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## Legislation

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## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION REGULATION (EU) 2018/1793

of 20 November 2018

**approving amendments to the technical file of a geographical indication for a spirit drink listed in Annex III to Regulation (EC) No 110/2008 resulting in changes to its main specifications ('Ron de Guatemala' (GI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 <sup>(1)</sup>, and in particular Article 17(8) and Article 21 thereof,

Whereas:

- (1) The Commission examined the application of the 'Asociación Nacional de Fabricantes de Alcoholes y Licores (ANFAL)' for approval of amendments to the technical file of the geographical indication 'Ron de Guatemala', registered under Regulation (EC) No 110/2008 <sup>(2)</sup>, in accordance with Article 17(5) of that Regulation.
- (2) Having concluded that the application complies with Regulation (EC) No 110/2008, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(3)</sup> pursuant to Article 17(6) of that Regulation.
- (3) As no statement of opposition under Article 17(7) of Regulation (EC) No 110/2008 has been received by the Commission, the amendments to the technical file should be approved in accordance with Article 17(8) of that Regulation.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the technical file published in the *Official Journal of the European Union* regarding the name 'Ron de Guatemala' (GI) are hereby approved.

*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*.

<sup>(1)</sup> OJ L 39, 13.2.2008, p. 16.

<sup>(2)</sup> Commission Regulation (EU) No 97/2014 of 3 February 2014 amending Annex III to Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (OJ L 33, 4.2.2014, p. 1).

<sup>(3)</sup> OJ C 317, 23.9.2017, p. 6.

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

Done at Brussels, 20 November 2018.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1794****of 20 November 2018****amending Implementing Regulation (EU) 2015/220 laying down rules for the application of Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Union**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Union <sup>(1)</sup>, and in particular Articles 5a(2) and 19(3) thereof,

Whereas:

- (1) Article 12 of Commission Implementing Regulation (EU) 2015/220 <sup>(2)</sup> sets out the total number of duly completed and submitted farm returns per Member State that are eligible for the payment of the standard fee. Article 19(1)(a) of Regulation (EC) No 1217/2009 provides for a reduction of the standard fee to 80 % where the total number of duly completed and delivered farm returns in respect of a FADN division or a Member State is less than 80 % of the number of returning holdings laid down for that FADN division or for the Member State concerned. In order to ensure a fair application of that provision, it should not be possible to compensate for non-delivered farm returns in a FADN division for which less than 80 % of the number of returning holdings laid down for that FADN division was submitted by the Member State.
- (2) Article 14(4) of Implementing Regulation (EU) 2015/220 sets a 2-month deadline for the validation of submitted farm returns in relation to their potential eligibility for the payment of the increased standard fee. In order to provide more clarity as regards the duration of that period, it should be expressed in working days in the Member State concerned. In addition, the Commission should have the possibility to extend that period in exceptional and duly justified cases.
- (3) Implementing Regulation (EU) 2015/220 should therefore be amended accordingly.
- (4) Having regard to the nature of the amendments, it is appropriate that they apply as from the accounting year 2018.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

*Article 1*

Implementing Regulation (EU) 2015/220 is amended as follows:

- (1) in Article 12, the following paragraph is added:

'However, farm returns from a FADN division with a higher number of submitted farm returns than laid down for that FADN division in Annex II shall not be considered as eligible for the payment of the standard fee in a FADN division for which less than 80 % of the required number of returning holdings is submitted by the Member State.;

- (2) in Article 14, paragraph 4 is replaced by the following:

'4. To the increase of the standard fee under points (a) and (b) of paragraph 3 may be added EUR 2 for the accounting year 2018 and EUR 5 from the accounting year 2019 where the accountancy data has been verified by the Commission in accordance with point (b) of the first paragraph of Article 13 of this Regulation and is deemed duly completed in accordance with Article 8(2) of Regulation (EC) No 1217/2009, either at the moment of its submission to the Commission, or within 40 working days from the date on which the Commission informed the submitting Member State that the submitted accountancy data is not duly completed.

<sup>(1)</sup> OJ L 328, 15.12.2009, p. 27.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2015/220 of 3 February 2015 laying down rules for the application of Council Regulation (EC) No 1217/2009 setting up a network for the collection of accountancy data on the incomes and business operation of agricultural holdings in the European Union (OJ L 46, 19.2.2015, p. 1).

In exceptional and duly justified cases, the Commission may decide to extend that period of 40 working days.

The end date of the period of 40 working days, or of any extension thereof, shall be confirmed in writing between the Commission and the liaison agency of the Member State concerned.¹.

*Article 2*

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

It shall apply from the accounting year 2018.

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

Done at Brussels, 20 November 2018.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1795****of 20 November 2018****laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area <sup>(1)</sup>, and in particular the second subparagraph of Article 11(4) thereof,

Whereas:

- (1) Directive 2012/34/EU as amended by Directive (EU) 2016/2370 <sup>(2)</sup> has opened up the market for domestic rail passenger services with a view to completing the single European railway area. This may have implications for the organisation and financing of rail passenger services provided under a public service contract. Member States may introduce in their legislation the possibility to deny access to the infrastructure where the economic equilibrium of such public service contracts would be compromised by new open access rail passenger services.
- (2) On the other hand, such services, depending on their specific features, such as quality characteristics, timing, destinations served and prospective customers targeted, may not be in head-on competition with public services, and thus cause only limited impact on the economic equilibrium of a public service contract. Furthermore, there may be positive network effects for public service operators, net benefits to passengers or wider social benefits that should be taken into account.
- (3) It is therefore necessary to balance the legitimate interests of operators performing a public service contract and competent authorities, on the one hand, with the overarching objectives of completing the single European railway area and reaping its wider social benefits, on the other hand. The economic equilibrium test should achieve a balance between those competing interests.
- (4) Regulation (EC) No 1370/2007 of the European Parliament and of the Council <sup>(3)</sup> lays down that, as a reward for discharging public service obligations in the provision of rail passenger services, operators may be granted financial compensation or exclusive rights, or both. However, the grant of exclusive rights to railway operators should not result in the foreclosure of domestic rail passenger markets.
- (5) Such exclusive rights should not preclude the right of access of other railway undertakings, unless the economic equilibrium test shows that, taking into account the value of the exclusive rights, the new rail passenger service would have a substantial negative impact on the profitability of services operated under the public service contract or the net cost of their provision for the competent authority, or both, depending on risk-sharing arrangements stipulated in the public service contract.
- (6) An economic equilibrium test should be requested only in respect of passenger rail services which are not provided under a public service contract and which are either entirely new or entail a substantial modification of an existing service. This notion encompasses also commercial services provided by the same operator that carries out the public service contract.
- (7) It should be for the regulatory body to assess whether a proposed modification of a rail passenger service should be considered substantial. An increase in frequencies or number of stops could be considered a substantial modification. A variation in prices should not be considered a substantial modification, unless it is inconsistent with normal market behaviour, and where relevant, with the business plan submitted to the regulatory body at the time the previous economic equilibrium test was carried out.

<sup>(1)</sup> OJ L 343, 14.12.2012, p. 32.

<sup>(2)</sup> Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (OJ L 352, 23.12.2016, p. 1).

<sup>(3)</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

- (8) The regulatory body's decision should include an assessment of net benefits to customers arising from the new rail passenger service in the short and medium term, and should take into account the technical information provided by the infrastructure manager on relevant infrastructure requirements and on expected impacts on network performance and on optimal capacity utilisation by all applicants.
- (9) The regulatory body should be entitled both to assess the likely impact of the new passenger service, and to assess whether such impact would be substantial and thus compromise the economic equilibrium of the existing public service contract.
- (10) In order to avoid the interruption of a new rail passenger service that has already started, and to give legal certainty to this new service about its possibility to operate, the period during which an economic equilibrium test can be requested should be limited and linked to the time of the applicant's notification of its interest in operating a new rail passenger service.
- (11) To be admissible, a request for an economic equilibrium test should include substantiation that the economic equilibrium of the public service contract would be compromised by the proposed new service.
- (12) In order to ensure legal certainty for all parties involved and to enable the infrastructure manager to process requests for capacity according to the procedure set out in Section 3 of Chapter IV of Directive 2012/34/EU, the regulatory body should take a decision on economic equilibrium within a pre-determined time frame, and in any event before the deadline for receipt of requests of capacity, set by the infrastructure manager in accordance with point 3 of Annex VII to Directive 2012/34/EU.
- (13) However, if at the time the applicant's notification is received, a public service contract is in the process of being competitively tendered and an economic equilibrium test has been requested, the regulatory body may decide to suspend consideration of the application for the new rail passenger service for a limited period of time pending the award of the new public service contract. The suspension should last for no longer than 12 months from the receipt of the applicant's notification or until the tender process has concluded, whichever is sooner.

These specific provisions are without prejudice to the application of this regulation to a public service contract which is on-going at the time the applicant's notification is received. In these circumstances, and where the economic equilibrium test on the existing public service contract demonstrates that access can be granted, such access should be time-limited until the expiry of the existing public service contract.

- (14) The economic equilibrium of a public service contract should be regarded as compromised if the proposed new service would have a substantial negative impact on the level of profit for the public service operator and/or their operation would imply a substantial increase in net cost for the competent authority.
- (15) When assessing whether an impact is substantial, the regulatory body should take into account criteria such as whether the new service would jeopardise the viability and endanger the continuity of the public service, either because performance of the public contract would not be economically sustainable for the public service operator, or because it would entail a substantial increase in net cost for the competent authority.
- (16) Beyond the economic analysis, the regulatory body should also assess and take into account the net benefits to customers in the short and medium term and any impacts in network performance and capacity use. The regulatory body should take into account the technical information provided by the infrastructure manager on relevant infrastructure requirements, on expected impacts on network performance and on optimal capacity utilisation by all applicants.
- (17) The economic analysis should focus on the impact of the proposed new service on the public service contract as a whole, including the services specifically affected, for its entire time-scale, taking into account the value of any existing exclusive rights that may have been granted. No predefined quantified threshold regarding the damage should be applied strictly or in isolation, and no such thresholds should be set in national legislation. The assessment should be based on an objective methodology adopted by the regulatory body having regard to the specificities of rail transport in the Member State concerned.
- (18) When the regulatory body comes to the conclusion that the new rail passenger service would compromise the economic equilibrium of the public service contract, in its decision it should indicate, if relevant, possible changes to the new rail passenger service which would enable access to be granted. The regulatory body may issue



recommendations to the competent authority as regards other possible conditions that would enable access to be granted, in particular in the light of its analysis of net benefits to customers arising from the new rail passenger service.

- (19) If the application for access concerns a new rail passenger service as defined in Article 3(36) of Directive 2012/34/EU and the objective economic analysis of the regulatory body shows that the new passenger service would have a substantial negative impact on the economic equilibrium of a public service contract, the regulatory body should determine conditions which would enable access to be granted in accordance with Article 11a of Directive 2012/34/EU.
- (20) In all its activities related to the economic equilibrium test, the regulatory body should not disclose confidential or commercially sensitive information received from the parties. In particular, it should redact such information from the decision to be published. All decisions of regulatory bodies, including those on the confidential nature of the information received, are subject to judicial review according to Article 56(10) of Directive 2012/34/EU.
- (21) Where the economic equilibrium test is carried out in respect of a new international passenger service, without prejudice to the principle of independence of regulatory bodies in decision-making referred to in Article 55(1) of Directive 2012/34/EU, the regulatory bodies concerned should exchange information and cooperate to achieve a reasonable resolution of the matter.
- (22) Regulatory bodies should exchange best practices in applying the economic equilibrium test with a view to adapting their methodology over time and developing a consistent methodology across Member States, which may be covered by Article 57(8) of Directive 2012/34/EU.
- (23) Commission Implementing Regulation (EU) No 869/2014<sup>(1)</sup> establishes criteria and procedures for the application of the principal purpose test and the economic equilibrium test in respect of new international rail passenger services. However, with the opening of the market for domestic rail passenger services, the principal purpose test has become obsolete and the same criteria and procedures should apply to all new rail passenger services, regardless of whether they are domestic or international. Implementing Regulation (EU) No 869/2014 should therefore be repealed.
- (24) Since Articles 10 and 11(1) of Directive 2012/34/EU apply from 1 January 2019 but are not applicable to train services which start to run before 12 December 2020, there is a need to continue applying Commission Implementing Regulation (EU) No 869/2014 after 1 January 2019, but only for new rail passenger services intended to start before 12 December 2020. The application of Implementing Regulation (EU) No 869/2014 should be conditional on applicants' notifications being submitted within a time-frame that allows reasonable time for completion of the authorisation and scheduling process so that the services can actually start to run before 12 December 2020.
- (25) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 62(1) of Directive 2012/34/EU,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter**

This Regulation sets out the details of the procedure and criteria to be followed when determining whether the economic equilibrium of a public service contract for rail transport would be compromised by a new rail passenger service.

#### *Article 2*

#### **Scope**

This Regulation applies to situations where a Member State has decided to limit the right of access referred to in Article 10(2) Directive 2012/34/EU for new rail passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route, as provided for in Article 11(1) of that Directive.

<sup>(1)</sup> Commission Implementing Regulation (EU) No 869/2014 of 11 August 2014 on new rail passenger services (OJ L 239, 12.8.2014, p. 1).

*Article 3***Definitions**

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

- (1) 'new rail passenger service' means a rail passenger service designed to be operated as a regular time-tabled service, that is either entirely new, or that implies a substantial modification of an existing rail passenger service, in particular in terms of increased frequencies of services or increased number of stops, and which is not provided under a public service contract;
- (2) 'economic equilibrium test' means the assessment process described in Article 11(1) to (4) and Article 11a of Directive 2012/34/EU and further described in Article 10 and carried out by a regulatory body at the request of one of the entities referred to in Article 11(2) of Directive 2012/34/EU in order to determine whether the economic equilibrium of a public service contract would be compromised by the proposed new rail passenger service;
- (3) 'public service contract' means a public service contract as defined in point (i) of Article 2 of Regulation (EC) No 1370/2007 in the area of rail transport;
- (4) 'competent authority' means a competent authority as defined in point (b) of Article 2 of Regulation (EC) No 1370/2007;
- (5) 'net financial impact' means the impact of the new rail passenger service on the net balance of costs and revenues arising from the discharge of the public service obligations stipulated in a public service contract, which includes reasonable profit;
- (6) 'exclusive right' means a right as defined in point (f) of Article 2 of Regulation (EC) No 1370/2007.

*Article 4***Notification of a planned new rail passenger service**

1. The applicant shall notify the infrastructure managers and the regulatory bodies concerned of its intention to operate a new rail passenger service in accordance with the deadline set in Article 38(4) of Directive 2012/34/EU.
2. Regulatory bodies shall develop and publish on their website a standard notification form to be completed and submitted by the applicant, which shall be limited to the following information:
  - (a) the applicant's name, address, legal entity, registration number (if appropriate);
  - (b) contact data of the person responsible for queries;
  - (c) data of licence and safety certificate of the applicant or indication of the stage of the procedure to obtain them;
  - (d) detailed route indicating location of departure and destination stations as well as all intermediate stops;
  - (e) planned starting date for the operation of the proposed new rail passenger service;
  - (f) indicative timing, frequency and capacity of the proposed new rail passenger service, including proposed departure times, arrival times and connections as well as any deviations in frequency or in stops from the standard timetable, in each direction;
  - (g) indicative information on the rolling stock the applicant plans to use.
3. The information regarding the planned operation of the new rail passenger service shall cover at least the first three years and, as far as possible, the first five years of operation. The regulatory body may however agree to a shorter period.
4. The regulatory body shall publish on its website the standard notification form submitted by the applicant and shall notify the following without undue delay and at the latest within 10 days of receiving a complete notification form:
  - (a) any competent authority that has awarded a public service contract for a rail passenger service on that route or an alternative route within the meaning of Directive 2012/34/EU;
  - (b) any other interested competent authority with the right to limit access under Article 11 of Directive 2012/34/EU;
  - (c) any railway undertaking operating services under public service contract on the route of the new rail passenger service or an alternative route.

5. All information provided by the applicant via the standard notification form and any supporting documents shall be sent to the regulatory bodies and infrastructure managers in electronic form. However, the regulatory body may, in duly justified cases, accept that documents be submitted in paper format.

6. If the notification is incomplete, the regulatory body shall inform the applicant that incomplete requests will not be considered and shall give the applicant the possibility to complete its request within a reasonable time not exceeding ten working days.

#### Article 5

##### **Deadline for requesting the economic equilibrium test**

1. Any request for an economic equilibrium test shall be made to the regulatory body by the entities referred to in the first subparagraph of Article 11(2) of Directive 2012/34/EU within the deadline set out in that provision.

2. Where, at the time of receipt of the applicant's notification referred to in Article 4 a public service contract covering the same route or an alternative route is being competitively tendered and the deadline for submitting bids to the competent authority has expired, an economic equilibrium test may be requested within the deadline referred to in paragraph 1 by the entities referred to in Article 11(2) of Directive 2012/34/EU in respect of the future public service contract.

This is without prejudice to the application of this regulation to a public service contract which is on-going at the time of the applicant's notification.

3. If no request for an economic equilibrium test is made within the deadline referred to in paragraph 1, the regulatory body shall inform the applicant and the infrastructure manager without delay. The infrastructure manager shall process the access request in accordance with Section 3 of Chapter IV of Directive 2012/34/EU.

#### Article 6

##### **Public service contracts with exclusive rights**

Where a competent authority has granted exclusive rights to the railway undertaking performing a public service contract in accordance with Article 3 of Regulation (EC) No 1370/2007, the existence of such rights shall not preclude access being granted to an applicant for the purpose of operating a new rail passenger service, provided that access would not compromise the economic equilibrium of the public service contract.

In carrying out the test pursuant to Article 10, the regulatory body shall give due consideration to the value of any such exclusive rights.

#### Article 7

##### **Information requirements for the economic equilibrium test**

1. The entity requesting the economic equilibrium test shall provide the following information:

- (a) the requesting entity's name, address, legal entity, registration number (if appropriate);
- (b) contact information of the person responsible for queries;
- (c) substantiation that the economic equilibrium of the contract risks being compromised by the new rail passenger service;
- (d) if the requesting entity is a competent authority or the railway undertaking performing the public service contract, a copy of the public service contract.

2. The regulatory body may request any necessary information, including, as the case may be:

- (a) from the competent authority:
  - (1) relevant traffic, demand and revenue forecasts, including forecast methodology,
  - (2) where appropriate, the methodology and data used to calculate the net financial effect pursuant to Article 6(1) of Regulation (EC) No 1370/2007 and the Annex to that Regulation;

- (b) from the railway undertaking performing the public service contract:
- (1) copy of the public service contract, if not provided under point (d) of paragraph 1,
  - (2) the undertaking's business plan for the route covered by the public service contract or an alternative route,
  - (3) relevant traffic, demand and revenue forecasts, including forecast methodology,
  - (4) information on revenues and profit margins gained by the undertaking on the route covered by the public service contract or an alternative route,
  - (5) timetable information for the services, including departure times, intermediate stops, arrival times and connections,
  - (6) estimated elasticities of the services (e.g. price elasticity, elasticity with respect to quality characteristics of the services),
  - (7) cost of capital and operating costs for services provided under the public service contract, as well as variations in costs and demand induced by the new rail passenger service;
- (c) from the applicant, information concerning its plans for operating the new rail passenger service, including:
- (1) business plan,
  - (2) forecast of passenger traffic and revenues, including forecast methodology,
  - (3) pricing strategies,
  - (4) ticketing arrangements,
  - (5) rolling stock specifications (e.g. load factor, number of seats, vehicle configuration),
  - (6) marketing strategy;
- (d) from the infrastructure manager:
- (1) information regarding the relevant lines or sections, in order to ensure that the new rail passenger service can be run on the infrastructure concerned,
  - (2) information on potential performance and resilience impacts of the proposed new rail passenger service,
  - (3) assessment of impacts on capacity use,
  - (4) plans for developing infrastructure as regards routes covered by the proposed new rail passenger service, including an indication of the time when any such plans will be implemented,
  - (5) information on relevant framework agreements concluded or under discussion, in particular with the undertaking performing the public service contract.

The information obligations of the infrastructure manager set out in point (d) of the first subparagraph of this paragraph shall be without prejudice to its obligations under the allocation procedure referred to in Section 3 of Chapter IV of Directive 2012/34/EU.

3. All information shall be sent to the regulatory body in electronic form. The regulatory body may, however, in duly justified cases, accept that documents be submitted in paper format.

#### *Article 8*

#### **Confidentiality**

1. The regulatory body shall not disclose commercially sensitive information received from the parties in connection with the economic equilibrium test.

2. The entity requesting the economic equilibrium test and the applicant shall substantiate any proposed non-disclosure of commercially sensitive information at the time the information is provided to the regulatory body. Such information may include, in particular, technical or financial information relating to an undertaking's know-how, business plan, cost structures, marketing and pricing strategies, supply sources and market shares. The regulatory body shall redact any commercially sensitive information from its decision before its notification and publication in accordance with Article 11(5). Information included in the standard notification form, as specified in Article 4(2), shall not be considered commercially sensitive.

3. If the regulatory body finds that the reasons for non-disclosure provided under paragraph 2 cannot be accepted, that decision shall be communicated and justified in writing to the party requesting confidentiality, at the latest two weeks before adoption of the decision referred to in Article 11(1).

4. The regulatory body's decision on confidentiality shall be subject to judicial review according to Article 56(10) of Directive 2012/34/EU. The regulatory body shall not disclose the disputed information until the national court has issued a ruling on confidentiality.

#### Article 9

##### Procedure for the economic equilibrium test

1. The regulatory body may request the entity requesting the economic equilibrium test to provide it with any additional information it deems necessary in accordance with Article 7(2) within one month of receiving the request. The requesting entity shall provide such information within a reasonable deadline set by the regulatory body. The regulatory body may request further information if it considers that the additional information received is not sufficient.

2. In the event that six weeks before the final date for receipt of requests for capacity set in accordance with point 3 of Annex VII to Directive 2012/34/EU the information provided by the requesting entity is still incomplete, the regulatory body shall perform the test on the basis of available information. If, however, the regulatory body considers that the information is insufficient to perform the test, it shall reject the request.

3. Within one month of receiving the request for the economic equilibrium test, the regulatory body shall also ask other parties referred to in Article 7(2) to provide it with the information necessary to perform the test in accordance with that provision, to the extent that such information can reasonably be provided by the party concerned. Where the information thus provided is incomplete, the regulatory body may request further clarifications, setting reasonable deadlines.

4. In the event that six weeks before the final date for receipt of requests for capacity set in accordance with point 3 of Annex VII to Directive 2012/34/EU the information provided by the applicant seeking access is still incomplete the regulatory body shall perform the test on the basis of available information. If, however, the regulatory body considers that the information provided by the applicant is insufficient to perform the test, it shall adopt a decision resulting in access being denied.

5. Where the undertaking performing the public service contract is not the requesting entity, and where six weeks before the final date for receipt of requests for capacity set in accordance with point 3 of Annex VII to Directive 2012/34/EU the information provided by this undertaking is still incomplete, the regulatory body shall perform the test on the basis of available information. If, however, the regulatory body considers that the information provided is insufficient to perform the test, it shall adopt a decision resulting in access being granted.

6. The regulatory body shall adopt a decision within six weeks from the receipt of all relevant information, and in any event before the final date for receipt of requests for capacity set in accordance with point 3 of Annex VII to Directive 2012/34/EU. The regulatory body shall inform the infrastructure manager of its decision without delay.

7. Where a request for the economic equilibrium test is made according to Article 5(2) in respect of a public service contract which is in the process of being competitively tendered, the regulatory body may suspend consideration of the proposed application for a new rail passenger service for a maximum period of 12 months from receipt of the applicant's notification of the new rail passenger service or until the tender process has concluded, whichever is the sooner.

#### Article 10

##### Contents of the economic equilibrium test and assessment criteria

1. The regulatory body shall assess whether the economic equilibrium of a public service contract would be compromised by the proposed new rail passenger service. Economic equilibrium shall be considered as compromised where the new rail passenger service would have a substantial negative impact on at least one of the following elements:

- (a) the profitability of services that the railway undertaking operates under the public service contract;
- (b) the net cost for the competent authority awarding the public service contract.

2. The analysis shall refer to the public service contract as a whole, not to individual services operated under it, over its entire duration. Predetermined thresholds or specific criteria may be applied but not strictly or in isolation from other criteria.
3. The regulatory body shall assess the net financial impact of the new rail passenger service on the public service contract. The analysis of costs and revenues generated in operating the services covered by the public service contract after the market entry of the new rail passenger service shall include the following elements:
  - (a) variation in costs incurred and revenues obtained by the railway undertaking performing the public service contract (including where relevant any cost savings, such as those arising from the non-replacement of rolling stock reaching the end of its useful life or staff whose contract ends);
  - (b) financial effects generated within the network under public service contract by the proposed new rail passenger service (such as bringing passengers who might be interested in a connection with a regional service covered by the public service contract);
  - (c) possible competitive responses by the railway undertaking performing the public service contract;
  - (d) impact on relevant investments by railway undertakings, or by competent authorities, for example in rolling stock;
  - (e) the value of any existing exclusive rights.
4. The regulatory body shall assess the significance of the impact taking into account, in particular, the contractual arrangements in place between the competent authority and the railway undertaking operating the public services, including where applicable the level of compensation determined in accordance with the Annex to Regulation (EC) No 1370/2007 or resulting from competitive award and any mechanisms for sharing risks such as traffic and revenue risks.
5. The regulatory body shall also assess:
  - (a) the net benefits to customers arising from the new rail passenger service in the short and medium term;
  - (b) the impact of the new rail passenger service on the performance and quality of railway services;
  - (c) the impact of the new rail passenger service on timetable planning for railway services.
6. Where the regulatory body is examining more than one application for access, it may take different decisions on the applications received, based on an analysis of their respective impacts on the economic equilibrium of the public service contract, competitive effects, net benefits to customers and network impacts, and of their cumulative effects on the economic equilibrium of the public service contract.
7. The assessment carried out in accordance with this Article is without prejudice to the regulatory body's obligation to report State aid issues to the national authorities in accordance with the second subparagraph of Article 56(12) of Directive 2012/34/EU.

#### *Article 11*

##### **Result of the economic equilibrium test**

1. As a result of the economic equilibrium test carried out in accordance with Articles 9 and 10, the regulatory body shall take a decision provided for in Article 11(2) of Directive 2012/34/EU, on the basis of which the right of access to the rail infrastructure shall be granted, modified, granted only under conditions or denied.
2. Where the economic equilibrium of a public service contract would be compromised by the new rail passenger service, the regulatory body:
  - (a) shall, as appropriate, indicate possible changes to that new rail passenger service, such as a modification of frequencies, paths, intermediate stops or schedule, which would ensure that the conditions for granting the right of access provided for in Article 10(2) of Directive 2012/34/EU are met; and/or
  - (b) may issue recommendations to the competent authorities, where relevant in the light of net benefits to customers referred to in point (a) of Article 10(5) of this Regulation, concerning other changes not related to the new passenger service that would ensure that the conditions for granting the right of access are met.

3. Where the request for access concerns the operation of a new service as defined by Article 3(36) of Directive 2012/34/EU, following the procedure and analysis laid down in this regulation, the regulatory body shall act in accordance with Article 11a of Directive 2012/34/EU.
4. In the circumstances described in Article 5(2) second subparagraph, where the economic equilibrium test on the existing public service contract demonstrates that access can be granted, it shall be time-limited, pending the outcome of the economic equilibrium test to be carried out in accordance with Article 5(2), first paragraph and Article 9(7).
5. The regulatory body shall notify a non-confidential version of its decision to the entities listed in Article 11(3) of Directive 2012/34/EU and publish it on its website.

#### *Article 12*

### **Cooperation between regulatory bodies competent for a proposed new international passenger service**

1. Upon receipt of an applicant's notification of its intention to start a new international passenger service, the regulatory body shall inform the other regulatory bodies having competence for the route of the proposed new service. The regulatory bodies concerned shall check the information received and inform each other of any inconsistencies.
2. Upon receipt of a request from the entities referred to in Article 11(2) of Directive 2012/34/EU for an economic equilibrium test, the regulatory body shall inform thereof the other competent regulatory bodies.
3. Regulatory bodies shall provide each other with the results of their respective economic equilibrium tests in order to give the other regulatory bodies sufficient opportunity to comment on the results of those tests before they are finalised. They shall cooperate in order to bring about a resolution of the matter in accordance with Article 57 of Directive 2012/34/EU.
4. During any exchange of information regarding the tests, regulatory bodies shall respect the confidentiality of commercially sensitive information received from the parties involved in the tests. They may only use the information for the case concerned.

#### *Article 13*

### **Fees**

A Member State or the regulatory body may decide that a fee be paid for the economic equilibrium test by the entity requesting the test.

#### *Article 14*

### **Methodology**

1. The methodology used by the regulatory body to perform the test shall be clear, transparent and non-discriminatory and shall be published on its website.
2. Regulatory bodies shall exchange experiences and best practices in applying their respective methodologies in the context of the network established in Article 57(1) of Directive 2012/34/EU.

#### *Article 15*

### **Repeal**

Implementing Regulation (EU) No 869/2014 is repealed with effect from 12 December 2020. It shall apply to applicants' notifications received after 1 January 2019 only where these are submitted sufficiently in advance for the new rail passenger services to be able to start before 12 December 2020.

*Article 16***Entry into force and application**

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

It shall apply from 1 January 2019, in time for the working timetable starting on 12 December 2020.

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

Done at Brussels, 20 November 2018.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1796****of 20 November 2018****amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances amidosulfuron, bifenox, chlorpyrifos, chlorpyrifos-methyl, clofentezine, dicamba, difenoconazole, diflubenzuron, diflufenican, dimoxystrobin, fenoxaprop-p, fenpropidin, lenacil, mancozeb, mecoprop-p, metiram, nicosulfuron, oxamyl, picloram, pyraclostrobin, pyriproxyfen and tritosulfuron****(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC <sup>(1)</sup>, and in particular the first paragraph of Article 17 thereof,

Whereas:

- (1) Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 <sup>(2)</sup> sets out the active substances deemed to have been approved under Regulation (EC) No 1107/2009.
- (2) The approval periods of the active substances chlorpyrifos, chlorpyrifos-methyl, dimoxystrobin, mancozeb, mecoprop-p, metiram, oxamyl and pyraclostrobin were last extended by Commission Implementing Regulation (EU) 2018/84 <sup>(3)</sup>. The approval periods of those substances will expire on 31 January 2019.
- (3) The approval period of the active substance tritosulfuron will expire on 30 November 2018.
- (4) The approval periods of the active substances amidosulfuron, bifenox, clofentezine, dicamba, difenoconazole, diflubenzuron, diflufenican, fenoxaprop-p, fenpropidin, lenacil, nicosulfuron, picloram and pyriproxyfen will expire on 31 December 2018.
- (5) Applications for the renewal of the approval of those substances were submitted in accordance with Commission Implementing Regulation (EU) No 844/2012 <sup>(4)</sup>.
- (6) Due to the fact that the assessment of those substances has been delayed for reasons beyond the control of the applicants, the approvals of those active substances are likely to expire before a decision has been taken on their renewal. It is therefore necessary to extend their approval periods.
- (7) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, as regards cases where the Commission will adopt a Regulation providing that the approval of an active substance referred to in the Annex to this Regulation is not renewed because the approval criteria are not satisfied, the Commission will set the expiry date at the same date as before this Regulation or at the date of the entry into force of the Regulation providing that the approval of the active substance is not renewed, whichever date is later. As regards cases where the Commission will adopt a Regulation providing for the renewal of an active substance referred to in the Annex to this Regulation, the Commission will endeavour to set, as appropriate under the circumstances, the earliest possible application date.
- (8) Taking into account that the approval period of the active substance tritosulfuron expires on 30 November 2018, this Regulation should enter into force as soon as possible.

<sup>(1)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2018/84 of 19 January 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances chlorpyrifos, chlorpyrifos-methyl, clothianidin, copper compounds, dimoxystrobin, mancozeb, mecoprop-p, metiram, oxamyl, pethoxamid, propiconazole, propineb, propyzamide, pyraclostrobin and zoxamide (OJ L 16, 20.1.2018, p. 8).

<sup>(4)</sup> Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

- (9) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (10) 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*

The Annex to Implementing Regulation (EU) No 540/2011 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, 20 November 2018.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

- (1) in the sixth column, expiration of approval, of row 57, Mecoprop-P, the date is replaced by '31 January 2020';
  - (2) in the sixth column, expiration of approval, of row 81, Pyraclostrobin, the date is replaced by '31 January 2020';
  - (3) in the sixth column, expiration of approval, of row 111, Chlorpyrifos, the date is replaced by '31 January 2020';
  - (4) in the sixth column, expiration of approval, of row 112, Chlorpyrifos-methyl, the date is replaced by '31 January 2020';
  - (5) in the sixth column, expiration of approval, of row 114, Mancozeb, the date is replaced by '31 January 2020';
  - (6) in the sixth column, expiration of approval, of row 115, Metiram, the date is replaced by '31 January 2020';
  - (7) in the sixth column, expiration of approval, of row 116, Oxamyl, the date is replaced by '31 January 2020';
  - (8) in the sixth column, expiration of approval, of row 128, Dimoxystrobin, the date is replaced by '31 January 2020';
  - (9) in the sixth column, expiration of approval, of row 169, Amidosulfuron, the date is replaced by '31 December 2019';
  - (10) in the sixth column, expiration of approval, of row 170, Nicosulfuron, the date is replaced by '31 December 2019';
  - (11) in the sixth column, expiration of approval, of row 171, Clofentezine, the date is replaced by '31 December 2019';
  - (12) in the sixth column, expiration of approval, of row 172, Dicamba, the date is replaced by '31 December 2019';
  - (13) in the sixth column, expiration of approval, of row 173, Difenconazole, the date is replaced by '31 December 2019';
  - (14) in the sixth column, expiration of approval, of row 174, Diflubenzuron, the date is replaced by '31 December 2019';
  - (15) in the sixth column, expiration of approval, of row 176, Lenacil, the date is replaced by '31 December 2019';
  - (16) in the sixth column, expiration of approval, of row 178, Picloram, the date is replaced by '31 December 2019';
  - (17) in the sixth column, expiration of approval, of row 179, Pyriproxyfen, the date is replaced by '31 December 2019';
  - (18) in the sixth column, expiration of approval, of row 180, Bifenox, the date is replaced by '31 December 2019';
  - (19) in the sixth column, expiration of approval, of row 181, Diflufenican, the date is replaced by '31 December 2019';
  - (20) in the sixth column, expiration of approval, of row 182, Fenoxaprop-P, the date is replaced by '31 December 2019';
  - (21) in the sixth column, expiration of approval, of row 183, Fenpropidin, the date is replaced by '31 December 2019';
  - (22) in the sixth column, expiration of approval, of row 186, Tritosulfuron, the date is replaced by '30 November 2019'.
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# DECISIONS

## COUNCIL DECISION (CFSP) 2018/1797

of 19 November 2018

### amending and updating Decision (CFSP) 2018/340 establishing the list of projects to be developed under PESCO

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, in particular Article 46(6) thereof,

Having regard to Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States <sup>(1)</sup>,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 11 December 2017 the Council adopted Decision (CFSP) 2017/2315.
- (2) Point (e) of Article 4(2) of Decision (CFSP) 2017/2315 provides that the Council is to establish the list of projects to be developed under permanent structured cooperation (PESCO), reflecting both support for capability development and the provision of substantial support within means and capabilities to common security and defence policy (CSDP) operations and missions.
- (3) On 6 March 2018 the Council adopted Decision (CFSP) 2018/340 establishing the list of projects to be developed under PESCO <sup>(2)</sup>.
- (4) On 6 March 2018 the Council adopted a Recommendation concerning a roadmap for the implementation of PESCO <sup>(3)</sup> ('the Recommendation').
- (5) Paragraph 9 of the Recommendation specified that the Council should update the list of PESCO projects by November 2018 to include the next set of projects, in accordance with the procedure set out in Article 5 of Decision (CFSP) 2017/2315, which provides in particular that the High Representative of the Union for Foreign Affairs and Security Policy ('the High Representative') may make a recommendation concerning the identification and evaluation of PESCO projects, on the basis of assessments provided by the PESCO secretariat, for the Council to take a decision, following military advice by the Military Committee of the European Union (EUMC).
- (6) On 25 June 2018 the Council adopted Decision (CFSP) 2018/909 establishing a common set of governance rules for PESCO projects <sup>(4)</sup>.
- (7) On 11 October 2018 the High Representative made a recommendation to the Council concerning the identification and evaluation of project proposals in the PESCO framework.
- (8) On 13 November 2018 the Political and Security Committee agreed on the recommendations contained in the EUMC military advice on the High Representative's recommendation concerning the identification and evaluation of project proposals in the PESCO framework.
- (9) The Council should therefore amend and update Decision (CFSP) 2018/340,

<sup>(1)</sup> OJ L 331, 14.12.2017, p. 57.

<sup>(2)</sup> OJ L 65, 8.3.2018, p. 24.

<sup>(3)</sup> OJ C 88, 8.3.2018, p. 1.

<sup>(4)</sup> OJ L 161, 26.6.2018, p. 37.

HAS ADOPTED THIS DECISION:

*Article 1*

Decision (CFSP) 2018/340 is amended as follows:

(1) in Article 1, the following projects are added to the list:

- '18. Helicopter Hot and High Training (H3 Training)
- 19. Joint EU Intelligence School
- 20. EU Test and Evaluation Centres
- 21. Integrated Unmanned Ground System (UGS)
- 22. EU Beyond Line Of Sight (BLOS) Land Battlefield Missile Systems
- 23. Deployable Modular Underwater Intervention Capability Package (Divepack)
- 24. European Medium Altitude Long Endurance Remotely Piloted Aircraft System — European MALE RPAS (Eurodrone)
- 25. European Attack Helicopters TIGER Mark III
- 26. Counter Unmanned Aerial System (C-UAS)
- 27. European High Atmosphere Airship Platform (EHAAP) — Persistent Intelligence, Surveillance and Reconnaissance (ISR) Capability
- 28. One Deployable Special Operations Forces (SOF) Tactical Command and Control (C2) Command Post (CP) for Small Joint Operations (SJO) — (SOCC) for SJO
- 29. Electronic Warfare Capability and Interoperability Programme for Future Joint Intelligence, Surveillance and Reconnaissance (JISR) Cooperation
- 30. Chemical, Biological, Radiological and Nuclear (CBRN) Surveillance as a Service (CBRN SaaS)
- 31. Co-basing
- 32. Geo-meteorological and Oceanographic (GeoMETOC) Support Coordination Element (GMSCE)
- 33. EU Radio Navigation Solution (EURAS)
- 34. European Military Space Surveillance Awareness Network (EU-SSA-N);

(2) Article 2 is replaced by the following:

*'Article 2*

The list of the project members of each individual project shall be as set out in Annex I.;

(3) the following Article is inserted:

*'Article 2a*

For information purposes, the consolidated updated list of the project members of each individual project appears in Annex II.;

(4) the Annex is amended as follows:

- (a) it is renumbered as 'Annex I';
- (b) the entries set out in Annex I to this Decision are added to the table;

(5) the text appearing in Annex II to this Decision is added as Annex II.

## Article 2

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

Done at Brussels, 19 November 2018.

*For the Council*  
*The President*  
 F. MOGHERINI

## ANNEX I

Project	Project members
18. Helicopter Hot and High Training (H3 Training)	Greece, Italy, Romania
19. Joint EU Intelligence School	Greece, Cyprus
20. EU Test and Evaluation Centres	France, Sweden, Spain, Slovakia
21. Integrated Unmanned Ground System (UGS)	Estonia, Belgium, Czechia, Spain, France, Latvia, Hungary, Netherlands, Poland, Finland
22. EU Beyond Line Of Sight (BLOS) Land Battlefield Missile Systems	France, Belgium, Cyprus
23. Deployable Modular Underwater Intervention Capability Package (Divepack)	Bulgaria, Greece, France
24. European Medium Altitude Long Endurance Remotely Piloted Aircraft System — European MALE RPAS (Eurodrone)	Germany, Czechia, Spain, France, Italy
25. European Attack Helicopters TIGER Mark III	France, Germany, Spain
26. Counter Unmanned Aerial System (C-UAS)	Italy, Czechia
27. European High Atmosphere Airship Platform (EHAAP) — Persistent Intelligence, Surveillance and Reconnaissance (ISR) Capability	Italy, France
28. One Deployable Special Operations Forces (SOF) Tactical Command and Control (C2) Command Post (CP) for Small Joint Operations (SJO) — (SOCC) for SJO	Greece, Cyprus
29. Electronic Warfare Capability and Interoperability Programme for Future Joint Intelligence, Surveillance and Reconnaissance (JISR) Cooperation	Czechia, Germany
30. Chemical, Biological, Radiological and Nuclear (CBRN) Surveillance as a Service (CBRN SaaS)	Austria, France, Croatia, Hungary, Slovenia
31. Co-basing	France, Belgium, Czechia, Germany, Spain, Netherlands
32. Geo-meteorological and Oceanographic (GeoMETOC) Support Coordination Element (GMSCE)	Germany, Greece, France, Romania
33. EU Radio Navigation Solution (EURAS)	France, Belgium, Germany, Spain, Italy
34. European Military Space Surveillance Awareness Network (EU-SSA-N)	Italy, France'

## ANNEX II

## 'ANNEX II

**CONSOLIDATED UPDATED LIST OF THE PROJECT MEMBERS OF EACH INDIVIDUAL PROJECT**

Project	Project members
1. European Medical Command	Germany, Czechia, Spain, France, Italy, Netherlands, Romania, Slovakia, Sweden
2. European Secure Software defined Radio (ESSOR)	France, Belgium, Germany, Spain, Italy, Netherlands, Poland, Portugal, Finland
3. Network of logistic Hubs in Europe and support to Operations	Germany, Belgium, Bulgaria, Greece, Spain, France, Croatia, Italy, Cyprus, Hungary, Netherlands, Poland, Slovenia, Slovakia
4. Military Mobility	Netherlands, Belgium, Bulgaria, Czechia, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden
5. European Union Training Mission Competence Centre (EU TMCC)	Germany, Belgium, Czechia, Ireland, Spain, France, Italy, Luxembourg, Netherlands, Portugal, Austria, Romania, Sweden
6. European Training Certification Centre for European Armies	Italy, Greece
7. Energy Operational Function (EOF)	France, Belgium, Spain, Italy
8. Deployable Military Disaster Relief Capability Package	Italy, Greece, Spain, Croatia, Austria
9. Maritime (semi-) Autonomous Systems for Mine Countermeasures (MAS MCM)	Belgium, Greece, Latvia, Netherlands, Poland, Portugal, Romania
10. Harbour & Maritime Surveillance and Protection (HARMSPRO)	Italy, Greece, Poland, Portugal
11. Upgrade of Maritime Surveillance	Greece, Bulgaria, Ireland, Spain, Croatia, Italy, Cyprus
12. Cyber Threats and Incident Response Information Sharing Platform	Greece, Spain, Italy, Cyprus, Hungary, Austria, Portugal
13. Cyber Rapid Response Teams and Mutual Assistance in Cyber Security	Lithuania, Estonia, Spain, France, Croatia, Netherlands, Poland, Romania, Finland
14. Strategic Command and Control (C2) System for CSDP Missions and Operations	Spain, France, Germany, Italy, Portugal
15. Armoured Infantry Fighting Vehicle/Amphibious Assault Vehicle/Light Armoured Vehicle	Italy, Greece, Slovakia

Project	Project members
16. Indirect Fire Support (EuroArtillery)	Slovakia, Italy
17. EUFOR Crisis Response Operation Core (EUFOR CROC)	Germany, Spain, France, Italy, Cyprus
18. Helicopter Hot and High Training (H3 Training)	Greece, Italy, Romania
19. Joint EU Intelligence School	Greece, Cyprus
20. EU Test and Evaluation Centres	France, Sweden, Spain, Slovakia
21. Integrated Unmanned Ground System (UGS)	Estonia, Belgium, Czechia, Spain, France, Latvia, Hungary, Netherlands, Poland, Finland
22. EU Beyond Line Of Sight (BLOS) Land Battlefield Missile Systems	France, Belgium, Cyprus
23. Deployable Modular Underwater Intervention Capability Package (Divepack)	Bulgaria, Greece, France
24. European Medium Altitude Long Endurance Remotely Piloted Aircraft System — European MALE RPAS (Euro-drone)	Germany, Czechia, Spain, France, Italy
25. European Attack Helicopters TIGER Mark III	France, Germany, Spain
26. Counter Unmanned Aerial System (C-UAS)	Italy, Czechia
27. European High Atmosphere Airship Platform (EHAAP) — Persistent Intelligence, Surveillance and Reconnaissance (ISR) Capability	Italy, France
28. One Deployable Special Operations Forces (SOF) Tactical Command and Control (C2) Command Post (CP) for Small Joint Operations (SJO) — (SOCC) for SJO	Greece, Cyprus
29. Electronic Warfare Capability and Interoperability Programme for Future Joint Intelligence, Surveillance and Reconnaissance (JISR) Cooperation	Czechia, Germany
30. Chemical, Biological, Radiological and Nuclear (CBRN) Surveillance as a Service (CBRN SaaS)	Austria, France, Croatia, Hungary, Slovenia
31. Co-basing	France, Belgium, Czechia, Germany, Spain, Netherlands
32. Geo-meteorological and Oceanographic (GeoMETOC) Support Coordination Element (GMSCE)	Germany, Greece, France, Romania
33. EU Radio Navigation Solution (EURAS)	France, Belgium, Germany, Spain, Italy
34. European Military Space Surveillance Awareness Network (EU-SSA-N)	Italy, France'



# RULES OF PROCEDURE

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

THE GENERAL COURT,

Having regard to Article 224 of its Rules of Procedure;

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

Whereas the General Court adopted amendments to its Rules of Procedure on 11 July 2018 <sup>(1)</sup> and the Decision of the General Court on the lodging and service of procedural documents by means of e-Curia, also on 11 July 2018; <sup>(2)</sup>

Whereas, in accordance with those texts, the e-Curia application will become the only means of exchanging documents between representatives of the parties and the Registry of the General Court from 1 December 2018;

Whereas certain points in the Practice Rules should be adapted accordingly;

Whereas it is also desirable, in the interests of the parties and of the General Court, to provide clarification in respect of the reckoning of time limits, the submission of applications for suspension of operation or enforcement or other interim measures, the use of technology at hearings, and the rules on addressing the General Court in the case of individuals who do not have the status of representative;

Whereas all references to appeals before the General Court against decisions of the European Union Civil Service Tribunal should be removed in pursuance of Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants; <sup>(3)</sup>

Whereas the changes made to the text of the Practice Rules in force are such that points should be renumbered and cross-references updated to ensure greater legibility;

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

### *Article 1*

The Practice Rules for the Implementation of the Rules of Procedure of the General Court <sup>(4)</sup> are hereby amended as follows:

1. The following footnote is inserted at the end of the tenth recital after the words ‘under Article 105(11) of the Rules of Procedure’:

‘Decision (EU) 2016/2387 of the General Court of 14 September 2016 concerning the security rules applicable to information or material produced in accordance with Article 105(1) or (2) of the Rules of Procedure (OJ L 355, 24.12.2016, p. 18) (“decision of the Court of 14 September 2016”).’

2. After the tenth recital, the following is inserted as the eleventh recital:

‘Whereas the rules on the lodging and service of procedural documents by means of e-Curia are contained in the decision adopted by the Court under Article 56a(2) of the Rules of Procedure;’

<sup>(1)</sup> OJ L 240, 25.9.2018, p. 68.

<sup>(2)</sup> OJ L 240, 25.9.2018, p. 72.

<sup>(3)</sup> Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants (OJ L 200, 26.7.2016, p. 137).

<sup>(4)</sup> OJ L 152, 18.6.2015, p. 1.

3. The eleventh recital is accompanied by a footnote worded as follows:

'Decision of the General Court of 11 July 2018 on the lodging and service of procedural documents by means of e-Curia (OJ L 240, 25.9.2018, p. 72) ("decision of the Court of 11 July 2018").'
4. In the last recital commencing 'After consulting', the words ', now the European Union Intellectual Property Office (EUIPO),' are added after 'the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)'.
5. In point 7, the words 'Outside the Registry's opening hours, procedural documents may' are replaced by 'Outside the Registry's opening hours, the annex referred to in Article 72(4) of the Rules of Procedure and the procedural document referred to in Article 147(6) of the Rules of Procedure may'.
6. In point 9, the reference to 'the decision adopted by the Court under Article 105(11) of the Rules of Procedure' is replaced by a reference to 'the decision of the Court of 14 September 2016'.
7. In point 13:
  - a) the words 'made on the original of the procedural document lodged by the parties or on the version deemed to be the original of that document,<sup>2</sup> as well as on every copy which is served on them.' are replaced by 'made on the procedural document placed on the case file, as well as on every copy which is served on the parties.';
  - b) the footnote is deleted.
8. Points 14 to 270, and the titles relating thereto, are replaced by the following:

'14. The date of lodgment referred to in point 13 above shall be, depending on the circumstances: the date referred to in Article 5 of the decision of the Court of 11 July 2018, the date on which the document was received by the Registry, the date referred to in point 7 above, or the date referred to in the second paragraph of Article 3 of the decision of the Court of 14 September 2016. In the cases provided for by the first paragraph of Article 54 of the Statute, the date of lodgment referred to in point 13 above shall be the date on which the procedural document was lodged, via e-Curia, with the Registrar of the Court of Justice or, in the case of a document lodged as referred to in Article 147(6) of the Rules of Procedure, the date on which the document was lodged with the Registrar of the Court of Justice.

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

#### D. Case number

16. When an application initiating proceedings is registered, the case shall be given a serial number preceded by "T-" and followed by an indication of the year.
17. Applications for interim measures, applications to intervene, applications for rectification or interpretation, applications for the Court to remedy a failure to adjudicate, applications for revision, applications for the Court to set aside judgments by default or initiating third-party proceedings, applications for the taxation of costs and applications for legal aid relating to pending cases shall be given the same serial number as the principal action, followed by a reference to indicate that the proceedings concerned are separate special forms of procedure.
18. An application for legal aid made with a view to bringing an action shall be given a serial number preceded by "T-", followed by an indication of the year and a specific reference.
19. An action which is preceded by an application for legal aid in connection therewith shall be given the same case number as the latter.
20. Where the Court of Justice refers a case back to the Court following the setting aside or review of a decision, that case shall be given the number previously allocated to it when it was before the Court, followed by a specific reference.
21. The serial number of the case together with the names of the parties shall be indicated on the procedural documents, in correspondence relating to the case and, without prejudice to Article 66 of the Rules of Procedure, in the publications of the Court and in the documents of the Court on the internet site of the Court of Justice of the European Union.

## **E. Case file and inspection of the case file**

### *E.1. Maintenance of the case file*

22. The case file shall contain: the procedural documents (where applicable together with the annexes thereto) which will be taken into account in the determination of the case, bearing the note referred to in point 13 above, signed by the Registrar; the correspondence with the parties; where applicable, the minutes of the meeting with the parties, the report for the hearing, minutes of the hearing and minutes of the inquiry hearing, and the decisions taken in the case.
23. The documents placed on the case file shall be given a serial number.
24. The confidential and non-confidential versions of procedural documents and of the annexes thereto shall be filed separately in the case file.
25. Documents relating to the special forms of procedure referred to in point 17 above shall be filed separately in the case file.
26. Material produced in the context of the amicable settlement procedure as provided for in Article 125a of the Rules of Procedure shall be placed in a file separate from the case file.
27. A procedural document and annexes thereto which are produced in a case and placed on the file of that case may not be taken into account for the purpose of preparing another case for hearing.
28. At the close of the proceedings before the Court, the Registry shall arrange for the case file and the file referred to in Article 125c(1) of the Rules of Procedure to be closed and archived. The closed file shall contain a list of all the documents on the case file, an indication of their number, and a cover page showing the serial number of the case, the parties and the date on which the case was closed.
29. The treatment of information or material produced pursuant to Article 105(1) or (2) of the Rules of Procedure shall be governed by the decision of the Court of 14 September 2016.

### *E.2. Inspection of the case file*

30. The representatives of the main parties to a case before the Court may inspect the case file, including administrative files produced before the Court, at the Registry and may request copies of procedural documents or extracts of the case file and of the register.
31. The representatives of the parties granted leave to intervene pursuant to Article 144 of the Rules of Procedure shall have the same right of inspection of the case file as the main parties, subject to Article 144(5) and (7) of the Rules of Procedure.
32. In joined cases, the representatives of all parties shall have the right to inspect the files in the cases concerned by the joinder, subject to Article 68(4) of the Rules of Procedure.
33. Any person having made an application for legal aid pursuant to Article 147 of the Rules of Procedure without the assistance of a lawyer shall have the right to inspect the file relating to the legal aid.
34. Authorisation to inspect the confidential version of procedural documents and of any annexes thereto shall be granted only to the parties in respect of whom no confidential treatment has been ordered.
35. As regards information or material produced pursuant to Article 105(1) or (2) of the Rules of Procedure, reference is made to point 29 above.
36. The requirements of points 30 to 35 above do not apply to access to the file referred to in Article 125c(1) of the Rules of Procedure. Access to that specific file is governed by Article 125c of the Rules of Procedure.

## **F. Originals of judgments and orders**

37. Originals of judgments and orders of the Court shall be kept in chronological order in the archives of the Registry. A certified copy shall be placed on the case file.
38. At the parties' request, the Registrar shall supply them with a copy of the original of a judgment or of an order, if necessary in a non-confidential version.
39. The Registrar may supply uncertified copies of judgments and orders to third parties who so request, provided that those decisions are not already publicly accessible and do not contain confidential information.

40. Orders rectifying a judgment or an order, judgments or orders interpreting a judgment or an order, judgments given on applications to set aside judgments by default, judgments given and orders made in third-party proceedings or on applications for revision and judgments or orders of the Court of Justice in appeals or in reviews of decisions shall be mentioned in the margin of the judgment or order concerned. The original or a certified copy shall be appended to the original of the judgment or order.

#### **G. Translations**

41. The Registrar shall, in accordance with Article 47 of the Rules of Procedure, arrange for everything said or written in the course of the proceedings to be translated, at the request of a Judge, an Advocate General or a party, into the language of the case or, where necessary, into another language as provided for in Article 45(1) of the Rules of Procedure. Where, for the purposes of the efficient conduct of the proceedings, a translation into another language, as provided for in Article 44 of the Rules of Procedure, is necessary, the Registrar shall also arrange for such a translation to be made.

#### **H. Witnesses and experts**

42. The Registrar shall take the measures necessary for giving effect to orders requiring the taking of expert opinion or the examination of witnesses.
43. The Registrar shall obtain from witnesses evidence of their expenses and loss of earnings and from experts a fee note accounting for their expenses and services.
44. The Registrar shall cause sums due to witnesses and experts under the Rules of Procedure to be paid by the cashier of the Court. In the event of a dispute concerning such sums, the Registrar shall refer the matter to the President in order for a decision to be taken.

#### **I. Registry's scale of charges**

45. Where an extract from the register is supplied in accordance with Article 37 of the Rules of Procedure, the Registrar shall impose a Registry charge of EUR 3,50 per page for a certified copy and EUR 2,50 per page for an uncertified copy.
46. Where a copy of a procedural document or an extract from the case file is supplied to a party on paper at his request in accordance with Article 38(1) of the Rules of Procedure, the Registrar shall impose a Registry charge of EUR 3,50 per page for a certified copy and EUR 2,50 per page for an uncertified copy.
47. Where an authenticated copy of an order or of a judgment is, for the purposes of enforcement, supplied to a party at his request in accordance with Article 38(1) or Article 170 of the Rules of Procedure, the Registrar shall impose a Registry charge of EUR 3,50 per page.
48. Where an uncertified copy of a judgment or of an order is supplied in accordance with point 39 above to a third party at his request, the Registrar shall impose a Registry charge of EUR 2,50 per page.
49. Where, at the request of a party, the Registrar arranges for a translation to be produced of a procedural document or an extract from the case file, the size of which is considered in accordance with Article 139(b) of the Rules of Procedure to be excessive, a Registry charge of EUR 1,25 per line shall be imposed.
50. Where a party or an applicant for leave to intervene has repeatedly failed to comply with the requirements of the Rules of Procedure or of these Practice Rules, the Registrar shall impose a Registry charge, in accordance with Article 139(c) of the Rules of Procedure, which may not exceed EUR 7 000 (2 000 times the charge of EUR 3,50 referred to in points 45 to 47 above).

#### **J. Recovery of sums**

51. Where sums paid out by way of legal aid, sums paid to witnesses or experts, or avoidable costs, within the meaning of Article 139(a) of the Rules of Procedure, incurred by the Court are recoverable by the cashier of the Court, the Registrar shall demand payment of those sums from the party who is to bear them.
52. If the sums referred to in point 51 above are not paid within the period prescribed by the Registrar, he may request the Court to make an enforceable order and, if necessary, require its enforcement.
53. Where Registry charges are recoverable by the cashier of the Court, the Registrar shall demand payment of those sums from the party or the third party who is to bear them.

54. If the sums referred to in point 53 above are not paid within the period prescribed by the Registrar, he may adopt an enforceable decision under Article 35(4) of the Rules of Procedure and, if necessary, require its enforcement.

#### **K. Publications and posting of documents on the internet**

55. The Registrar shall cause to be published in the *Official Journal of the European Union* the names of the President and of the Vice-President of the Court and of the Presidents of Chambers who have been elected by the Court, the composition of the Chambers and the criteria applied in the allocation of cases to them, the criteria applied in order to complete the formation of the Court or to attain the quorum, as the case may be, where a member of the formation of the Court is prevented from acting, the name of the Registrar and of any Deputy Registrar(s) elected by the Court, and the dates of the judicial vacations.
56. The Registrar shall cause to be published in the *Official Journal of the European Union* the decisions referred to in Article 11(3), Article 56a(2) and Article 105(11) of the Rules of Procedure.
57. The Registrar shall cause to be published in the *Official Journal of the European Union* the legal aid form.
58. The Registrar shall cause to be published in the *Official Journal of the European Union* notices of proceedings brought and of decisions closing proceedings, save in the case of decisions closing proceedings adopted before the application has been served on the defendant.
59. The Registrar shall ensure that the case-law of the Court is made public in accordance with arrangements adopted by the Court. Information concerning those arrangements shall be available on the internet site of the Court of Justice of the European Union.

### **II. GENERAL PROVISIONS ON PROCEDURES FOR DEALING WITH CASES**

#### **A. Service**

60. Service shall be effected by the Registry in accordance with Article 57 of the Rules of Procedure.
61. The copy of the document to be served shall be accompanied by a letter specifying the case number, the register number and a brief indication of the nature of the document.
62. Where a document is served in accordance with Article 57(2) of the Rules of Procedure, the addressee shall be informed of such service by the transmission by e-Curia of a copy of the letter accompanying the document to be served and drawing his attention to the provisions of Article 57(2) of the Rules of Procedure.
63. The proof of service shall be kept on the case file.
64. If service of the application on the defendant is attempted unsuccessfully, the Registrar shall prescribe a time limit within which the applicant is to supply additional information for service or to ask whether the applicant will agree to use, at his own expense, the services of a judicial officer for the purpose of re-serving the application.

#### **B. Time limits**

65. As regards Article 58(1)(a) and (b) of the Rules of Procedure, where a time limit is expressed in weeks, months or years, it shall expire at the end of the day which, in the last week, month or year indicated in the time limit, is the same day of the week, or falls on the same date, as the day on which the time limit began to run, that is the day on which the event which started time running occurred, or the action which started time running took place, and not the following day.
66. Article 58(2) of the Rules of Procedure, according to which a time limit which would otherwise end on a Saturday, Sunday or an official holiday is to be extended until the end of the next working day, shall be applicable only where the entire time limit, including the extension on account of distance, ends on a Saturday, Sunday or official holiday.
67. The Registrar shall prescribe the time limits provided for in the Rules of Procedure, in accordance with the authority accorded to him by the President.
68. In accordance with Article 62 of the Rules of Procedure, procedural documents or items received at the Registry after the time limit prescribed for their lodgment has expired may be accepted only with the authorisation of the President.

69. The Registrar may extend the time limits prescribed, in accordance with the authority accorded to him by the President. When necessary, he shall submit to the President proposals for the extension of time limits. Applications for extensions of time limits must be duly reasoned and be submitted in good time before the expiry of the time limit prescribed.
70. A time limit may not be extended more than once save for exceptional reasons.

### C. Anonymity

71. Where a party considers that his identity should not be made public in a case brought before the Court, he must request, pursuant to Article 66 of the Rules of Procedure, that the Court “anonymise” the relevant case, in whole or in part.
72. The application for anonymity must be made by a separate document stating appropriate reasons.
73. In order to ensure that anonymity is preserved, the application must be made at the outset of the proceedings. On account of the dissemination of information concerning the case on the internet, the practical effect of anonymisation is jeopardised if the case concerned has been referred to in the list of cases brought before the Court that is published on the internet site of the Court of Justice of the European Union or if the notice of the case concerned has already been published in the *Official Journal of the European Union*.

### D. Omission of information vis-à-vis the public

74. In accordance with Article 66 of the Rules of Procedure, a party may submit an application for the identity of third parties mentioned in connection with the proceedings or certain confidential information to be omitted from those documents relating to the case to which the public has access.
75. The application for omission must be made by a separate document. It must accurately identify the information concerned and state the reasons for which each item of information is regarded as confidential.
76. In order to ensure that the information concerned is not disclosed to the public, it is recommended that the application be made at the outset of the proceedings, or when lodging the procedural document containing the information concerned, or immediately after becoming aware of that procedural document, as the case may be. On account of the dissemination of information concerning the case on the internet, omitting information vis-à-vis the public becomes much more difficult if the notice of the case concerned has already been published in the *Official Journal of the European Union*, or where the decision of the Court taken in the course of proceedings or closing them has been made available on the internet site of the Court of Justice of the European Union.

## III. PROCEDURAL DOCUMENTS AND THE ANNEXES THERETO

### A. Lodging of procedural documents and annexes via e-Curia

77. All procedural documents must be lodged at the Registry by exclusively electronic means using the e-Curia application (<https://curia.europa.eu/e-Curia>) in compliance with the decision of the Court of 11 July 2018 and the Conditions of use of e-Curia, save for those cases referred to in points 89 to 91 below. The latter two documents shall be available on the internet site of the Court of Justice of the European Union.
78. The representative lodging a document via e-Curia must satisfy all the requirements laid down in Article 19 of the Statute and must, if he is a lawyer, have the requisite independence from the party he represents.
79. The use of the representative’s personal username and password shall be equivalent to his signature on the procedural document lodged in accordance with Article 3 of the decision of the Court of 11 July 2018, and is intended to guarantee the authenticity of that document. By the use of his personal username and password, the representative shall accept responsibility for the content of the document lodged.

### B. Presentation of procedural documents and annexes

#### B.1. Procedural documents

80. The following information must appear on the first page of each procedural document:
  - (a) the case number (T-.../0000), where it has already been notified by the Registry;

- (b) the title of the procedural document (application, defence, response, reply, rejoinder, application to intervene, statement in intervention, plea of inadmissibility, observations on ..., replies to questions, etc.);
  - (c) the names of the applicant, of the defendant, of the intervener, if any, and of any other party to the proceedings in intellectual property cases;
  - (d) the name of the party on whose behalf the procedural document is lodged.
81. In order to facilitate the electronic consultation of procedural documents, these must be submitted:
- (a) in A4 format;
  - (b) with a commonly used font (such as Times New Roman, Courier or Arial) in at least 12 point in the body of the text and at least 10 point in the footnotes, with single line spacing, and upper, lower, left and right margins of at least 2,5 cm;
  - (c) with each paragraph numbered consecutively;
  - (d) with each page numbered consecutively.

### B.2. *Schedule of annexes*

82. The schedule of annexes must appear at the end of the procedural document. Annexes submitted without a schedule of annexes will not be accepted.
83. The schedule of annexes must indicate, for each item annexed:
- (a) the number of the annex (by reference to the procedural document to which the items are annexed, using a letter and a number: for example, Annex A.1, A.2, ... for annexes to the application; B.1, B.2, ... for annexes to the defence or to the response; C.1, C.2, ... for annexes to the reply; D.1, D.2, ... for annexes to the rejoinder);
  - (b) a short description of the annex (for example: "letter", followed by its date, author and addressee and the number of pages);
  - (c) the page numbers of the first and last pages of each annex, according to the consecutive page numbering of the annexes (for example: pages 43 to 49 of the annexes);
  - (d) the number of the paragraph in which the item is first mentioned and its relevance described.
84. In order to ensure optimal handling by the Registry, any annexes that are in colour must be clearly indicated as such in the schedule of annexes.

### B.3. *Annexes*

85. Only those items mentioned in the actual text of a procedural document which are referred to in the schedule of annexes and which are necessary in order to prove or illustrate its contents may be submitted as annexes to a procedural document.
86. Items annexed to a procedural document must be submitted in such a way as to facilitate the electronic inspection of documents by the Court and to avoid any possibility of confusion. Accordingly, the following requirements must be complied with:
- (a) each annex must be numbered in accordance with point 83(a) above;
  - (b) it is recommended that each annex be introduced by means of a specific cover page;
  - (c) where annexes are documents which themselves contain annexes, they must be arranged and numbered in such a way as to avoid any possibility of confusion;
  - (d) items annexed to a procedural document must be paginated in the top right-hand corner, in ascending order. Those items must be paginated consecutively but separately from the procedural document to which they are annexed;
  - (e) the annexes must be easily legible.
87. Each reference to an item lodged must state the relevant annex number as given in the schedule of annexes and indicate the procedural document with which the annex has been lodged (for example: Annex A.1 to the application).

### C. Presentation of files lodged by e-Curia

88. Procedural documents and annexes thereto lodged by means of the e-Curia application shall be presented in the form of files. In order to assist the Registry in handling them, it is recommended to follow the practical guidance given in the e-Curia User Guide available online on the internet site of the Court of Justice of the European Union, namely:
- files must include names identifying the procedural document (Pleading, Annexes Part 1, Annexes Part 2, Covering letter, etc.);
  - the text of the procedural document can be saved in PDF directly from the word-processing software without the need for scanning;
  - the procedural document must include the schedule of annexes;
  - the annexes must be contained in one or more files separate from the file containing the procedural document. A file may contain several annexes. It is not obligatory to create one file per annex. It is recommended that annexes be added in ascending order when they are lodged, and that they be sufficiently clearly named (for example: Annexes 1 to 3, Annexes 4 to 6, etc.).

### D. Lodging of documents otherwise than by e-Curia

89. The general rule according to which all procedural documents must be lodged at the Registry by means of e-Curia shall be without prejudice to those cases referred to in Article 105(1) and (2) and Article 147(6) of the Rules of Procedure.
90. In addition, annexes to a procedural document, which are mentioned in the body of that document and which by their nature cannot be lodged by e-Curia, may be sent separately by post or delivered to the Registry in accordance with Article 72(4) of the Rules of Procedure, provided that they are mentioned in the schedule of annexes to the document lodged by e-Curia. The schedule of annexes must identify which annexes are to be lodged separately. Those annexes must reach the Registry no later than 10 days after the lodging of the procedural document by e-Curia. They must be lodged at the following address:

Registry of the General Court of the European Union  
Rue du Fort Niedergrünewald  
L-2925 Luxembourg

91. Where it is technically impossible to lodge a procedural document by e-Curia, the representative must follow the procedure laid down in Article 7 of the decision of the Court of 11 July 2018. The copy of the document lodged otherwise than by e-Curia in accordance with the second paragraph of Article 7 of the decision of the Court of 11 July 2018 must include the schedule of annexes and all the annexes referred to therein. It is not necessary for the copy of the procedural document thus lodged to be signed by hand.

### E. Non-acceptance of procedural documents and items

92. The Registrar shall refuse to enter in the register and to place on the case file procedural documents and, where appropriate, items which are not provided for by the Rules of Procedure. If in doubt the Registrar shall refer the matter to the President in order for a decision to be taken.
93. Save in the cases expressly provided for by the Rules of Procedure and subject to points 99 and 100 below, the Registrar shall refuse to enter in the register and to place on the case file procedural documents or items drawn up in a language other than the language of the case.
94. Where a party challenges the Registrar's refusal to enter a procedural document or an item in the register and to place it on the case file, the Registrar shall submit that issue to the President for a decision on whether the document or item in question is to be accepted.

### F. Regularisation of procedural documents and annexes

#### F.1. General

95. The Registrar shall ensure that procedural documents placed on the case file and the annexes thereto are in conformity with the provisions of the Statute and the Rules of Procedure, and with these Practice Rules.
96. If necessary, he shall allow the parties a period of time for making good any formal irregularities in the procedural documents lodged.



97. In the event of any repeated failure to comply with the requirements of the Rules of Procedure or of these Practice Rules, requiring regularisation to be sought, the Registrar will request the party or applicant for leave to intervene to pay the costs involved in the requisite processing thereof by the Court, in accordance with Article 139(c) of the Rules of Procedure.
98. Where annexes are still not submitted in accordance with the provisions of the Rules of Procedure or of these Practice Rules despite requests for regularisation, the Registrar shall refer the matter to the President for a decision on whether to refuse to accept those annexes.
99. Where material annexed to a procedural document is not accompanied by a translation into the language of the case, the Registrar shall require the party concerned to make good the irregularity if such a translation appears necessary for the purposes of the efficient conduct of the proceedings. If the irregularity is not made good, the annexes in question shall be removed from the case file.
100. Where an application to intervene originating from a third party other than a Member State is not drawn up in the language of the case, the Registrar shall require the application to be put in order before it is served on the parties. If a version of such an application drawn up in the language of the case is lodged within the time limit prescribed for this purpose by the Registrar, the date on which the first version, not in the language of the case, was lodged shall be taken as the date on which the procedural document was lodged.

#### *F.2. Regularisation of applications*

101. If an application does not comply with the requirements specified in Annex 1 to these Practice Rules, the Registry shall not serve it and a reasonable time limit shall be prescribed for the purposes of putting it in order. Failure to put the application in order may result in the action being dismissed as inadmissible, in accordance with Article 78(6), Article 177(6) and Article 194(5) of the Rules of Procedure.
102. If an application does not comply with the procedural rules specified in Annex 2 to these Practice Rules, service of the application shall be delayed and a reasonable time limit shall be prescribed for the purposes of putting the application in order.
103. If an application does not comply with the procedural rules specified in Annex 3 to these Practice Rules, the application shall be served and a reasonable time limit shall be prescribed for the purposes of putting it in order.

#### *F.3. Regularisation of other procedural documents*

104. The instances of regularisation referred to in points 101 to 103 above shall apply as necessary to procedural documents other than the application.

### **IV. THE WRITTEN PART OF THE PROCEDURE**

#### **A. Length of written pleadings**

##### *A.1. Direct actions*

105. In direct actions within the meaning of Article 1 of the Rules of Procedure, the maximum number of pages <sup>(1)</sup> shall be as follows.

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

- 50 pages for the application and for the defence;
- 25 pages for the reply and for the rejoinder;
- 20 pages for a plea of inadmissibility and for observations thereon;
- 20 pages for a statement in intervention and 15 pages for observations thereon.

In direct actions brought pursuant to Article 270 TFEU:

- 30 pages for the application and for the defence;
- 15 pages for the reply and for the rejoinder;
- 10 pages for a plea of inadmissibility and for observations thereon;
- 10 pages for a statement in intervention and 5 pages for observations thereon.

<sup>(1)</sup> The text must be presented in accordance with the requirements set out in point 81(b) of these Practice Rules.

106. Authorisation to exceed those maximum lengths will be given only in cases involving particularly complex legal or factual issues.

*A.2. Intellectual property cases*

107. In intellectual property cases, the maximum number of pages <sup>(1)</sup> shall be as follows:

- 20 pages for the application and for responses;
- 15 pages for the cross-claim and for responses thereto;
- 10 pages for a plea of inadmissibility and for observations thereon;
- 10 pages for a statement in intervention and 5 pages for observations thereon.

108. Authorisation to exceed those maximum lengths will be given only in cases involving particularly complex legal or factual issues.

*A.3. Regularisation of excessively long pleadings*

109. A pleading comprising a number of pages which exceeds by 40 % or more the maximum number of pages prescribed in points 105 and 107 above, as the case may be, shall require regularisation, unless otherwise directed by the President.

110. A pleading comprising a number of pages which exceeds by less than 40 % the maximum number of pages prescribed in points 105 and 107 above, as the case may be, may require regularisation if so directed by the President.

111. Where a party is requested to put his pleading in order on account of its excessive length, service of the pleading which requires regularisation on account of its length shall be delayed.

**B. Structure and content of written pleadings**

*B.1. Direct actions*

1. Application initiating proceedings

112. The mandatory information to be included in the application initiating proceedings is prescribed by Article 76 of the Rules of Procedure.

113. The introductory part of the application should be followed by a brief account of the facts giving rise to the dispute.

114. The precise wording of the form of order sought by the applicant must be stated either at the beginning or at the end of the application.

115. Legal arguments should be set out and grouped by reference to the particular pleas in law to which they relate. Each argument or group of arguments should generally be preceded by a summary statement of the relevant plea. In addition, the pleas in law put forward should ideally each be given a heading to enable them to be identified easily.

116. The documents referred to in Article 51(2) and (3) and Article 78 of the Rules of Procedure must be produced together with the application.

117. For the purposes of the production of the document required by Article 51(2) of the Rules of Procedure certifying that the lawyer representing a party or assisting the party's agent is authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area, reference may be made to a document previously lodged in a case before the Court.

118. Each application must be accompanied by a summary of the pleas in law and main arguments relied on, designed to facilitate the drafting of the notice required to be published in the *Official Journal of the European Union* in accordance with Article 79 of the Rules of Procedure.

119. In order to assist the Court in processing the summary of pleas in law and main arguments relied on, it is requested that the summary:

- be produced separately from the body of the application and the annexes mentioned in the application;
- not exceed two pages;

<sup>(1)</sup> The text must be presented in accordance with the requirements set out in point 81(b) of these Practice Rules.

- be prepared in the language of the case in accordance with the model available online on the internet site of the Court of Justice of the European Union;
- be transmitted by email, as an ordinary electronic file produced using word-processing software, to GC.Registry@curia.europa.eu, indicating the case to which it relates.

120. If the application is lodged after the submission of an application for legal aid, the effect of which, under Article 147(7) of the Rules of Procedure, is to suspend the time limit prescribed for the bringing of an action, this must be stated at the beginning of the application initiating proceedings.
121. If the application is lodged after service of the order making a decision on an application for legal aid or, where no lawyer is designated in that order to represent the applicant for legal aid, after service of the order designating the lawyer instructed to represent the applicant for legal aid, reference must also be made in the application to the date on which the order was served on the applicant.
122. In order to facilitate formal preparation of the application, the parties' representatives are invited to consult the document entitled "Aide-mémoire: Application", which is available on the internet site of the Court of Justice of the European Union.

## 2. Defence

123. The mandatory information to be included in the defence is prescribed by Article 81(1) of the Rules of Procedure.
124. The precise wording of the form of order sought by the defendant must be stated either at the beginning or at the end of the defence.
125. Any fact alleged by the applicant which is contested must be specified and the basis on which it is contested expressly stated.
126. Since the legal framework of the proceedings is fixed by the application, the legal arguments developed in the defence must, so far as is possible, be set out and grouped by reference to the pleas in law or complaints put forward in the application.
127. Points 116 and 117 above shall apply to the defence.
128. In cases brought pursuant to Article 270 TFEU, the institutions should preferably annex to the defence any acts of general application cited which have not been published in the *Official Journal of the European Union*, together with details of the dates of their adoption, their entry into force and, where applicable, their repeal.

## 3. Reply and rejoinder

129. Where there is a second exchange of pleadings, the main parties may supplement their legal arguments with a reply or a rejoinder, as the case may be.
130. The framework and the pleas in law or complaints at the heart of the dispute having been set out (or disputed) in depth in the application and the defence, the purpose of the reply and the rejoinder shall be to allow the applicant and the defendant to make clear their position or to refine their arguments on an important issue, and to respond to new matters raised in the defence and in the reply. The President may also, pursuant to Article 83(3) of the Rules of Procedure, himself specify the matters to which those procedural documents should relate.

### B.2. Intellectual property cases

#### 1. Application initiating proceedings

131. The mandatory information to be included in the application initiating proceedings is prescribed by Article 177(1) of the Rules of Procedure.
132. The application must also contain the information referred to in Article 177(2) and (3) of the Rules of Procedure.
133. The documents referred to Article 177(3) to (5) of the Rules of Procedure must be produced together with the application.
134. Points 113 to 115, 117 and 120 to 122 above shall apply to applications in intellectual property cases.

#### 2. Response

135. The mandatory information to be included in the response is prescribed by Article 180(1) of the Rules of Procedure.

136. The precise wording of the form of order sought by the defendant or by the intervener must be stated either at the beginning or at the end of the response.
137. The documents referred to Article 177(4) and (5) of the Rules of Procedure must be produced together with the response lodged by the intervener, in so far as those documents have not already been lodged in accordance with Article 173(5) of the Rules of Procedure.
138. Points 117, 125 and 126 above shall apply to the response.

### 3. Cross-claim and responses to the cross-claim

139. If, when the application has been served on him, a party to the proceedings before the Board of Appeal other than the applicant intends to challenge the contested decision on a point not raised in the application, that party must introduce a cross-claim when lodging his response. That cross-claim must be introduced by a separate document and meet the requirements set out in Articles 183 and 184 of the Rules of Procedure.
140. Where such a cross-claim is made, the other parties to the proceedings may submit a pleading in response confined to the form of order sought, the pleas in law and the arguments relied on in the cross-claim.

## V. THE ORAL PART OF THE PROCEDURE

### A. Requests for a hearing

141. As is apparent from Article 106 of the Rules of Procedure, the Court shall arrange a hearing either of its own motion or at the request of a main party.
142. A main party who wishes to present oral argument must submit a reasoned request for a hearing, within three weeks after service on the parties of notification of the close of the written part of the procedure. That reasoning — which is not to be confused with written pleadings or observations and should not exceed three pages — must be based on a real assessment of the benefit of a hearing to the party in question and must indicate the elements of the case file or arguments which that party considers it necessary to develop or refute more fully at a hearing. In order better to ensure that the arguments remain focused at the hearing, the statement of reasons should preferably not be in general terms merely referring, for example, to the importance of the case.
143. If no reasoned request is submitted by a main party within the prescribed time limit, the Court may decide to rule on the action without an oral part of the procedure.

### B. Preparation for the hearing

144. The parties shall be given notice to attend the hearing by the Registry at least one month before it takes place, provided always that, where the circumstances so require, a shorter period of notice may apply.
145. In accordance with Article 107(2) of the Rules of Procedure, requests for an adjournment of the hearing shall be granted only in exceptional circumstances. Such requests may be lodged only by the main parties, must state adequate reasons, be accompanied by appropriate supporting documents, and be submitted to the Court as soon as possible after notice to attend has been given.
146. If the representative of a party intends not to be present at the hearing, he is requested to inform the Court as soon as possible after notice to attend has been given.
147. The Court will make every effort to ensure that the parties' representatives receive a summary report for the hearing three weeks before the hearing. The purpose of the summary report for the hearing is to enable the parties to prepare for the hearing.
148. The summary report for the hearing, drawn up by the Judge-Rapporteur, shall be confined to setting out the pleas in law and a succinct summary of the parties' arguments.
149. Any observations the parties may wish to make on the summary report for the hearing may be made at the hearing. In such cases, a reference to such observations shall be recorded in the minutes of the hearing.
150. The summary report for the hearing shall be made available to the public outside the courtroom on the day of the hearing, unless the case is to be entirely heard in camera.

151. Before every public hearing the Registrar shall cause the following information to be displayed outside the courtroom in the language of the case: the date and time of the hearing, the competent formation of the Court, the case(s) which will be called and the names of the parties.
152. A request to use particular technical means for the purposes of a presentation must be made at least two weeks before the date of the hearing. If the request is approved by the President, the arrangements for such use of technology should be made with the Registry, so that any technical or practical constraints can be taken into account. The sole object of the presentation shall be to illustrate the information contained in the case file and it must not, therefore, contain new pleas in law or new evidence. Supporting material for such presentations shall not be placed on the case file, nor, therefore, shall it be served on the other parties, unless the President otherwise decides.
153. In view of the security measures in place to control access to the buildings of the Court of Justice of the European Union, it is recommended that the parties' representatives take the necessary steps to ensure that they are present in the courtroom at least 15 minutes before the hearing is due to start, as the members of the formation of the Court will normally wish to discuss the organisation of the hearing with them.
154. In order to prepare for their participation in a hearing, the parties' representatives are invited to consult the following document, which is available on the internet site of the Court of Justice of the European Union: "Aide-mémoire: Hearing of oral argument".

### C. Conduct of the hearing

155. The parties' representatives shall be required to appear before the Court in their gowns.
156. The purpose of the hearing shall be:
  - where necessary, to reiterate in condensed form the position taken by the parties, emphasising the key submissions advanced in writing;
  - to clarify, if necessary, certain arguments advanced during the written part of the procedure and to submit any new material arising from events occurring after the close of the written part of the procedure and which therefore could not have been set out in the pleadings;
  - to reply to any questions put by the Court.
157. It will be for each party to assess, in the light of the purpose of the hearing, as defined in point 156 above, whether oral argument is really necessary or whether it would be sufficient simply to refer to the written observations or pleadings. The hearing can then concentrate on the replies to questions put by the Court. If the representative does consider it necessary to address the Court, it is recommended that he confine himself to making specific points and referring to the pleadings in relation to other points.
158. Where, before the hearing, the Court has invited the parties, in accordance with Article 89(4) of the Rules of Procedure, to concentrate in their oral pleadings on one or more specified issues, those issues must be addressed as a matter of priority in the oral submissions.
159. If a party refrains from presenting oral argument, this shall not constitute acquiescence in the oral argument presented by another party where the arguments in question have already been refuted in writing. Such silence shall not preclude that party from responding to the other party's submission.
160. In the interests of clarity and in order to enable the Members of the Court to understand oral submissions better, it will generally be preferable for Counsel to speak freely on the basis of notes rather than to read out a written text. The parties' representatives are also requested to simplify their presentation of the case as far as possible and to use short sentences. It would also assist the Court if representatives could structure their oral argument and indicate, before developing it, the structure they intend to adopt.
161. In order to assist the Court in relation to certain technical issues, the President of the formation may authorise the parties' representatives to give the floor to individuals who, despite not having the status of representative, are best placed to comment. Those individuals shall intervene only in the presence of the representative of the party concerned and responsibility for them shall lie with him. Before addressing the Court, those individuals must identify themselves.
162. The time taken in presenting oral submissions may vary, depending on the complexity of the case and on whether or not new facts have arisen. Each of the main parties will be allowed 15 minutes and each intervener will be allowed 10 minutes to present oral submissions (in joined cases, each of the main parties will be allowed 15 minutes for each case and each intervener will be allowed 10 minutes for each case), unless the Registry has indicated otherwise. These limitations shall apply only to the oral submissions themselves and not to the time required to answer questions put at the hearing or for final replies.

163. If circumstances so require, a request for leave to exceed the speaking time normally allowed, giving reasons and indicating the speaking time considered necessary, may be made to the Registry at least two weeks (or less, in duly substantiated exceptional circumstances) before the date fixed for the hearing. When such requests are made, representatives will be informed of the time which they will have for presenting their oral submissions.
164. When several representatives act for a party, only two of them may normally present oral argument, and their combined speaking time must not exceed the time limits indicated in point 162 above. However, representatives other than those who addressed the Court may answer questions from Members of the Court and make final replies.
165. Where two or more parties are advancing the same argument before the Court (a situation which may arise where, in particular, there are interventions or where cases are joined), their representatives are requested to confer with each other before the hearing in order to avoid any repetition.
166. When citing a decision of the Court of Justice, the General Court or the Civil Service Tribunal, representatives are requested to refer to it by the usual name of the case and the case number, and, where relevant, to specify the relevant paragraph(s).
167. In accordance with Article 85(3) of the Rules of Procedure, the main parties may, exceptionally, produce further evidence at the hearing. In such cases, the other parties will be heard on the admissibility and content thereof. It would be prudent to bring sufficient copies where appropriate.

#### **D. Interpretation**

168. In order to facilitate interpretation, parties' representatives are requested to send any text or written notes for their submissions to the Interpretation Directorate in advance by email ([interpret@curia.europa.eu](mailto:interpret@curia.europa.eu)).
169. Any notes for submissions thus transmitted will be treated in the strictest confidence. In order to avoid any misunderstanding, the name of the party must be stated. Notes for submissions will not be placed on the case file.
170. Representatives are reminded that, depending on the case being heard, only some of the Members of the bench may be following the oral argument in the language in which it is being presented; the other Members will be listening to the simultaneous interpretation. In the interests of the better conduct of the hearing and of maintaining the quality of the simultaneous interpretation, representatives are strongly advised to speak slowly and directly into the microphone.
171. Where representatives intend to cite verbatim passages from certain texts or documents, particularly passages not appearing in the case file, it would be helpful if they would indicate the passages concerned to the interpreters before the hearing. Similarly, it may be helpful to draw the interpreters' attention to any terms which may be difficult to translate.

#### **E. Minutes of the hearing**

172. The Registrar shall draw up in the respective language of each case the minutes of every hearing. Those minutes shall contain: an indication of the case; the date, time and place of the hearing; an indication, where applicable, that the case was heard in camera; the names of the Judges and the Registrar present; the names and status of the parties' representatives present; a reference to any observations on the summary report for the hearing; the surnames, forenames, status and permanent addresses of any witnesses or experts examined; an indication, where applicable, of the procedural documents or items produced at the hearing; and, in so far as is necessary, the statements made at the hearing and the decisions pronounced at the hearing by the Court or the President.

### **VI. CONFIDENTIAL TREATMENT**

#### **A. General**

173. In accordance with Article 64 and subject to the provisions of Article 68(4), Article 104, Article 105(8) and Article 144(7) of the Rules of Procedure, the Court shall take into consideration only those procedural documents and items which have been made available to the representatives of the parties and on which they have been given an opportunity of expressing their views.
174. It follows that, without prejudice to the provisions of Articles 103 to 105 of the Rules of Procedure, no consideration may be given to an application by the applicant for certain information on the case file to be treated as confidential in relation to the defendant. Likewise, no such application may be made by the defendant in relation to the applicant.

175. Nevertheless, a main party may apply for certain confidential information on the case file to be excluded from the documents to be communicated to an intervener in accordance with Article 144(7) of the Rules of Procedure.
176. Each party may also request that a party to joined cases not be given access to certain information in the files concerned by the joinder on account of its alleged confidentiality, in accordance with Article 68(4) of the Rules of Procedure.

#### **B. Confidential treatment where an application to intervene has been made**

177. Where an application to intervene is made in a case, the main parties are requested to state, within the time limit prescribed by the Registrar to that effect, whether they wish to seek confidential treatment in respect of certain information included in the procedural documents already placed on the case file.
178. The main parties must submit simultaneously with any procedural document or item that they may lodge subsequently any application for confidential treatment that may be required in respect of the procedural document or item concerned. In the absence of such an application, the procedural documents and items lodged will be communicated to the intervener.
179. Any application for confidential treatment must be made by a separate document. It may not be lodged as a confidential version and must not, therefore, contain confidential information.
180. An application for confidential treatment must specify the party in relation to whom confidentiality is requested.
181. An application for confidential treatment must be limited to what is strictly necessary and may not in any event cover the entirety of a procedural document; only exceptionally may it extend to the entirety of an annexed document. It should usually be possible to furnish a non-confidential version of a procedural document and items in which certain passages, words or figures have been deleted without affecting the interests it is sought to protect.
182. An application for confidential treatment must accurately identify the particulars or passages to be excluded and state the reasons for which each of those particulars or passages is regarded as confidential. Failure to provide such information may result in the application being refused by the Court.
183. On lodging an application for confidential treatment in respect of one or more procedural documents, a party must produce a full non-confidential version of each procedural document and item concerned, with the confidential particulars or passages removed.
184. Where an application for confidential treatment does not comply with points 179, 180 and 183 above, the Registrar shall request the party concerned to put the application in order. If, despite such a request, the application for confidential treatment is not made to comply with the requirements of these Practice Rules, it will not be possible for it to be properly processed, and a copy of every procedural document and item concerned will be communicated to the intervener.

#### **C. Confidential treatment where cases are joined**

185. Where it is envisaged that several cases will be joined, the parties are requested to state, within the time limit prescribed by the Registrar to that effect, whether they wish to seek confidential treatment in respect of certain information included in the procedural documents and material already placed on the files of the cases concerned by the joinder.
186. The parties must submit simultaneously with any procedural document or item that they may lodge subsequently any application for confidential treatment that may be required in respect of the procedural document or item concerned. In the absence of such an application, the procedural documents and items lodged will be made available to the other parties in the joined cases.
187. Points 179 to 184 above shall apply to applications for confidential treatment submitted where cases are joined.

#### **D. Confidential treatment under Article 103 of the Rules of Procedure**

188. The Court may, pursuant to the measures of inquiry referred to in Article 91 of the Rules of Procedure, order a party to produce information or material relating to the case. In accordance with Article 92(3) of the Rules of Procedure, such production may be ordered only where the party concerned has not complied with a measure of organisation of procedure previously adopted to that end, or where expressly requested by the party concerned by the measure and that party explains the need for such a measure to be in the form of an order for a measure of inquiry.

189. Where a main party submits in his response to an application for a measure of organisation of procedure that certain information or material is confidential and he therefore objects to its transmission or proposes that a measure of inquiry be adopted, the Court shall, if it considers that that information or material may be relevant in order for it to rule in the case, order its production by means of an order for a measure of inquiry under Article 91(b) of the Rules of Procedure. The treatment of confidential information or material thus produced before the Court shall be governed by Article 103 of the Rules of Procedure. The regime in question does not provide for any derogation from the principle of the adversarial nature of the proceedings, but lays down the rules for the implementation of that principle.
190. In accordance with that provision, the Court shall examine the relevance of the information or material to the outcome of the proceedings and verify the confidential nature of that information or material. If it considers that the information concerned is both relevant to the outcome of the proceedings and confidential, the Court shall weigh that confidentiality against the requirements linked to the right to effective judicial protection, particularly observance of the adversarial principle, and, after weighing up those matters, will have two options.
191. The Court may decide that the information or material must be brought to the attention of the other main party, notwithstanding its confidential nature. In that respect, the Court may, by way of a measure of organisation of procedure, request the representatives of the parties other than the party who produced the confidential information to give an undertaking to preserve the confidentiality of the document or item by not communicating to their respective clients or to a third party the information that is to be disclosed to them. Any breach of that undertaking may result in Article 55 of the Rules of Procedure being applied.
192. Alternatively, the Court may decide not to communicate the confidential information, whilst nevertheless ensuring that the other main party is provided with non-confidential information so that he can, to the greatest extent possible, make his views known in compliance with the adversarial principle. The Court shall then order the main party who produced the confidential information to communicate certain particulars in such a way as to enable the preservation of the confidentiality of the information to be reconciled with the adversarial nature of the proceedings. It will, for example, be possible for the information to be transmitted in summarised form. If the Court considers that the other main party cannot properly exercise his rights of defence, it may make one or more orders, until it considers that the proceedings can properly be continued on an adversarial basis.
193. Where the Court considers that the communication of information to the other main party in accordance with the procedures prescribed by the order made under Article 103(3) of the Rules of Procedure has enabled that party to present his views effectively, the confidential information or material which has not been brought to the attention of that party shall not be taken into consideration by the Court. The confidential information or material shall be removed from the file, and the parties informed accordingly.

#### **E. Confidential treatment under Article 104 of the Rules of Procedure**

194. In the context of its review of the legality of a measure adopted by an institution denying access to a document, the Court may order, by way of a measure of inquiry under Article 91(c) of the Rules of Procedure, that the document be produced.
195. The document produced by the institution shall not be communicated to the other parties, as the action would otherwise be devoid of purpose.

#### **F. Confidential treatment under Article 105 of the Rules of Procedure**

196. In accordance with Article 105(1) and (2) of the Rules of Procedure, a main party to the proceedings may, on his own initiative or following a measure of inquiry ordered by the Court, produce information or material pertaining to the security of the European Union or to that of one or more of its Member States or to the conduct of their international relations. Article 105(3) to (10) lays down the procedural rules applicable to such information or material.
197. In view of the sensitive, confidential nature of information or material pertaining to the security of the Union or to that of one or more of its Member States or to the conduct of their international relations, the application of the body of rules established by Article 105 of the Rules of Procedure requires a suitable security framework to be set up in order to ensure a high level of protection for that information or material. That framework is documented in the decision of the Court of 14 September 2016.



## VII. LEGAL AID

198. In accordance with Article 147(2) of the Rules of Procedure, the use of a form in making an application for legal aid shall be compulsory. The form is available on the internet site of the Court of Justice of the European Union.
199. An applicant for legal aid who is not represented by a lawyer when the legal aid form is lodged may, in accordance with Article 147(6) of the Rules of Procedure, lodge the duly completed and signed paper form at the Registry by post or physically deliver it to the address indicated in point 90 above. Forms not bearing a handwritten signature will not be processed.
200. Where the applicant for legal aid is represented by a lawyer when the legal aid form is lodged, the form shall be lodged in accordance with Article 72(1) of the Rules of Procedure, taking into account the requirements of points 77 to 79 above.
201. The legal aid form is intended to provide the Court, in accordance with Article 147(3) and (4) of the Rules of Procedure, with the information required to give an effective decision on the application for legal aid. The information required concerns:
- the legal aid applicant's financial situation
- and,
- where the action has not yet been brought, the subject matter of that action, the facts of the case and the arguments relating thereto.
202. The legal aid applicant shall be required to produce, together with the legal aid form, documentary evidence to support the information referred to in point 201 above.
203. Where applicable, the documents referred to in Article 51(2) and (3) and Article 78(4) of the Rules of Procedure must be produced together with the legal aid form.
204. The duly completed legal aid form and supporting documents must be intelligible in themselves.
205. Without prejudice to the Court's power to request information or the production of further documents under Articles 89 and 90 of the Rules of Procedure, the application for legal aid may not be supplemented by the subsequent filing of additional material. Such material shall be rejected, unless it has been lodged at the request of the Court. In exceptional cases, supporting documents intended to establish the applicant's lack of means may nevertheless be accepted subsequently, subject to the delay in their production being adequately explained.
206. Under Article 147(7) of the Rules of Procedure, the introduction of an application for legal aid shall suspend the time limit prescribed for the bringing of the action to which the application refers until the date of service of the order making a decision on that application or, where no lawyer is designated in that order to represent the applicant for legal aid, until the date of service of the order designating the lawyer instructed to represent him.
207. Since the lodging of an application for legal aid has the effect of suspending the time limit prescribed for bringing an action until service of the order referred to in point 206 above, the remaining period within which the application initiating proceedings may be lodged may be very short. Recipients of legal aid who are duly represented by a lawyer are therefore advised to pay particular attention to compliance with the legal time limit.

## VIII. URGENT PROCEDURES

### A. Expedited procedure

#### A.1. *Request for an expedited procedure*

208. In accordance with Article 152(1) of the Rules of Procedure, a request for an expedited procedure must be made by a separate document lodged simultaneously with the application initiating the proceedings or the defence, as the case may be, and contain a statement of reasons specifying the particular urgency of the case and any other relevant circumstances.
209. In order to facilitate immediate processing by the Registry, the request for an expedited procedure must state on the first page that it is lodged under Articles 151 and 152 of the Rules of Procedure.

210. The application in respect of which the expedited procedure is requested must not in principle exceed 25 pages. Such an application must be submitted in accordance with the requirements set out in points 112 to 121 above.
211. It is recommended that the party applying for the expedited procedure specify in his request the pleas in law, arguments or passages of the pleading in question (application or defence) which are put forward only in the event that the case is not decided under the expedited procedure. That information, referred to in Article 152(2) of the Rules of Procedure, must be clearly specified in the request, indicating the numbers of the paragraphs concerned.

#### A.2. *Abridged version*

212. It is recommended that an abridged version of the relevant pleading be annexed to any request for an expedited procedure which contains the information referred to in point 211 above.
213. Where an abridged version is annexed, it must comply with the following directions:
- (a) the abridged version shall be in the same format as the original version of the pleading in question, with omitted passages being identified by the word “omissis” in square brackets;
  - (b) paragraphs which are retained in the abridged version shall keep the same numbering as in the original version of the pleading in question;
  - (c) if the abridged version does not refer to all the annexes to the original version of the pleading in question, the schedule of annexes accompanying the abridged version shall identify each annex omitted by the word “omissis”;
  - (d) annexes which are retained in the abridged version must keep the same numbering as in the schedule of annexes in the original version of the pleading in question;
  - (e) the annexes referred to in the schedule accompanying the abridged version must be attached to that version.
214. In order to ensure that it is dealt with as expeditiously as possible, the abridged version must comply with the above directions.
215. Where the production of an abridged version of the pleading is requested by the Court under Article 151(3) of the Rules of Procedure, the abridged version must be prepared in accordance with the above directions, unless otherwise specified.

#### A.3. *Defence*

216. If the applicant has not specified in his request for an expedited procedure the pleas in law, arguments or passages of the application initiating the proceedings which are to be taken into consideration only in the event that the case is not decided under the expedited procedure, the defendant must respond to the application initiating the proceedings within a period of one month.
217. If the applicant has specified in his request for an expedited procedure the pleas in law, arguments or passages of the application initiating the proceedings which are to be taken into consideration only in the event that the case is not decided under the expedited procedure, the defendant must respond, within a period of one month, to the pleas in law and arguments advanced in the application, in the light of the information provided in the request for the expedited procedure.
218. If the applicant has attached an abridged version of the application initiating proceedings to his request for an expedited procedure, the defendant must respond, within a period of one month, to the pleas in law and arguments contained in that abridged version of the application.
219. If the Court decides to refuse the request for an expedited procedure before the defendant has lodged his defence, the period of one month for the lodging of the defence prescribed by Article 154(1) of the Rules of Procedure shall be extended by a further month.
220. If the Court decides to refuse the request for an expedited procedure after the defendant has lodged his defence within the period of one month prescribed by Article 154(1) of the Rules of Procedure, the defendant shall be allowed a further period of one month from the date of service of the decision refusing the request for an expedited procedure, in order to supplement his defence.

#### A.4. Oral part of the procedure

221. Under the expedited procedure, since the written part of the procedure is in principle limited to one exchange of pleadings, the emphasis shall be on the oral part of the procedure and a hearing shall be organised promptly after the written part of the procedure has been closed. The Court may nevertheless decide to rule without an oral part of the procedure where the main parties indicate, within a period prescribed by the President, that they have decided not to participate in a hearing and the Court considers that it has sufficient information available to it from the material in the file in the case.
222. Where the Court has not authorised the lodging of a statement in intervention, the intervener may submit his observations only orally, if a hearing is organised.

#### B. Suspension of operation or enforcement and other interim measures

223. In accordance with Article 156(5) of the Rules of Procedure, an application for suspension of operation or enforcement or other interim measures must be made by a separate document. It must be intelligible in itself, without necessitating reference to the application lodged in the main proceedings, including the annexes thereto.
224. In order to facilitate immediate processing by the Registry, the application for suspension of operation or enforcement or other interim measures must state on the first page that it is lodged under Article 156 of the Rules of Procedure and, where appropriate, that it contains an application based on Article 157(2) of the Rules of Procedure.
225. The application for suspension of operation or enforcement or other interim measures must state, with the utmost concision, the subject matter of the proceedings, the pleas of fact and of law on which the main action is based (establishing a prima facie case on the merits in that action) and the circumstances giving rise to urgency. It must specify the measure(s) applied for. It must also contain all the evidence and offers of evidence available to justify the grant of interim measures.
226. Since an application for interim measures requires the existence of a prima facie case to be assessed for the purposes of a summary procedure, it need not set out in full the text of the application in the main proceedings.
227. In order that an application for interim measures may be dealt with urgently, the number of pages it contains must not in principle (depending on the subject matter and the circumstances of the case) exceed a maximum of 25 pages.

#### IX. ENTRY INTO FORCE OF THESE PRACTICE RULES

228. The Instructions to the Registrar of 5 July 2007 (OJ L 232, 4.9.2007, p. 1), as amended on 17 May 2010 (OJ L 170, 6.7.2010, p. 53) and on 24 January 2012 (OJ L 68, 7.3.2012, p. 20), and the Practice Directions to parties before the General Court of 24 January 2012 (OJ L 68, 7.3.2012, p. 23) are hereby repealed and replaced by these Practice Rules.
229. These Practice Rules shall be published in the *Official Journal of the European Union*. They shall enter into force on the first day of the first month following their publication.
9. Annex 1 is replaced by the following:

#### 'ANNEX 1

#### Requirements non-compliance with which is grounds for not serving the application (point 101 of these Practice Rules)

Failure to put the following points in order may result in the action being dismissed as inadmissible, in accordance with Article 78(6), Article 177(6) and Article 194(5) of the Rules of Procedure.

	Direct actions	Intellectual property cases
a)	production of the certificate of the lawyer's authorisation to practise (Article 51(2) of the Rules of Procedure)	production of the certificate of the lawyer's authorisation to practise (Article 51(2) of the Rules of Procedure)

	Direct actions	Intellectual property cases
b)	production of recent proof of the existence in law of a legal person governed by private law (Article 78(4) of the Rules of Procedure)	production of recent proof of the existence in law of a legal person governed by private law (Article 177(4) of the Rules of Procedure)
c)	production of authority to act if the party represented is a legal person governed by private law (Article 51(3) of the Rules of Procedure)	production of authority to act if the party represented is a legal person governed by private law (Article 51(3) of the Rules of Procedure)
d)	production of the contested measure (action for annulment) or of the documentary evidence of the date on which the institution was requested to act (action for failure to act) (second paragraph of Article 21 of the Statute; Article 78(1) of the Rules of Procedure)	production of the contested decision of the Board of Appeal (Article 177(3) of the Rules of Procedure)
e)	production of the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint (Article 78(2) of the Rules of Procedure)	
f)	production of a copy of the contract containing the arbitration clause (Article 78(3) of the Rules of Procedure)	
g)		indication of the names of all the parties to the proceedings before the Board of Appeal and the addresses which they had given for the purposes of notifications (Article 177(2) of the Rules of Procedure)
h)	indication of the dates on which the complaint within the meaning of Article 90(2) of the Staff Regulations was submitted and the decision responding to the complaint notified (Article 78(2) of the Rules of Procedure)	indication of the date on which the decision of the Board of Appeal was notified (Article 177(3) of the Rules of Procedure)

10. Annex 2 is replaced by the following:

‘ANNEX 2

**Procedural rules non-compliance with which justifies delaying service (point 102 of these Practice Rules)**

a)	indication of the applicant's permanent address (first paragraph of Article 21 of the Statute; Article 76(a), Article 177(1)(a) and Article 194(1)(a) of the Rules of Procedure)
b)	indication of the address of the applicant's representative (Article 76(b), Article 177(1)(b) and Article 194(1)(b) of the Rules of Procedure)
c)	new original of the application the length of which will have been reduced (points 109 and 110 of these Practice Rules)
d)	new original of the application with identical content but with numbered paragraphs (point 81(c) of these Practice Rules)
e)	new, paginated original of the application with identical content (point 81(d) of these Practice Rules)
f)	production of a schedule of annexes containing the mandatory information (Article 72(3) of the Rules of Procedure; point 83 of these Practice Rules)

g)	production of the annexes mentioned in the application but not produced (Article 72(3) of the Rules of Procedure)
h)	production of paginated annexes (point 86(d) of these Practice Rules)
i)	production of numbered annexes (point 86(a) of these Practice Rules)

11. Annex 3 is replaced by the following:

‘ANNEX 3

**Procedural rules non-compliance with which does not prevent service (point 103 of these Practice Rules)**

a)	production of the certificate of any additional lawyer’s authorisation to practise (Article 51(2) of the Rules of Procedure)
b)	in cases other than intellectual property cases, production of the summary of pleas in law and main arguments (points 118 and 119 of these Practice Rules)
c)	production of a translation into the language of the case of material drawn up in a language other than the language of the case (Article 46(2) of the Rules of Procedure; point 99 of these Practice Rules)

*Article 2*

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

They shall enter into force on 1 December 2018.

Done at Luxembourg, 17 October 2018.

*Registrar*  
E. COULON

*President*  
M. JAEGER





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