

# Official Journal of the European Union

# L 215



English edition

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Volume 63

7 July 2020

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<sup>(1)</sup> Text with EEA relevance.

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

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## II

(Non-legislative acts)

## INTERNATIONAL AGREEMENTS

COUNCIL DECISION (Euratom) 2020/971

of 20 November 2017

**approving the conclusion by the European Commission, on behalf of the European Atomic Energy Community, of the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) On 29 September 2015, the Council authorised the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations with the Republic of Armenia on a framework agreement.
- (2) Those negotiations have been successfully completed, and the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part ('the Agreement') was initialled on 21 March 2017.
- (3) The Agreement will be signed on behalf of the Union and applied on a provisional basis in accordance with Article 385 of the Agreement, pending its entry into force at a later date.
- (4) The Agreement also covers matters falling under competences of the European Atomic Energy Community.
- (5) The signature and conclusion of the Agreement are subject to a separate procedure as regards matters falling under the Treaty on European Union and the Treaty on the Functioning of the European Union.
- (6) The Agreement should therefore also be concluded on behalf of the European Atomic Energy Community as regards matters falling under the Euratom Treaty.
- (7) Article 102 of the Euratom Treaty states that the Agreement may not enter into force for the European Atomic Energy Community until the European Commission has been notified by the Member States that the Agreement has become applicable in accordance with the provisions of their respective national laws.
- (8) The conclusion of the Agreement by the European Commission, acting on behalf of the European Atomic Energy Community, should be approved as regards matters falling within the competence of the European Atomic Energy Community,

HAS ADOPTED THIS DECISION:

*Article 1*

The conclusion by the European Commission, on behalf of the European Atomic Energy Community, of the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part, including its provisional application <sup>(1)</sup>, is hereby approved.

*Article 2*

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

Done at Brussels, 20 November 2017.

*For the Council*  
*The President*  
M. REPS

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<sup>(1)</sup> The text of Agreement will be attached to the Council Decision on its signing.

# REGULATIONS

## COMMISSION REGULATION (EU) 2020/972

of 2 July 2020

**amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid <sup>(1)</sup>, and in particular points (a) and (b) of Article 1(1) and Article 2 thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) A number of the State aid rules adopted as part of the 2012 'State Aid Modernisation' initiative are due to expire by the end of 2020. In particular, Commission Regulations (EU) No 1407/2013 <sup>(2)</sup> and (EU) No 651/2014 <sup>(3)</sup> will expire on 31 December 2020.
- (2) To provide predictability and legal certainty, while preparing for a possible future update of the State aid rules adopted as part of the State Aid Modernisation initiative, the Commission should take action in two phases.
- (3) First, the Commission should extend the period of application of State aid rules which would otherwise expire by end 2020. Second, in line with the Commission's *Better Regulation Guidelines* <sup>(4)</sup>, the Commission should evaluate those rules together with the other State aid rules, which were adopted as part of the State Aid Modernisation initiative. The Commission launched the evaluation of those rules on 7 January 2019 in the form of a 'fitness check'. In the context of the European Green Deal <sup>(5)</sup> and the European Digital Agenda, the Commission has already announced its intention to revise a series of guidelines by the end of 2021. On that basis, the Commission will decide whether to further prolong or update the rules.
- (4) Considering the broad scope of the fitness check and the fact that the results of the evaluations will not be available before late 2020, a policy decision on the design of the State aid rules post 2020 cannot be taken in time to ensure legal certainty and stability for the stakeholders as regards the applicable rules post 2020. A prolongation is therefore necessary to allow a proper assessment of the State aid rules and ensure predictability and stability of those rules for the Member States.
- (5) Therefore, the period of application of Regulations (EU) No 1407/2013 and (EU) No 651/2014 should be extended by three years until 31 December 2023.

<sup>(1)</sup> OJ L 248, 24.9.2015, p. 1.

<sup>(2)</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

<sup>(3)</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

<sup>(4)</sup> Commission Staff Working Document 'Better Regulation Guidelines' of 7 July 2017, SWD (2017) 350.

<sup>(5)</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'The European Green Deal' (COM(2019)640 final).

- (6) Regulations (EU) No 1407/2013 and (EU) No 651/2014 should therefore be amended accordingly.
- (7) As a consequence of the extension of the period of application of Regulation (EU) No 651/2014, some Member States may wish to extend the validity of aid measures exempted under that Regulation and about which summary information has been provided in accordance with point (a) of Article 11 of that Regulation. In order to provide transparency, Member States should communicate to the Commission the updated summary information regarding the extension of those measures.
- (8) Schemes set up under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of Regulation (EU) No 651/2014, having an average annual State aid budget exceeding EUR 150 million, which have been exempted for longer than six months pursuant to a decision by the Commission and which the respective Member State wishes to extend for the period after 31 December 2020, should continue to be exempted until 31 December 2023, provided Member States have provided the Commission with the updated summary information and have submitted a final evaluation report in line with the evaluation plan approved by the Commission.
- (9) In view of the economic and financial consequences that the COVID-19 outbreak has on undertakings and in order to ensure consistency with the general policy response adopted by the Commission, especially in the period 2020-2021, Regulation (EU) No 651/2014 should be amended accordingly. In particular, undertakings which became undertakings in difficulty as a consequence of the COVID-19 outbreak should remain eligible under Regulation (EU) No 651/2014 for a limited period of time. Likewise, undertakings, which have to temporarily or permanently lay off staff due to the COVID-19 outbreak, should not be deemed to have breached relocation commitments given before 31 December 2019 at the time of receiving regional aid. Those exceptional provisions should apply for a limited period from 1 January 2020 to 30 June 2021.
- (10) Regulations (EU) No 1407/2013 and (EU) No 651/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

In Article 8 of Regulation (EU) No 1407/2013, the second paragraph is replaced by the following:

‘It shall apply until 31 December 2023’.

#### *Article 2*

Regulation (EU) No 651/2014 is amended as follows:

(1) Article 1 is amended as follows:

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

‘(a) schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44), and 10 of Chapter III of this Regulation, if the average annual State aid budget exceeds EUR 150 million, from six months after their entry into force. The Commission may decide that this Regulation shall continue to apply for a longer period to any of those aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme’s entry into force. Where the Commission has already extended the application of this Regulation beyond the initial six months as regards such schemes, Member States may decide to extend those schemes until the end of the period of application of this Regulation, provided that the Member State concerned has submitted an evaluation report in line with the evaluation plan approved by the Commission. However, regional aid granted under this Regulation may be extended, by derogation, until the end of the period of validity of the relevant regional aid maps’;

(2) in paragraph 4, point (c) is replaced by the following:

‘(c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes and regional operating aid schemes, provided those schemes do not treat undertakings in difficulty more favourably than other undertakings. However, this Regulation shall apply by derogation to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.’;

(2) in Article 2, point (27) is replaced by the following:

‘(27) “assisted areas” means areas designated in an approved regional aid map approved in application of Articles 2020-2021, 107(3)(a) and (c) of the Treaty for the period from 1 July 2014 to 31 December 2021 for regional aid granted until 31 December 2021 and areas designated in an approved regional aid map approved in application of Articles 107(3)(a) and (c) of the Treaty for the period from 1 January 2022 to 31 December 2027 for regional aid granted after 31 December 2021.’;

(3) Article 11 is replaced by the following:

*Article 11*

### **Reporting**

1. Member States, or alternatively, in the case of aid granted to European Territorial Cooperation projects, the Member State in which the managing authority, referred to in Article 21 of Regulation (EU) No 1299/2013, is located, shall transmit to the Commission:

- (a) via the Commission’s electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following the entry into force of the aid measure;
- (b) an annual report, pursuant to Commission Regulation (EC) No 794/2004 (\*), in electronic form, on the application of this Regulation, containing the information indicated in Regulation (EC) No 794/2004, in respect of each whole year or each part of the year during which this Regulation applies.

2. Where, as a consequence of the extension of the application period of this Regulation until 31 December 2023 by Commission Regulation (EU) 2020/972 (\*\*), a Member State plans to extend measures in respect of which the summary information was submitted to the Commission in accordance with paragraph 1 of this Article, that Member State shall update that summary information regarding the extension of those measures and communicate that update to the Commission within 20 working days following the entry into force of the act which extends the respective measure by the Member State.

(\*) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

(\*\*) Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (OJ L 215, 7.7.2020, p. 3).’;

(4) in Article 14, paragraph 16, the following sentence is added:

‘With regard to commitments given prior to 31 December 2019, any loss of jobs, in the same or similar activity in one of the initial establishments of the beneficiary in the EEA, occurring between 1 January 2020 and 30 June 2021, shall not be considered a transfer within the meaning of Article 2(61a) of this Regulation.’;

(5) in Article 59, the second paragraph is replaced by the following:

‘It shall apply until 31 December 2023.’

### *Article 3*

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

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

Done at Brussels, 2 July 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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**COMMISSION IMPLEMENTING REGULATION (EU) 2020/973****of 6 July 2020****authorising a change of the conditions of use of the novel food 'protein extract from pig kidneys' and amending Implementing Regulation (EU) 2017/2470****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 and Commission Regulation (EC) No 1852/2001 <sup>(1)</sup>, and in particular Article 12 thereof,

Whereas:

- (1) Regulation (EU) 2015/2283 provides that only novel foods authorised and included in the Union list may be placed on the market within the Union.
- (2) Pursuant to Article 8 of Regulation (EU) 2015/2283, Commission Implementing Regulation (EU) 2017/2470 <sup>(2)</sup> which establishes a Union list of authorised novel foods was adopted.
- (3) On 29 February 2012, the company Sciotec Diagnostic Technologies, GmbH informed the Commission, pursuant to Article 5 of Regulation (EC) No 258/97 of the European Parliament and of the Council <sup>(3)</sup>, of its intention to place on the market 'protein extract from pig kidneys' as a novel food ingredient to be used in foods for special medical purposes as defined in Regulation (EU) No 609/2013 of the European Parliament and of the Council <sup>(4)</sup>, and in food supplements as defined in Directive 2002/46/EC of the European Parliament and of the Council <sup>(5)</sup>. Therefore, protein extract from pig kidneys was included in the Union list of novel foods.
- (4) On 14 May 2019, the company Dr Health Care España, S.L. made a request to the Commission to extend the conditions of use of the protein extract from pig kidneys within the meaning of Article 10(1) of Regulation (EU) 2015/2283. The application requested to include enteric coated tablets as an allowed form of protein extract from pig kidneys to be used in foods for special medical purposes and in food supplements, in addition to the currently authorised enteric coated encapsulated pellets.
- (5) The Commission did not request an opinion from the European Food Safety Authority, as the amendment of the conditions of use of the novel food protein extract from pig kidneys by including enteric coated tablets as an allowed form of protein extract from pig kidneys to be used in foods for special medical purposes and in food supplements, is not liable to change the effects of this authorised novel food on human health.

<sup>(1)</sup> OJ L 327, 11.12.2015, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2017/2470 of 20 December 2017 establishing the Union list of novel foods in accordance with Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods (OJ L 351, 30.12.2017, p. 72).

<sup>(3)</sup> Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel foods ingredients (OJ L 43, 14.2.1997, p. 1).

<sup>(4)</sup> Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).

<sup>(5)</sup> Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements (OJ L 183, 12.7.2002, p. 51).

- (6) The maximum level of protein extract from pig kidneys as a novel food currently authorised to be used in enteric coated encapsulated pellets in foods for special medical purposes, and in food supplements, is 3 capsules/day, corresponding to 12,6 mg pig kidney extract a day. The proposed use of the enteric coated tablets form will not alter the currently authorised maximum level of the novel food. Therefore, it is appropriate to amend the section of the Union list on the conditions of use of protein extract from pig kidneys to authorise its use also in enteric coated tablets form at the same maximum authorised level as the already authorised forms of use of this novel food.
- (7) The Annex to Implementing Regulation (EU) 2017/2470 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The entry in the Union list of authorised novel foods as provided for in Article 8 of Regulation (EU) 2015/2283 referring to the 'protein extract from pig kidneys' shall be amended as specified in the Annex to this Regulation.
2. The entry in the Union list referred to in paragraph 1 shall include the conditions of use and labelling requirements laid down in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 6 July 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

The Annex to Implementing Regulation (EU) 2017/2470 is amended as follows:

(1) in Table 1 (Authorised novel foods), the entry for 'Protein extract from pig kidneys' is replaced by the following:

Authorised novel food	Conditions under which the novel food may be used		Additional specific labelling requirements	Other requirements
<b>'Protein extract from pig kidneys'</b>	<b>Specified food category</b>	<b>Maximum levels</b>		
	Food Supplements as defined in Directive 2002/46/EC	3 capsules or 3 tablets/day; equalising 12,6 mg pig kidney extract a day Diamine oxidase (DAO) content: 0,9 mg/day (3 capsules or 3 tablets with a content of DAO of 0,3 mg/capsule or 0,3 mg/tablet)'		
	Food for special medical purposes as defined in Regulation (EU) No 609/2013			

(2) in Table 2 (Specifications), the entry for 'Protein extract from pig kidneys' is replaced by the following:

Authorised Novel Food	Specification
<b>'Protein extract from pig kidneys'</b>	<p><b>Description/Definition:</b> The protein extract is obtained from homogenised pig kidneys through a combination of salt precipitation and high speed centrifugation. The obtained precipitate contains essentially proteins with 7 % of the enzyme diamine oxidase (enzyme nomenclature E.C. 1.4.3.22) and is resuspended in a physiologic buffer system. The obtained pig kidney extract is formulated as encapsulated enteric coated pellets or enteric coated tablets to reach the active sites of digestion.</p> <p>Basic Product: Specification: pig kidney protein excerpt with natural content of Diamine oxidase (DAO): Physical condition: liquid Colour: brownish Appearance: slightly turbid solution pH value: 6,4–6,8 Enzymatic activity: &gt; 2 677 kH DU DAO/ml (DAO REA (DAO Radioextractionassay))</p> <p><b>Microbiological criteria:</b> <i>Brachyspira</i> spp.: negative (Real Time PCR) <i>Listeria monocytogenes</i>: negative (Real Time PCR)</p>

*Staphylococcus aureus*: < 100 CFU/g  
Influenza A: negative (Reverse Transcription Real Time PCR)  
*Escherichia coli*: < 10 CFU/g  
Total aerobic microbiological count: < 10<sup>5</sup> CFU/g  
Yeasts/moulds count: < 10<sup>3</sup> CFU/g  
*Salmonella*: Absence/10g  
Bile salt resistant enterobacteriaceae: < 10<sup>4</sup> CFU/g

**Final product:**

Specification pig kidney protein excerpt with natural content of DAO (E.C. 1.4.3.22) in an enteric coated formulation:

Physical condition: solid

Colour: yellow grey

Appearance: micropellets or tablets

Enzymatic activity: 110-220 kH DU DAO/g pellet or g tablet (DAO REA (DAO Radioextractionassay))

Acid stability 15 min 0,1M HCl followed by 60 min Borat pH = 9,0: > 68 kH DU DAO/g pellet or g tablet (DAO REA (DAO Radioextractionassay))

Humidity: < 10 %

*Staphylococcus aureus*: < 100 CFU/g

*Escherichia coli*: < 10 CFU/g

Total aerobic microbiological count: < 10<sup>4</sup> CFU/g

Total combined yeasts/moulds count: < 10<sup>3</sup> CFU/g

*Salmonella*: Absence/10g

Bile salt resistant enterobacteriaceae: < 10<sup>2</sup> CFU/g'

**COMMISSION IMPLEMENTING REGULATION (EU) 2020/974****of 6 July 2020****entering a name in the register of protected designations of origin and protected geographical indications 'Pecorino del Monte Poro' (PDO)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs <sup>(1)</sup>, and in particular Articles 15(1) and 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Italy's application to register the name 'Pecorino del Monte Poro' was published in the *Official Journal of the European Union* <sup>(2)</sup>.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Pecorino del Monte Poro' should therefore be entered in the register.
- (3) By letter received on 20 January 2020, the Italian authorities notified the Commission that the company Cooperativa Fattoria della Piana Società Agricola, which is established on their territory, had been legally marketing the product sold under the name 'Pecorino Monteporo', using this name continuously for at least 5 years, and that this point had been noted in the national opposition procedure.
- (4) Since the company Cooperativa Fattoria della Piana Società Agricola meets the requirements laid down in Article 15 (1) of Regulation (EU) No 1151/2012 for the granting of a transitional period in which to make legal use of the sales name after registration, it should be granted a transitional period of 3 years in which it may use the name 'Pecorino Monteporo'.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name 'Pecorino del Monte Poro' (PDO) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.3 – Cheeses, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 <sup>(3)</sup>.

*Article 2*

The company Cooperativa Fattoria della Piana Società Agricola is authorised to continue to use the name 'Pecorino Monteporo' for a transitional period of 3 years from the entry into force of this Regulation.

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

<sup>(2)</sup> OJ C 333, 4.10.2019, p. 19.

<sup>(3)</sup> Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

*Article 3*

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

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

Done at Brussels, 6 July 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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**COMMISSION IMPLEMENTING REGULATION (EU) 2020/975****of 6 July 2020****authorising agreements and decisions on market stabilisation measures in the wine sector**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 222 thereof,

Whereas:

- (1) The Union is the world-leading producer of wine. In marketing years 2014/15 to 2018/2019, the average annual wine production in the Union was 167,6 million hectolitres. The wine marketing year runs from 1 August to 31 July of the following year. The Union accounts for 45 % of global wine-growing areas, 65 % of global production, 60 % of global consumption and 70 % of exports to third countries. The top five wine-producing countries in the Union are, in decreasing order of production volumes, Italy, France, Spain, Germany and Portugal.
- (2) Due to the COVID-19 pandemic and the extensive movement restrictions on persons put in place in the Member States, growers of wine grapes and producers of wine have been experiencing an economic disruption that has led to financial difficulties and cash-flow problems.
- (3) The spread of the disease and the measures in place have limited the availability of labour, compromising notably the stages of production, processing and transport of wine grapes and wine.
- (4) The mandatory closure of restaurants, hotels, bars, as well as the cancellation of festivities and celebrations such as weddings, birthdays and business events in the Union and in third countries, brought the operation of the hospitality and catering sectors to a halt for several months. In addition, tourism and wine-tourism activities such as tastings, fairs and purchases and consumption at the source, have been largely disrupted in most Member States since March 2020.
- (5) As a result, there have been significant changes in the demand patterns for wine. Consumer demand has shifted towards the home consumption of wine. While consumers have increased the home consumption of certain wine products, such increased home consumption has not compensated for the drop in demand in the hospitality and catering industry.
- (6) The closure of restaurants and other hospitality establishments has caused a drop in turnover for wine producers. In Germany, wine producers lost 50 % of their turnover in the first quarter of 2020 as sales to restaurants did not take place. There was also a 23 % reduction in sales to specialised wine shops, which often market higher-end wines. According to industry estimates for the entire Union, restaurant, bar and hotel closures have, from the beginning of the closure of restaurants from mid-March until the end of May 2020, resulted in a 30 % reduction in the volume of wine sold and a drop in value of 50 % compared to the sales before the closures.
- (7) Despite the recent relaxation of certain measures and the easing of certain movement restrictions, including the reopening of restaurants and hospitality establishments, the situation is not expected to normalise in the next 6 months. Restaurants and other hospitality establishments will have to respect social distancing conditions that limit the number of customers. In addition, in many Member States, certain restrictions remain in place regarding the size of social gatherings, including private events such as weddings, where wine is traditionally consumed.
- (8) Worldwide tourism, which is expected to experience a 70 % drop in turnover in the second quarter of 2020, is also not expected to resume in the next 6 months to a sufficient extent to compensate for the absence of consumption in restaurants during the period where the extensive movement restrictions were in place.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

- (9) Overall, it is estimated that wine consumption in the Union in marketing year 2019/2020 will fall to 108 million hectolitres. This is an overall reduction in consumption of more than 8 % in marketing year 2019/2020 compared to the average of the past 5 marketing years.
- (10) Exports to third countries are particularly important for the Union wine sector. In 2019, exports totalled EUR 12,1 billion. During the COVID-19 pandemic, exports have been affected by logistical challenges as well as by a reduction in consumption because of the movement restrictions imposed also in third countries. The outbreak of the COVID-19 pandemic in China led to significant port congestion there and elsewhere, as well as to increased blank sailings that led to containers being scarcer, freight rates increasing significantly and exporters seeing their shipments postponed. In addition, Union wine exports had already been negatively affected by the increased import tariffs that the United States imposed on certain wine imports from the Union. Since October 2019, the United States, which is the Union's main wine export market, has imposed 25 % ad valorem import tariffs on Union still wines.
- (11) Overall, Union wine exports to third countries are expected to fall by 14 % in marketing year 2019/2020, both compared to the previous marketing year and compared to the average of the past 5 marketing years. Compared to May 2019, the exports of French, Italian and Spanish wines to third countries decreased significantly in May 2020: French wine exports to third countries decreased by 33 % in volume and 55 % in value; Italian wine exports to third countries decreased by 22 % in volume and 26 % in value; and Spanish wine exports to third countries decreased by 63 % in volume and 43 % in value. Exports of sparkling wines have been particularly impacted based on the same reference periods. According to estimates from the wine industry, in May 2020, exports of Champagne to the United States and China decreased by 64 % in volume and 55 % in value, exports of Prosecco to third countries decreased by 27 % in volume and 32 % in value, and exports of Cava to third countries decreased by 40 % in volume and value.
- (12) In addition, there are currently large volumes of wine in storage due to an exceptional harvest of 174,4 million hectolitres in marketing year 2018/2019, which increased the opening stocks in marketing year 2019/2020 by 14 % compared to marketing year 2018/2019. Unsold wine will have to be stored.
- (13) The above circumstances lead to a qualification of these events as a period of severe market imbalance.
- (14) In order to help wine growers and wine producers find a balance in this period of severe market imbalance, it is appropriate to allow for agreements and decisions of farmers, farmers' associations or associations of such associations, or recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations concerning the production of wine grapes and of wine, on a temporary basis for a period of 6 months. These measures include: (i) transformation and processing; (ii) storage; (iii) joint promotion; (iv) quality requirements; and (v) temporary planning of production.
- (15) Such agreements and decisions could for example include: (i) processing wine for other purposes such as distillation of wine into alcohol; (ii) creating and finding storage capacities for the increased volume of wine to be stored; (iii) promoting the consumption of wine; (iv) agreeing on quality requirements that would restrict the marketing of wines to those respecting such requirements; and (v) planning measures to reduce volumes for future harvest.
- (16) Any agreement or decision should be temporarily authorised for a period of 6 months. The upcoming harvest for marketing year 2020/2021 starting in August 2020, and the run-up to the end of year celebrations, where in particular high-end wines and sparkling wines are consumed and exported, are the periods in which the said measures can be expected to have most impact.
- (17) In accordance with the first subparagraph of Article 222(1) of Regulation (EU) No 1308/2013, an authorisation is to be given if it does not impair the functioning of the internal market and if the agreements and decisions strictly aim at stabilising the sector. These specific conditions exclude agreements and decisions that directly or indirectly lead to partitioning markets, to discrimination based on nationality or to fixing prices. If the agreements and decisions do not fulfil these conditions, or no longer fulfil these conditions, Article 101(1) of the Treaty applies to these agreements and decisions.
- (18) The authorisation provided for in this Regulation should cover the Union territory given that the severe market imbalance is common to the whole Union.



- (19) In order for the Member States to be in a position to assess whether agreements and decisions concerning the production of wine grapes and of wine do not undermine the functioning of the internal market and strictly aim to stabilise the wine sector, information should be provided to the competent authorities of the Member State, including the competition authorities of that state, having the highest share of estimated volume of production of wine grapes and of wine covered by those agreements or decisions on the agreements concluded and decisions taken and on the volume of production of wine grapes and of wine and time period covered by them.
- (20) Given the severe market imbalance, the necessity to take into account the existing stocks of wine, the drop in consumption and the loss of export markets and so as to help the wine sector recover in the period when the COVID-19 restrictions are eased, including until and beyond the end of year celebrations, this Regulation should enter into force on the day following that of its publication.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Without prejudice to Articles 152(1a), 209(1) and 210(1) of Regulation (EU) No 1308/2013, farmers, farmers' associations, associations of such associations, recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations are hereby authorised to conclude agreements concerning the production of wine grapes and of wine and take common decisions concerning the production of wine grapes and of wine on transformation and processing, storage, joint promotion, quality requirements and temporary planning of production during a period of 6 months starting from the date of entry into force of this Regulation.

#### *Article 2*

Member States shall take the necessary measures to ensure that the agreements and decisions referred to in Article 1 do not undermine the proper functioning of the internal market and strictly aim to stabilise the wine sector.

#### *Article 3*

The geographic scope of this authorisation is the Union territory.

#### *Article 4*

1. As soon as the agreements or decisions referred to in Article 1 are concluded or taken, the farmers, farmers' associations, associations of such associations, recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations concerned shall communicate those agreements or decisions to the competent authorities of the Member State having the highest share of estimated volume of production of wine grapes and of wine covered by those agreements or decisions, indicating the following:

- (a) the estimated volume of production of wine grapes and of wine covered;
- (b) the expected time period of implementation.

2. No later than 25 days after the end of the 6-month period referred to in Article 1, the farmers, farmers' associations, associations of such associations, recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations concerned shall communicate the volume of production of wine grapes and of wine actually covered by the agreements or decisions to the competent authorities referred to in paragraph 1 of this Article.

3. In accordance with Commission Implementing Regulation (EU) 2017/1185 <sup>(2)</sup>, Member States shall notify the Commission of the following:

- (a) no later than 5 days after the end of each 1-month period, the agreements and decisions communicated to them in accordance with paragraph 1 during that period;
- (b) no later than 30 days after the end of the 6-month period referred to in Article 1, an overview of the agreements and decisions implemented during that period.

*Article 5*

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

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

Done at Brussels, 6 July 2020.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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<sup>(2)</sup> Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations (OJ L 171, 4.7.2017, p. 113).

# DECISIONS

## COUNCIL DECISION (EU) 2020/976

of 6 July 2020

### **on the financial contributions to be paid by Member States to finance the European Development Fund, including the second instalment for 2020**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies <sup>(1)</sup> and in particular Article 7 thereof,

Having regard to Council Regulation (EU) 2018/1877 of 26 November 2018 on the financial regulation applicable to the 11th European Development Fund, and repealing Regulation (EU) 2015/323 <sup>(2)</sup>, and in particular Article 19(3) and (4) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with the procedure laid down in Articles 19 to 22 of Regulation (EU) 2018/1877, the Commission is to present a proposal by 15 June 2020 specifying (a) the amount of the second instalment of the contribution for 2020, (b) a revised annual amount of the contribution for 2020, in cases where the amount deviates from actual needs.
- (2) In accordance with Article 46 of Regulation (EU) 2018/1877, on 8 April 2020, the European Investment Bank (EIB) sent to the Commission its updated estimates of commitments and payments under the instruments it manages.
- (3) Article 20(1) of Regulation (EU) 2018/1877 provides that calls for contributions first use up the amounts provided for in previous European Development Funds (EDFs). Therefore a call for funds under the 10th European Development Fund (the '10th EDF') for the EIB and under the 11th European Development Fund (the '11th EDF') for the Commission should be made.
- (4) Article 55 of Regulation (EU) 2018/1877 provides that the amounts from projects under the 10th EDF or from other previous EDFs not committed according to Article 1(3) of the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies ('the Internal Agreement'), or decommitted according to Article 1(4) of the Internal Agreement, unless decided otherwise by the Council unanimously, shall reduce that part of Member States' contributions stated in point (a) of Article 1(2) of the Internal Agreement.

<sup>(1)</sup> OJ L 210, 6.8.2013, p. 1.

<sup>(2)</sup> OJ L 307, 3.12.2018, p. 1.

- (5) By means of Decision (EU) 2019/1800 <sup>(3)</sup>, the Council has adopted, on 24 October 2019, on a proposal by the Commission, the Decision to set the annual amount of the Member States' EDF contributions for 2020 at EUR 4 400 000 000 for the Commission, and at EUR 300 000 000 for the EIB,

HAS ADOPTED THIS DECISION:

*Article 1*

The individual EDF contributions to be paid by the Member States to the Commission and the EIB as the second instalment for 2020 are set out in the table in the Annex to this Decision.

*Article 2*

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

Done at Brussels, 6 July 2020.

*For the Council*  
*The President*  
M. ROTH

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<sup>(3)</sup> Council Decision (EU) 2019/1800 of 24 October 2019 on the financial contributions to be paid by Member States to finance the European Development Fund, including the ceiling for 2021, the annual amount for 2020, the first instalment for 2020 and an indicative and non-binding forecast for the expected annual amounts of contributions for the years 2022 and 2023 (OJ L 274, 28.10.2019, p. 9).

## ANNEX

MEMBER STATES & UK	Key 10th EDF %	Key 11th EDF %	2 <sup>nd</sup> instalment 2020 (EUR)		Total
			Commission	EIB	
			11th EDF	10th EDF	
BELGIUM	3,53	3,24927	51 988 320,00	3 530 000,00	55 518 320,00
BULGARIA	0,14	0,21853	3 496 480,00	140 000,00	3 636 480,00
CZECHIA	0,51	0,79745	12 759 200,00	510 000,00	13 269 200,00
DENMARK	2,00	1,98045	31 687 200,00	2 000 000,00	33 687 200,00
GERMANY	20,50	20,57980	329 276 800,00	20 500 000,00	349 776 800,00
ESTONIA	0,05	0,08635	1 381 600,00	50 000,00	1 431 600,00
IRELAND	0,91	0,94006	15 040 960,00	910 000,00	15 950 960,00
GREECE	1,47	1,50735	24 117 600,00	1 470 000,00	25 587 600,00
SPAIN	7,85	7,93248	126 919 680,00	7 850 000,00	134 769 680,00
FRANCE	19,55	17,81269	285 003 040,00	19 550 000,00	304 553 040,00
CROATIA	0,00	0,22518	3 602 880,00	0,00	3 602 880,00
ITALY	12,86	12,53009	200 481 440,00	12 860 000,00	213 341 440,00
CYPRUS	0,09	0,11162	1 785 920,00	90 000,00	1 875 920,00
LATVIA	0,07	0,11612	1 857 920,00	70 000,00	1 927 920,00
LITHUANIA	0,12	0,18077	2 892 320,00	120 000,00	3 012 320,00
LUXEMBOURG	0,27	0,25509	4 081 440,00	270 000,00	4 351 440,00
HUNGARY	0,55	0,61456	9 832 960,00	550 000,00	10 382 960,00

MEMBER STATES & UK	Key 10th EDF %	Key 11th EDF %	2 <sup>nd</sup> instalment 2020 (EUR)		Total
			Commission	EIB	
			11th EDF	10th EDF	
MALTA	0,03	0,03801	608 160,00	30 000,00	638 160,00
NETHERLANDS	4,85	4,77678	76 428 480,00	4 850 000,00	81 278 480,00
AUSTRIA	2,41	2,39757	38 361 120,00	2 410 000,00	40 771 120,00
POLAND	1,30	2,00734	32 117 440,00	1 300 000,00	33 417 440,00
PORTUGAL	1,15	1,19679	19 148 640,00	1 150 000,00	20 298 640,00
ROMANIA	0,37	0,71815	11 490 400,00	370 000,00	11 860 400,00
SLOVENIA	0,18	0,22452	3 592 320,00	180 000,00	3 772 320,00
SLOVAKIA	0,21	0,37616	6 018 560,00	210 000,00	6 228 560,00
FINLAND	1,47	1,50909	24 145 440,00	1 470 000,00	25 615 440,00
SWEDEN	2,74	2,93911	47 025 760,00	2 740 000,00	49 765 760,00
UNITED KINGDOM	14,82	14,67862	234 857 920,00	14 820 000,00	249 677 920,00
TOTAL EU-27 & UK	100,00	100,00	1 600 000 000,00	100 000 000,00	1 700 000 000,00

# RULES OF PROCEDURE

## DECISION OF THE GOVERNING BOARD OF THE CLEAN SKY 2 JOINT UNDERTAKING

of 28 April 2020

### laying down internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the Clean Sky 2 Joint Undertaking

THE GOVERNING BOARD OF THE CLEAN SKY 2 JOINT UNDERTAKING,

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

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>(1)</sup>, and in particular Article 25 thereof,

Having regard to Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking<sup>(2)</sup>, (hereafter referred as 'the CS2JU'),

Having regard to the European Data Protection Supervisor (EDPS) Guidance on Article 25 of Regulation (EU) 2018/1725 and internal rules restricting data subject rights<sup>(3)</sup>,

After having consulted the EDPS, in accordance with Article 41(2) of Regulation (EU) 2018/1725,

Whereas:

- (1) The CS2JU carries out its activities in accordance with Regulation (EU) No 558/2014.
- (2) In accordance with Article 25(1) of Regulation (EU) 2018/1725, restrictions on the application of Articles 14 to 22, 35 and 36, as well as Article 4 of that Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 22 should be based on internal rules to be adopted by the CS2JU, where these are not based on legal acts adopted on the basis of the Treaties.
- (3) These internal rules, including its provisions on the assessment of the necessity and proportionality of a restriction, should not apply where a legal act adopted on the basis of the Treaties provides for a restriction of data subject's rights.
- (4) Within the framework of its administrative functioning, the CS2JU may conduct administrative inquiries, disciplinary proceedings, carry out preliminary activities related to cases of potential irregularities reported to OLAF, process whistleblowing cases, process (formal and informal) procedures of harassment, process internal and external complaints, conduct internal audits, carry out investigations by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and internal (IT) security investigations.
- (5) The CS2JU processes several categories of personal data, including hard data ('objective' data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data) and soft data ('subjective' data related to the case such as reasoning, behavioural data, appraisals, performance and conduct data and data related to or brought forward in connection with the subject matter of the procedure or activity)<sup>(4)</sup>.

<sup>(1)</sup> OJ L 295, 21.11.2018, p. 39.

<sup>(2)</sup> OJ L 169, 7.6.2014, p. 77.

<sup>(3)</sup> Available at: [https://edps.europa.eu/sites/edp/files/publication/20-03-09\\_guidance\\_on\\_article\\_25\\_of\\_the\\_new\\_regulation\\_and\\_internal\\_rules\\_en.pdf](https://edps.europa.eu/sites/edp/files/publication/20-03-09_guidance_on_article_25_of_the_new_regulation_and_internal_rules_en.pdf)

<sup>(4)</sup> In cases of joint controllership data shall be processed in line with the means and purposes established in the relevant agreement among the joint controllers as defined in Article 28 of Regulation (EU) 2018/1725.

- (6) The CS2JU, represented by its Executive Director, acts as the data controller irrespective of further delegations of the controller role within the CS2JU to reflect operational responsibilities for specific personal data processing operations.
- (7) The personal data are stored securely in an electronic environment or on paper ensuring the required safeguards to prevent unlawful access or transfer of data to persons who do not have any lawful right to access such personal data. The personal data processed are retained for no longer than necessary and appropriate for the purposes for which the data are processed for the period specified in the data protection notices, privacy statements or records of the CS2JU.
- (8) The internal rules should apply to all processing operations carried out by the CS2JU in the performance of administrative inquiries, disciplinary proceedings, preliminary activities related to cases of potential irregularities reported to OLAF, whistleblowing procedures, (formal and informal) procedures for cases of harassment, processing internal and external complaints, internal audits, the investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725, (IT) security investigations handled internally or with external involvement (e.g. CERT-EU).
- (9) The internal rules should apply to processing operations carried out prior to the opening of the procedures referred to above, during these procedures and during the monitoring of the follow-up to the outcome of these procedures. They should also be applicable to any assistance and cooperation provided by the CS2JU to national authorities and international organisations outside of its own administrative investigations.
- (10) In cases where these internal rules apply, the CS2JU must provide justifications explaining why the restrictions are strictly necessary and proportionate in a democratic society and respect the essence of the fundamental rights and freedoms.
- (11) Within this framework the CS2JU is bound to respect, to the maximum extent possible and in full compliance with the relevant legislation and guidance, the fundamental rights of the data subjects during the above procedures, in particular, those relating to the right of provision of information, access and rectification, right to erasure, restriction of processing, right of communication of a personal data breach to the data subject or confidentiality of communication as enshrined in Regulation (EU) 2018/1725.
- (12) However, the CS2JU may be obliged to restrict the information to data subjects and other data subjects' rights to protect, in particular, its own investigations, the investigations and proceedings of other public authorities, as well as the rights of other persons connected to its investigations or other procedures.
- (13) The CS2JU may thus restrict the information for the purposes of protecting the investigation, and the fundamental rights and freedoms of other data subjects.
- (14) The CS2JU should periodically monitor that the conditions justifying the restriction apply, and lift the restriction as far as they no longer apply.
- (15) The Controller should inform the Data Protection Officer at the moment of deferral and during the revisions,

HAS ADOPTED THIS DECISION:

#### *Article 1*

#### **Subject-matter and scope**

1. This Decision lays down rules relating to the conditions under which the CS2JU in the framework of its procedures set out paragraph 2 may restrict the application of the rights enshrined in Articles 14 to 21, 35 and 36, as well as Article 4 thereof, following Article 25 of Regulation (EU) 2018/1725.



2. Within the framework of the administrative functioning of the CS2JU, this Decision applies to the processing operations on personal data by the Programme Office for the purposes of conducting administrative inquiries, disciplinary proceedings, preliminary activities related to cases of potential irregularities reported to OLAF, processing whistleblowing cases, (formal and informal) procedures of harassment, processing internal and external complaints, conducting internal audits, investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725 and (IT) security investigations handled internally or with external involvement (e.g. CERT-EU).
3. The categories of data concerned are hard data ('objective' data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data) and soft data ('subjective' data related to the case such as reasoning, behavioural data, appraisals, performance and conduct data and data related to or brought forward in connection with the subject matter of the procedure or activity).
4. Where the CS2JU performs its duties with respect to data subject's rights under Regulation (EU) 2018/1725, it shall consider whether any of the derogations laid down in Article 25(3) and (4) of that Regulation apply.
5. Subject to the conditions set out in this Decision, the restrictions may apply to the following rights: provision of information to data subjects, right of access, rectification, erasure, restriction of processing, communication of a personal data breach to the data subject or confidentiality of communication.

#### *Article 2*

### **Specification of the controller**

The controller of the processing operations is the CS2JU, represented by its Executive Director, who may delegate the function of the controller. Data subjects shall be informed of the delegated controller by way of the data protection notices or records published on the website and/or the intranet of the CS2JU.

#### *Article 3*

### **Specification of safeguards**

1. The CS2JU shall put in place the following safeguards aimed at preventing abuse or unlawful access or transfer of personal data <sup>(?)</sup>:
  - (a) Paper documents shall be kept in secured cupboards and only accessible to authorized staff;
  - (b) All electronic data shall be stored in a secure IT application according to the CS2JU's security standards, as well as in specific electronic folders accessible only to authorised staff. Appropriate levels of access shall be granted individually;
  - (c) The database shall be password-protected under a single sign-on system and connected automatically to the user's ID and password. Replacing users is strictly prohibited. E-records shall be held securely to safeguard the confidentiality and privacy of the data therein;
  - (d) All persons having access to the data are bound by the obligation of confidentiality.
2. The retention period of the personal data referred to in Article 1(3) shall be no longer than necessary and appropriate for the purposes for which the data are processed. It shall in any event not be longer than the retention period specified in the data protection notices, privacy statements or records referred to in Article 6.

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<sup>(?)</sup> This list is non-exhaustive.

3. Where the CS2JU considers to apply a restriction, the risk to the rights and freedoms of the data subject shall be weighed, in particular, against the risk to the rights and freedoms of other data subjects and the risk of cancelling the effect of the CS2JU's investigations or procedures for example by destroying evidence. The risks to the rights and freedoms of the data subject concern primarily, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

#### Article 4

### Restrictions

1. Any restriction shall only be applied by the CS2JU to safeguard:
  - (a) the national security, public security or defence of the Member States;
  - (b) the prevention, investigation, detection and prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
  - (c) other important objectives of general public interest of the Union or of a Member State, in particular the objectives of the common foreign and security policy of the Union or an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
  - (d) the internal security of Union institutions and bodies, including of their electronic communications networks;
  - (e) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
  - (f) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (c);
  - (g) the protection of the data subject or the rights and freedoms of others;
  - (h) the enforcement of civil law claims.
2. As a specific application of the purposes described in paragraph 1 above, the CS2JU may apply restrictions in the following circumstances:
  - (a) in relation to personal data exchanged with Commission services or other Union institutions, bodies, agencies and offices;
    - where such Commission service, Union institution, body or agency, is entitled to restrict the exercise of the listed rights on the basis of other acts provided for in Article 25 of Regulation (EU) 2018/1725 or in accordance with Chapter IX of that Regulation or with the founding acts of other Union institutions, bodies, agencies and offices;
    - where the purpose of such a restriction by that Commission service, Union institution, body or agency would be jeopardised were the CS2JU not to apply an equivalent restriction in respect of the same personal data.
  - (b) in relation to personal data exchanged with competent authorities of Member States;
    - where such competent authorities of Member States are entitled to restrict the exercise of the listed rights on the basis of acts referred to in Article 23 of Regulation (EU) 2016/679 of the European Parliament and of the Council, or under national measures transposing Articles 13(3), 15(3) or 16(3) of Directive (EU) 2016/680 of the European Parliament and of the Council <sup>(6)</sup>;
    - where the purpose of such a restriction by that competent authority would be jeopardised were the CS2JU not to apply an equivalent restriction in respect of the same personal data.

<sup>(6)</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

- (c) in relation to personal data exchanged with third countries or international organisations, where there is clear evidence that the exercise of those rights and obligations is likely to jeopardise the CS2JU's cooperation with third countries or international organisations in the conduct of its tasks.

Before applying restrictions in the circumstances referred to in points (a) and (b) of the first subparagraph, the CS2JU shall consult the relevant Commission services, Union institutions, bodies, agencies, offices or the competent authorities of Member States unless it is clear to the CS2JU that the application of a restriction is provided for by one of the acts referred to in those points.

#### Article 5

### Restrictions to the rights of data subjects

1. In duly justified cases and under the conditions stipulated in this decision, the following rights may be restricted by the controller in the context of the processing operations listed in paragraph 2 below where necessary and proportionate:

- (a) The right to information;
- (b) The right of access;
- (c) The right of rectification, erasure and restriction of processing;
- (d) The right to communication of a personal data breach to the data subject;
- (e) The right to confidentiality of electronic communications;

2. In accordance with Article 25(2)(a) of Regulation (EU) 2018/1725, in duly justified cases and under the conditions stipulated in this decision, restrictions may be applied by the controller in the context of the following processing operations:

- a) the performance of administrative inquiries and disciplinary proceedings;
- b) preliminary activities related to cases of potential irregularities reported to OLAF;
- c) whistleblowing procedures;
- d) (formal and informal) procedures for cases of harassment;
- e) processing internal and external complaints;
- f) internal audits;
- g) the investigations carried out by the Data Protection Officer in line with Article 45(2) of Regulation (EU) 2018/1725;
- h) (IT) security investigations handled internally or with external involvement (e.g. CERT-EU);
- i) within the framework of the grant management or procurement procedure, after the closing date of the submission of the calls for proposals or the application of tenders <sup>(?)</sup>;

The restriction shall continue to apply as long as the reasons justifying it remain applicable.

3. In the context of procedure for cases of harassment, the rights referred to in paragraph 1 may be limited under the same conditions, with the exception of the right to communication of a personal data breach to the data subject referred to in point (d) of paragraph 1.

4. Where the CS2JU restricts, wholly or partly, the application of the rights in paragraph 1 above, it shall take the steps set out in Articles 6 and 7 of this Decision.

5. Where data subjects request access to their personal data processed in the context of one or more specific cases or to a particular processing operation, in accordance with Article 17 of Regulation (EU) 2018/1725, the CS2JU shall limit its assessment of the request to such personal data only.

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(?) This processing operating shall only apply to article 5(1)(c).

*Article 6***Necessity and proportionality of restrictions**

1. Any restriction outlined in Article 5 shall be necessary and proportionate taking into account the risks to the rights and freedoms of data subjects and respect the essence of the fundamental rights and freedoms in a democratic society.
2. If the application of restriction is considered, a necessity and proportionality test shall be carried out based on the present rules. The test shall also be conducted within the framework of the periodic review, following assessment of whether the factual and legal reasons for a restriction still apply. It shall be documented through an internal assessment note for accountability purposes on a case by case basis.
3. Restrictions shall be temporary and lifted as soon as the circumstances that justify them no longer apply. In particular, where it is considered that the exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

The CS2JU shall review the application of the restriction every six months from its adoption and at the closure of the relevant inquiry, procedure or investigation. Thereafter, the controller shall monitor the need to maintain any restriction every six months.

4. Where the CS2JU applies, wholly or partly, the restrictions outlined in Article 5 of this Decision, it shall record the reasons for the restriction, the legal ground in accordance with paragraph 1 above, including an assessment of the necessity and proportionality of the restriction.

The record and, where applicable, the documents containing underlying factual and legal elements shall be registered. They shall be made available to the European Data Protection Supervisor on request.

*Article 7***Obligation to Inform**

1. The CS2JU shall include in the data protection notices, privacy statements or records in the sense of Article 31 of Regulation (EU) 2018/1725, published on its website and/or on the intranet informing data subjects of their rights in the framework of a given procedure, information relating to the potential restriction of these rights. The information shall cover which rights may be restricted, the reasons and the potential duration.

Without prejudice to the provisions of Article 6(4), the CS2JU, where proportionate, shall also inform individually all data subjects, which are considered persons concerned in the specific processing operation, of their rights concerning present or future restrictions without undue delay and in a written form.

2. Where the CS2JU restricts, wholly or partly, the rights laid out in Article 5, it shall inform the data subject concerned of the restriction applied and of the principal reasons thereof, and of the possibility of lodging a complaint with the European Data Protection Supervisor or of seeking a judicial remedy in the Court of Justice of the European Union;

The provision of information referred to in paragraph 2 above may be deferred, omitted or denied if it would cancel the effect of the restriction in accordance with Article 25(8) of Regulation (EU) 2018/1725.

*Article 8***Review by the Data Protection Officer**

1. The CS2JU shall, without undue delay, inform the Data Protection Officer of the CS2JU ('the DPO') whenever the controller restricts the application of data subjects' rights, or extends the restriction, in accordance with this Decision. The controller shall provide the DPO access to the record containing the assessment of the necessity and proportionality of the restriction and document the date of informing the DPO in the record.

2. The DPO may request the controller in writing to review the application of the restrictions. The controller shall inform the DPO in writing about the outcome of the requested review.
3. The DPO shall be involved throughout the procedure. The controller shall inform the DPO when the restriction has been lifted.

*Article 9*

**Entry into force**

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

Done at Brussels, 28 April 2020.

*On behalf of the Governing Board, through written  
procedure No 2020 –02*

Axel KREIN  
*Executive Director*

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ISSN 1977-0677 (electronic edition)  
ISSN 1725-2555 (paper edition)



**Publications Office of the European Union**  
2985 Luxembourg  
LUXEMBOURG

**EN**