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Contents

[1] Text with EEA relevance

EN

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

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

[1] Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2015/242

of 9 October 2014

laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC [1] and in particular Article 45(4) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 and in particular Article 43 thereof, provides for the establishment of Advisory Councils which are to promote a balanced representation of all stakeholders in the field of fisheries and aquaculture and to contribute to the achievement of the objectives of the Common Fisheries Policy.

(2) Advisory Councils may submit recommendations and suggestions to the Commission and to the Member States concerned on matters relating to the management of fisheries and the socioeconomic and conservation aspects of fisheries and aquaculture. They may inform the Commission and Member States of problems relating to the management and socioeconomic and conservation aspects of fisheries and aquaculture in their geographical area or field of competence, and contribute, in close cooperation with scientists, to the collection, supply and analysis of data necessary for the development of conservation measures.

(3) While Council Decision 2004/585/EC [2] establishes seven Regional Advisory Councils, Annex III to Regulation (EU) No 1380/2013 comprises also the four new Advisory Councils, established by that Regulation.

(4) Since new Advisory Councils are established by Regulation (EU) No 1380/2013, it is necessary to define the procedure for the start of their functioning.

(5) In the light of the important role that the Advisory Councils are expected to play in the regionalised Common Fisheries Policy and in line with the principles of good governance set out in Article 3(b) and (f) of Regulation (EU) No 1380/2013, it is also necessary to ensure, in line with Article 43(1) of that Regulation, that their structure guarantees a balanced representation of all legitimate stakeholders in the field of fisheries, including small-scale fleets and where appropriate, of aquaculture.

(6) Small-scale fisheries play an important social, economic, environmental and cultural role in numerous coastal communities throughout the European Union. It is therefore necessary to ensure their efficient participation in the work of the Advisory Councils, including by contributing to the costs and loss of income that such participation may entail.

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[1] Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

[2] Council Decision 2004/585/EC of 19 July 2004 establishing Regional Advisory Councils under the Common Fisheries Policy (OJ L 256, 3.8.2004, p. 17).

(7) In order to ensure effective functioning and collaboration with stakeholders from third countries, Advisory Councils shall be able to adapt their working methods and reimburse their expenses on case-by case basis,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down detailed rules on the functioning of Advisory Councils as referred to in Article 43 of Regulation (EU) No 1380/2013.

Article 2

Definitions

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

1. 'Member State concerned' means a Member State having a direct management interest in the sense of Article 4(1)(22) of Regulation (EU) No 1380/2013 in the area of competence of an Advisory Council as defined in Article 1 of Annex III to Regulation (EU) No 1380/2013. For the Advisory Council for aquaculture and Advisory Council for markets 'Member State concerned' shall mean all Member States of the Union.

2. 'Sector organisations' means organisations representing the fishermen and, for the aquaculture Advisory Council, aquaculture operators and representatives of the processing and marketing sectors.

3. 'Other interest groups' means representatives of groups affected by the Common Fisheries Policy other than sector organisations, in particular environmental organisations and consumer groups.

Article 3

Start of the functioning of the new Advisory Councils

1. Sector organisations and other interest groups with an interest in one of the Advisory Councils referred to in Article 43(2) of the Regulation (EU) No 1380/2013 shall submit to the Commission a joint application concerning the start of the functioning of the respective Advisory Council. The joint application shall be compatible with the objectives and principles of the Common Fisheries Policy as set out in the Regulation (EU) No 1380/2013 and in particular Article 43(1) and Annex III and shall include:

(a) a statement of objectives;

(b) operating principles;

(c) rules of procedure;

(d) a list of the sector organisations and other interest groups.

2. After verifying that the joint application is compatible with the rules laid down in the Regulation (EU) No 1380/2013, in particular Annex III and with the rules laid down in this Regulation, the Commission shall transmit it to the Member States concerned, within two months after its receipt. The Commission may propose amendments to the joint application to ensure compliance with all requirements as referred to in this article.

3. The Member States concerned shall determine whether the application is signed by representative sector organisations and other interest groups and inform the Commission of their agreement within one month of receipt of the joint application. Based on the remarks of those Member States, the Commission may request further amendments or clarifications.

4. The Commission shall publish in the C series of the *Official Journal of the European Union* a communication regarding the start of functioning of each new Advisory Council. It shall not publish that information until all requirements referred to in paragraph 1 above are satisfied. The Advisory Council starts functioning on the date indicated in the communication, which may not be earlier than the date on which the communication is published.

Article 4

Structure and organisation of the Advisory Councils

1. In addition to the provisions of Article 43(1), Article 45(1) to (3) and Annex III of Regulations (EU) No 1380/2013, the Advisory Councils' structure and organisation shall comply with paragraphs 2 to 6 of this Article.

2. The general assembly of an Advisory Council shall:

(a) adopt the rules of procedure of the Advisory Council;

(b) meet at least once a year to approve the annual report, the annual strategic plan and the annual budget of the Advisory Council.

3. The general assembly shall appoint an executive committee of up to 25 members. After consultation of the Commission, the general assembly may decide to appoint an executive committee of up to 30 members to ensure appropriate representation of small-scale fleets.

4. The general assembly shall ensure equitable membership fees, which enable balanced and wide representation of all stakeholders taking into account their financial capacity.

5. The executive committee shall:

(a) steer and manage the tasks of the Advisory Council in accordance with Article 44(2) and (3) of Regulation (EU) No 1380/2013;

(b) prepare the annual report, the annual strategic plan and the annual budget;

(c) adopt recommendations and suggestions as referred to in Article 44(2) of Regulation (EU) No 1380/2013.

6. The general assembly and the executive committee shall ensure a balanced and wide representation of all stakeholders, with emphasis on small-scale fleets, where appropriate. The number of representatives of small-scale fleets should reflect the share of small scale fleets within the fishing sector of the Member States concerned.

Article 5

Working methods

When deciding on its working methods, each Advisory Council shall seek to ensure the efficiency and full participation of all members through the use of modern IT communication means and the provision of interpretation and translation services.

Article 6

Financial contribution by Advisory Councils

1. Each Advisory Council shall offer additional compensation to fishermen representing small-scale fleet organisations for their efficient participation to its work on top of the reimbursement of their travel and accommodation expenses. Such compensation shall be duly justified for each case.

2. When inviting observers from third countries as referred to in point (k) of paragraph 2 of Annex III of Regulation (EC) No 1380/2013, Advisory Councils may contribute to the travel and accommodation expenses of those observers under the same conditions that they apply for their members.

Article 7

Support by Member States

Member States may provide appropriate technical, logistical and financial support to facilitate the functioning of Advisory Councils.

Article 8

Entry into force

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

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

Done at Brussels, 9 October 2014.

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) 2015/243

of 13 February 2015

amending Annex I to Regulation (EC) No 798/2008 as regards the entry for the United States in the list of third countries, territories, zones or compartments from which certain poultry commodities may be imported into or transit through the Union in relation to highly pathogenic avian influenza

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ([1]), and in particular the introductory phrase of Article 8, the first subparagraph of point 1 of Article 8, point 4 of Article 8 and Article 9(4)(c) thereof,

Having regard to Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs ([2]), and in particular Articles 23(1), 24(2) and 25(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 798/2008 ([3]) lays down veterinary certification requirements for imports into and transit, including storage during transit, through the Union of poultry and poultry products ('the commodities'). It provides that the commodities may only be imported into and transit through the Union from the third countries, territories, zones or compartments listed in columns 1 and 3 of the table in Part 1 of Annex I thereto.

(2) Regulation (EC) No 798/2008 also lays down the conditions for a third country, territory, zone or compartment to be considered as free from highly pathogenic avian influenza (HPAI).

(3) The United States is listed in Part 1 of Annex I to Regulation (EC) No 798/2008 as a third country from which imports into and transit through the Union of the commodities are authorised from the whole of its territory.

(4) An Agreement between the Union and the United States ([4]) provides for a swift mutual recognition of regionalisation measures in the event of outbreaks of a disease in the Union or in the United States ('the Agreement').

(5) On 19 December 2014, the United States confirmed the presence of HPAI of subtype H5N8 in a poultry holding in Douglas County in the State of Oregon and on 3 January 2015 HPAI of subtype H5N2 in a poultry holding in the State of Washington. The whole territory of that third country may therefore no longer be considered as being free from that disease. The veterinary authorities of the United States immediately suspended issuing veterinary certificates from the whole of its territory for consignments of poultry commodities intended for import into and transit through the Union. The United States has also implemented a stamping-out policy in order to control HPAI and limit its spread.

(6) The United States has submitted information on the epidemiological situation on its territory and the measures it has taken to prevent the further spread of HPAI which has now been evaluated by the Commission. On the basis of that evaluation, as well as the commitments laid down in the Agreement and the guarantees provided by the United States, it is appropriate to conclude that limiting the restrictions on the introduction into the Union of commodities to the HPAI affected area in the State of Oregon and to the entire State of Washington, which the veterinary authorities of the United States have placed under restrictions due to the current outbreaks, should

([1]) OJ L 18, 23.1.2003, p. 11.
([2]) OJ L 343, 22.12.2009, p. 74.
([3]) Commission Regulation (EC) No 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements (OJ L 226, 23.8.2008, p. 1).
([4]) Agreement between the European Community and the Government of the United States of America on sanitary measures to protect public and animal health in trade in live animals and animal products, as approved on behalf of the European Community by Council Decision 1998/258/EC (OJ L 118, 21.4.1998, p. 1).

be sufficient to cover the risks associated with the introduction into the Union of the commodities. The entry for the United States in the list in Part 1 of Annex I to Regulation (EC) No 798/2008 should therefore be amended to take account of the regionalisation of that third country due to the current outbreaks of HPAI.

(7) Annex I to Regulation (EC) No 798/2008 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Part 1 of Annex I to Regulation (EC) No 798/2008 is amended in accordance with 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*.

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

Done at Brussels, 13 February 2015.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

In Part 1 of Annex I to Regulation (EC) No 798/2008, the entry for the United States is replaced by the following:

ISO code and name of third country or territory	Code of third country, territory, zone or compartment	Description of third country, territory, zone or compartment	Veterinary certificate		Specific conditions	Specific conditions		Avian influenza surveillance status	Avian influenza vaccination status	Salmonella control status (7)
			Model(s)	Additional guarantees		Closing date (1)	Opening date (2)			
1	2	3	4	5	6	6A	6B	7	8	9
'US — United States	US-0	Whole country	SPF							
			EP, E							S4
	US-1	Area of the United States, excluding the territory US-2	BPP, BPR, DOC, DOR, HEP, HER, SRP, SRA		N			A		S3, ST1'
			WGM	VIII						
			POU, RAT		N					
	US-2	Area of the United States corresponding to Douglas County in the State of Oregon and the entire territory of the State of Washington	WGM	VIII	P2	19.12.2014				
			POU, RAT		N P2					

COMMISSION IMPLEMENTING REGULATION (EU) 2015/244

of 16 February 2015

concerning the authorisation of Quinoline Yellow as a feed additive for non food-producing animals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ([1]), and in particular Article 9(2) thereof,

Whereas:

(1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ([2]).

(2) Quinoline Yellow was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for non food-producing animals and for food-producing animals as regards certain processed feedingstuffs as part of the group 'Colourants'. This substance was subsequently entered in the Register of feed additives established in Article 17 of Regulation (EC) No 1831/2003 as an existing product, in accordance with Article 10(1) of Regulation (EC) No 1831/2003

(3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 thereof, an application was submitted for the re-evaluation of Quinoline Yellow as a feed additive for non food-producing animals and, in accordance with Article 7 of that Regulation, the applicant requested that additive to be classified in the additive category 'sensory additives'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

(4) The European Food Safety Authority ('the Authority') concluded in its opinion of 10 July 2013 that, under the proposed conditions of use in feed, Quinoline Yellow does not have an adverse effect on animal health, human health or the environment. Considering the evidence provided by the applicant, the Authority also concluded that the efficacy of Quinoline yellow with respect to the dose and the nature of the feedingstuffs and their processing cannot be assessed. However, the Authority also stated that for this additive, which is authorised in food, where the function for feed is the same as that for food, no further demonstration of efficacy might be necessary. As the recommended maximum level proposed by the Authority for this additive is similar to the levels authorised for food in different types of products, the Commission considered that there is sufficient evidence of the efficacy of this substance. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additives in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

(5) The assessment of Quinoline Yellow shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that substance should be authorised as specified in the Annex to this Regulation.

(6) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation, it is appropriate to allow a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the authorisation.

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

([1]) OJ L 268, 18.10.2003, p. 29.
([2]) Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs (OJ L 270, 14.12.1970, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

The substance specified in the Annex, belonging to the additive category 'sensory additives' and to the functional group 'colourants: substances that add or restore colour in feedingstuffs', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

Article 2

The substance specified in the Annex and feed containing that substance, and which are produced and labelled before 9 March 2017 in accordance with the rules applicable before 9 March 2015, may continue to be placed on the market and used until the existing stocks are exhausted.

Article 3

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

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

Done at Brussels, 16 February 2015.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Identification number of the additive	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					mg of active substance of kg of complete feedingstuff with a moisture content of 12 %			
Category of sensory additives. Functional group: Colourants. (i) substances that add or restore colour in feedingstuffs								
2a104	Quinoline Yellow	*Additive composition* Quinoline Yellow Quinoline Yellow is described as the sodium salt as the principal component *Characterisation of the active substance* Percentage for the components of Quinoline yellow is: — 2-(2-quinolyl) indan-1,3-dione-disulfonates: ≥ 80 %, — 2-(2-quinolyl) indan-1,3-dione-monosulfonates: ≤ 11 %, — 2-(2-quinolyl) indan-1,3-dione-trisulfonates: ≤ 7 %. Chemical formula: $C_{18}H_9N\ Na_2O_8S_2$ (sodium salt) CAS No: 8004-92-0 (principal component) Quinoline Yellow solid form, produced by chemical synthesis Purity criteria: Colouring matter ≥ 70 % of, calculated as the sodium salt Calcium and potassium salts ≤ 30 % *Analytical methods* (1) For the quantification of total colouring matters content of Quinoline Yellow in the feed additive and feedingstuffs: spectrophotometry at 411 nm (FAO JECFA monographs No 1, Vol. 4).	Non food-producing animals	—	—	25	1. In the directions for use of the additive and premixture, indicate the storage and the stability conditions. 2. For safety: breathing protection, safety glasses and gloves should be worn during handling.	9 March 2025

(1) Details of the analytical methods are available at the following address of European Union Reference Laboratory: https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports

COMMISSION REGULATION (EU) 2015/245

of 16 February 2015

implementing Regulation (EC) No 1177/2003 of the European Parliament and of the Council concerning Community statistics on income and living conditions (EU-SILC) as regards the 2016 list of target secondary variables on access to services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) ([1]), and in particular Article 15(2)(f) thereof,

Whereas:

(1) Regulation (EC) No 1177/2003 established a common framework for the systematic production of European statistics on income and living conditions. Its purpose is to ensure that comparable and up-to-date cross-sectional and longitudinal data on income and on the level and composition of poverty and social exclusion are available at national and European level.

(2) Pursuant to Article 15(2)(f) of Regulation (EC) No 1177/2003, implementing measures shall be adopted each year to specify the target secondary areas and variables to be included that year in the cross-sectional component of EU-SILC. Implementing measures specifying the target secondary variables and their identifiers for the 2016 module on access to services therefore need to be adopted.

(3) The measures provided for in this Regulation are in accordance with the opinion of the European Statistical System Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The target secondary variables and identifiers for the 2016 module on access to services, part of the cross-sectional component of EU-SILC, shall be as listed in the Annex.

Article 2

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

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

Done at Brussels, 16 February 2015.

For the Commission
The President
Jean-Claude JUNCKER

([1]) OJ L 165, 3.7.2003, p. 1.

ANNEX

For the purposes of this Regulation, the following units, modes of data collection and reference periods apply:

1. **Unit**

The target variables relate to different types of units:

The variables relating to the affordability of childcare services, unmet needs for such services and reasons for not making use of such services, the affordability of formal education, health care, the presence of persons in need of home care and all variables related to home care received apply at household level and refer to the household as a whole.

Information on unmet needs for formal education, the main reason for non-participation in formal education, lifelong learning, home care provided and hours per week of home care provided is to be provided for each current household member, or, if applicable, for all selected respondents aged 16 and over.

Information on payment for childcare, the proportion of the costs paid and who pays for/contributes to it is to be provided by the household respondent for each child aged 0-12.

Information on the payment of tuition fees for formal education, the proportion paid and who pays for/contributes to it, is to be provided by the household respondent for each household member.

2. **Mode of data collection**

For variables applying at household level or variables relating to each household member (including variables relating to children) where information is provided at household level, the mode of data collection is personal interview with the household respondent.

For variables applying at individual level, the mode of data collection is personal interview with all current household members aged 16 and over or, if applicable, with each selected respondent.

The age refers to age at the end of the income reference period.

Given the type of information to be collected, only personal interviews are allowed (with proxy interviews used as an exception for persons who are temporarily absent or incapacitated).

3. **Reference period**

The target variables relate to two types of reference periods:

Last 12 months: for the variables related to unmet needs for formal education and the main reason for non-participation in formal education, lifelong learning, and the use of and payment for health care services.

Usual: for all other variables.

4. **Data transmission**

The target secondary variables should be sent to the Commission (Eurostat) in the Household Data File (H-file), the Register Data File (R-file) and in the Personal Data File (P-file) after the target primary variables.

2016 MODULE ON ACCESS TO SERVICES: LIST OF TARGET VARIABLES

Variable identifier	Values	Target variable
		Childcare
RC010		*Payment for the cost of formal childcare services*
	1	Yes
	2	No

Variable identifier	Values	Target variable
RC010_F	1	Filled
	– 1	Missing
	– 4	No formal childcare for this child
	– 5	No children aged 0-12 in the household
RC020		*Proportion of the cost of formal childcare services paid*
	1	Full price (full cost)
	2	Reduced price (subsidised by government, employer, private person, etc.)
	9	Do not know
RC020_F	1	Filled
	– 1	Missing
	– 2	Not applicable (RC010 = 2)
	– 4	No formal childcare for this child
	– 5	No children aged 0-12 in the household
RC030		*Who pays/contributes to the cost of formal childcare services*
	1	Government or local authorities
	2	Employer
	3	Other institutions (e.g. church, non-profit organisations)
	4	Private persons who are not household members
	5	Other
	9	Do not know
RC030_F	1	Filled
	– 1	Missing
	– 2	Not applicable (RC020 = 1)
	– 4	No formal childcare for this child
	– 5	No children aged 0-12 in the household
HC040		*Affordability of childcare services*
	1	With great difficulty

Variable identifier	Values	Target variable
	2	With difficulty
	3	With some difficulty
	4	Fairly easily
	5	Easily
	6	Very easily
HC040_F	1	Filled
	– 1	Missing
	– 4	No costs of childcare in the household
	– 5	No children aged 0-12 in the household
HC050		*Unmet needs for formal childcare services*
	1	Yes
	2	No
HC050_F	1	Filled
	– 1	Missing
	– 5	No children aged 0-12 in the household
HC060		*Main reason for not making (more) use of formal childcare services*
	1	Cannot afford it
	2	No places available
	3	Places available but not nearby
	4	Places available but opening hours not suitable
	5	Places available but the quality of the services available not satisfactory
	6	Other reasons
HC060_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC050 = 2)
	– 5	No children aged 0-12 in the household
		Formal education and training
RC070		*Payment for tuition fees*
	1	Yes
	2	No

Variable identifier	Values	Target variable
RC070_F	1	Filled
	– 1	Missing
	– 4	Person does not follow formal education
RC080		*Part of tuition fees paid*
	1	Full price (full cost)
	2	Reduced price (subsidised by government, employer, private person, etc.)
	9	Do not know
RC080_F	1	Filled
	– 1	Missing
	– 2	Not applicable (RC070 = 2)
	– 4	Person does not follow formal education
RC090		*Who pays/contributes to the cost of tuition fees*
	1	Government or local authorities
	2	Employer
	3	Other institutions (e.g. church, non-profit organisations)
	4	Private persons who are not household members
	5	Other
	9	Do not know
RC090_F	1	Filled
	– 1	Missing
	– 2	Not applicable (RC080 = 1)
	– 4	Person does not follow formal education
HC100		*Affordability of formal education*
	1	With great difficulty
	2	With difficulty
	3	With some difficulty
	4	Fairly easily
	5	Easily
	6	Very easily
HC100_F	1	Filled
	– 1	Missing
	– 4	No costs of formal education in the household
	– 5	Nobody in the household follows formal education

Variable identifier	Values	Target variable
PC110		*Unmet needs for formal education*
	1	Yes
	2	No
PC110_F	1	Filled
	– 1	Missing
	– 3	Not selected respondent
	– 4	Person currently in formal education
PC120		*Main reason for non-participation in formal education*
	1	Cannot afford it
	2	Not admitted to the course or programme
	3	Time constraints (schedule, family responsibilities, etc.)
	4	No suitable course or programmes available
	5	Other reasons
PC120_F	1	Filled
	– 1	Missing
	– 2	Not applicable (PC110 = 2)
	– 3	Not selected respondent
	– 4	Person currently in formal education
		Lifelong learning
PC130		*Participation in training related to hobbies*
	1	Yes
	2	No
PC130_F	1	Filled
	– 1	Missing
	– 3	Not selected respondent
PC140		*Participation in training related to professional activity*
	1	Yes
	2	No
PC140_F	1	Filled
	– 1	Missing
	– 3	Not selected respondent

Variable identifier	Values	Target variable
PC150		*Main reason for non-participation in training related to professional activity*
	1	Cannot afford it
	2	Not interested
	3	Time constraints (schedule, family responsibilities, etc.)
	4	No suitable courses or programmes available
	5	Not provided by employer
	6	Other reasons
PC150_F	1	Filled
	– 1	Missing
	– 2	Not applicable (PC140 = 1)
	– 3	Not selected respondent
		Healthcare
HC160		*Use of healthcare services*
	1	Yes
	2	No
HC160_F	1	Filled
	– 1	Missing
HC170		*Payment for healthcare services*
	1	Yes
	2	No
HC170_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC160 = 2)
HC180		*Affordability of healthcare services*
	1	With great difficulty
	2	With difficulty
	3	With some difficulty
	4	Fairly easily
	5	Easily
	6	Very easily
HC180_F	1	Filled
	– 1	Missing
	– 4	No costs of healthcare services in the household

Variable identifier	Values	Target variable
		Home care
HC190		*Presence in the household of people who need help due to long-term physical or mental ill-health, infirmity or because of old age*
	1	Yes
	2	No
HC190_F	1	Filled
	– 1	Missing
HC200		*Professional home care received*
	1	Yes
	2	No
HC200_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC190 = 2)
HC210		*Number of hours per week of professional home care received*
	1	Less than 10 hours per week
	2	At least 10 but less than 20 hours per week
	3	20 hours per week or more
HC210_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC200 = 2)
HC220		*Payment for professional home care*
	1	Yes
	2	No
HC220_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC200 = 2)
HC230		*Affordability of professional home care services*
	1	With great difficulty
	2	With difficulty
	3	With some difficulty
	4	Fairly easily
	5	Easily
	6	Very easily

Variable identifier	Values	Target variable
HC230_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC220 = 2)
HC240		*Unmet needs for professional home care*
	1	Yes
	2	No
HC240_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC190 = 2)
HC250		*Main reason for not receiving (more) professional home care services*
	1	Cannot afford it
	2	Refused by person needing such services
	3	No such care services available
	4	Quality of the services available not satisfactory
	5	Other reasons
HC250_F	1	Filled
	– 1	Missing
	– 2	Not applicable (HC240 = 2)
PC260		*Care or assistance provided*
	1	Yes — only to household members
	2	Yes — only to persons who are not the household members
	3	Yes — to household members and to persons who are not the household members
	4	No
PC260_F	1	Filled
	– 1	Missing
	– 3	Not selected respondent
PC270		*Number of hours per week of care or assistance provided*
	1	Less than 10 hours per week
	2	At least 10 but less than 20 hours per week
	3	20 hours per week or more

Variable identifier	Values	Target variable
PC270_F	1	Filled
	– 1	Missing
	– 2	Not applicable (PC260 = 4)
	– 3	Not selected respondent

COMMISSION IMPLEMENTING REGULATION (EU) 2015/246

of 16 February 2015

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

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 16 February 2015.

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

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

ANNEX

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

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	EG	116,3
	IL	91,3
	MA	80,6
	TR	115,4
	ZZ	100,9
0707 00 05	EG	191,6
	TR	192,8
	ZZ	192,2
0709 91 00	EG	57,5
	ZZ	57,5
0709 93 10	MA	209,2
	TR	237,0
	ZZ	223,1
0805 10 20	EG	46,6
	IL	70,1
	MA	45,5
	TN	56,7
	TR	67,4
	ZZ	57,3
0805 20 10	IL	132,6
	MA	109,8
	ZZ	121,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	EG	93,4
	IL	144,6
	JM	116,6
	MA	119,3
	TR	79,0
	ZZ	110,6
0805 50 10	TR	61,5
	ZZ	61,5
0808 10 80	BR	68,8
	CL	94,6
	CN	119,5
	MK	22,6
	US	191,8
	ZZ	99,5

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0808 30 90	CL	184,9
	ZA	115,2
	ZZ	150,1

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

DECISIONS

POLITICAL AND SECURITY COMMITTEE DECISION (CFSP) 2015/247

of 10 February 2015

on the appointment of the Head of Mission of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) (EUPOL AFGHANISTAN/1/2015)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Decision 2010/279/CFSP of 18 May 2010 on the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) ([1]), and in particular Article 10(1) thereof,

Whereas:

(1) Pursuant to Article 10(1) of Decision 2010/279/CFSP, the Council authorised the Political and Security Committee, in accordance with the third paragraph of Article 38 of the Treaty, to take the relevant decisions for the purpose of political control and strategic direction of the EUPOL AFGHANISTAN mission, including the decision to appoint a Head of Mission.

(2) On 17 December 2014, the Council adopted Decision 2014/922/CFSP ([2]) extending the duration of EUPOL AFGHANISTAN until 31 December 2016.

(3) The High Representative of the Union for Foreign Affairs and Security Policy has proposed the appointment of Ms Pia STJERNVALL as Head of Mission of EUPOL AFGHANISTAN, from 16 February 2015 until 31 December 2015,

HAS ADOPTED THIS DECISION:

Article 1

Ms Pia STJERNVALL is hereby appointed as Head of Mission of EUPOL AFGHANISTAN as from 16 February 2015 until 31 December 2015.

Article 2

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

Done at Brussels, 10 February 2015.

For the Political and Security Committee
The Chairperson
W. STEVENS

([1]) OJ L 123, 19.5.2010, p. 4.
([2]) Council Decision 2014/922/CFSP of 17 December 2014 amending and extending Decision 2010/279/CFSP on the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) (OJ L 363, 18.12.2014, p. 152).

COMMISSION DECISION (EU) 2015/248

of 15 October 2014

on the measures SA.23008 (2013/C) (ex 2013/NN) implemented by Slovak Republic for Spoločná zdravotná poisťovňa, a. s. (SZP) and Všeobecná zdravotná poisťovňa, a. s. (VZP)

(notified under document C(2014) 7277)

(Only the Slovak text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union (hereafter: 'TFEU'), and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ([1]),

Whereas:

1. PROCEDURE

(1) On 2 April 2007, the Commission received a complaint from privately-owned health insurer Dôvera zdravotná poisťovňa, a. s. ('Dôvera' or 'the complainant') on an alleged State aid measure to State-owned health insurer Spoločná zdravotná poisťovňa, a. s. ('SZP') in the form of an increase on 26 January 2006 of its registered capital by SKK 450 million (approximately EUR 15 million).

(2) The Commission sent a request for information to the Slovak Republic on 21 August 2009. After an extension of the deadline to reply, the Slovak authorities provided the requested information by their submission dated 24 September 2009.

(3) By letter of 26 February 2010, the Commission requested the Slovak Republic to provide further information about this capital injection and asked for clarifications regarding the Slovak Risk Equalisation Scheme (RES), another measure that could possibly be classified as State aid. By letter of 25 March 2010, the Slovak authorities requested an extension of the deadline to reply to this request, which was accepted by the Commission by letter of 31 March 2010. After the Commission had reminded the Slovak Republic on 16 June 2010 to submit the information, the Slovak authorities responded to the request by letter of 9 July 2010. As requested by the Commission in its letter of 4 November 2010, the Slovak Republic submitted a non-confidential version of that reply on 3 December 2010.

(4) On 1 January 2010, SZP merged with the other State-owned Slovak health insurer Všeobecná zdravotná poisťovňa, a. s. ('VZP'). From 1998 up until at least 2005, those two State-owned joint stock companies received the insurance portfolios of other health insurance companies.

(5) In two meetings between the Commission and Dôvera held on 10 October 2010 and 15 March 2011, the subject of the complaint and the functioning of the health insurance sector in Slovakia were discussed. In its submission of 15 July 2011, Dôvera provided additional information on the nature of the health insurance sector in Slovakia and extended the scope of its complaint by including three new measures allegedly granted in favour of SZP and VZP: (i) the discharge of SZP's debt by the State-owned company Veritel' a. s.. in 2004-2005 through two payments of EUR 52,7 million and EUR 28 million; (ii) a subsidy of EUR 7,6 million granted in 2006 to SZP by the Ministry of Health; and (iii) a State-financed capital increase totalling EUR 65,1 million granted to VZP on 1 January 2010. Consequently, the Commission invited the Slovak authorities to comment on the extended complaint with its new allegations. After an extension of the reply deadline, the Slovak authorities provided their comments by letter of 11 November 2011.

([1]) OJ C 278, 26.9.2013, p. 28.

(6) After a meeting with the Commission's services on 15 December 2011, Dôvera provided further information about the nature of the national health insurance sector by letter of 16 January 2012.

(7) By letter of 2 July 2013, the Commission notified the Slovak Republic that it had decided to initiate the formal investigation procedure laid down in Article 108(2) of the Treaty (the 'opening decision'). The opening decision was published in the *Official Journal of the European Union* ([2]), calling on interested parties to submit comments.

(8) By letter of 24 July 2013, the Slovak authorities requested an extension of the deadline to submit their comments on the opening decision, which was accepted by the Commission by letter of 30 July 2013. By letter of 27 August 2013, the Slovak Republic submitted its observations on the opening decision.

(9) The Commission received comments on the opening decision from five third parties: from the Institute for Economic and Social reforms (INEKO) by letter of 15 October 2013; from Union zdravotná poisťovňa, a. s.. ('Union Health Insurance') by letter of 25 October 2013; from the Health Policy Institute ('HPI') by letter of 28 October 2013; from Združenie zdravotných poisťovní SR ('ZZP', the Association of Health Insurance Companies in Slovakia) by letter of 28 October 2013 and from Dôvera by letter of 11 November 2013.

(10) Those comments were forwarded to the Slovak authorities by letters of 20 November and 20 December 2013. On 20 December 2013, the Slovak authorities requested an extension to the deadline to respond to those comments until 31 January 2014, which was accepted by the Commission on the same day. By letter of 29 January 2014, Slovakia replied to the comments submitted by third parties on the opening decision.

(11) On 2 April 2014, a meeting took place between the Commission's services and the Slovak authorities.

(12) On 11 April 2014 and 25 August 2014, the Commission sent additional requests for information to which Slovakia replied, respectively, by letter of 15 May 2014 and 27 August 2014.

2. **BACKGROUND**

2.1. THE EVOLUTION OF THE COMPULSORY HEALTH INSURANCE SYSTEM IN SLOVAKIA

(13) In 1994, Slovakia changed from a single State-run insurance company system to a pluralistic model where both public and private entities could operate. An in-depth reform comprising Acts Nos 581/2004 and 580/2004, which entered into force on 1 January 2005 (the '2005-reform'), altered the rules for the redistribution of the collected health insurance contributions and changed the legal form of all insurance companies (whether State-owned or in private ownership) from legal entities *sui generis* to incorporated limited liability companies (i.e. profit-seeking joint stock companies of private law). An independent regulatory authority, the Slovak Health Surveillance Authority ('HSA') was set up to issue operating licences and to supervise the insurance companies' compliance with the applicable regulations. In essence, these reforms were designed to contribute to improved efficiency in the use of available resources and increase the quality of healthcare provision ([3]).

(14) In Slovakia, all health insurance companies, public and private, provide compulsory health insurance for Slovak residents ([4]). The possibility in Act No 580/2004 to also provide individual health insurance as a top-up to the basic benefit package under compulsory health insurance has remained marginal, due to the comprehensive

([2]) See footnote 1.

([3]) See also the 2004 Report, Hlavačka S, Wágner R, Riesberg A. 'Health care systems in transition: Slovakia' (Vol. 6 No 10 2004), p. 36 ff., issued by the European Observatory on Health Systems and Policies (available at http://www.euro.who.int/__data/assets/pdf_file/0007/95938/E85396.pdf), in particular p. 99.

([4]) In accordance with Section 3 of Act No 580/2004, a natural person permanently resident in the Slovak Republic must be insured under the public health insurance system. The law provides for exceptions, but only for those who have health insurance in another country. That Section 3 also defines which persons must be insured under the public health insurance system even if they are not permanently resident in the Slovak Republic. In this Decision, the term 'Slovak resident' refers, as appropriate, to all categories of persons which must be insured under the public health insurance system.

healthcare benefits covered by compulsory system ([5]). Furthermore, in 2005, a legislative act introduced the possibility for all health insurance companies to provide voluntary health insurance for those who are excluded from compulsory health insurance ([6]).

(15) In 2007, Act No 530/2007 amended Act No 581/2004 and prohibited insurance companies active in the compulsory health insurance sector from paying out profits in the form of dividends with effect from 1 January 2008, thereby imposing an obligation to reinvest surpluses generated in the Slovak health system. As a result, health insurance companies were not allowed to distribute profits at all as of January 2008. However, on 26 January 2011, the Slovak Constitutional Court declared the ban on profit distribution incompatible with several provisions of the Slovak Constitution. Further to this Judgment, in July 2011, the Slovak authorities amended Act No 530/2007 by Act No 250/2011 to allow health insurers again to distribute (to their shareholders) profits achieved from the compulsory health insurance activity, subject to certain conditions ([7]). As a result of these legislative changes, an infringement procedure concerning the restriction on the disbursement of profit was closed by the Commission in December 2011 ([8]).

(16) On 31 October 2012, the Slovak authorities approved a project plan for the establishment of a unitary not-for-profit system of compulsory health insurance in the Slovak Republic, which would be introduced either through voluntary buyouts (until 1 January 2014) of the privately-owned health insurance companies or through their expropriation (until 1 July 2014) and would establish a single (State-owned) health insurance company ([9]). However, at the time that the present decision was adopted, neither step of the abovementioned project plan had thus far been implemented ([10]).

2.2. HEALTH INSURERS IN SLOVAKIA

(17) Under Slovak legislation, a health insurance company is defined as a public limited company having its registered office in the Slovak Republic, established to provide public compulsory health insurance subject to an authorisation granted by the HSA.

(18) Slovak residents have a choice to contract with any of the following three insurers to obtain a compulsory health insurance package:

(a) the Slovak State-owned public limited company VZP, which was established on 1 July 2005; It was formed by the transformation of the public enterprise VšZP, which was established under Act No 273/1994 on 1 November 1994 as the successor to the National Insurance Company (Národná poisťovňa) of the Health Insurance Fund Administration; VZP was merged with State-owned company SZP on 1 January 2010 pursuant to Act No 533/2009 (therefore, where appropriate, the joint entity is hereafter referred to as 'SZP/VZP'); The Slovak Republic is the sole shareholder of VZP;

(b) the privately-owned public limited company Dôvera (its main shareholder is the Central European financial group PENTA); Dôvera was established on 1 October 2005 and merged with another privately-owned Slovak health insurance company, Apollo, on 31 December 2009. In 2010, the merged entity was the biggest privately-owned health insurance company in Slovakia;

(c) the privately-owned public limited company Union Health Insurance, established on 9 March 2006 and a member of the Netherlands-based Achmea group, formerly Eureko.

([5]) See also the 2011 Report, Szalay T, Pažitný P, Szalayová A, Frisová S, Morvay K, Petrovič M and van Ginneken E., 'Slovakia: Health system review. Health Systems in Transition' (Vol. 13 No 2 2011), issued by the European Observatory on Health Systems and Policies (available at http://www.euro.who.int/__data/assets/pdf_file/0004/140593/e94972.pdf), p. 78.

([6]) Act No 352/2005, i.e. for people without permanent residence and not employed in Slovakia, and those with permanent residence in Slovakia but health insurance abroad. According to the reply by the Slovak authorities to the opening decision, this possibility of voluntary insurance was abolished with effect from 1 May 2010 by Act No 121/2010.

([7]) These conditions are: (1) mandatory use of profit for formation of a reserve up to the level of 20 % of paid-up registered capital (the reserve fund may only be used to cover loss); and (2) mandatory formation of technical reserves for payment of planned healthcare for insured persons on waiting lists.

([8]) Infringement No 2008/4268 in which the European Commission sent to the Slovak government a letter of formal notice under internal market rules, observing that the prohibition on health insurance companies to freely dispose of any profits resulting from the provision of public health insurance in Slovakia under Section 15(6) of Act No 581/2004 constitutes an unjustified restriction on the freedom of capital movements guaranteed by Article 63 of the Treaty.

([9]) The Permanent Court of Arbitration has recently declined jurisdiction over the claims by Dutch company Achmea (the owner of Union Health Insurance) against these plans, see Achmea v the Slovak Republic, PCA Case No 2013-12, ruling of 24 May 2014, available on: http://news.achmea.nl/achmea-discloses-awards-of-arbitration-tribunals/

([10]) See http://spectator.sme.sk/articles/view/54162/3/achmea_loses_against_slovakia.html

(19) The table below shows the evolution of the market shares of the different companies providing compulsory health insurance in the Slovak Republic during the years 2008-2013 ([11]):

Year	2008	2009	2010	2011	2012	2013 ([1])
Companies	Number of persons insured (%)					
VZP	55,4	55,0	66,74	65,79	64,4	64,09
SZP	13,6	12,0	2010: SZP merges with VZP			
Apollo	8,4	10,0	2010: Apollo merges with Dôvera			
Dôvera	16,2	16,0	26,37	26,8	27,75	27,49
Union	6,4	7,0	6,89	7,41	7,85	8,42

([1]) See also paragraph 37 of the ruling of the Permanent Court of Arbitration of 24 May 2014 in PCA Case No 2013-12, Achmea v Slovak Republic (see footnote 9 above).

(20) All health insurance companies are joint stock companies, while ownership regulation allows both the State and private sectors to be shareholders. All health insurance companies are obliged to meet certain solvency criteria. Being under strict budgetary constraints, they are fully responsible for financial shortfalls. As private joint-stock companies set under general company law, health insurance companies appear to autonomously manage their operations and healthcare costs.

(21) Health insurance companies can and do make profits ([12]). The revenues of insurance companies in Slovakia are drawn from insurance contributions, the State budget (contributions on behalf of the economically inactive persons and a subsidy to cover rises in health service costs), income from property, gifts and other incomes. Profits can be made by health insurance companies for instance by improving their management system and through their negotiations when contracting with healthcare providers.

2.3. MAIN FEATURES OF THE SLOVAK COMPULSORY HEALTH INSURANCE SECTOR

2.3.1. **Social objective and public interest**

(22) The Slovak compulsory health insurance scheme pursues a social objective, i.e. to allow for the provision of healthcare and the maintenance of a viable health insurance system. Citizens have the right to health insurance and Slovak residents have the obligation to be insured ([13]). The right to free healthcare based on the health insurance is a constitutional obligation of the Slovak Republic ([14]). According to the Slovak authorities, by providing compulsory health insurance in the Slovak Republic, health insurance companies are considered to fulfil a constitutional obligation on behalf of the State, i.e. the provision of health insurance to Slovak residents through managing the compulsory health insurance scheme in Slovakia. The Slovak Republic is responsible by law for financing the healthcare system and for covering losses in the healthcare sector ([15]). Under Section 2 of Act No 580/2004 on health insurance, the provision of public compulsory health insurance is an activity in the public interest, in the operation of which public funds are managed.

([11]) Figures over 2011-2013 were provided by the complainant in its comments to the opening decision.
([12]) Opening decision, recitals 23 and 24.
([13]) The obligation to be insured is specified by law for all defined persons (Section 3 of Act No 580/2004). All citizens specified by law are legally required to pay public health insurance contributions (Section 11 of Act No 580/2004). Non-payment of contributions is classified as a criminal offence.
([14]) Article 40 of the Constitution of the Slovak Republic, among the constitutionally guaranteed 'fundamental rights and freedoms', stipulates: 'Everyone has a right to the protection of his health. Based on health insurance, citizens have the right to free healthcare and to medical supplies under conditions defined by law.'
([15]) Specifically, in conjunction with the legislative changes adopted in 2004, the Slovak Republic discharged debts of almost EUR 1 billion, which had previously been incurred by the health sector, including the debts of privately-owned health insurance companies (according to the information provided by the Slovak authorities to the Commission on 9 July 2010).

2.3.2. **Compulsory membership, open enrolment and community rating**

(23) In accordance with the provisions of Act No 580/2004 and Act No 581/2004, participation in the Slovak public health insurance programme is compulsory for most of the population in the Slovak Republic ([16]). Compulsory health insurance in Slovakia also covers persons insured in accordance with Regulation (EEC) No 1408/71 of the Council ([17]), until 30 April 2010, and, as of 1 May 2010, in accordance with Regulation (EC) No 883/2004 of the European Parliament and of the Council ([18]).

(24) Insured persons have the right to opt for a health insurance company of their choice and to switch insurance company once a year. Under the open enrolment obligation and community rating principle, health insurance companies in Slovakia have a legal obligation to admit to their insurance scheme every Slovak resident who so requests, provided that he/she meets the legal requirements for health insurance in Slovakia. In particular, health insurance companies cannot refuse to insure a person on the grounds of age, state of health or disease risks ([19]) and have to offer basic health insurance at the same price to all persons regardless of these factors.

(25) The Slovak health insurance system therefore also includes a legal architecture for equitable risk-sharing among health insurance companies through a risk equalisation scheme (RES). Under the RES ([20]), health insurance companies insuring persons associated with a higher risk receive funds from insurance companies whose portfolio is associated with a lower risk, i.e. through monthly and annual reallocation of contributions and the administration of transfers ([21]).

2.3.3. **Benefits and income-related contributions**

(26) Slovak compulsory health insurance is based on a system of compulsory contributions. Contribution rates are defined by law and are proportional to the income of the insured (similar to the tax levied on income), rather than being based on the insured risk (such as age of the insured or health status). Those contributions, which the Slovak authorities consider to be part of the public funds, are collected from: (1) employees and employers; (2) the self-employed; (3) the voluntarily unemployed; (4) the State (for the 'State-insured', i.e. the group of mostly economically inactive people); and (5) payers of dividends.

(27) All the insured are guaranteed the same basic level of benefits ('the basic benefit package'). There is no direct link between the amount of contributions paid to the scheme and the benefits ([22]) received. Medical services covered by compulsory health insurance are provided regardless of the contributions paid by the insured person.

(28) The basic benefit package of compulsory health insurance covers almost all healthcare procedures provided in the Slovak Republic, meaning that virtually complete healthcare is provided through that package. Currently, the basic benefit package entitles everyone to free healthcare with the exception of only a few treatments (e.g. cosmetic surgery), and partial payments for pharmaceuticals and spa treatments and selected healthcare-related services (e.g. emergency room visits). The basic benefit package can be narrowed or widened by government decree (without parliamentary negotiations). Since the Slovak Constitution guarantees every citizen healthcare under the compulsory health insurance system according to the conditions laid down by law, insurance companies have no influence over the benefit basket, level of coverage or premiums of the basic benefit package, as these are fixed by law.

(29) Slovak health insurance companies can and do add to the basic benefit package various additional entitlements (benefits) of their choice, which cover services not included therein, but which are offered by insurers free of charge to their clients, as part of the same healthcare package under compulsory health insurance. For example, according to the available information it appears that health insurance companies can decide whether to offer additional coverage of certain complementary and preventive treatments under the same compulsory health insurance package. These additional benefits are distinct from the individual health insurance services that may be offered for a fee.

([16]) See footnote 4.
([17]) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ L 149, 5.7.1971, p. 2).
([18]) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).
([19]) See also Section 6(9) of Act No 580/2004.
([20]) Part 3 of Act No 580/2004
([21]) See below, recitals 45 to 47.
([22]) See Act No 577/2004.

2.3.4. **Selection of healthcare providers and services**

(30) The health insurance companies are allowed to select healthcare providers and to negotiate contracts with physicians and individual hospitals. Health insurance companies thus contract with individual healthcare providers; those contracts are concluded independently of one another and a particular healthcare provider may contract with all or just some of the health insurance companies and vice versa. The health insurance companies reimburse services delivered by both the State and private healthcare providers.

(31) To ensure geographical accessibility of health services, a minimum network requirement is set by the government to influence capacity planning. In the provision of compulsory health insurance, the health insurance companies are required by law to contract with a minimum network of hospitals. Each health insurance company creates its own network and improves the minimum network by selective contracting with additional hospitals and other healthcare services providers. Healthcare services rendered by those hospitals and/or other healthcare services providers and included in the compulsory health insurance coverage are thus covered by the health insurer in favour of the insured persons. Health insurance companies have a certain margin of discretion in negotiating with hospitals on price and quality of the healthcare services rendered to insured persons.

2.3.5. **Regulatory framework**

(32) The compulsory health insurance scheme in the Slovak Republic is regulated by special regulations ([23]). All health insurance companies providing compulsory health insurance have, by law, identical status, rights and obligations. Each health insurance company must be established with the purpose of executing public health insurance and it must not carry out activities other than those listed in Section 6 of Act No 581/2004. The activities of the health insurance companies managing the compulsory health insurance scheme are subject to the overall control of the State, exercised in particular through the regulatory authority — the HSA, which has a monitoring and supervisory role in the health system. The HSA supervises whether health insurance companies and providers adhere to this legislative framework and intervenes when violations occur.

3. DESCRIPTION OF THE CONTESTED MEASURES

(33) The present decision examines the following six measures (collectively referred to as 'the contested measures') ([24]):

3.1. THE 2006 CAPITAL INCREASE IN SZP

(34) By letter dated 2 April 2007, the privately-owned health insurance company Dôvera lodged a complaint with the Commission against a capital injection by the Slovak Republic into the State-owned company SZP in amount of SKK 450 million (approximately EUR 15 million) made in three tranches between 28 November 2005 and 18 January 2006.

(35) That capital increase was associated with the reform of the healthcare sector and the 2004-2005 reform of the health insurance sector in the Slovak Republic. In fact, at the time of its establishment as a joint-stock company in 2005, SZP, as the legal successor of a public institution ([25]),was required by law to take over not only the assets of the original insurance company, but also its liabilities, incurred before 2005, the amount of which caused an inadequate level of solvency, as set under the requirements of Section 14(1) of the Act on health insurance companies (Act 581/2004). Those liabilities amounted to SKK 467,765 million (approximately EUR 15,5 million) on 31 December 2005.

([23]) E.g. the relationship between the insured person and the health insurer is formed not by contract but by law (see Section 4 of Act No 580/2004). The supervision of health insurance companies and healthcare provision are also governed by law.
([24]) The measures are described in more detail in the opening decision, recitals 44 to 72.
([25]) As a public institution prior to 1 May 2005, SZP functioned as an insurance company with a specific and relatively restricted insurance portfolio, while, as opposed to other health insurers, it was also obligated to its policyholders to cover specific preventive healthcare and specific healthcare provided in connection with work-related injuries and occupational diseases.

3.2. THE DISCHARGE OF SZP'S DEBTS BY VERITEĽ

(36) Veriteľ was established as a new State agency for the consolidation of healthcare debts in 2003 ([26]) and was tasked by the Slovak Government with the implementation of a project to relieve healthcare facilities and health insurance companies of their debts prior to the reorganisation of all existing health insurance funds as joint stock companies by 30 September 2005. The debt relief process was carried out pursuant to Slovak Government resolutions.

(37) In the period 2003 to 2005, Veriteľ settled debt in the health sector exceeding EUR 1 100 million in accounting value at the cost of EUR 644 million in cash. Since the Ministry of Health announced that this was the last bail-out of the healthcare system, the agency Veriteľ was abolished in 2006 ([27]).

(38) The complainant claims that the discharge by Veriteľ of EUR 52,7 million of SZP's debt, being higher than what the complainant itself had received ([28]), suggests unjustified discriminatory treatment in the debt-discharging process. However, the complainant's main concern is that, additionally, on 30 November 2005 (therefore after the transformation), Veriteľ further discharged approximately EUR 28 million of further debt that SZP had to the special premium redistribution account. This was done through the assignment by SZP to Veritel' of premium claims and interest. SZP assigned to Veritel' approximately SKK 929 million in claims of premium and interests (of this about SKK 343 million in interest). In return, Veritel' provided consideration of SKK 840 million (approximately EUR 28 million) to SZP by setting off its debt to the special premium redistribution account ([29]).

3.3. THE 2006 SUBSIDY TO SZP

(39) In the second half of 2006, a further subsidy was granted to SZP by the Ministry of Health using part of the liquidation balance of Veriteľ, which was dissolved in July 2006. According to the complainant, the amount of the subsidy was approximately EUR 7,6 million.

(40) The complainant alleges that this subsidy was provided to settle SZP's liabilities with healthcare providers dating from before 2005, although it was not clear whether those debts continued to exist at the time of the grant.

(41) However, according to the Slovak authorities, the financial resources from the liquidation balance of Veriteľ were not provided to SZP but to medical facilities, which at the time were owned by the State, for payment of their liabilities (i.e. health insurance contributions for their employees) to SZP. Consequently, according to the Slovak authorities, no subsidy was involved, but rather a normal payment of existing undisputed liabilities by the State — unpaid premiums for health insurance.

3.4. THE 2010 CAPITAL INCREASE IN VZP

(42) The Slovak Republic, through the Ministry of Health Services, increased its registered share capital in VZP on 1 January 2010. The increase in share capital amounted to approximately EUR 65,1 million.

(43) According to the complainant, given that VZP was close to insolvency, it appears that the State acted in this way to bridge VZP's revenue deficit. The complainant also claims the State had absolutely no hope of receiving a return on its investment within a reasonable time-frame, particularly given that Slovakia had just introduced a law preventing health insurance companies from distributing their profits.

(44) According to the Slovak authorities, this 2010 capital increase in VZP was made to eliminate the impacts of the financial crisis and to support VZP in withstanding the pressure to increase the level of indebtedness with growing demand for healthcare.

([26]) Veriteľ, a. s. was established under the Slovak Government's Resolution No 262 of 2 April 2003.

([27]) See the 2011 Report, Szalay T, Pažitný P, Szalayová A, Frisová S, Morvay K, Petrovič M and van Ginneken E., 'Slovakia: Health system review. Health Systems in Transition' (Vol. 13 No 2 2011), issued by the European Observatory on Health Systems and Policies (available at http://www.euro.who.int/__data/assets/pdf_file/0004/140593/e94972.pdf), p. 142.

([28]) According to the complainant, Dôvera's predecessors, by comparison, which were jointly larger in size than SZP saw their debts discharged by an amount of EUR 27,25 million only.

([29]) According to the complainant, quoting from the Report on Inquiry into the Activities of Veriteľ, a. s. Throughout its Existence, Slovak Ministry of Finance, September 2007.

3.5. THE RISK EQUALISATION SCHEME (RES)

(45) During its preliminary assessment, the Commission also discovered that the funding of health insurance companies in the Slovak Republic includes a pooling and risk adjustment mechanism — a Risk Equalisation Scheme (RES).

(46) The RES ([30]) applies fully to all health insurance companies providing compulsory health insurance in the Slovak Republic. While contributions to the compulsory health insurance are collected directly by health insurance companies from employers, the self-employed, self-payers (voluntarily unemployed), the State and the payers of dividends, the distribution of revenues and expenditures among the health insurance companies is unequal due to the different structure of their insured populations. To alleviate the financial burden on health insurance companies with a higher-risk portfolio and to reduce the potential for risk selection, contributions are redistributed among the health insurance companies using the RES, by virtue of a calculation designated by the HSA ([31]). Parameters applied in the RES are the age, gender and, since 2010, economic activity status of the insured.

(47) The Slovak authorities consider the RES not to be a form of State aid but rather a matter of equalising funds in accordance with applicable RES criteria for insured persons, i.e. it is a case of solidarity between insured persons and therefore not State aid.

3.6. THE TRANSFERS OF PORTFOLIOS TO SZP AND VZP

(48) Another measure which has come to the Commission's attention during its preliminary assessment is the existence of several direct transfers, by intervention of the State, to SZP and VZP of portfolios of other health insurance companies (in particular of the company Družstevná zdravotná poisťovňa to VZP, and of the company Európská zdravotná poisťovňa to SZP) which were liquidated over time.

(49) According to the Dôvera, the EZP portfolio was transferred directly to SZP even though there were other interested operators on the market, whereas the limits and conditions of the transfer were unclear.

(50) The Slovak Republic argues that the decision of the HSA to transfer EZP's portfolio to SZP without any consideration is in line with the provisions of Act No 581/2004 while respecting the right of the insured to choose a health insurance company. They claim that other insurance companies have expressed an interest in this portfolio, but with conditions that would have disproportionately prolonged the liquidation process. Furthermore, according to the Slovak authorities, since the transfer of portfolios concerned all the claims and all the liabilities of the liquidated companies, no advantage was granted to the recipients VZP and SZP.

4. **GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE**

(51) In its opening decision, the Commission expressed doubts about determining the economic or non-economic nature of the activity concerned and indicated that, in light of the particularities of the case, SZP/VZP and the other companies offering health insurance in the compulsory system in the Slovak Republic may have been engaged in an economic activity as from 1 January 2005. It considered that the mixture of economic and non-economic features of the Slovak compulsory health insurance system made it necessary to perform an in-depth analysis of its different elements and their respective importance within the scheme to determine whether the activity of compulsory health insurance, in the way it is organised and carried out in Slovakia, is to be considered as economic (as from 1 January 2005) or non-economic in nature.

(52) The Commission also indicated that — in case the activity would need to be considered as economic in nature — it did not have enough information at its disposal to determine whether the measures under scrutiny provide SZP/VZP with a selective advantage.

(53) Having concluded that it could therefore not exclude the existence of State aid at that stage, in the absence of specific arguments or clear indications as to their compatibility with the internal market, the Commission also expressed doubts as to whether those measures could be considered compatible with the internal market under Article 106(2) or Article 107(3)(c) of the Treaty, in the event it would conclude that those measures qualify as State aid.

([30]) Part 3 of Act No 580/2004
([31]) See recitals 60 to 67 of the opening decision for more details on the RES.

(54) In that context, the Commission noted that the final conclusion as to whether the activity of compulsory health insurance in the Slovak Republic is indeed economic or non-economic in nature, whether the State measures fulfil all the other conditions to constitute State aid and, if so, whether they are compatible with the internal market could only be drawn in a final decision to be adopted after completion of the formal investigation, when all available information (including further Member State's and third parties' comments) have been collected and an in-depth assessment of all information has been made.

5. **COMMENTS FROM INTERESTED PARTIES**

(55) The Commission received the following comments from interested parties, as summarised below:

5.1. DÔVERA

(56) In response to the opening decision, Dôvera, the complainant, provided additional information about the health insurance system and additional argumentation in particular to substantiate its view that SZP/VZP are undertakings subject to competition law and have benefitted from incompatible State aid.

(57) Dôvera points out that SZP/VZP compete with private health insurance companies offering the same service while seeking profit, referring to its previous submissions on the economic nature of the activity and to recent case-law of the Court ([32]). In this context, Dôvera claims that the several elements presented by the Slovak Republic listed in the opening decision as pointing to the non-economic nature of VZP/SZP activities do not withstand scrutiny. According to Dôvera, the 2004-2005 reform was meant to create a competitive market, which has been recognised and confirmed by the Slovak judiciary (i.e. the Slovak Constitutional Court) as well as the Slovak authorities themselves. In this context, Dôvera also points to the fact that insurers compete for healthcare providers through selective contracting and negotiations on price and quality of services, and it also mentions marketing campaigns by health insurance companies to retain and attract clients. Dôvera also denies the exclusively social nature of the system, referring to the possibility for health insurers to make and distribute profits and the willingness of private investors to invest in operators active in the Slovak compulsory health insurance sector.

(58) Referring to its previous submissions to the Commission before the opening decision, Dôvera further submits that all measures identified in that decision should be qualified as unlawful aid since all the other elements of Article 107(1) of the Treaty have been fulfilled. In its view, the Slovak Republic cannot be considered to have acted as a market economy investor when increasing SZP's capital in 2006 and VZP's capital in 2010. Dôvera also argues that the Slovak Republic discriminated between SZP/VZP and private insurance companies by a more favourable treatment of SZP in the 2003-2005 debt discharge process as well as by the introduction of two new parameters in the RES in 2009 and 2012. As regards the transfer of portfolios, Dôvera's comments focus on the transfer of EZP's insurance portfolio, as it has no information on a previous portfolio transfer to VZP. In this respect, it states that the Commission may have been misinformed by the Slovak authorities about the applicable legal framework for that portfolio transfer.

(59) Dôvera finally argues that the Slovak authorities have failed to demonstrate that the provision of compulsory health insurance is a service of general interest and thereby questions the very basis of an analysis under the *Altmark* case-law ([33]) and the Commission's SGEI package.

5.2. UNION HEALTH INSURANCE

(60) The observations on the opening decision submitted by Union Health Insurance, the other privately-owned competitor of SZP/VZP, are broadly in line with the comments provided by Dôvera, arguing that SZP and VZP are undertakings within the meaning of Article 107(1) of the Treaty. Union Health Insurance submits that five of the six measures described in Section 3 of this Decision qualify as State aid and are incompatible with the internal market. As regards the sixth measure, the RES, Union Health Insurance claims that it could potentially

([32]) Case T-347/09, *Germany* v *Commission*, 12 September 2013, not yet published.
([33]) Case C-280/00 Altmark [2003] ECR I-7747.

fulfil the conditions of the *Altmark* case-law for public service compensation or may be compatible with the internal market under Article 106(2) of the Treaty, requiring further investigation into its potential discriminatory approach in favour of the net recipient of the RES, i.e. SZP/VZP.

5.3. HPI, INEKO AND ZZP

(61) The observations on the opening decision submitted by the other three third parties, i.e. HPI, INEKO and ZZP are mainly supportive of the position of the complainant Dôvera and Union Health Insurance that the activity is of an economic nature and the measures involve State aid by providing SZP/VZP with a selective advantage, showing their conviction that health insurers are operating in a competitive environment (by using different ways to attract clients) and claiming that the State has given preferential treatment to its State-owned health insurance companies.

6. **COMMENTS ON THE OPENING DECISION AND ADDITIONAL SUBMISSIONS OF THE SLOVAK REPUBLIC**

(62) The Slovak Republic submitted its observations on the opening decision and provided comments on the third-party observations.

(63) In their submissions, the Slovak authorities provided clarifications and additional argumentation to strengthen their position that the system of compulsory health insurance is not subject to competition rules as it does not involve an economic activity. They allege that Slovak compulsory health insurance cannot be qualified as economic pursuant to settled case-law of the Court of Justice ([34]) in particular for the following reasons:

(a) The system has a social objective.

(b) The system is based on solidarity, in particular in view of the following:

(i) compulsory enrolment for Slovak residents;

(ii) all the insured are guaranteed the same minimum level of benefits;

(iii) contributions are unrelated to benefits on an individual level, as contributions are fixed by law (no competition on prices);

(iv) there is risk-solidarity among insurers: RES and community rating.

(c) There is a detailed regulatory framework, subject to supervision by the State: status, rights and obligations of all health insurance companies are established by law.

(64) The Slovak Republic rebuts the assumption that, as a result of 2005 legislative changes, the Slovak health system changed into a commercial system and claims that the system never lost its public non-economic nature. They also draw attention to the fact that the Slovak health insurance system is part of the social security system and point to the competences of Member States under Article 168(7) of the Treaty for the organisation and delivery of healthcare services.

(65) The Slovak authorities further state that the health insurance reform did not replace public health insurance with private health insurance and did not open the coverage of any risk pertaining to statutory social security to private insurers. According to Slovakia, the primary aim of the health sector reform was to set precise rules for dealing with financial resources allocated to health and reorganising, by 30 September 2005, all existing health insurance funds as joint stock companies with clearly defined accounting rules seemed to be an appropriate way of setting those rules. The Slovak authorities consider that all health insurers in Slovakia are involved in managing public funds entrusted to them within the public health insurance system.

([34]) In particular Joined Cases C-159/91 and C-160/91 Poucet and Pistre; Case C-218/00 Cisal and INAIL; Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 AOK Bundesverband.

(66) According to the Slovak authorities, the fact that the Slovak compulsory health insurance system allows for a limited degree of competition on quality could be seen as an element that encourages health insurance companies to operate economically in accordance with principles of sound management, in the interests of the proper functioning of the system, but not as an element that could influence the non-economic nature of the health insurance system as a whole.

(67) The Slovak authorities also explain that the funds accumulated and redistributed within the structure of the Slovak public health insurance system via the health insurance companies are the sum of public health insurance contributions which are mandatory under the law, and are thus part of Slovakia's public finances. All health insurance companies are therefore tasked with the management of public funds collected from the public in accordance with relevant legal regulations with a view to their use in the coverage of healthcare.

(68) To further support their claim, the Slovak authorities also recall the fact that even after the ban on profit distribution was abolished in 2011, the amending Act No 250/2011 allowed health insurance companies to make a profit only under precisely defined conditions, i.e.:

(a) the introduction of a tax on the profits of health insurance companies;

(b) the mandatory use of profits to create a reserve fund of up to 20 % of the paid-up registered capital of the insurance company (the reserve fund may be used only to cover losses of that insurance company);

(c) the mandatory creation of technical provisions to cover the planned healthcare of insured persons on waiting lists (consequently, health insurance companies cannot make a profit at the expense of their clients by placing them on waiting lists instead of promptly covering their healthcare; this is essential for compliance with generally accepted accounting standards in public health insurance).

(69) In this respect, the Slovak authorities explained that, when VZP reported a surplus, it created a healthcare fund to cover the use of healthcare and to finance particularly costly healthcare covered by public health insurance. In addition, in the years in which they reported a surplus, part of the profits of VZP was also allocated to the statutory reserve fund which was subsequently used to reduce accumulated losses. Therefore, according to the Slovak authorities, no profit made by a State-owned health insurance company was ever disbursed to shareholders.

(70) In this context, the Slovak Republic also point to a further restriction on health insurance companies in that they can only borrow funds in accordance with the Act 523/2004 on public administration budgetary rules, subject to prior approval from the HSA.

(71) To further support their claim that the activity of compulsory health insurance does not fall under competition rules, the authorities also draw attention to a 2009 investigation by the Slovak Antimonopoly Office which revealed that the activities by health insurance companies are performed within a system characterised by a high degree of solidarity where healthcare is provided free of charge and the essential elements of such activities are regulated by the State and that, therefore, the activities carried out by health insurance companies in the provision of public health insurance cannot be regarded as an economic activity by undertakings which restricts competition. Hence, according to the Antimonopoly Office, the Slovak Competition Act does not apply to the activities of health insurance companies carried out in the provision of public health insurance ([35]).

(72) The Slovak authorities also explain that in 2011, the Constitutional Court declared the ban on profit distribution as from 2007 unconstitutional because it violated Slovak constitutional rights of ownership, but that it did not share the view that the Health Insurance Companies Act restricted the principles of a market economy. They also point to the fact that the Constitutional Court further observed, in this regard, that legislation on health insurance excluding or significantly restricting the impact of market-economy tools and hence restricting competition is constitutionally acceptable.

([35]) Investigation performed by the Antimonopoly Office in connection to the proposed merger between SZP and VZP, completed on 3 December 2009; see also the 2009 annual report of the Antimonopoly Office available at http://www.antimon.gov.sk/data/att/958.pdf

(73) In addition to their claim that the activity of compulsory health insurance in Slovakia falls outside the scope of competition rules, the Slovak authorities claim that the measures do not fulfil the other State aid elements under Article 107(1) of the Treaty. In this context, they claim that the 2006 and 2009 capital injections were not aid as they respected the market economy investor principle. They further deny that there was unjustified discriminatory treatment in the debt-discharging process by Veritel' and maintain that no subsidy was granted to VZP in 2006, but rather that this operation involved a normal payment of existing undisputed liabilities by the State. The Slovak authorities provide further details on the transfers of portfolios from DZP to VZP and of EZP to SZP and claim that also those transfers did not provide SZP/VZP with a selective advantage under Article 107(1) of the Treaty. Finally, they also provide further information on the RES, clarifying in particular how the contributions were redistributed (monthly and annually) in the years 2006 to 2012, and argue that this measure does not qualify as State aid either, as it equalises the risks included in the system due to the existence of uniform contribution rates for all groups of insured persons with varying degrees of risk.

(74) The Slovak authorities devoted their comments to the opening decision on defending their position that SZP/VZP, due to the absence of economic activity, are not undertakings and that the measures are compliant with the market economy investor principle and do not provide SZP/VZP with an advantage and, hence, do not involve aid. Therefore, they did not consider it necessary to present any arguments about the compatibility of the alleged aid measures.

7. **ASSESSMENT OF THE MEASURES**

(75) Article 107, paragraph 1 of the TFEU provides that '[…] any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.'

(76) On the basis of that provision, the State aid rules only apply where the beneficiary of the measure is an 'undertaking'. The case-law of the Court of Justice of the European Union ('CJEU') defines an undertaking for the purposes of Article 107(1) of the Treaty as any entity engaged in an economic activity, regardless of its legal status or the way in which it is financed ([36]). The classification of a particular entity as an undertaking thus depends entirely on the economic or non-economic nature of its activities.

(77) As explained in the opening decision, the question whether the measures granted in favour of SZP/VZP constitute State aid therefore depends in the first instance on whether and to what extent SZP/VZP, when they operate within the Slovak compulsory health insurance system, act as undertakings because they could be considered to be engaged in an economic activity as defined by the case-law.

(78) According to the CJEU, an economic activity is any activity consisting in offering goods and/or services on a given market ([37]). In this context, the question whether a market exists for certain services may depend on the specific way those services are organised and carried out in the Member State concerned ([38]). The State aid rules only apply where a certain activity is provided in a market environment. The economic nature of the same kind of services can therefore differ from one Member State to another. Moreover, due to political choices or economic developments, the classification of a given service can change over time. What is not a market activity today may turn into one in the future, and vice versa ([39]).

(79) In relation to the provision of healthcare, the qualification of healthcare schemes as involving an economic activity depends on their political and economic specificities and on the particular way in which such schemes are set up and structured in the Member State concerned. In essence, the case-law of the CJEU distinguishes between schemes based on the principle of solidarity and economic schemes ([40]).

([36]) See, e.g. Joined Cases C-180/98 to C-184/98 Pavlov and Others [2000] ECR I-6451, paragraph 74.
([37]) Case 118/85 *Commission* v *Italy* [1987] ECR 2599, paragraph 7; Case C-35/96 *Commission* v *Italy* [1998] ECR I-3851, paragraph 36; Joined Cases C-180/98 to C-184/98 Pavlov and Others, paragraph 75.
([38]) Joined Cases C-159/91 and C-160/91 Poucet and Pistre [1993] ECR I-637.
([39]) See also the communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest ('2012 SGEI-Communication') (OJ C 8, 11.1.2012, p. 5), point 12.
([40]) The Commission has summarised the relevant case-law of the CJEU with regard to the application of these rules to the financing of social security and healthcare schemes in its 2012 Communication on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest ('2012 SGEI-Communication').

(80) The case-law of the CJEU uses a range of criteria to determine whether a social security scheme is solidarity-based and therefore does not involve an economic activity. A number of factors can be relevant in this respect: (i) whether affiliation with the scheme is compulsory ([41]); (ii) whether the scheme pursues an exclusively social purpose ([42]); (iii) whether the scheme is non-profit ([43]); (iv) whether the benefits are independent of the contributions made ([44]); (v) whether the amount of benefits paid is not necessarily proportionate to the insured persons' earnings ([45]); and (vi) whether the scheme is supervised by the State ([46]).

(81) In contrast to solidarity-based schemes, economic schemes are regularly characterised by: (i) optional membership ([47]); (ii) the principle of capitalisation — i.e. dependency of entitlements on the contributions paid and the financial results of the scheme ([48]); (iii) their profit-making nature ([49]); and (iv) the provision of entitlements which are supplementary to those under a basic scheme ([50]).

(82) Certain schemes combine elements of both categories (solidarity-based and economic schemes) ([51]), so that, in order to determine whether a particular scheme is economic or non-economic in nature, the Commission must verify the presence and weigh the respective importance of each of the different elements listed in the two preceding recitals to the scheme at hand ([52]).

(83) The ultimate determination whether the provision of compulsory health insurance services in the Slovak Republic is a non-economic or an economic activity will therefore depend on a thorough analysis of the specific way in which that activity is organised and carried out in that Member State and will therefore be specific to the compulsory health insurance system in that Member State. It is in the light of these general observations that the Commission will assess whether the contested measures allegedly granted to SZP/VZP constitute State aid as measures granted to an 'undertaking' within the meaning of Article 107(1) of the Treaty.

(84) A number of indicators point to the non-economic nature of the Slovak health insurance system, in particular as regards its social features and objectives, which feature predominantly in the operation of that system, and that the system is centrally based on the solidarity principle.

(85) First, participation in the public health insurance programme is compulsory by law for most of the population in the Slovak Republic and medical services covered under the compulsory health insurance are provided regardless of the contributions paid by the insured person. An insured person is free to choose any health insurance company and, under the open enrolment obligation, the health insurance company chosen cannot refuse that person insurance on the grounds of his age, state of health or disease risks ([53]).

([41]) Joined Cases C-159/91 and C-160/91 Poucet and Pistre [1993] ECR I-637, paragraph 13.
([42]) Case C-218/00 Cisal and INAIL [2002] ECR I-691, paragraph 45.
([43]) Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 AOK Bundesverband [2004] ECR I-2493, paragraphs 47 to 55.
([44]) Joined Cases C-159/91 and C-160/91 Poucet and Pistre (cited above), paragraphs 15 to 18.
([45]) Case C-218/00 Cisal and INAIL (cited above), paragraph 40.
([46]) Joined Cases C-159/91 and C-160/91 Poucet and Pistre (cited above), paragraph 14; Case C-218/00 Cisal and INAIL (cited above), paragraphs 43-48; Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 AOK Bundesverband (cited above), paragraphs 51-55.
([47]) Case C-67/96 Albany [1999] ECR I-5751, paragraphs 80-87.
([48]) Case C-244/94 FFSA and Others (cited above), paragraphs 9 and 17 to 20; Case C-67/96 Albany (cited above), paragraphs 81 to 85; see also Joined Cases C 115/97 to C 117/97 Brentjens [1999] ECR I 6025, paragraphs 81 to 85, Case C 219/97 Drijvende Bokken [1999] ECR I 6121, paragraphs 71 to 75, and Joined Cases C-180/98 to C-184/98 Pavlov (cited above), paragraphs 114 and 115.
([49]) Joined Cases C 115/97 to C 117/97 Brentjens (cited above).
([50]) Joined Cases C-180/98 to C-184/98 Pavlov and Others (cited above).
([51]) See, e.g. the weighting exercise conducted by the Court of Justice in Case C-350/07 Kattner Stahlbau [2009] ECR I-1513, in particular paragraphs 33-68.
([52]) In this respect, it should also be noted that the recent Judgment (T-347/09, *Germany* v *Commission*, Judgment of 12 September 2013, not yet published) referred to by the complainant Dôvera in its comments to the opening decision merely confirms the fact that non-profit organisations can offer goods and services on a market too (see also 2012 SGEI-Communication, paragraph 9 with reference to the case-law). However, this does not change the fact that the conclusion as to the economic or non-economic nature of the activity in a given case has to be based on the presence and weighing of the respective importance of each of the different elements.
([53]) See recitals 23 to 25.

(86) Second, Slovak compulsory health insurance is based on contributions that are fixed by law proportional to the income of the insured, rather than being based on the insured risk (age, health status, disease risks of the insured person). Moreover, there is no direct link between the amount of contributions paid by an individual into the scheme and the value of the benefits received by that same individual from the scheme. As a result, insurance companies have no possibility to influence either the amount of contributions or the minimum level of coverage to which the insured persons are entitled as this is all fixed by national legislation.

(87) Third, all the insured are guaranteed by law to receive the same basic level of benefits, which is in fact very high since it covers almost all healthcare procedures provided in the Slovak Republic, meaning that virtually complete healthcare is provided through the compulsory health insurance scheme ([54]). The Slovak risk equalisation scheme (RES) ensures that insurance risks are shared and therefore further strengthens solidarity. In addition, the Slovak system imposes the community rating principle, that is, insurers are not allowed to differentiate premiums according to insurance risk, while risk equalisation partially compensates insurers who have a riskier demographic profile in their portfolio by redistributing money from those insurers paying less than average benefits to those paying higher than average benefits to their insured persons ([55]).

(88) Finally, in addition to all of the abovementioned social and solidarity characteristics, the Commission recalls that Slovak compulsory health insurance is organised and carried out under a strong regulatory framework: the status, rights and obligations of all health insurance companies are established by laws laying down detailed conditions and they operate subject to tight supervision by the State ([56]).

(89) On the basis of these characteristics, the Commission concludes that the Slovak compulsory health insurance system is non-economic in nature, so that SZP/VZP cannot be considered to qualify as an 'undertaking' within the meaning of Article 107(1) of the Treaty ([57]).

(90) The Commission acknowledges certain features of the Slovak compulsory health insurance system could point to the economic nature of the activities involved in that system: (i) the presence of several insurance operators (public and private) in the Slovak compulsory health insurance sector; (ii) some degree of competition between these health insurers; which are (iii) involved in a for-profit activity; and (iv) the fact that the activity was considered to be open to competition by the Slovak Constitutional Court. Nevertheless, the Commission is of the opinion that the presence of those features does not call into question its conclusion that compulsory health insurance in Slovakia is a non-economic activity.

(91) First, the Commission notes that the fact that there are several (public and private) operators active in the compulsory health insurance sector does not in itself confer an economic nature to their activities in a system where, as explained in recitals 85 to 87, the social features and objectives of the system are predominant, the solidarity principle is central to the operation of that system and State supervision is tight. Such an interpretation would grant inappropriate weight to the organisational arrangements chosen by a Member State in operating part of its social security system, rather than to the substance of the system in question ([58]).

(92) Second, from the case-law of the CJEU it follows that also the presence of scope for competition in the health insurance system and competition actually happening, even if intended by the legislator and confirmed by the judiciary, does not necessarily confer an economic nature to the activity in question. The CJEU has made clear that for concluding on the economic or non-economic nature of activities in statutory health insurance system which, like the Slovak system, gives some latitude for competition, the nature and degree of this competition, the

([54]) See recitals 26 to 29.
([55]) See recitals 23 to 25.
([56]) See recital 32.
([57]) The features of the Slovak compulsory health insurance system are similar to the German statutory public health insurance system assessed by the CJEU in Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 AOK Bundesverband. The CJEU considered the German system to be of non-economic nature and noted in particular that the German sickness funds were compelled by law to offer to their members essentially identical obligatory benefits fixed by the State which did not depend on the amount of the contributions paid by the insured persons, were therefore not in competition with one another as regards the grant of obligatory statutory benefits and were engaged in a system of risk equalisation (see, paragraphs 52 to 54 of that judgment).
([58]) See also Case C-350/07 Kattner Stahlbau (cited above), paragraph 53, and in particular the opinion of Advocate-General Mazak in that case (paragraph 59).

circumstances in which it takes place and the presence and weight of the other relevant factors are decisive ([59]). In the case at hand, the type of competition which is most interesting for consumers — price competition with regard to the level of contributions — is ruled out since Slovak health insurers cannot modify the level of contributions of the insured which are fixed by law. Moreover, the scope for quality competition is rather limited since the Slovak compulsory health insurance system foresees a very wide range of statutory benefits which are equal for all insured persons, thus leaving little scope for insurers to compete for clients on the basis of offering additional (gratuitous) entitlements. Health insurers therefore have no possibility of influence over those statutory benefits and are therefore not in competition with one another or as regards the grant of the obligatory statutory benefits in respect of healthcare which constitutes their main function.

(93) Third, the Commission considers the non-economic nature of the activity of compulsory health insurance not to be affected by the fact that health insurance companies engage in quality competition and procurement efficiency competition by buying healthcare and related services of good quality from providers at competitive prices. In this way, the insurance companies, through an activity severable from their contracts with the insured persons within the compulsory health insurance procure the inputs necessary to fulfil their role within that system. It follows from the case-law of the CJEU that if the system of compulsory health insurance is due to its inherent features of a non-economic nature, then the activity of procuring inputs necessary to run this system is likewise of a non-economic nature ([60]).

(94) Fourth, the fact that the regulation of compulsory health insurance in Slovakia allows health insurers to make profits and to distribute some profits to their shareholders does not change the non-economic nature of their activities since they are performed in a system which has a strong presence of all the abovementioned features indicating the non-economic nature. The mere fact that health insurers are allowed to make profits and to distribute some profits cannot in itself overturn the predominance of the system's social features and objectives, the central role of the solidarity principle in it and the tight degree of State regulation and supervision under which it operates. With regard to that State regulation, the Commission recalls that the possibility to make, use and distribute profits is framed and limited by legal obligations imposed by the State on the Slovak insurance companies designed to ensure the viability and continuity of compulsory health insurance with all its predominant social and solidarity objectives ([61]). The freedom to make, use and distribute profits is therefore significantly more restricted in the sector of Slovak compulsory health insurance than in normal commercial sectors and subjected to the attainment of social and solidarity objectives.

(95) As a result, due to the limited nature of competition that was introduced into the Slovak compulsory health insurance system (i.e. only limited quality competition and no price competition at all) as well as the restrictions on the way profits can be made and used, the elements of competition and profit-orientation which are present in the Slovak system of compulsory health insurance do not call into question the predominant social, solidarity and regulatory features indicating the non-economic nature of the activities performed by health insurance companies in that system. Rather, the elements of competition and profit-orientation present in the Slovak system of compulsory health insurance should be considered to pursue the prime objective of encouraging the insurance companies to operate in accordance with the principles of sound management in the interest of a proper functioning of that social security system, thereby contributing to ensure that the social and solidarity objectives of that system are attained ([62]).

(96) Finally, the Commission considers that the fact that the Slovak Constitutional Court (when assessing a possible violation of the right under the Slovak Constitution to conduct a business) considered the Slovak compulsory health insurance system to be 'included in the realm of competition' does not mean that this system involves activities of an economic nature within the meaning of the State aid rules. In fact, in that case the Slovak Constitutional Court was asked to review whether the 2007 legislative ban on profit distribution by health insurance

([59]) In this respect, the Commission recalls that the fact that the German sickness funds in the AOK case (Joined Cases C-264/01, C-306/01, C-354/01 and C-355/01 AOK Bundesverband) were even engaged in some price competition through a certain scope to vary the contribution rates of affiliates did not call into question the finding of the Court that they were not involved in an economic activity. According to the CJEU, the introduction of an element of competition with regard to contributions to encourage the sickness funds to operate in accordance with principles of sound management, that is to say in the most effective and least costly manner possible, was in the interests of the proper functioning of the German social security system. According to the CJEU, the pursuit of that objective does not in any way change the nature of the sickness funds' activity (see paragraph 56 of that judgment).

([60]) See Case T-319/99 FENIN [2003] ECR II-357 (in particular paragraph 37).

([61]) Recitals 84 to 88.

([62]) Also in light of the main (efficiency) objective of the reform stated in recital 13.

companies was compatible with the Slovak Constitution (violation of the right of ownership, protection of property and right to conduct a business) and compatible with Articles 18, 49, 54 and 63 of the Treaty. The Slovak Constitutional Court decided that this ban violated the Slovak Constitution, and that therefore there was no reason to discuss the substantive elements of the EU internal market rules or to rule on their violation.

(97) Against this background, taking account of the particularities of the current case and the presence and weighting of the relevant indicators, the activity of compulsory health insurance as organised and carried out in Slovakia cannot be considered as an economic activity.

(98) In light of the above, the Commission concludes that SZP/VZP, as the recipients of the contested measures, cannot be considered to constitute undertakings within the meaning of Article 107(1) of the Treaty and thus that those measures do not give rise to State aid within the meaning of that provision.

(99) Therefore, there is no need to examine the other conditions for the existence of State aid within the meaning of Article 107(1) TFEU nor to assess the compatibility of the contested measures.

8. **CONCLUSION**

(100) In light of the above considerations, the Commission concludes that the contested measures do not constitute State aid within the meaning of Article 107(1) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The following measures granted by the Slovak Republic to Spoločná zdravotná poisťovňa, a. s. (SZP) and/or Všeobecná zdravotná poisťovňa, a. s. (VZP) do not constitute aid within the meaning of Article 107(1) of the Treaty:

(a) the capital increase in SZP of SKK 450 million made between 28 November 2005 and 18 January 2006;

(b) the discharge of SZP's debts through Veritel' a. s.. from 2003 to 2006;

(c) the subsidy granted to SZP by the Ministry of Health in 2006;

(d) the capital increase in VZP of EUR 65,1 million on 1 January 2010;

(e) the Risk Equalisation Scheme set up by Part 3 of Act No 580/2004; and

(f) the transfer of portfolios of liquidated health insurance companies, in particular of the company Družstevná zdravotná poisťovňa to VZP and of the company Európská zdravotná poisťovňa to SZP.

Article 2

This Decision is addressed to Slovak Republic.

Done at Brussels, 15 October 2014.

For the Commission
Joaquín ALMUNIA
Vice-President

COMMISSION IMPLEMENTING DECISION (EU) 2015/249

of 10 February 2015

extending the validity of Decision 2006/502/EC requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters

(notified under document C(2015) 603)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ([1]), and in particular Article 13 thereof,

Whereas:

(1) Commission Decision 2006/502/EC ([2]) requires Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters.

(2) Decision 2006/502/EC was adopted in accordance with the provisions of Article 13 of Directive 2001/95/EC, which restricts the validity of the Decision to a period not exceeding one year, but allows it to be extended for additional periods none of which shall exceed one year.

(3) The validity of Decision 2006/502/EC was extended by 1-year periods, firstly by Commission Decision 2007/231/EC ([3]) until 11 May 2008, secondly by Commission Decision 2008/322/EC ([4]) until 11 May 2009, thirdly by Commission Decision 2009/298/EC ([5]) until 11 May 2010, fourthly by Commission Decision 2010/157/EU ([6]) until 11 May 2011, fifthly by Commission Decision 2011/176/EU ([7]) until 11 May 2012, sixthly by Commission Implementing Decision 2012/53/EU ([8]) until 11 May 2013, seventhly by Commission Implementing Decision 2013/113/EU ([9]) until 11 May 2014 and eighthly by Commission Implementing Decision 2014/61/EU ([10]) until 11 May 2015.

(4) Lighters that are not child-resistant are still being placed on the market. Reinforced market surveillance activities, from targeted sampling to effective restrictive measures, should further decrease their presence.

(5) In the absence of other satisfactory measures addressing the child safety of lighters, it is necessary to extend the validity of Decision 2006/502/EC for a further 12 months.

(6) Therefore, Decision 2006/502/EC should be amended accordingly.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

In Article 6 of Decision 2006/502/EC, paragraph 2 is replaced by the following:

'2. This Decision shall apply until 11 May 2016.'

([1]) OJ L 11, 15.1.2002, p. 4.
([2]) OJ L 198, 20.7.2006, p. 41.
([3]) OJ L 99, 14.4.2007, p. 16.
([4]) OJ L 109, 19.4.2008, p. 40.
([5]) OJ L 81, 27.3.2009, p. 23.
([6]) OJ L 67, 17.3.2010, p. 9.
([7]) OJ L 76, 22.3.2011, p. 99.
([8]) OJ L 27, 31.1.2012, p. 24.
([9]) OJ L 61, 5.3.2013, p. 11.
([10]) OJ L 38, 7.2.2014, p. 43.

Article 2

Member States shall take the necessary measures to comply with this Decision by 11 May 2015 at the latest and shall publish those measures. They shall forthwith inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 February 2015.

For the Commission
Věra JOUROVÁ
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2015/250

of 13 February 2015

amending Annexes I and II to Decision 2004/558/EC as regards the infectious bovine rhinotracheitis-free status of the Federal States of Saxony, Saxony-Anhalt, Brandenburg, Berlin and Mecklenburg-Western Pomerania in Germany

(notified under document C(2015) 706)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine [1], and in particular Articles 9(2) and 10(2) thereof,

Whereas:

(1) Directive 64/432/EEC lays down rules for trade within the Union in bovine animals. Article 9 thereof provides that where a Member State has a compulsory national control programme for one of the contagious diseases listed in Annex E(II) thereto, it may submit its programme to the Commission for approval. That list includes infectious bovine rhinotracheitis. Infectious bovine rhinotracheitis is the description of the most prominent clinical signs of the infection with the bovine herpesvirus type 1 (BHV1). Article 9 of Directive 64/432/EEC also provides for the definition of the additional guarantees which may be required in intra-Union trade.

(2) In addition, Article 10 of Directive 64/432/EEC provides that where a Member State considers that its territory or part thereof is free from one of the diseases listed in Annex E(II) to that Directive, it is to present appropriate supporting documentation to the Commission. That Article also provides for the definition of the additional guarantees which may be required in intra-Union trade.

(3) Commission Decision 2004/558/EC [2] approves the programmes for the control and eradication of BHV1 presented by the Member States listed in Annex I thereto for the regions listed in that Annex and for which additional guarantees apply in accordance with Article 9 of Directive 64/432/EEC.

(4) In addition, Annex II to Decision 2004/558/EC lists the regions of the Member States that are considered free of BHV1 and to which additional guarantees apply in accordance with Article 10 of Directive 64/432/EEC.

(5) All regions of Germany, with the exception of the Federal States of Bavaria and Thuringia, are currently listed in Annex I to Decision 2004/558/EC. The Federal States of Bavaria and Thuringia are free of BHV1 and are therefore listed in Annex II to that Decision.

(6) Germany has now submitted to the Commission documentation supporting the request for the additional guarantees in accordance with Article 10 of Directive 64/432/EEC for the Federal States of Saxony, Saxony-Anhalt, Brandenburg, Berlin and Mecklenburg-Western Pomerania to be considered free of BHV1.

(7) Following the evaluation of the supporting documentation submitted by that Member State, the Federal States of Saxony, Saxony-Anhalt, Brandenburg, Berlin and Mecklenburg-Western Pomerania in Germany should no longer be listed in Annex I to Decision 2004/558/EC, but instead be listed in Annex II thereto and the application of the additional guarantees in accordance with Article 10 of Directive 64/432/EEC should be extended to them. Annexes I and II to Decision 2004/558/EC should therefore be amended accordingly.

(8) Decision 2004/558/EC should therefore be amended accordingly.

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[1] OJ 121, 29.7.1964, p. 1977/64.

[2] Commission Decision 2004/558/EC of 15 July 2004 implementing Council Directive 64/432/EEC as regards additional guarantees for intra-Community trade in bovine animals relating to infectious bovine rhinotracheitis and the approval of the eradication programmes presented by certain Member States (OJ L 249, 23.7.2004, p. 20).

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

HAS ADOPTED THIS DECISION:

Article 1

Annexes I and II to Decision 2004/558/EC are replaced by the text in Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 February 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

'ANNEX I

Member States	Regions of Member States to which the additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 9 of Directive 64/432/EEC
Belgium	All regions
Czech Republic	All regions
Germany	All regions, except the Federal States of Bavaria, Thuringia, Saxony, Saxony-Anhalt, Brandenburg, Berlin and Mecklenburg-Western Pomerania
Italy	Region Friuli-Venezia Giulia Region Valle d'Aosta Autonomous Province of Trento

ANNEX II

Member States	Regions of Member States to which the additional guarantees for infectious bovine rhinotracheitis apply in accordance with Article 10 of Directive 64/432/EEC
Denmark	All regions
Germany	The Federal States of Bavaria, Thuringia, Saxony, Saxony-Anhalt, Brandenburg, Berlin and Mecklenburg-Western Pomerania
Italy	Autonomous Province of Bolzano
Austria	All regions
Finland	All regions
Sweden	All regions'

COMMISSION IMPLEMENTING DECISION (EU) 2015/251

of 13 February 2015

amending Implementing Decision 2014/709/EU concerning animal health control measures relating to African swine fever in certain Member States

(notified under document C(2015) 710)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

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

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

Whereas:

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

(2) Article 11 of Implementing Decision 2014/709/EU, providing for a prohibition on the dispatch to other Member States and third countries of fresh pig meat and of certain pig meat preparations and pig meat products from areas listed in the Annex, should be reviewed in order to improve its consistency as regards derogations applicable to exports to third countries.

(3) Since October 2014, a few cases of African swine fever in wild boar were reported at the border between Estonia and Latvia, in both Member States in an area included in Part I of the Annex to Implementing Decision 2014/709/EU. Two cases were reported in Lithuania in Kaunas and Kupiškis.

(4) The evolution of the current epidemiological situation should be considered in the assessment of the risk represented by the animal health situation in Estonia, Latvia and Lithuania. In order to focus animal health control measures and to prevent the spread of African swine fever, as well as to prevent any unnecessary disturbance to trade within the Union and to avoid unjustified barriers to trade by third countries, the Union list of areas subject to the animal health control measures provided for in Implementing Decision 2014/709/EU should be amended to take into account the current animal health situation as regards that disease situation in Estonia, Latvia and Lithuania.

(5) It is therefore necessary to amend the Annex to Implementing Decision 2014/709/EU to include in Part II of that Annex the relevant areas of Estonia, Latvia and Lithuania.

(6) Implementing Decision 2014/709/EU should therefore be amended accordingly.

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

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

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision 2014/709/EU is amended as follows:

(1) in Article 11, paragraphs 2 and 3 are replaced by the following:

'2. By way of derogation from paragraph 1, the Member States concerned with areas listed in Part II, III or IV of the Annex may authorise the dispatch of fresh pig meat referred to in paragraph 1 and pig meat preparations and pig meat products consisting of, or containing such pig meat, to other Member States and third countries provided that those pig meat preparations and pig meat products are derived from pigs which have been kept since birth in holdings located outside the areas listed in Parts II, III and IV of the Annex and the fresh pig meat, pig meat preparations and pig meat products are produced, stored and processed in establishments approved in accordance with Article 12.

3. By way of derogation from paragraph 1, the Member States concerned with areas listed in Part II of the Annex may authorise the dispatch of fresh pig meat referred to in paragraph 1 and pig meat preparations and pig meat products consisting of, or containing such pig meat, to other Member States and third countries provided that those pig meat preparations and pig meat products are derived from pigs that comply with the requirements laid down in paragraph 1 and paragraph 2 or paragraph 3 of Article 3.';

(2) the Annex is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 February 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

The Annex to Implementing Decision 2014/709/EU is amended as follows:

(1) Part I is amended as follows:

(a) the entry for Estonia is replaced by the following:

'1. **Estonia**

The following areas in Estonia:

— the maakond of Põlvamaa,

— the vald of Häädemeeste,

— the vald of Kambja,

— the vald of Kasepää,

— the vald of Kolga-Jaani,

— the vald of Konguta,

— the vald of Kõo,

— the vald of Kõpu,

— the vald of Laekvere,

— the vald of Lasva,

— the vald of Meremäe,

— the vald of Nõo,

— the vald of Paikuse,

— the vald of Pärsti,

— the vald of Puhja,

— the vald of Rägavere,

— the vald of Rannu,

— the vald of Rõngu,

— the vald of Saarde,

— the vald of Saare,

— the vald of Saarepeedi,

— the vald of Sõmeru,

— the vald of Surju,

— the vald of Suure-Jaani,

— the vald of Tahkuranna,

— the vald of Torma,

— the vald of Vastseliina,

— the vald of Viiratsi,

— the vald of Vinni,

— the vald of Viru-Nigula,

— the vald of Võru,

— the linn of Võru,

— the linn of Kunda,

— the linn of Viljandi.';

(b) the entry for Latvia is replaced by the following:

'2. **Latvia**

The following areas in Latvia:

— the novads of Aizkraukles,

— the novads of Alojas,

— in the novads of Alūksnes, the pagasti of Ilzenes, Zeltiņu, Kalncempju, Annas, Malienas, Jaunannas, Mālupes and Liepnas,

— the novads of Amatas,

— in the novads of Apes, the pagasts of Virešu,

— the novads of Baltinavas,

— the novads of Balvu,

— the novads of Cēsu,

— the novads of Gulbenes,

— the novads of Ikšķiles,

— the novads of Inčukalna,

— the novads of Jaunjelgavas,

— the novads of Jaunpiepalgas,

— the novads of Ķeguma,

— the novads of Kocēnu,

— the novads of Krimuldas,

— the novads of Lielvārdes,

— the novads of Līgatnes,

— the novads of Limbažu,

— the novads of Mālpils,

— the novads of Mazsalacas,

— the novads of Neretas,

— the novads of Ogres,

— the novads of Pārgaujas,

— the novads of Priekuļu,

— the novads of Raunas,

— the novads of Ropažu,

— the novads of Rugāju,

— the novads of Salacgrīvas,

— the novads of Salas,

— the novads of Sējas,

— the novads of Siguldas,

— the novads of Skrīveru,

— the novads of Smiltenes,

— the novads of Vecpiebalgas,

— the novads of Vecumnieku,

— the novads of Viesītes,

— the novads of Viļakas,

— the republikas pilsēta of Valmiera.';

(c) the entry for Lithuania is replaced by the following:

'3. **Lithuania**

The following areas in Lithuania:

— in the rajono savivaldybė of Kėdainiai, the seniūnija of Josvainių, Pernaravos, Krakių, Kėdainių miesto, Dotnuvos, Gudžiūnų and Surviliškio,

— in the rajono savivaldybė of Panevežys, the seniūnija of Krekenavos, Upytės, Velžio, Miežiškių, Karsakiškio, Naujamiesčio, Pajstrio, Panevėžio and Smilgių,

— in the rajono svaivaldybė of Radviliškis the seniūnija of Skėmių and Sidabravo,

— the miesto savivaldybė of Kaunas,

— the miesto savivaldybė of Panevežys,

— the rajono savivaldybė of Kaišiadorys,

— the rajono savivaldybė of Kaunas,

— the rajono savivaldybė of Pasvalys,

— the rajono savivaldybė of Prienai,

— the savivaldybė of Birštonas,

— the savivaldybė of Kalvarija,

— the savivaldybė of Kazlu Ruda,

— the savivaldybė of Marijampole.';

(2) Part II is amended as follows:

(a) the entry for Estonia is replaced by the following:

'1. **Estonia**

The following areas in Estonia:

— the maakond of IDA-Virumaa,

— the maakond of Valgamaa,

— the vald of Abja,

— the vald of Halliste,

— the vald of Karksi,

— the vald of Paistu,

— the vald of Tarvastu,

— the vald of Antsla,

— the vald of Mõniste,

— the vald of Varstu,

— the vald of Rõuge,

— the vald of Sõmerpalu,

— the vald of Haanja,

— the vald of Misso,

— the vald of Urvaste.';

(b) the entry for Latvia is replaced by the following:

'2. **Latvia**

The following areas in Latvia:

— the novads of Aknīstes,

— in the novads of Alūksnes, the pagasti of Veclaicenes, Jaunlaicenes, Ziemeru, Alsviķu, Mārkalnes, Jaunalūksnes and Pededzes,

— in the novads of Apes, the pagasts of Gaujienas, Trapenes and Apes,

— the novads of Cesvaines,

— the novads of Ērgļu,

— the novads of Ilūkstes,

— the republikas pilsēta of Jēkabpils,

— the novads of Jēkabpils,

— the novads of Kokneses,

— the novads of Krustpils,

— the novads of Līvānu,

— the novads of Lubānas,

— the novads of Madonas,

— the novads of Pļaviņu,

— the novads of Varakļānu.';

(c) the entry for Lithuania is replaced by the following:

'3. **Lithuania**

The following areas in Lithuania:

— in the rajono savivaldybė of Anykščiai, the seniūnija of Andrioniškis, Anykščiai, Debeikiai, Kavarskas, Kurkliai, Skiemonys, Traupis, Troškūnai, Viešintos and the part of Svėdasai located south to road No 118,

— in the rajono savivaldybė of Kėdainiai the seniūnija of Pelėdnagių, Vilainių, Truskavos and Šėtos,

— in the rajono savivaldybė of Kupiškis, the seniūnija of Alizava, Kupiškis, Noriūnai and Subačius,

— in the rajono savivaldybė of Panevėžys the seniūnija of Ramygalos, Vadoklių and Raguvos,

— the apskritis of Alytus,

— the miesto savivaldybė of Vilnius,

— the rajono savivaldybė of Biržai,

— the rajono savivaldybė of Jonava,

— the rajono savivaldybė of Šalcininkai,

— the rajono savivaldybė of Širvintos,

— the rajono savivaldybė of Trakai,

— the rajono savivaldybė of Ukmerge,

— the rajono savivaldybė of Vilnius,

— the savivaldybė of Elektrenai.'.

COMMISSION IMPLEMENTING DECISION (EU) 2015/252

of 13 February 2015

amending Annex II to Decision 2007/777/EC as regards the entry for the United States in the list of third countries or parts thereof from which the introduction of meat products and treated stomachs, bladders and intestines into the Union is authorised in relation to highly pathogenic avian influenza

(notified under document C(2015) 714)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ([1]), and in particular the introductory phrase of Article 8, the first subparagraph of point 1 of Article 8, point 4 of Article 8 and Article 9(4)(c) thereof,

Whereas:

(1) Commission Decision 2007/777/EC ([2]) lays down animal and public health rules for imports into the Union and the transit and storage in the Union of consignments of meat products and treated stomachs, bladders and intestines ('the commodities').

(2) Part 1 of Annex II to Decision 2007/777/EC describes the areas of third countries for which the introduction into the Union of the commodities is restricted for animal health reasons and for which regionalisation is applied. Part 2 of that Annex sets out a list of third countries or parts thereof from which the introduction into the Union of the commodities is authorised, provided that the commodities have undergone the relevant treatment, as set out in Part 4 of that Annex.

(3) The United States is listed in Part 2 of Annex II to Decision 2007/777/EC as authorised, inter alia, for the introduction into the Union of commodities obtained from poultry, farmed feathered game (except ratites), farmed ratites and wild game birds, which have undergone a non-specific treatment, as set out in Part 4 of that Annex, ('treatment A') subject to the condition that the meat from which the products were produced complies with the animal health requirements for fresh meat including its origin from a third country or parts thereof that are free from highly pathogenic avian influenza (HPAI) as provided for in the model animal and public health certificate set out in Annex III to Decision 2007/777/EC.

(4) An Agreement between the Union and the United States ([3]) provides for a swift mutual recognition of regionalisation measures in the event of outbreaks of disease in the Union or in the United States ('the Agreement').

(5) Outbreaks of HPAI of subtype H5N8 have been confirmed on a poultry holding in Douglas County in the State of Oregon and of HPAI subtype H5N2 in the State of Washington in the United States.

(6) Treatment A is insufficient to eliminate the animal health risks linked to the introduction into the Union of commodities obtained from poultry, farmed feathered game (except ratites), farmed ratites and wild game birds from Douglas County in the State of Oregon and from the entire State of Washington, given the current epidemiological situation for HPAI in the United States. Those products should undergo at least 'treatment D', as set out in Part 4 of Annex II to Decision 2007/777/EC ('treatment D'), in order to prevent the introduction of the HPAI virus into the Union.

([1]) OJ L 18, 23.1.2003, p. 11.

([2]) Commission Decision 2007/777/EC of 29 November 2007 laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries and repealing Decision 2005/432/EC (OJ L 312, 30.11.2007, p. 49).

([3]) Agreement between the European Community and the Government of the United States of America on sanitary measures to protect public and animal health in trade in live animals and animal products, as approved on behalf of the European Community by Council Decision 98/258/EC (OJ L 118, 21.4.1998, p. 1).

(7) The United States has submitted information on the epidemiological situation on its territory and the measures it has taken to prevent the further spread of HPAI which has been evaluated by the Commission. On the basis of that evaluation, as well as the commitments laid down in the Agreement and the guarantees provided by the United States, it is appropriate to conclude that the requirement for treatment D should be sufficient to cover the risks associated with the introduction into the Union of the commodities obtained from meat of poultry, farmed feathered game (except ratites), farmed ratites and wild game birds from Douglas County in the State of Oregon and the entire State of Washington, which the veterinary authorities of the United States have placed under restrictions due to the current HPAI outbreaks. Parts 1 and 2 of Annex II to Decision 2007/777/EC should therefore be amended to take account of that regionalisation.

(8) Decision 2007/777/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision 2007/777/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 February 2015.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

Annex II to Decision 2007/777/EC is amended as follows:

(1) In Part 1, the following entry for the United States is inserted between the entry for Russia and the entry for South Africa:

'United States	US	01/2014	Whole country
	US-1	01/2014	Area of the United States, excluding the territory US-2
	US-2	01/2014	The area of the United States corresponding to Douglas County in the State of Oregon and to the whole territory of the State of Washington'

(2) In Part 2, the entry for the United States is replaced by the following:

'US	United States US	A	A	A	A	XXX	XXX	A	A	A	XXX	A	XXX	XXX
	United States US-1	A	A	A	A	A	A	A	A	A	XXX	A	A	XXX
	United States US-2	A	A	A	A	D	D	A	A	A	XXX	A	D	XXX'

COMMISSION IMPLEMENTING DECISION (EU) 2015/253

of 16 February 2015

laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC ([1]), and in particular Articles 6(1b) and 7(1a) thereof,

Whereas:

(1) A cost-efficient and coherent implementation and enforcement of Directive 1999/32/EC is of high priority to achieve its projected health and environmental benefits resulting from reduced sulphur dioxide emissions from shipping, thus promoting fair competition and increased sustainability of maritime transport.

(2) In order to implement Articles 3a, 4a and 4b of Directive 1999/32/EC effectively, it is necessary that Member States ensure sufficiently frequent and accurate sampling of marine fuels delivered to ships or used on board ships, including inspections of ships' log books and bunker delivery notes.

(3) Article 6(1) of Directive 1999/32/EC requires Member States to take all necessary measures to check by sampling the sulphur content of the marine fuel being used for on-board combustion while in relevant sea areas and ports. In this context, sampling should be broadly construed as covering all the methods of compliance verification set out in Article 6(1a)(a), (b) and (c) of that Directive.

(4) Physical sampling of marine fuel being used for the purpose of verifying compliance should be carried out either through obtaining and analysing a fuel spot sample from the ship's fuel service system, or by analysing the relevant sealed bunker samples on board.

(5) The frequency of sampling should be determined on the basis of the number of individual ships calling in a Member State, the verification of ship documentation, the use of alternative targeting technologies to ensure a fair share of burden among Member States and cost-effectiveness as well as specific alerts about individual ships.

(6) The sampling of marine fuels while being delivered to ships should be targeted on marine fuel suppliers which have been repeatedly found not to comply with the specification stated on the bunker delivery note, taking into account the volume of marine fuels marketed by the supplier.

(7) In order to implement Directive 1999/32/EC in a cost-effective manner, Member States should be encouraged to comply with the sampling frequency by selecting ships for fuel compliance verification on the basis of national risk-based targeting mechanisms or the use of innovative compliance verification technologies, and to share the collected information with other Members States.

(8) A dedicated Union information system, developed and operated by the European Maritime Safety Agency, available to Member States from 1 January 2015, is to serve as a platform to record and exchange information on the results of individual compliance verifications under Directive 1999/32/EC. Member States should be encouraged to use the system, that can significantly contribute towards rationalising and optimising the assessment of the compliance with the requirements of that Directive.

(9) In order not to impose a disproportionate administrative burden on Member States without a coast line, on ships flying their flag or on their marine fuel suppliers, certain provisions should not apply to those Member States.

(10) Reporting should take into account the best use of all available and state-of-the-art technologies so that the administrative burden is kept to a minimum, while leaving flexibility to those Member States which might prefer to report in a more traditional way. Therefore, Member States have the possibility to use the Union information system to fulfil the relevant annual reporting obligations under Directive 1999/32/EC.

([1]) OJ L 121, 11.5.1999, p. 13.

(11) Not earlier than 1 January 2016, and subject to the availability of common shared data regarding sulphur compliance verifications and sampling, Member States may use the risk-based targeting mechanism integrated into the Union information system to prioritise ship fuel verification in a cost-effective manner.

(12) The measures provided for in this Decision are in accordance with the opinion of the Committee established in accordance with Article 9(1) of Directive 1999/32/EC,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down the rules concerning sampling methods and frequency as well as reporting under Directive 1999/32/EC as regards the sulphur content of marine fuels.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

(1) 'Service tank' means a tank from where fuel is taken to feed the downstream fuel-oil combustion machinery;

(2) 'Fuel service system' means the system supporting the distribution, filtration, purification and supply of fuel from the service tanks to the fuel-oil combustion machinery;

(3) 'Ship's representative' means the ship's master or officer in charge who is responsible for the marine fuels being used, documentation and for agreeing on the alternative fuel sampling point location;

(4) 'Sulphur inspector' means a person duly authorised by the competent authority of a Member State to verify compliance with the provisions of Directive 1999/32/EC;

(5) 'Union information system' means a system using the port call data of individual ships within SafeSeaNet, the information management system established by Article 22a of Directive 2002/59/EC of the European Parliament and of the Council [1] ('SafeSeaNet'), to record and exchange information on the results of individual compliance verifications under Directive 1999/32/EC, and operated by the European Maritime Safety Agency. A Union risk-based targeting mechanism is developed on the basis of those results of individual compliance verifications and associated findings under Directive 1999/32/EC.

Article 3

Frequency of sampling of marine fuels being used on board ships

1. Member States shall carry out inspections of ships' log books and bunker delivery notes on board of at least 10 % of the total number of individual ships calling in the relevant Member State per year.

The total number of individual ships calling in a Member State shall correspond to the average number of ships of the three preceding years as reported through SafeSeaNet.

[1] Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

2. As from 1 January 2016, the sulphur content of the marine fuel being used on board shall also be checked by sampling or analysis or both of at least the following percentage of the inspected ships referred to in paragraph 1:

(a) 40 % in Member States fully bordering SOx Emission Control Areas (SECAs);

(b) 30 % in Member States partly bordering SECAs;

(c) 20 % in Member States not bordering SECAs.

As from 1 January 2020, in Member States not bordering SECAs, the sulphur content of the marine fuel being used on board shall also be checked by sampling or analysis or both of 30 % of the inspected ships referred to in paragraph 1.

Member States may comply with the frequencies specified in this paragraph by selecting ships on the basis of national risk-based targeting mechanisms and of specific alerts on individual ships reported in the Union information system.

3. The number of individual ships calculated pursuant to paragraph 2 that shall also be checked by sampling or analysis or both can be adjusted, but not reduced by more than 50 %, either:

(a) by subtracting the number of individual ships for which possible non-compliance is verified using remote sensing technologies or quick scan analysing methods; or

(b) by setting an appropriate number where document verifications in accordance with paragraph 1 are carried out on board of at least 40 % of the individual ships calling in the relevant Member State per year.

The adjustment referred to in points (a) and (b) shall be reported in the Union information system.

4. As from 1 January 2016, instead of complying with the annual frequency laid down in paragraphs 1, 2 and 3, a Member State may apply an annual frequency of sampling on the basis of the Union risk-based targeting mechanism.

5. This Article shall not apply to the Czech Republic, Luxembourg, Hungary, Austria and Slovakia.

Article 4

Frequency of sampling of marine fuels while being delivered to ships

1. In accordance with Article 6(1a)(b) of Directive 1999/32/EC and taking into account the volume of marine fuels delivered, Member States shall carry out sampling and analysis of marine fuels while being delivered to ships by those marine fuel suppliers registered in that Member State that have been found at least three times in any given year to deliver fuel that does not comply with the specification stated on the bunker delivery note on the basis of the reporting in the Union information system or in the annual report referred to in Article 7.

2. This Article shall not apply to the Czech Republic, Luxembourg, Hungary, Austria and Slovakia.

Article 5

Sampling methods for the verification of the sulphur content of the marine fuel being used on board

1. In accordance with Article 3, where the sulphur content of marine fuels being used on board is verified, Member States shall apply the following staged approach to sampling and compliance verification of sulphur standards:

(a) inspection of ships' log books and bunker delivery notes;

(b) as appropriate, one or both of the following means of sampling and analysis:

(i) analysis of the sealed bunker samples on board ships accompanying the bunker delivery note which have been taken in accordance with Regulation 18(8.1) and (8.2) of Annex VI to MARPOL;

(ii) on-board spot sampling of the marine fuels for on-board combustion in accordance with Article 6 followed by analysis.

2. At the end of the sulphur content verification and analysis, the sulphur inspector shall record the details of the fuel-specific inspection and findings in line with the requested type of information referred to in Article 7(a).

Article 6

On-board spot sampling

1. Member States shall take the on-board spot sample of marine fuel through a single or multiple spot sample at the location where a valve is fitted for the purpose of drawing a sample in the fuel service system, as indicated on the ship's fuel piping systems or arrangement plan and as approved by the Flag Administration or Recognised Organisation acting on its behalf.

2. In the absence of the location referred to in paragraph 1, the fuel sampling point shall be the location where a valve is fitted for the purpose of drawing a sample and shall fulfil all of the following conditions:

(a) be easily and safely accessible;

(b) take into account different fuel grades being used for the fuel-oil combustion machinery item;

(c) be downstream of the fuel in use from the service tank;

(d) be as close to the fuel inlet of the fuel-oil combustion machinery item as feasible and safely possible taking into account the type of fuels, flow-rate, temperature, and pressure behind the selected sampling point;

(e) be proposed by the ship's representative and accepted by the sulphur inspector.

3. Member States may take a spot sample at more than one location in the fuel service system to determine whether there is a possible fuel cross-contamination in the absence of fully segregated fuel service systems, or in case of multiple service tank arrangements.

4. Member States shall ensure that the spot sample is collected in a sampling container from which at least three sample bottles can be filled which are representative of the marine fuel being used.

5. Member States shall take measures to ensure the following:

(a) that the sample bottles are sealed by the sulphur inspector with a unique means of identification installed in the presence of the ship's representative;

(b) that two sample bottles are taken ashore for analysis;

(c) that one sample bottle is retained by the ship's representative for a period of not less than 12 months from the date of collection.

Article 7

Information to be included in the annual report

The annual report to be submitted by the Member States to the Commission on the compliance with sulphur standards for marine fuels shall include at least the following information:

(a) the total annual number and type of non-compliance of measured sulphur content in examined fuel, including the extent of individual sulphur content non-conformity and the average sulphur content determined following sampling and analysis;

(b) the total annual number of document verifications, including bunker delivery notes, location of fuel bunkering, oil record books, log books, fuel change-over procedures, and records;

(c) claims of non-availability of marine fuels as referred to in Article 4a(5b) of Directive 1999/32/EC, including the ship details, bunkering port and Member States where the non-availability occurred, number of claims made by the same ship, and type of bunker unavailable;

(d) notifications and letters of protest with respect to the sulphur content of fuels against marine fuel suppliers in their territory;

(e) a list containing the name and address of all marine fuel suppliers in the relevant Member State;

(f) the description of the use of alternative emission abatement methods, including trials and continuous emission monitoring, or alternative fuels and compliance checks of continuous achievement of SOx reduction in accordance with Annexes I and II to Directive 1999/32/EC of the ships flying the flag of the Member State;

(g) where applicable, description of national risk-based targeting mechanisms, including specific alerts, and the use and outcome of remote sensing and other available technologies for prioritising individual ships for compliance verification;

(h) total number and type of infringement procedures initiated or penalties or both, the amount of fines imposed by the competent authority to both ship operators and marine fuel suppliers;

(i) for each individual ship, following the inspection of its log books and bunker delivery notes or sampling or both:

(i) ship particulars, including IMO number, type, age of ship and tonnage;

(ii) reports on sampling and analysis, including the number and type of samples, the sampling methods used, and sampling locations, for compliance verification of the ship type;

(iii) relevant information on bunker delivery notes, location of fuel bunkering, oil record books, log books, fuel change-over procedures, and records;

(iv) enforcement action and legal procedures initiated at the national level or penalties or both against that individual ship.

Article 8

Format of the report

1. Member States may use the Union information system to record directly after the verification all relevant fuel-specific inspection details and findings, including sampling related information, into the system.

2. A Member State using the Union information system to record, exchange and share data on the compliance verification may use the annual aggregated compilation of enforcement efforts provided by the Union information system to fulfil their reporting obligations laid down in Article 7 of Directive 1999/32/EC.

3. Member States not using the Union information system shall either facilitate a connection between the Union information system and their national system that can at least record, where applicable, the same fields as those in the Union information system, or report electronically on all items referred to in Article 7.

Article 9

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*.

Done at Brussels, 16 February 2015.

For the Commission

The President

Jean-Claude JUNCKER

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