provide guidance to facilitate the exchange of comparable information.

(22) When drawing up or implementing their LULUCF actions, Member States can, where appropriate, examine whether there are opportunities for promoting agricultural investments.

(23) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to update the definitions laid down in this Decision in accordance with changes to definitions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them; to amend Annex I to add or amend accounting periods so as to ensure that those periods correspond to the relevant periods adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them, and are consistent with the accounting periods adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them which are applicable to Union emission reduction commitments in other sectors; to amend Annex II with updated reference levels pursuant to the provisions set out in this Decision; to revise the information specified in Annex III in accordance with changes to definitions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them; to amend Annex V in accordance with changes to definitions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them; and to revise the information requirements relating to the accounting rules for natural disturbances laid down in this Decision to reflect revisions to acts adopted by the bodies of the UNFCCC or of the Kyoto Protocol. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(24) Since the objectives of this Decision, namely setting out the accounting rules applicable to emissions and removals resulting from LULUCF activities and the provision of information by Member States on LULUCF actions cannot be sufficiently achieved by the Member States due to their very nature, and can therefore by reason of scale and effects of the action be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In doing so, the Union should respect the competences of Member States as regards forest policy. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DECISION:

Article 1

Subject matter and scope

This Decision sets out accounting rules applicable to emissions and removals of greenhouse gases resulting from land use, land-use change and forestry ('LULUCF') activities, as a first step towards the inclusion of those activities in the Union's emission reduction commitment, when appropriate. It does not lay down any accounting or reporting obligations for private parties. It sets out the obligation for Member States to provide information on their LULUCF actions to limit or reduce emissions and to maintain or increase removals.

Article 2

Definitions

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

(a) 'emissions' means anthropogenic emissions of greenhouse gases into the atmosphere by sources;

[1] See page 13 of this Official Journal.

(b) 'removals' means anthropogenic removals of greenhouse gases from the atmosphere by sinks;

(c) 'afforestation' means the direct human-induced conversion of land that has not been forest for a period of at least 50 years to forest through planting, seeding and/or the human-induced promotion of natural seed sources, where the conversion has taken place after 31 December 1989;

(d) 'reforestation' means any direct human-induced conversion of land that is not forest to forest through planting, seeding and/or the human-induced promotion of natural seed sources, which is confined to land that was forest but ceased to be forest before 1 January 1990, and which has been reconverted to forest in the period after 31 December 1989;

(e) 'deforestation' means the direct human-induced conversion of forest to land that is not forest, where the conversion has taken place after 31 December 1989;

(f) 'forest management' means any activity resulting from a system of practices applicable to a forest that influences the ecological, economic or social functions of the forest;

(g) 'cropland management' means any activity resulting from a system of practices applicable to land on which agricultural crops are grown and on land that is set aside or temporarily not being used for crop production;

(h) 'grazing land management' means any activity resulting from a system of practices applicable to land used for livestock production and aimed at controlling or influencing the quantity and type of vegetation and livestock produced;

(i) 'revegetation' means any direct human-induced activity intended to increase the carbon stock of any site that covers a minimum area of 0,05 hectares, through the proliferation of vegetation, where that activity does not constitute afforestation or reforestation;

(j) 'carbon stock' means the mass of carbon stored in a carbon pool;

(k) 'wetland drainage and rewetting' means any activity resulting from a system for draining or rewetting land which has been drained and/or rewetted after 31 December 1989, which covers a minimum area of 1 hectare and on which organic soil is present, provided the activity does not constitute any other activity for which accounts are prepared and maintained pursuant to Article 3(1), (2) and (3), and where draining is the direct human-induced lowering of the soil water table, and rewetting is the direct human-induced partial or total reversal of drainage;

(l) 'source' means any process, activity or mechanism that releases a greenhouse gas, an aerosol or a precursor to a greenhouse gas into the atmosphere;

(m) 'sink' means any process, activity or mechanism that removes a greenhouse gas, an aerosol, or a precursor to a greenhouse gas from the atmosphere;

(n) 'carbon pool' means the whole or part of a biogeochemical feature or system within the territory of a Member State within which carbon, any precursor to a greenhouse gas containing carbon or any greenhouse gas containing carbon is stored;

(o) 'precursor to a greenhouse gas' means a chemical compound that participates in the chemical reactions that produce any of the greenhouse gases listed in Article 3(4);

(p) 'harvested wood product' means any product of wood harvesting that has left a site where wood is harvested;

(q) 'forest' means an area of land defined by the minimum values for area size, tree crown cover or an equivalent stocking level, and potential tree height at maturity at the place of growth of the trees, as specified for each Member State in Annex V. It includes areas with trees, including groups of growing young natural trees, or plantations that have yet to reach the minimum values for tree crown cover or equivalent stocking level or minimum tree height as specified in Annex V, including any area that normally forms part of the forest area but on which there are temporarily no trees as a result of human intervention, such as harvesting, or as a result of natural causes, but which area can be expected to revert to forest;

(r) 'crown cover' means the proportion of a fixed area that is covered by the vertical projection of the perimeter of tree crowns, expressed as a percentage;

(s) 'stocking level' means the density of standing and growing trees on land covered by forest measured in accordance with a methodology established by the Member State;

(t) 'natural disturbances' means any non-anthropogenic events or circumstances that cause significant emissions in forests and the occurrence of which are beyond the control of the relevant Member State provided the Member State is objectively unable to significantly limit the effect of the events or circumstances, even after their occurrence, on emissions;

(u) 'background level' means the average emissions caused by natural disturbances in a given time period, excluding statistical outliers, calculated in accordance with Article 9(2);

(v) 'half-life value' means the number of years it takes for the quantity of carbon stored in a harvested wood products category to decrease to one half of its initial value;

(w) 'instantaneous oxidation' means an accounting method that assumes that the release into the atmosphere of the entire quantity of carbon stored in harvested wood products occurs at the time of harvest;

(x) 'salvage logging' means any harvesting activity consisting of recovering timber that can still be used, at least in part, from lands affected by natural disturbances.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to amend the definitions in paragraph 1 of this Article to ensure consistency between those definitions and any changes to relevant definitions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to amend Annex V for the purpose of updating the values listed therein in accordance with changes to definitions regarding the aspects specified in Annex V adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them.

Article 3

Obligation to prepare and maintain LULUCF accounts

1. For each accounting period specified in Annex I, Member States shall prepare and maintain accounts that accurately reflect all emissions and removals resulting from the activities on their territory falling within the following categories:

(a) afforestation;

(b) reforestation;

(c) deforestation;

(d) forest management.

2. For the accounting period beginning on 1 January 2021, and thereafter, Member States shall prepare and maintain annual accounts that accurately reflect all emissions and removals resulting from the activities on their territory falling within the following categories:

(a) cropland management;

(b) grazing land management.

As regards the annual accounts for emissions and removals resulting from cropland management and grazing land management, for the accounting period from 1 January 2013 to 31 December 2020, the following shall apply:

(a) From 2016 to 2018, Member States shall report to the Commission by 15 March each year on the systems in place and being developed to estimate emissions and removals from cropland management and grazing land management. Member States should report on how these systems are in accordance with IPCC methodologies and UNFCCC reporting requirements on greenhouse gas emissions and removals.

(b) Member States shall, prior to 1 January 2022, provide and submit to the Commission by 15 March each year initial, preliminary and non-binding annual estimates of emissions and removals from cropland management and grazing land management using, where appropriate, IPCC methodologies. Member States should use at least the methodology described as Tier 1 as specified in the relevant IPCC guidelines. Member States are encouraged to use these estimates to identify key categories and develop country-specific Tier 2 and Tier 3 key methodologies for the robust and accurate estimation of emissions and removals.

(c) Member States shall, no later than 15 March 2022, submit their final annual estimates for accounting of cropland management and grazing land management.

(d) A Member State may request a derogation in order to delay the deadline referred to in point (c), where the determination of the final estimates for accounting of cropland management and grazing land management cannot reasonably be achieved within the timescale set out in this paragraph for at least one of the following reasons:

(i) the accounting required can only be achieved in phases exceeding the timescale, for reasons of technical feasibility;

(ii) completing the accounting within the timescale would be disproportionately expensive.

Member States wishing to benefit from the derogation shall submit a reasoned request to the Commission by 15 January 2021.

Where the Commission considers that the request is justified, it shall grant the derogation for a maximum period of three calendar years from 15 March 2022. It shall otherwise reject the request, explaining the reasons for its decision.

If necessary, the Commission may request additional information to be submitted within a reasonable time period specified.

The request for a derogation shall be deemed to have been granted where the Commission has raised no objections within six months of receiving the Member State's original request or the additional information requested.

3. For each accounting period specified in Annex I, Member States may also prepare and maintain accounts that accurately reflect emissions and removals resulting from revegetation and wetland drainage and rewetting.

4. The accounts referred to in paragraphs 1, 2 and 3 shall cover emissions and removals of the following greenhouse gases:

(a) carbon dioxide (CO_2);

(b) methane (CH_4);

(c) nitrous oxide (N_2O).

5. Member States shall include in their accounts a particular activity referred to in paragraphs 1, 2 and 3, where accounts have been prepared and maintained in accordance with this Decision, as of the onset of the activity or from 1 January 2013, whichever is the later.

Article 4

General accounting rules

1. Member States shall, in their accounts referred to in Article 3(1), (2) and (3), denote emissions by a positive (+) sign and removals by a negative (-) sign.

2. In preparing and maintaining their accounts, Member States shall ensure the accuracy, completeness, consistency, comparability and transparency of relevant information when estimating emissions and removals relating to the activities referred to in Article 3(1), (2) and (3).

3. Emissions and removals resulting from any activity falling within more than one category referred to in Article 3(1), (2) and (3) shall be accounted for under only one category to prevent double counting.

4. Member States shall, on the basis of transparent and verifiable data, determine the areas of land on which an activity falling within a category referred to in Article 3(1), (2) and (3) is conducted. They shall ensure that all such areas of land are identifiable in the account for the respective category.

5. Member States shall include in their accounts referred to in Article 3(1), (2) and (3) any change in the carbon stock of the following carbon pools:

(a) above-ground biomass;

(b) below-ground biomass;

(c) litter;

(d) dead wood;

(e) soil organic carbon;

(f) harvested wood products.

However, Member States may choose not to include in their accounts changes in carbon stocks for carbon pools listed under points (a) to (e) of the first subparagraph where the carbon pool is not a source. Member States shall consider that a carbon pool is not a source only where this is demonstrated on the basis of transparent and verifiable data.

6. Member States shall complete their accounts referred to in Article 3(1), (2) and (3) at the end of each accounting period listed in Annex I by specifying in those accounts the balance of total net emissions and removals during the relevant accounting period.

7. Member States shall maintain a complete and accurate record of all data used in complying with their obligations under this Decision for at least as long as this Decision is in force.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to amend Annex I in order to add or amend accounting periods so as to ensure that they correspond to the relevant periods adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them, and are consistent with the accounting periods adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them which are applicable to Union emission reduction commitments in other sectors.

Article 5

Accounting rules for afforestation, reforestation and deforestation

1. In accounts relating to afforestation and reforestation, Member States shall reflect emissions and removals resulting only from such activities taking place on those lands that were not forest on 31 December 1989. Member States may reflect emissions from afforestation and reforestation in a single account.

2. Member States shall reflect in their accounts net emissions and removals resulting from afforestation, reforestation and deforestation activities, as the total emissions and removals for each of the years in the relevant accounting period, on the basis of transparent and verifiable data.

3. Member States shall maintain accounts for emissions and removals on lands that have been identified in accounts pursuant to Article 4(4) under the category of activity of afforestation, reforestation or deforestation even where such activity is no longer conducted on that land.

4. Each Member State shall determine the forest area using the same spatial assessment unit as specified in Annex V in calculations for the activities of afforestation, reforestation and deforestation.

Article 6

Accounting rules for forest management

1. Member States shall account for emissions and removals resulting from forest management activities, calculated as emissions and removals in each accounting period specified in Annex I, minus the value obtained by multiplying the number of years in that accounting period by their reference level specified in Annex II.

2. Where the result of the calculation referred to in paragraph 1 for an accounting period is negative, Member States shall include in their forest management accounts total emissions and removals of no more than the equivalent of 3,5 per cent of a Member State's emissions in its base year or period as specified in Annex VI, as submitted to the UNFCCC in that Member State's corresponding report adopted pursuant to relevant CMP decisions on base year or base period for the second commitment period under the Kyoto Protocol, excluding emissions and removals from activities referred to in Article 3(1), (2) and (3), multiplied by the number of years in that accounting period.

3. Member States shall ensure that the calculation methods they apply in respect of their accounts for forest management activities are in accordance with Appendix II of Decision 2/CMP.6 and are consistent with the calculation methods applied for the calculation of their reference levels specified in Annex II with regard to at least the following aspects:

(a) carbon pools and greenhouse gases;

(b) area under forest management;

(c) harvested wood products;

(d) natural disturbances.

4. No later than one year before the end of each accounting period, Member States shall communicate to the Commission revised reference levels. These reference levels shall be identical to those established by acts approved by the bodies of the UNFCCC or of the Kyoto Protocol or, in the absence of such acts, shall be calculated in accordance with the processes and methodologies set out in relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them.

5. If there are changes to the relevant provisions of Decisions 2/CMP.6 or 2/CMP.7, the Member States shall communicate to the Commission revised reference levels reflecting those changes no later than six months after the adoption of those changes.

6. If improved methodologies relating to the data used to establish the reference level specified in Annex II become available to a Member State, or where there are significant improvements in the quality of data available to a Member State, the Member State concerned shall carry out the appropriate technical corrections to include the impact of recalculations in the accounting for forest management. Those technical corrections shall be identical to any such corrections approved in the framework of the UNFCCC review process, in accordance with Decision 2/CMP.7. The Member State concerned shall communicate those corrections to the Commission at the latest as part of its submission under Article 7(1)(d) of Regulation (EU) No 525/2013.

7. For the purposes of paragraphs 4, 5 and 6, Member States shall specify the amount of annual emissions resulting from natural disturbances which have been included in their revised reference levels and the manner in which they estimated that amount.

8. The Commission shall check the information regarding the revised reference levels referred to in paragraphs 4 and 5 and the technical corrections referred to in paragraph 6 in order to ensure consistency between the information sent to the UNFCCC and the information communicated to the Commission by the Member States.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to update the reference levels in Annex II where a Member State modifies its reference level pursuant to paragraphs 4 and 5 and this is approved through the UNFCCC processes.

10. Member States shall reflect in their accounts for forest management the impact of any amendment to Annex II in respect of the entire accounting period concerned.

Article 7

Accounting rules for harvested wood products

1. Each Member State shall reflect in its accounts pursuant to Article 3(1), (2) and (3) emissions and removals resulting from changes in the pool of harvested wood products, including emissions from harvested wood products removed from its forests prior to 1 January 2013. Emissions from harvested wood products already accounted for under the Kyoto Protocol during the period from 2008 to 2012 on the basis of instantaneous oxidation shall be excluded.

2. In accounts pursuant to Article 3(1), (2) and (3) relating to harvested wood products, Member States shall reflect emissions and removals resulting from changes in the pool of harvested wood products falling within the following categories using the first order decay function and the default half-life values specified in Annex III:

(a) paper;

(b) wood panels;

(c) sawn wood.

Member States may supplement those categories with information on bark, provided that the available data is transparent and verifiable. Member States may also use country-specific sub-categories of any of those categories. Member States may use country-specific methodologies and half-life values instead of the methodologies and default half-life values specified in Annex III provided that those methodologies and values are determined on the basis of transparent and verifiable data and that the methods used are at least as detailed and accurate as those specified in Annex III.

For exported harvested wood products, country-specific data refers to country-specific half-life values and harvested wood products usage in the importing country.

Member States shall not use country-specific half-life values for harvested wood products placed on the market in the Union that deviate from those used by the importing Member State in their accounts pursuant to Article 3(1), (2) and (3).

Harvested wood products resulting from deforestation shall be accounted for on the basis of instantaneous oxidation.

3. Where Member States reflect in their accounts pursuant to Article 3(1), (2) and (3) carbon dioxide (CO_2) emissions from harvested wood products in solid waste disposal sites, accounting shall be on the basis of instantaneous oxidation.

4. Where Member States reflect in their accounts emissions resulting from harvested wood products that were harvested for energy purposes, they shall do so also on the basis of instantaneous oxidation.

Member States may, for information purposes only, provide in their submission data on the share of wood used for energy purposes that was imported from outside the Union, and the countries of origin for such wood.

5. Imported harvested wood products, irrespective of their origin, shall not be accounted for by the importing Member State. Member States shall therefore reflect emissions and removals from harvested wood products in their accounts only where those emissions and removals result from harvested wood products removed from lands included in their accounts pursuant to Article 3(1), (2) and (3).

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to revise the information specified in Annex III in order to reflect changes in acts adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from or succeeding them.

Article 8

Accounting rules for cropland management, grazing land management, revegetation, and wetland drainage and rewetting

1. In accounts relating to cropland management and grazing land management, each Member State shall reflect emissions and removals resulting from those activities, calculated as emissions and removals in each accounting period specified in Annex I, minus the value obtained by multiplying the number of years in that accounting period by that Member State's emissions and removals resulting from those activities in its base year, as specified in Annex VI.

2. Where a Member State elects to prepare and maintain accounts for revegetation, and/or wetland drainage and rewetting, it shall apply the calculation method specified in paragraph 1.

Article 9

Accounting rules for natural disturbances

1. Where the conditions set out in paragraphs 2 and 5 of this Article are met, Member States may exclude non-anthropogenic greenhouse gas emissions by sources resulting from natural disturbances from calculations relevant to their accounting obligations pursuant to points (a), (b) and (d) of Article 3(1).

2. Where Member States apply paragraph 1 of this Article, they shall calculate, in accordance with the methodology specified in Annex VII, a background level for each of the activities referred to in points (a), (b) and (d) of Article 3(1). Points (a) and (b) of Article 3(1) shall have a common background level. Alternatively, Member States may apply a transparent and comparable country-specific methodology using a consistent and initially complete time series of data, including for the period from 1990 to 2009.

3. Member States may exclude from their LULUCF accounts, either annually or at the end of the respective accounting period, the non-anthropogenic greenhouse gas emissions by sources exceeding the background level as calculated in accordance with paragraph 2 where:

(a) the emissions in a particular year of the accounting period exceed the background level plus a margin. Where the background level is calculated in accordance with the method specified in Annex VII, that margin shall be equal to twice the standard deviation of the time series used to calculate

the background level. Where the background level is calculated using a country-specific methodology, Member States shall describe the manner in which the margin has been established, in cases where such a margin is needed. Any methodology used shall avoid the expectation of net credits during the accounting period;

(b) the information requirements in paragraph 5 are met and reported by the Member States.

4. Every Member State which excludes non-anthropogenic greenhouse gas emissions by sources from natural disturbances in a particular year of the accounting period shall:

(a) exclude from accounting for the rest of the accounting period all subsequent removals on lands affected by natural disturbances and on which the emissions referred to in paragraph 3 have occurred;

(b) not exclude emissions resulting from harvesting and salvage logging activities that took place on those lands following the occurrence of the natural disturbances;

(c) not exclude emissions resulting from prescribed burning that took place on those lands in that particular year of the accounting period;

(d) not exclude emissions on lands that were subject to deforestation following the occurrence of natural disturbances.

5. Member States may exclude non-anthropogenic greenhouse gas emissions by sources from natural disturbances only if they provide transparent information demonstrating:

(a) that all land areas affected by natural disturbances in that particular reporting year have been identified, including their geographical location, year and types of natural disturbances;

(b) that no deforestation has occurred during the rest of the respective accounting period on lands that were affected by natural disturbances and in respect of which emissions were excluded from accounting;

(c) which verifiable methods and criteria will be used to identify deforestation on those lands in the subsequent years of the accounting period;

(d) where practicable, which measures the Member State undertook to manage or control the impact of those natural disturbances;

(e) where possible, which measures the Member State undertook to rehabilitate the lands affected by those natural disturbances.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 12 to revise the information requirements referred to in paragraph 5 of this Article in order to reflect revisions to acts adopted by the bodies of the UNFCCC or of the Kyoto Protocol.

Article 10

Information on LULUCF actions

1. No later than 18 months after the beginning of each accounting period specified in Annex I, Member States shall draw up and transmit to the Commission information on their current and future LULUCF actions to limit or reduce emissions and maintain or increase removals resulting from the activities referred to in Article 3(1), (2) and (3) of this Decision, as a separate document or as a clearly identifiable part of their national low-carbon development strategies referred to in Article 4 of Regulation (EU) No 525/2013, or of other national strategies or plans related to LULUCF. Member States shall ensure that a broad range of stakeholders are consulted. Where a Member State submits such information as part of the low-carbon development strategies under Regulation (EU) No 525/2013, the relevant timetable specified in that Regulation shall apply.

The information on LULUCF actions shall cover the duration of the relevant accounting period specified in Annex I.

2. Member States shall include in their information on LULUCF actions, as a minimum, the following information relating to each of the activities referred to in Article 3(1), (2) and (3):

(a) a description of past trends of emissions and removals including, where possible, historic trends, to the extent that they can reasonably be reconstructed;

(b) projections for emissions and removals for the accounting period;

(c) an analysis of the potential to limit or reduce emissions and to maintain or increase removals;

(d) a list of the most appropriate measures to take into account national circumstances, including, as appropriate, but not limited to the indicative measures specified in Annex IV, that the Member State is planning or that are to be implemented in order to pursue the mitigation potential, where identified in accordance with the analysis referred to in point (c);

(e) existing and planned policies to implement the measures referred to in point (d), including a quantitative or qualitative description of the expected effect of those measures on emissions and removals, taking into account other policies and measures relating to the LULUCF sector;

(f) indicative timetables for the adoption and implementation of the measures referred to in point (d).

3. The Commission may provide guidance and technical assistance to Member States to facilitate the exchange of information.

The Commission may, in consultation with the Member States, synthesise its findings from all Member States' information on LULUCF actions with a view to facilitating the exchange of knowledge and best practices among Member States.

4. Member States shall submit to the Commission, by the date halfway through each accounting period, and by the end of each accounting period specified in Annex I, a report describing the progress in the implementation of their LULUCF actions.

The Commission may publish a synthesis report on the basis of the reports referred to in the first subparagraph.

Member States shall make available to the public the information on their LULUCF actions and the reports referred to in the first subparagraph within three months of submitting them to the Commission.

Article 11

Review

The Commission shall review the accounting rules in this Decision in accordance with relevant decisions adopted by bodies of the UNFCCC or of the Kyoto Protocol, or other Union law or, in the absence of such decisions, by 30 June 2017, and submit, if appropriate, a proposal to the European Parliament and the Council.

Article 12

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Articles 2(2), 2(3), 4(8), 6(9), 7(6) and 9(6) shall be conferred on the Commission for a period of eight years from 8 July 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the eight year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 2(2), 2(3), 4(8), 6(9), 7(6) and 9(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5. A delegated act adopted pursuant to Articles 2(2), 2(3), 4(8), 6(9), 7(6) and 9(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 13

Entry into force

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

Article 14

This Decision is addressed to the Member States.

Done at Strasbourg, 21 May 2013.

For the European Parliament	*For the Council*
The President	*The President*
M. SCHULZ	L. CREIGHTON

ANNEX I

ACCOUNTING PERIODS REFERRED TO IN ARTICLE 3(1)

Accounting period	Years
First accounting period	From 1 January 2013 to 31 December 2020

ANNEX II

MEMBER STATE REFERENCE LEVELS REFERRED TO IN ARTICLE 6

Member State	Gg carbon dioxide (CO_2) equivalents per year
Belgium	– 2 499
Bulgaria	– 7 950
Czech Republic	– 4 686
Denmark	409
Germany	– 22 418
Estonia	– 2 741
Ireland	– 142
Greece	– 1 830
Spain	– 23 100
France	– 67 410
Italy	– 22 166
Cyprus	– 157
Latvia	– 16 302
Lithuania	– 4 552
Luxembourg	– 418
Hungary	– 1 000
Malta	– 49
Netherlands	– 1 425
Austria	– 6 516
Poland	– 27 133
Portugal	– 6 830
Romania	– 15 793
Slovenia	– 3 171
Slovakia	– 1 084
Finland	– 20 466
Sweden	– 41 336
United Kingdom	– 8 268

ANNEX III

FIRST ORDER DECAY FUNCTION AND DEFAULT HALF-LIFE VALUES REFERRED TO IN ARTICLE 7

First order decay function starting with i = 1900 and continuing to present year:

(A) $C(i+1) = e^{-k} \cdot C(i) + \left[\left(\frac{(1-e^{-k})}{k}\right)\right] \cdot Inflow(i)$

with C(1900) = 0.0

(B) $\Delta C(i)$ = C(i + 1) − $C(i)$

where:

i = year

$C(i)$ = the carbon stock of the harvested wood products pool in the beginning of year i, Gg C

k = decay constant of first-order decay given in units of year-1 ($k = \ln(2)/HL$, where HL is half-life of the harvested wood products pool in years.)

$Inflow(i)$ = the inflow to the harvested wood products pool during year i, Gg C year-1

$\Delta C(i)$ = carbon stock change of the harvested wood products pool during year i, Gg C year-1,

Default half-life values (HL):

2 years for paper

25 years for wood panels

35 years for sawn wood.

ANNEX IV

INDICATIVE MEASURES THAT MAY BE INCLUDED IN THE INFORMATION ON LULUCF ACTIONS SUBMITTED PURSUANT TO ARTICLE 10(2)(d)

(a) Measures related to cropland management such as:

— improving agronomic practices by selecting better crop varieties,

— extending crop rotations and avoiding or reducing the use of bare fallow,

— improving nutrient management, tillage/residue management and water management,

— stimulating agro-forestry practices and potential for land cover/use change.

(b) Measures related to grazing land management and pasture improvement such as:

— preventing the conversion of grassland to cropland and the reversion of cropland to native vegetation,

— improving grazing land management by including changes to the intensity and timing of grazing,

— increasing productivity,

— improving nutrient management,

— improving fire management,

— introducing more appropriate species and in particular deep rooted species.

(c) Measures to improve the management of agricultural organic soils, in particular, peat lands, such as:

— incentivising sustainable paludicultural practices,

— incentivising adapted agricultural practices, such as minimising soil disturbance or extensive practices.

(d) Measures to prevent drainage and to incentivise rewetting of wetlands.

(e) Measures related to existing or partly drained mires, such as:

— preventing further drainage,

— incentivising rewetting and restoration of mires,

— preventing bog fires.

(f) Restoration of degraded lands.

(g) Measures related to forestry activities such as:

— afforestation and reforestation,

— conservation of carbon in existing forests,

— enhancing production in existing forests,

— increasing the harvested wood products pool,

— enhancing forest management, including through optimised species composition, tending and thinning, and soil conservation.

(h) Preventing deforestation.

(i) Strengthening protection against natural disturbances such as fire, pests, and storms.

(j) Measures to substitute greenhouse gas intensive energy feedstocks and materials with harvested wood products.

ANNEX V

MINIMUM VALUES FOR AREA SIZE, TREE CROWN COVER AND TREE HEIGHT AS SPECIFIED BY THE MEMBER STATE FOR THE DEFINITION OF FOREST

Member State	Area (ha)	Tree crown cover (%)	Tree height (m)
Belgium	0,5	20	5
Bulgaria	0,1	10	5
Czech Republic	0,05	30	2
Denmark	0,5	10	5
Germany	0,1	10	5
Estonia	0,5	30	2
Ireland	0,1	20	5
Greece	0,3	25	2
Spain	1,0	20	3
France	0,5	10	5
Italy	0,5	10	5
Cyprus			
Latvia	0,1	20	5
Lithuania	0,1	30	5
Luxembourg	0,5	10	5
Hungary	0,5	30	5
Malta			
Netherlands	0,5	20	5
Austria	0,05	30	2
Poland	0,1	10	2
Portugal	1,0	10	5
Romania	0,25	10	5
Slovenia	0,25	30	2
Slovakia	0,3	20	5
Finland	0,5	10	5
Sweden	0,5	10	5
United Kingdom	0,1	20	2

ANNEX VI

BASE YEAR OR PERIOD

Member State	Base Year
Belgium	1990
Bulgaria	1988
Czech Republic	1990
Denmark	1990
Germany	1990
Estonia	1990
Ireland	1990
Greece	1990
Spain	1990
France	1990
Italy	1990
Cyprus	
Latvia	1990
Lithuania	1990
Luxembourg	1990
Hungary	1985-87
Malta	
Netherlands	1990
Austria	1990
Poland	1988
Portugal	1990
Romania	1989
Slovenia	1986
Slovakia	1990
Finland	1990
Sweden	1990
United Kingdom	1990

ANNEX VII

CALCULATION OF BACKGROUND LEVEL OF NATURAL DISTURBANCES

1. For the calculation of the background level Member States shall provide information on historic levels of emissions caused by natural disturbances. In doing this, Member States shall:

   (a) provide information on the type(s) of natural disturbance included in the estimation;

   (b) include total annual emissions estimations for those natural disturbance types for the period 1990-2009, listed by activities referred to in Article 3(1);

   (c) demonstrate that time series consistency is guaranteed in all relevant parameters, including minimum area, emission estimation methodologies, coverages of pools and gases.

2. The background level shall be calculated for those activities listed in Article 3(1), where the Member State intends to apply the Natural Disturbances provisions, as the average of the 1990-2009 time series excluding all years where abnormal levels of emissions were recorded, i.e. excluding all statistical outliers. The identification of statistical outliers shall be made following an iterative process described as follows:

   (a) calculate the arithmetic average value and the standard deviation of the full time series 1990-2009;

   (b) exclude from the time series all years where the annual emissions are outside twice the standard deviation around the average;

   (c) calculate again the arithmetic average value and the standard deviation of the time series 1990-2009 minus the years excluded in (b);

   (d) repeat (b) and (c) until no outliers can be identified.

II

(Non-legislative acts)

DECISIONS

EUROPEAN COUNCIL DECISION

of 22 May 2013

concerning the number of members of the European Commission

(2013/272/EU)

THE EUROPEAN COUNCIL,

Having regard to the Treaty on European Union, and in particular Article 17(5) thereof,

Whereas:

(1) At its meetings of 11-12 December 2008 and 18-19 June 2009, the European Council noted the concerns of the Irish people with respect to the Treaty of Lisbon and therefore agreed that, provided the Treaty of Lisbon entered into force, a decision would be taken, in accordance with the necessary legal procedures, to the effect that the Commission continue to include one national of each Member State.

(2) The decision on the number of members of the Commission should be adopted in due time before the appointment of the Commission due to take up its duties on 1 November 2014.

(3) The implications of this Decision should be kept under review,

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, equal to the number of Member States.

Article 2

The European Council shall review this Decision, in view of its effect on the functioning of the Commission, in sufficient time in advance of either the appointment of the first Commission following the date of accession of the 30th Member State or the appointment of the Commission succeeding that due to take up its duties on 1 November 2014, whichever is earlier.

Article 3

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

It shall apply from 1 November 2014.

Done at Brussels, 22 May 2013.

For the European Council
The President
H. VAN ROMPUY

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