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⁽¹⁾ Text with EEA relevance

EN

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 620/2014

of 4 June 2014

laying down implementing technical standards with regard to information exchange between competent authorities of home and host Member States, according to Directive 2013/36/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 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ⁽¹⁾, and in particular to Article 50(7) thereof,

Whereas:

- (1) In order to ensure efficient and timely cooperation between competent authorities of home and host Member States information exchange should be two-way, within the respective supervisory competences of those authorities. Standard forms, templates and operating procedures, including timelines, should therefore be established for the exchange of information during going concern situations and liquidity stress situations. Harmonised frequencies and maximum remittance dates for the information to be exchanged on a regular basis should also be established, providing for information to be exchanged on a bi-annual or annual basis. To ensure that the most up-to-date information is exchanged, competent authorities should nevertheless exchange information as early as is practicable without waiting until the expiry of maximum remittance dates.
- (2) Without prejudice to procedures for standard information exchange established in this Regulation, competent authorities of home or host Member States should inform each other without undue delay about any potential situation affecting the financial stability or functioning of a branch and provide all essential and relevant information regarding that situation.
- (3) Given the differences in size, complexity and significance of branches operating in host Member States, it is important to apply the principle of proportionality in the exchange of information. To this end, the need for competent authorities in host Member States to receive a more extensive range of information where these authorities are responsible for branches identified as significant in accordance with Article 51 of Directive 2013/36/EU should be reflected in the forms, templates and frequencies used for exchanging this information.
- (4) To ensure an efficient transmission of information to the relevant persons as well as the confidentiality of the information, the competent authorities should establish, share and regularly update lists of contact persons.
- (5) Information exchange between competent authorities of home and host Member States is not limited to the types of information specified in Article 50 of Directive 2013/36/EU, and therefore to the types of information specified in this Regulation. In particular, Directive 2013/36/EU sets out provisions for exchange of information

⁽¹⁾ OJ L 176, 27.6.2013, p. 338.

regarding on-the-spot verification of branches, notifications of the exercise of the right of establishment and freedom to provide services, and measures, including precautionary ones, taken by competent authorities in relation to branches and their parent undertakings. This Regulation should therefore not set out requirements for exchange of information in those areas.

- (6) Standard forms, templates and procedures should also address exchanges of information in relation to the carrying out of activities in a host Member State by way of the provision of cross border services.
- (7) Given the nature of cross-border services, competent authorities of host Member States are confronted with a lack of information regarding operations being conducted in their jurisdictions, and it is essential to establish procedures for sharing information for the purposes of safeguarding financial stability and monitoring conditions of authorisations, in particular monitoring whether the institution provides services in accordance with the notifications provided. Despite the importance of such information, given the need to avoid potential burden in collecting and disseminating this to all competent authorities of host Member States, the information should be provided following a request from the competent authorities of host Member States rather than be shared on a regular basis.
- (8) Given the fact that the type of information to be exchanged between competent authorities is detailed in Commission Delegated Regulation (EU) No 524/2014 ⁽¹⁾, this Implementing Regulation should be considered as the necessary corollary of Delegated Regulation (EU) No 524/2014.
- (9) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (10) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes standard forms, templates and procedures for the information sharing requirements which are likely to facilitate the monitoring of institutions which operate, through a branch or in the exercise of the freedom to provide services, in one or more Member States other than that in which their head offices are situated.

This Regulation applies in relation to the information provided for in Delegated Regulation (EU) No 524/2014.

Article 2

Remittance date and frequency of information exchanges regarding institutions operating through a branch

1. Information regarding any situations of non-compliance with legislative or regulatory requirements, the application of supervisory or other administrative measures or the imposition of administrative or criminal penalties shall be provided without undue delay and no later than 14 calendar days after the determination by the competent authorities of the non-compliance situation, of the application of the supervisory or other administrative measure, or the imposition of the administrative or criminal penalty.

⁽¹⁾ Commission Delegated Regulation (EU) No 524/2014 of 12 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information that competent authorities of home and host Member States supply to one another (OJ L 148, 20.5.2014, p. 6).

⁽²⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

2. Where a branch is considered as significant in accordance with Article 51 of Directive 2013/36/EU, quantitative information concerning liquidity and information on findings from the supervision of liquidity shall be provided by the competent authorities of the home Member State to the competent authorities of the host Member State which supervise this significant branch on a bi-annual basis and no later than the following remittance dates:

(a) 28 February each year on the basis of the position as on 31 December of the preceding year;

(b) 31 August each year on the basis of the position as on the preceding 30 June.

3. Information other than that referred to in paragraphs 1 and 2 shall be provided annually and no later than 30 April each year on the basis of the position as at the preceding 31 December, except for information regarding management and ownership of an institution, which shall be provided on the basis of the most recent information available.

Article 3

Operational procedures for the transmission of information between competent authorities

1. The competent authorities of the home Member State shall maintain and share with the competent authorities of a host Member State an up-to-date list for each institution containing the relevant contacts, including emergency contacts, for the exchange of information between the competent authorities of the home Member State and of the host Member States.

The competent authorities of host Member States shall inform the competent authorities of the home Member State of their contacts and of any changes in those contacts without undue delay. The competent authorities of the home Member State and of host Member States shall review the contact list each year.

2. Information shall be exchanged in written or electronic form and shall be addressed to the relevant contact persons identified in the contact list referred to in paragraph 1 unless specified otherwise by a competent authority requesting information.

3. Where information is exchanged in electronic form, secure channels of communication shall be used unless the competent authorities deem it appropriate to use unsecured channels of communication.

4. The following information may be provided orally before being confirmed in written or electronic form:

(a) information regarding non-compliance with legislative or regulatory requirements;

(b) information regarding the application of supervisory or other administrative measures;

(c) information regarding the imposition of administrative or criminal penalties;

(d) information relating to a liquidity stress situation.

5. Competent authorities shall confirm the receipt of information. Where information has been provided in electronic form using a secure channel of communication the confirmation shall be provided using the same channel. Confirmation shall not be required for information which has been provided orally or using a secure channel of communication which enables the sender to receive confirmation that the receiver has received the information.

6. Where a college of supervisors has been established in accordance with Article 51(3) of Directive 2013/36/EU and where all branches of the institution are considered as significant paragraphs 1 to 5 of this Article shall not apply. In such cases the information shall be exchanged using the procedure set out in the written arrangements referred to in Article 51(3) of Directive 2013/36/EU.

Article 4

Forms and templates to be used for information exchanges regarding institutions operating through a branch

1. Quantitative information referred to in Article 2(2) shall be exchanged using the template specified in Part 1 of Annex I and shall be provided in the form specified in that template.

2. Quantitative information regarding the liquidity and solvency of an institution other than the information referred to in paragraph 1 shall be exchanged using the template specified in Part 2 of Annex I and shall be provided in the form specified in that template.
3. Quantitative information regarding the volume of services offered through the exercise of the freedom to provide services shall be exchanged using the template specified in Part 3 of Annex I and shall be provided in the form deemed appropriate by the competent authority that provides the information.
4. Quantitative information regarding the market shares of a branch established in a host Member State shall be exchanged using the template specified in Part 4 of Annex I and shall be provided in the form deemed appropriate by the competent authority that provides the information.
5. Non-quantitative information other than the information referred to in paragraphs 6, 7 and 8 shall be exchanged using the respective templates and shall be provided in the form deemed appropriate by the competent authority providing the information, as follows:
 - (a) the template specified in Part 2 of Annex I shall be used for information on the liquidity and solvency of an institution;
 - (b) the template specified in Part 3 of Annex I shall be used for information on cross-border provision of services;
 - (c) the template specified in Part 4 of Annex I shall be used for information on a branch established in a host Member State;
 - (d) the template specified in Part 5 of Annex I shall be used for information on deposit guarantee schemes.
6. Non-quantitative information specified in Part 6 of Annex I regarding the management and ownership of an institution, its liquidity and funding policies, liquidity and funding contingency plans and preparations for emergency situations shall be provided in the form deemed appropriate by the competent authority that provides the information. The information shall be provided as an appendix to the other information exchanged using the templates specified in Parts 1 to 5 of Annex I.
7. Information regarding any situations of non-compliance with legislative or regulatory requirements, the application of supervisory or other administrative measures or the imposition of administrative or criminal penalties as referred to in Article 2(1) shall be provided in the form deemed appropriate by the competent authority that provides the information.
8. Information regarding the identification of an institution as a global systemically important institution or as another systemically important institution within the meaning of Article 131(1) of Directive 2013/36/EU shall be provided in the form deemed appropriate by the competent authority that provides the information.

Article 5

Ad-hoc information requests of competent authorities

1. Requests for information that is not required to be exchanged pursuant to Delegated Regulation (EU) No 524/2014 shall be transmitted in written or electronic form to the relevant contact persons identified in the contact list referred to in Article 3(1) of this Regulation.
2. A competent authority making a request as referred to in paragraph 1 shall explain how the information is likely to facilitate the supervision or monitoring of an institution, the examination of the conditions for the authorisation of an institution or the protection of the stability of the financial system. That competent authority shall specify a reasonable time by which the response must be provided taking into account the nature and urgency of the request and information requested.
3. A competent authority receiving a request referred to in paragraph 1 shall provide the information without undue delay and shall make every effort to respond by the time indicated in the request. If that competent authority is unable to reply by the time indicated in the request it shall inform the competent authority making the request without undue delay of the time by which it will provide the information.

If the requested information is not available, the competent authority receiving a request referred to in paragraph 1 shall accordingly inform the competent authority making the request.

*Article 6***Information exchange regarding cross-border service providers**

The competent authorities of a host Member State in which an institution carries out its activities in the exercise of the freedom to provide services which request the competent authorities of the home Member State to provide the information regarding those services laid down in Delegated Regulation (EU) No 524/2014 shall provide the request in written or electronic form to the relevant contact person identified in the contact list referred to in Article 3(1). The competent authorities of the home Member State shall provide the information within three months of receiving the request.

*Article 7***Information exchange regarding institutions operating through a branch in case of liquidity stress affecting the institution or the branch itself**

In a liquidity stress situation competent authorities shall use the template specified in Annex II to this Regulation and follow the procedures provided for in Article 3 of this Regulation to exchange the information laid down in Delegated Regulation (EU) No 524/2014.

*Article 8***Entry into force**

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

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

Done at Brussels, 4 June 2014.

For the Commission

The President

José Manuel BARROSO

BI-ANNUAL SPECIFIC

Template for the information on liquidity and supervisory findings regarding individual institutions to be exchanged bi-annually with the competent authorities of a host Member State supervising a significant branch

Legal reference:	Article 4(1) of Commission Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Bi-annually
Competent Authority:	
Institution name:	
Reference date (30/06 YYYY or 31/12/YYYY):	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	<i>Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution</i>

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Liquidity	LCR (domestic currency)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	LCR (Material currency 1, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	LCR (Material currency 2, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	LCR (Material currency 3, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	<i>[please add more rows for material currencies, if applicable]</i>			
	NSFR (domestic currency)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	NSFR (Material currency 1, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	NSFR (Material currency 2, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	NSFR (Material currency 3, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	<i>[please add more rows for material currencies, if applicable]</i>			
	Components of the institution's liquidity buffer, including			
	Cash	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Deposits held with central banks	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Securities with a 0 % risk weight	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Securities with a 20 % risk weight	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Non-financial corporate bonds	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	Other assets of high and extremely high liquidity and credit quality, taking into account the criteria listed in CRR Article 481(2)	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[value to be provided based on national reporting and specification]</i>	
	Total encumbered assets	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total non-encumbered assets	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total encumbered collateral received	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total non-encumbered collateral received	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Loan-to-deposit ratio	Based on the requirements of ITS on supervisory reporting	<i>[value from FINREP]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	Description of any domestic liquidity ratios that apply to the institution as a part of macro-prudential policy measures by the competent authorities or by the designated authority whether as binding requirements, guidelines, recommendations, warnings or otherwise, including the definitions of those ratios	[Definition and calculation formula to be provided by the competent authority]	<i>[value to be provided based on national reporting and specification]</i>	
	Description of any material deficiencies in the institution's liquidity risk management which are known to the competent authorities and which may affect branches, any related supervisory measures which have been taken in relation to those deficiencies, and the extent of the institution's compliance with those supervisory measures		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	<i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template for regular exchange of information and in accordance with Article 2(3) of the ITS</i>
	Overall assessment of the institution's liquidity risk profile and risk management, in particular in relation to the branch(es) established in the host member State		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Description of any specific liquidity requirements applied in accordance with Article 105 of Directive 2013/36/EU		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Information regarding any obstacles to cash and collateral transfer to or from the branches of the institution		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	

ANNUAL SPECIFIC

Template for the information to be exchanged annually regarding the liquidity and solvency of individual institutions

Legal reference:	Articles 4(1), 5 and 11 of Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Annually
Competent Authority:	
Institution name:	
Reference date (31/12/YYYY):	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Liquidity	LCR (domestic currency)	[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]	[value to be provided based on national reporting and specification until ratios are available in COREP]	
	LCR (Material currency 1, please specify)	[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]	[value to be provided based on national reporting and specification until ratios are available in COREP]	
	LCR (Material currency 2, please specify)	[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]	[value to be provided based on national reporting and specification until ratios are available in COREP]	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	LCR (Material currency 3, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	<i>[please add more rows for material currencies, if applicable]</i>			
	NSFR (domestic currency)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	NSFR (Material currency 1, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	NSFR (Material currency 2, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	
	NSFR (Material currency 3, please specify)	<i>[Based on the requirements of the ITS on supervisory reporting requirements for liquidity coverage and stable funding, but on the calibration subject to the national specification until replaced by the CRR calibration]</i>	<i>[value to be provided based on national reporting and specification until ratios are available in COREP]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	<i>[please add more rows for material currencies, if applicable]</i>			
	Components of the institution's liquidity buffer, including			
	Cash	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Deposits held with central banks	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Securities with a 0 % risk weight	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Securities with a 20 % risk weight	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Non-financial corporate bonds	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[Value based on the ITS]</i>	
	Other assets of high and extremely high liquidity and credit quality, taking into account the criteria listed in CRR Article 481(2)	Based on the requirements of ITS on Supervisory reporting requirements for liquidity coverage and stable funding	<i>[value to be provided based on national reporting and specification]</i>	
	Total encumbered assets	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total non-encumbered assets	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total encumbered collateral received	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Total non-encumbered collateral received	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	of which central bank eligible	Based on the requirements of the ITS on reporting for asset encumbrance	<i>[Value based on the ITS]</i>	
	Loan-to-deposit ratio	Based on the requirements of ITS on supervisory reporting	<i>[value from FINREP]</i>	
	Description of any domestic liquidity ratios that apply to the institution as a part of macro-prudential policy measures by the competent authorities or by the designated authority whether as binding requirements, guidelines, recommendations, warnings or otherwise, including the definitions of those ratios	[Definition and calculation formula to be provided by the competent authority]	<i>[value to be provided based on national reporting and specification]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	Description of any material deficiencies in the institution's liquidity risk management which are known to the competent authorities and which may affect branches, any related supervisory measures which have been taken in relation to those deficiencies, and the extent of the institution's compliance with those supervisory measures		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	<i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template for regular exchange of information and in accordance with Article 2(3) of the ITS</i>
	Overall assessment of the institution's liquidity risk profile and risk management, in particular in relation to the branch(es) established in the host member State		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Description of any specific liquidity requirements applied in accordance with Article 105 of Directive 2013/36/EU		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Information regarding any obstacles to cash and collateral transfer to or from the branches of the institution		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Solvency	Information of whether the institution complies with the following requirements: (a) the own fund requirements laid down in Article 92 of Regulation (EU) No 575/2013 taking into account any measures adopted or recognised in accordance with Article 458 of that Regulation and, where relevant, taking into account the transitional arrangements under Part Ten of that Regulation; (b) any additional own fund requirements imposed in accordance with Article 104 of Directive 2013/36/EU; (c) the capital buffer requirements set out in Chapter 4 of Title VII of Directive 2013/36/EU		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	<i>Please note that issues of non-compliance with minimum regulatory requirements and any supervisory measures taken by the competent authorities to address them shall be reported outside this template for regular exchange of information and in accordance with Article 2(3) of the ITS</i>
	Institution's Common Equity Tier 1 capital ratio, within the meaning of point (a) of Article 92(2) of Regulation (EU) No 575/2013	Based on the requirements of ITS on supervisory reporting	<i>[value from COREP]</i>	<i>Information provided to the competent authorities of a host Member State supervising a significant branch</i>
	Institution's Tier 1 capital ratio, within the meaning of point (b) of Article 92(2) of Regulation (EU) No 575/2013	Based on the requirements of ITS on supervisory reporting	<i>[value from COREP]</i>	<i>Information provided to the competent authorities of a host Member State supervising a significant branch</i>
	Institution's total capital ratio, within the meaning of point (c) of Article 92(2) of Regulation (EU) No 575/2013	Based on the requirements of ITS on supervisory reporting	<i>[value from COREP]</i>	<i>Information provided to the competent authorities of a host Member State supervising a significant branch</i>

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	Institution's total risk exposure amount, within the meaning of Article 92(3) of Regulation (EU) No 575/2013	Based on the requirements of ITS on supervisory reporting	[value from COREP]	Information provided to the competent authorities of a host Member State supervising a significant branch
	Own funds requirements applicable in the home Member State in accordance with Article 92 of Regulation (EU) No 575/2013, taking into account any measures adopted or recognised in accordance with Article 458 of that Regulation and, where relevant, taking into account the transitional arrangements laid down in Part Ten of that Regulation	[Definition and calculation formula to be provided by competent authority]	[value to be provided based on national reporting and specification]	Information provided to the competent authorities of a host Member State supervising a significant branch
	Level of the capital conservation buffer that the institution is required to maintain in accordance with Article 129 of Directive 2013/36/EU	Based on the requirements of ITS on supervisory reporting	[value from COREP]	Information provided to the competent authorities of a host Member State supervising a significant branch
	Level of any institution-specific countercyclical capital buffer that the institution is required to maintain in accordance with Article 130 of Directive 2013/36/EU	Based on the requirements of ITS on supervisory reporting	[value from COREP]	Information provided to the competent authorities of a host Member State supervising a significant branch
	Level of any systemic risk buffer that the institution is required to maintain in accordance with Article 133 of Directive 2013/36/EU	Based on the requirements of ITS on supervisory reporting	[value from COREP]	Information provided to the competent authorities of a host Member State supervising a significant branch

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
	Level of any G-SII buffer or O-SII buffer that the institution is required to maintain in accordance with Article 131(4) and (5) of Directive 2013/36/EU	Based on the requirements of ITS on supervisory reporting		<i>Information provided to the competent authorities of a host Member State supervising a significant branch</i>
	Level of any additional own funds requirements imposed in accordance with point (a) of Article 104(1) of Directive 2013/36/EU and of any other requirements imposed relating to an institution's solvency in accordance with that Article	Based on the requirements of ITS on supervisory reporting	<i>[value from COREP]</i>	<i>Information provided to the competent authorities of a host Member State supervising a significant branch</i>
Leverage	Information disclosed by the institution in accordance with Article 451 of Regulation (EU) No 575/2013 regarding its leverage ratio and its management of the risk of excessive leverage		<i>[link to the disclosure made by institution]</i>	

PART 3

ANNUAL — SERVICES

Template for the information to be exchanged regarding cross-border service providers

Legal reference:	Article 16 of Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Annually upon request
Competent Authority:	
Institution name:	
Reference date (31/12/YYYY):	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	<i>Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution</i>

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other reference	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Information regarding cross-border services providers	Volume of deposits taken from residents of the host Member State	<i>[Definition and calculation formula to be provided by competent authority]</i>	<i>[value to be provided in millions in applicable currency of the institution based on national reporting and specification]</i>	
	Volume of loans provided to the residents of the host Member State	<i>[Definition and calculation formula to be provided by competent authority]</i>	<i>[value to be provided in millions in applicable currency of the institution based on national reporting and specification]</i>	
	The following information items are related to the activities listed in Annex I to Directive 2013/36/EU which the institution has notified its wish to carry out in the host Member State by way of provision of services			
	Form in which the institution carries out the activities		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Activities which are the most significant in terms of the institution's activities in the host Member State		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Confirmation whether the activities identified as core business activities in the notification provided by the institution pursuant to Article 39 of Directive 2013/36/EU are being performed by an institution		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	

BRANCH SPECIFIC — FROM HOSTS

Template for the information to be exchanged regarding branches established in host Member States

Legal reference:	Article 15 of Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Annually
Competent Authority:	
Branch name:	
Institution name:	
Reference date (31/12/YYYY):	
Submission date (DD/MM/YYYY):	

Information Group	Information item	Reference to COREP/FINREP templates, where applicable, or other	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Information regarding branches established in host Member States	Market shares of the branch in loans	<i>[Definition and calculation formula to be provided by competent authority]</i>	<i>[value to be provided in % based on national reporting and specification. This value shall not be provided where it does not exceed 2 % of total loans in the host Member State]</i>	
	Market shares of the branch in deposits	<i>[Definition and calculation formula to be provided by competent authority]</i>	<i>[value to be provided in % based on national reporting and specification. This value shall not be provided where it does not exceed 2 % of total deposits in the host Member Stat]</i>	
	Identification of systemic risks posed by the branch or its activities in the host Member State, including assessment of the likely impact of a suspension or closure of the operations of the branch on systemic liquidity, payment systems, clearing and settlement systems		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Obstacles to cash and collateral transfer to or from the branch		<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	

Template for the information to be exchanged concerning deposit-guarantee schemes

Legal reference:	Article 6 of Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Annually
Competent Authority:	
Institution name:	
Reference date (31/12/YYYY):	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution

Information Group	Information item	Information value (quantitative as required by the grid, or qualitative to be provided in free text)	Comments
Deposit-guarantee scheme	Name of the deposit-guarantee scheme to which the institution belongs	<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Maximum coverage of the deposit-guarantee scheme per eligible depositor	<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Scope of coverage, the types of deposits covered and any exclusion from the coverage, including products and types of depositors	<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Funding arrangements of the deposit-guarantee scheme, in particular whether the scheme is funded ex ante or ex post and the volume of the scheme	<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	
	Contact details of the administrator of the deposit-guarantee scheme	<i>[free text answering the question at the reporting date. Should there be no changes compared to the previous reporting period, competent authorities may refer to already provided information or update accordingly]</i>	

PART 6
ANNUAL ADDITIONAL

Additional information to be exchanged concerning the management and ownership of individual institutions, their liquidity and funding policies, liquidity and funding contingency plans and preparations for emergency situations

Legal reference:	Articles 3, 4(3) and 14 of Delegated Regulation (EU) No 524/2014
Frequency of the information exchange:	Annually
Competent Authority:	
Institution name:	
Reference date (31/12/YYYY):	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	<i>Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution</i>

Additional information to be exchanged concerning the management and ownership of the institution and preparations for emergency situations

1. Current organisational structure of the institution including its business lines and its relationships to entities within the group
2. Emergency contact details of persons within the competent authorities who are responsible for handling emergency situations and communication procedures that shall apply in emergency situations

Additional information to be exchanged with the competent authorities of a host Member State supervising a significant branch

1. Current structure of the management body and senior management, including the allocation of responsibility for the oversight of the branch
2. Current list of shareholders and members with qualifying holdings based on information provided by the credit institution in accordance with Article 26(1) of Directive 2013/36/EU
3. Liquidity and funding policy of the institution, including descriptions of the funding arrangements for its branches, any intra-group support arrangements, and procedures for centralised cash pooling
4. Liquidity and funding contingency plans of the institution, including information on the assumed stress scenarios

Template for the information exchange in case of liquidity stress

Legal reference:	Article 17 of the Commission Delegated Regulation (EU) No 524/2014
Competent Authority:	
Institution name:	
Submission date (DD/MM/YYYY):	
Information provided on consolidated basis (Yes/No)	Please indicate 'Yes' if information in this template is provided on a consolidated basis and not at the level of the institution

SECTION 1

Description of the liquidity stress situation

Question/Information item	Response/value
Has a stress situation occurred or is this likely to occur within the next month or beyond (please specify time period)?	<i>[free text answering the question]</i>
Description of the situation including the underlying cause of the stress situation	<i>[free text answering the question]</i>
What will happen next? What should happen which would concern the competent authority?	<i>[free text answering the question]</i>
Have contingency plans such as contingency funding plans been triggered?	<i>[free text answering the question]</i>
Expected impact of the situation on contagion risk within the home Member State's banking sector over the next 3-6 months	<i>[free text answering the question]</i>
Expected impact of the situation on the institution, including its critical economic functions, over the next 3-6 months	<i>[free text answering the question]</i>
Expected impact of the situation on the activities of the branch over the next 3-6 months	<i>[free text answering the question]</i>

Actions and Recovery

Please list actions taken so far by the institution or competent authority to mitigate the cause of the stress. Give details on the impact these actions have had:

Action and who took the action	Impact
free text	free text
free text	free text
free text	free text

Please list future actions planned by the institution or competent authority to mitigate the cause of the stress. Give details on the timescale for taking these actions and their expected impact:

Action and who will take the action	Timescale	Impact
free text	free text	free text
free text	free text	free text
free text	free text	free text

What are the future milestones and trigger points for further action?

[free text answering the question]

Please list actions taken by the institution or competent authority to improve the liquidity position. Give details on their quantitative impact.

Action and who took the action	Impact
free text	free text
free text	free text
free text	free text

Please list the future actions planned by the institution or competent authority to improve the liquidity position. Give details on the timescale for taking these actions and their expected impact

Action and who will take the action	Timescale	Impact
free text	free text	free text

<i>free text</i>	<i>free text</i>	<i>free text</i>
<i>free text</i>	<i>free text</i>	<i>free text</i>

What are the future milestones and trigger points for further action?

[free text answering the question]

In addition, please provide the latest available quantitative information regarding liquidity as specified in Article 4(1)(c)-(h) of the Delegated Regulation (EU) No 524/2014 (see also the templates specified in Part I or 2 of Annex I)

COMMISSION IMPLEMENTING REGULATION (EU) No 621/2014**of 11 June 2014****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

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

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 11 June 2014.

*For the Commission,
On behalf of the President,*

*Jerzy PLEWA
Director-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	53,3
	TR	71,7
	ZZ	62,5
0707 00 05	MK	36,9
	TR	105,3
	ZZ	71,1
0709 93 10	MA	68,1
	TR	113,5
	ZA	27,3
	ZZ	69,6
0805 50 10	AR	104,4
	TR	120,8
	ZA	126,5
	ZZ	117,2
0808 10 80	AR	103,5
	BR	77,8
	CL	94,3
	CN	98,7
	NZ	135,2
	US	183,9
	UY	168,2
	ZA	99,1
	ZZ	120,1
	TR	250,0
0809 10 00	ZZ	250,0
	TR	377,6
0809 29 00	TR	377,6
	ZZ	377,6

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION

of 26 May 2014

on the position to be adopted on behalf of the European Union at the 103rd session of the International Labour Conference concerning amendments to the Code of the Maritime Labour Convention

(2014/346/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 218(9) in conjunction with Article 153(1)(b) and 153(2)(b) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Maritime Labour Convention, 2006, of the International Labour Organisation (ILO), hereinafter 'the Convention', establishes minimum working and living standards for all seafarers working on ships flying the flags of ratifying countries.
- (2) Amendments to the Code of the Convention, hereinafter 'amendments', have been adopted by the 'Special Tripartite Committee' established under the Convention, hereinafter 'the Committee', at its meeting on 7-11 April 2014. The amendments are submitted for approval to the 103rd session of the International Labour Conference on 28 May-12 June 2014.
- (3) The amendments concern the liability of shipowners with respect to compensation for claims due to death, personal injury and abandonment of seafarers.
- (4) Parts of the rules under the Convention and the amendments are falling within the Union's competence and concern matters in respect of which the Union has adopted rules. The amendments will interplay with existing *acquis*, in particular in the areas of social policy and transport. In particular, most of the provisions of the Convention have been the subject of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC ⁽¹⁾. The implementation of the Convention in the Union is further ensured by Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on 'Port State Control' ⁽²⁾, as amended by Directive 2013/38/EU of the European Parliament and of the Council ⁽³⁾ and the 'Flag State Directive' 2013/54/EU of the European Parliament and of the Council ⁽⁴⁾ enforcing the Annex to Directive 2009/13/EC.
- (5) The amendments to the Code of the Convention approved by the International Labour Conference will enter into force for all Parties in accordance with and under the conditions provided for by Article XV of the Convention. It follows that the amendments to the Code of the Maritime Labour Convention will constitute an act of a body set up by an international agreement which will produce legal effects.

⁽¹⁾ OJ L 124, 20.5.2009, p. 30.

⁽²⁾ OJ L 131, 28.5.2009, p. 57.

⁽³⁾ Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control (OJ L 218, 14.8.2013, p. 1).

⁽⁴⁾ Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (OJ L 329, 10.12.2013, p. 1).

- (6) Given the above, in accordance with Article 218(9) TFEU, it is necessary that the Council adopts a decision to establish the position to be adopted on the Union's behalf, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, authorising at the same time Member States to act jointly in the interest of the Union, which is not a member of the ILO ⁽¹⁾,

HAS ADOPTED THIS DECISION:

Article 1

1. The position of the Union at the 103rd session of the International Labour Conference shall be to support, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, the approval of the amendments to the Code of the Convention, adopted by the Committee at its meeting on 7-11 April 2014. The text of the amendments is attached to this decision.

2. The position of the Union as set out in paragraph 1 shall be taken by the Member States, acting jointly in the interest of the Union when approving the amendments to the Code of the Convention at the 103rd session of the International Labour Conference.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 May 2014.

For the Council
The President
Ch. VASILAKOS

⁽¹⁾ Opinion 2/91 of the European Court of Justice of 19 March 1993, ECR 1993-I, page 1061, para. 26.

ANNEX

FIRST MEETING OF THE SPECIAL TRIPARTITE COMMITTEE ESTABLISHED BY THE GOVERNING BODY IN ACCORDANCE WITH ARTICLE XIII OF THE MARITIME LABOUR CONVENTION, 2006 (MLC, 2006)

Text adopted by the Special Tripartite Committee established by the Governing Body in accordance with Article XIII of the MLC, 2006

Proposal for amendments to the Code relating to Regulation 2.5 of the MLC, 2006**A. Proposals relating to Standard A2.5**

In the present heading, 'Standard A2.5 — Repatriation', replace 'A2.5' by 'A2.5.1'.

Following paragraph 9 of the present Standard A2.5, add the following heading and text:

Standard A2.5.2 — Financial security

1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.
2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:
 - (a) fails to cover the cost of the seafarer's repatriation; or
 - (b) has left the seafarer without the necessary maintenance and support; or
 - (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.
3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.
4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.
5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.
6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.
7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.
8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer's nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.
9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:
 - (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;

- (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
 - (c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.
10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.
 11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.
 12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.
 13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.
 14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.

B. Proposal relating to Guideline B2.5

At the end of the present Guideline B2.5, add the following heading and text:

Guideline B2.5.3 — Financial security

1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer's nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested as is recognized as justified.

C. Proposal for a new appendix

Before Appendix A5-I, add the following appendix:

APPENDIX A2-I

Evidence of financial security under Regulation 2.5, paragraph 2

The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' requests for relief;
- (g) name of the shipowner;

- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

D. Proposals relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:

Financial security for repatriation.

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance — Part I*, add the following item:

15. Financial security for repatriation (Regulation 2.5).

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance — Part II*, add the following item:

15. Financial security for repatriation (Regulation 2.5).

At the end of Appendix A5-III, add the following area:

Financial security for repatriation.

Proposal for amendments to the Code relating to Regulation 4.2 of the MLC, 2006

A. Proposals relating to Standard A4.2

In the present heading, 'Standard A4.2 — Shipowners' liability', replace 'A4.2' by 'A4.2.1'.

Following paragraph 7 of the present Standard A4.2, add the following text:

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:
 - (a) the contractual compensation, where set out in the seafarer's employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;
 - (b) there shall be no pressure to accept a payment less than the contractual amount;
 - (c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
 - (d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and
 - (e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.
9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.
10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner's financial security is cancelled or terminated.

11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.
12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.
13. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.
14. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.

Add the following heading and text following the present Standard A4.2:

Standard A4.2.2 — Treatment of contractual claims

1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term ‘contractual claim’ means any claim which relates to death or long-term disability of seafarers due to an occupational injury, illness or hazard as set out in national law, the seafarers’ employment agreement or collective agreement.
2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.
3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.

B. Proposals relating to Guideline B4.2

In the present heading, ‘Guideline B4.2 — Shipowners’ liability’, replace ‘B4.2’ by ‘B4.2.1’.

In paragraph 1 of the present Guideline B4.2, replace ‘Standard A4.2’ by ‘Standard A4.2.1’.

Following paragraph 3 of the present Guideline B4.2, add the following heading and text:

Guideline B4.2.2 — Treatment of contractual claims

1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.

C. Proposals for new appendices

After Appendix A2-I, add the following appendix:

APPENDIX A4-I

Evidence of financial security under Regulation 4.2

The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;

- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' contractual claims;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.

After Appendix A4-I, add the following appendix:

APPENDIX B4-I

Model Receipt and Release Form referred to in Guideline B4.2.2

Ship (name, port of registry and IMO number):.....

Incident (date and place):.....

Seafarer/legal heir and/or dependant:.....

Shipowner:.....

I, [Seafarer] [Seafarer's legal heir and/or dependant] (*) hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of [my] [the Seafarer's] (*) employment and I hereby release the Shipowner from their obligations under the said terms and conditions.

The payment is made without admission of liability of any claims and is accepted without prejudice to [my] [the Seafarer's legal heir and/or dependant's] (*) right to pursue any claim at law in respect of negligence, tort, breach of statutory duty or any other legal redress available and arising out of the above incident.

Dated:.....

Seafarer/legal heir and/or dependant:.....

Signed:.....

For acknowledgement:

Shipowner/Shipowner's representative:

Signed:.....

Financial security provider:

Signed:

(*) Delete as appropriate.

D. Proposals relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:

Financial security relating to shipowners' liability.

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance — Part I*, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2).

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance — Part II*, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2).

At the end of Appendix A5-III, add the following area:

Financial security relating to shipowners' liability.

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 496/13/COL

of 11 December 2013

concerning the financing of Harpa Concert Hall and Conference Centre (Iceland)

THE EFTA SURVEILLANCE AUTHORITY ('THE AUTHORITY'),

HAVING REGARD to the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Article 61(3)(c) and Protocol 26,

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('the Surveillance and Court Agreement'), in particular to Article 24,

HAVING REGARD to Protocol 3 to the Surveillance and Court Agreement ('Protocol 3'), in particular Article 7(3) of Part II,

HAVING called on interested parties to submit their comments pursuant to those provisions ⁽¹⁾ and having regard to their comments,

Whereas:

I. FACTS

1. PROCEDURE

- (1) On 19 September 2011, the Authority received a complaint (Event No 608967), concerning the alleged subsidising by the Icelandic State ('the State') and the City of Reykjavík ('the City') of conference services and restaurant/catering services in Harpa Concert Hall and Conference Centre ('Harpa') ⁽²⁾.
- (2) Having received all the relevant information from the Icelandic authorities and having discussed the case in a meeting on 5 June 2012 ⁽³⁾, the Authority decided by Decision No 128/13/COL of 20 March 2013 to initiate the formal investigation procedure into potential State aid involved in the financing of Harpa Concert Hall and Conference Centre ('Decision No 128/13/COL' or 'the opening decision').
- (3) By letter dated 28 May 2013 (Event No 673762), the Icelandic authorities submitted comments on the Authority's decision. The case was also the subject of discussions between the Authority and the Icelandic authorities at the package meeting in Reykjavík on 4 June 2013.

⁽¹⁾ EFTA Surveillance Authority Decision No 128/13/COL of 20.3.2013 to initiate the formal investigation procedure into potential State aid involved in the financing of the Harpa Concert Hall and Conference Centre, published in the *Official Journal of the European Union*, OJ C 229, 8.8.2013, p. 18, and the EEA Supplement No 44, 8.8.2013, p. 5.

⁽²⁾ For the purposes of this decision 'Harpa' will refer to the building itself and its facilities.

⁽³⁾ For a more detailed description of the correspondence, see paragraphs 2-5 of the Authority's Decision No 128/13/COL.

- (4) On 8 August 2013, Decision No 128/13/COL was published in the Official Journal of the European Union and in the EEA Supplement. Interested parties were given one month to submit comments on the Authority's opening decision. The Authority did not receive any comments from interested parties.

2. DESCRIPTION OF THE MEASURE

2.1. General

- (5) In Decision No 128/13/COL the Authority assessed the financing of Harpa Concert Hall and Conference Centre. Harpa is a multipurpose building, located in the centre of Reykjavík, which is currently owned by the Icelandic State (54 %) and Reykjavík City (46 %), which together contribute to its financing.

2.2. Background

- (6) In 1999 the Mayor of Reykjavík along with representatives of the Icelandic government announced that a concert and conference centre would be constructed in the centre of Reykjavík. In late 2002 the Icelandic State and the City signed an agreement regarding the project and the following year the company Austurhöfn-TR ehf. was founded with the purpose of overseeing the project ⁽⁴⁾.
- (7) The original business model for Harpa was that a private party would be responsible for the construction and the operation of the building and in turn receive annual contributions from the State and the City. In April 2004 the State Trading Centre announced a pre-qualification process for the project and in 2005 an evaluation committee came to the conclusion that an offer from the limited liability company Portus ehf. was the most favourable out of the four offers received. Subsequently the Icelandic State and the City entered into a contract ('Project Agreement') with Portus for the construction and operation of a concert and conference centre ⁽⁵⁾. However, in 2008, after the financial collapse, the selected private partner experienced severe financial difficulties and had to withdraw from the project and therefore the construction of Harpa was put on hold.
- (8) When the private partner withdrew from the project, approximately half of Harpa had already been built, and the Icelandic authorities thus had to make a decision regarding the future of Harpa. According to the Icelandic authorities there were mainly three options available at the time ⁽⁶⁾:
- (a) It was possible to continue the project with public funding. The cost of this was at the time estimated to be around ISK 13 billion.
- (b) The second possibility was to temporarily postpone the building of Harpa. This was estimated to cost around ISK 19 billion.
- (c) The third possibility was to stop the project indefinitely or even tear down what had already been built. The cost of stopping the project was estimated to be around ISK 10 billion.
- (9) It was also clear that a 'half built' building at the size of Harpa in the heart of the city would cause problems in the long term and value would be destroyed. Hence, it was not considered feasible to close the project down, as huge resources had been spent in order to start the project and its re-opening at a later stage would be a very costly and complex exercise. Therefore, in February 2009, the Mayor of Reykjavík and the Minister of Education reached an agreement which entailed that the State and the City would continue with the construction of the project without the private partner ⁽⁷⁾.
- (10) Austurhöfn-TR ehf. consequently took over the project and the plans were reviewed in order to find more economic solutions to the building process and the design of the house. In a press release from the State and the City it was stated that the takeover was a temporary solution, and that the ownership and financing of Harpa would be reviewed when the economy had recovered. The Project Agreement was amended in 2010, to reflect the new management of the project and the withdrawal of the private partner ⁽⁸⁾, and the construction was resumed. Landsbankinn effectively wrote off a large portion of the investment costs and all share capital was wiped out in the process. In 2011 the construction of Harpa finished and the building was formally opened on 20 August 2011.

⁽⁴⁾ Further information on Austurhöfn-TR ehf. can be found on their website: <http://www.austurhofn.is/>

⁽⁵⁾ Project agreement between Austurhofn-TR ehf. and Eignarhaldsfelagid Portus ehf, signed on 9 March 2006.

⁽⁶⁾ See letter from the Icelandic authorities dated 28 May 2013 (Event No 673762).

⁽⁷⁾ Statement from the Ministry of Culture and Education available online at: <http://www.menntamalaraduneyti.is/frettir/Frettatilkynningar/nr/4833>

⁽⁸⁾ Amended and restated project agreement between Austurhofn-TR ehf. and Eignarhaldsfelagid Portus ehf, signed on 19.1.2010.

- (11) Until recently there were several limited liability companies involved in Harpa's operations, namely: Portus ehf., which was responsible for Harpa real estate and operations, and Situs ehf., which was responsible for other buildings planned in the same area. Portus had two subsidiaries: Totus ehf., which owned the real estate itself, and Ago ehf., which was responsible for all operations in Harpa and leased the property from Totus. Situs also had two subsidiaries; Hospes ehf., which would have owned and operated a hotel which is to be constructed in the area, and Custos ehf., which was to own and operate any other buildings in the area.
- (12) However, in order to minimize operational costs and increase efficiency, the board of Austurhöfn-TR ehf. decided in December 2012 to simplify the operational structure of Harpa by merging most of the limited liability companies involved in its operations into one company. The State and the City therefore founded the company Harpa Concert and Conference Centre ehf. (i. Harpa tónlistar- og ráðstefnuhús ehf.) which is to oversee all of Harpa's operations. Simplifying the infrastructure of Harpa is a part of a long term plan to make Harpa's operations sustainable.

2.3. Purpose and objective of the Harpa project

- (13) According to the Icelandic authorities, Harpa is to be a forum for diverse and ambitious music and cultural life in Iceland, with the purpose of promoting the best that Icelandic artists have to offer at each time, with a special emphasis on diverse musical events. Harpa is further meant to be the source of innovation in the Icelandic culture and music scene and an emphasis will be put on international connections so that Harpa will be a worthy venue for the visits of foreign artists to Iceland.
- (14) Furthermore, Harpa is meant to be a forum for all kinds of conferences, meetings and gatherings, domestic and foreign, and to strengthen the position of Iceland as a venue for international conferences by offering services and conference halls that are compatible with conference facilities in other countries. Harpa is also meant to promote tourism in Iceland and strengthen the city centre of Reykjavik, by being the centre for all Icelanders in the area and a destination for visitors, both Icelandic and foreign, that want to get to know the building and enjoy the services offered, the architecture of the house and art displayed in the building.
- (15) The Icelandic Symphony Orchestra, the Icelandic Opera and the Reykjavik Big Band have entered into long term contracts for the use of certain facilities within Harpa. Harpa also accommodates conferences as well as various art events such as pop and rock concerts from both Icelandic and foreign artists. Other activities in Harpa such as catering, restaurants, a music shop and a furniture shop are operated by private companies who rent facilities in Harpa. These facilities are leased to the private operators on market terms and were subject to public tenders where the most favourable offers were accepted.
- (16) Prior to the construction of Harpa, there were no concert halls in Iceland with proper acoustics that could seat more than 300 people and facilitate both the Icelandic Symphony Orchestra and the Icelandic Opera. The Icelandic authorities therefore considered that it was necessary to build a culture hall that would ensure that the citizens of Iceland could enjoy music and art. With regard to the conference facilities there were, according to the Icelandic authorities, no conference centres or facilities in Iceland capable of hosting large conferences.

2.4. The facilities within Harpa

- (17) Harpa covers 28 000 square meters and is situated at the old harbour in Reykjavik at Austurbakki 2. The house is designed by the Danish Henning Larsen Architects in cooperation with the Icelandic architecture firm Batteríð arkitektar. Artist Ólafur Eliásson designed the glass structure around the house in cooperation with the architects. Artec Consultants Inc is responsible for the acoustics, sound isolation, and design of the theatre and sound equipment.
- (18) The design of the house aims at ensuring diversity and good facilities for all types of concerts and conferences, and provides Icelanders with facilities that were not available in the country before. Harpa has already won awards for the concert facilities, and was selected as one of the greatest concert halls of the new millennium by Gramophone magazine and Best Performance venue 2011 by Travel & Leisure magazine. Furthermore, Harpa is the winner of the 2013 European Union Prize for Contemporary Architecture — the Mies van der Rohe Award ⁽⁹⁾.

⁽⁹⁾ Press release available online at: http://europa.eu/rapid/press-release_IP-13-376_en.htm

- (19) In the following is an overview of the halls within Harpa ⁽¹⁰⁾:
- (i) *Eldborg* seats 1 800 people and is Harpa's largest hall at a total of 1 008 m². The ceiling height in Eldborg is 23 m and the stage measures 22 m × 17 m. Eldborg is equipped with configurable reverberation time, choir wagons and recording facilities as well as facilities for performers. The hall is specially designed for concerts.
 - (ii) *Norðurljós* is a recital hall that is designed for concerts. There are balconies all around the perimeter of the hall, and the stage is movable. The hall is equipped with custom-designed lighting equipment that can be configured in a number of coloured themes, creating the most suitable atmosphere for the event taking place. Two soundproofed portals connect Norðurljós and Silfurberg, so that the two halls can easily be used together for larger events. The hall is 540 m² and can accommodate 520 seated guests (theatre style).
 - (iii) *Silfurberg* is the only hall in Harpa that is specially designed for conferences. The hall is 735 m², and seats up to 840 guests (theatre style). The stage is movable and expandable. The hall can be divided into two parts, each accommodating 325 seated guests, with a soundproofed retractable partition. Two soundproofed portals connect Silfurberg and Norðurljós that can be opened allowing the halls to be connected for larger events, if needed. The hall is suitable for all types of conferences, receptions or concerts. It features the best available technological equipment for conferences. The hall is also suitable for many types of music performances.
 - (iv) *Kaldalón* is the smallest hall in Harpa at 198 m². The hall can seat 195 people. It is designed for concerts. The stage is movable, and the floor can also be used as a stage for musicians. The reverberation time in the hall can be changed, thus making it adaptable for various types of events.
 - (v) *Björtuloft* is a 400 m² hall on the 6th and 7th floor of Harpa that seats 130 people. The hall is suitable for meetings and banquets, standing receptions and other events. The hall can accommodate about 130 people on the upper floor (7th floor) and about 60-70 people on the floor below, bringing the total to about 200 people sitting at round tables on both floors. In the case of standing receptions, the space can accommodate about 300-350 people over the two floors. The 7th floor is equipped with a screen, projector and sound system and the lighting is adjustable.
- (20) There are 7 smaller conference rooms in Harpa that seat from 8 to 250 people and there are also several public spaces in Harpa that are occasionally rented out for exhibitions and receptions in order to increase the income of the company. The meeting rooms can be divided into smaller rooms. All meeting rooms are technically equipped and include a projector, internet meeting equipment and sound system.

2.5. The financing of Harpa's operations

- (21) As previously noted, Harpa is fully owned by the Icelandic State and the City through Austurhöfn-TR ehf. The obligation of the State and the City are regulated by Article 13 of the Project agreement from 2006 ⁽¹¹⁾. The annual payments of the State and the City are covered by their respective budgets. According to the State budget for 2011 the annual state contribution was expected to amount to ISK 424,4 million. For the year 2012 the expected amount to be contributed by the State was ISK 553,6 million. All public contributions to Harpa are borne in accordance with the participation in the project, i.e. the State pays 54 % and the City 46 %. The contributions are also indexed with the consumer price index.
- (22) In addition to the contribution provided for in the State and the City's budgets the government of Iceland and the City of Reykjavik have undertaken an obligation to grant a short term loan for the operation of Harpa until long term financing necessary to fully cover the cost of the project is completed. As from 2013 the total amount of the loan was ISK 794 million with an interest rate of 5 % and a 200 bp premium. The loan was to be repaid before 15 February 2013. On 6 March 2013 the City, the State and Harpa Concert and Conference Centre ehf. signed an agreement stating that the bridge loan would be changed into share capital of Harpa, as no capital had previously been submitted to the company. In the same agreement the State and the City committed to additional temporary annual payments to Harpa at the amount of ISK 160 million a year in the years 2013-16 to cover firstly real estate taxes allocated to Harpa, as they turned out much higher than expected ⁽¹²⁾. Secondly, there were also other unforeseen costs related to Harpa.

⁽¹⁰⁾ As described in the letter from the Icelandic authorities dated 28 May 2013 (Event No 673762). Further information on the halls and meeting rooms within Harpa is available online at: <http://harpa.is/harpa/salir-og-skipulag>

⁽¹¹⁾ As amended and restated in 2010.

⁽¹²⁾ There is currently a dispute before the Reykjavik District Court concerning Harpa's real estate taxes and whether they are based on correct assessments.

- (23) The State and the City allocate funds on a monthly basis in order to pay off loan obligations in connection with Harpa. Since the project is meant to be self sustainable, the profits must cover all operational costs. The funds from the owners are therefore, according to the Icelandic authorities, only meant to cover outstanding loans ⁽¹³⁾.
- (24) On 16 April 2013 a new agreement ('the 2013 Project Agreement') was signed, replacing the Amended Project Agreement ⁽¹⁴⁾. According to the new Agreement the contribution of the City and State will continue to be an unconditional payment paid in monthly instalments at the same amount, ISK 595 000 000 each year, for a period of 35 years, starting from March 2011. When the annual amount has been adjusted according to the rise in the consumer price index as of March 2013, the amount payable each year is ISK 1 023 339 932 ⁽¹⁵⁾.
- (25) According to the projected annual account of Austurhöfn-TR ehf. for the year 2012, the company was expected to sustain a significant operating loss corresponding to a total negative EBITDA of ISK 406,5 million. The conference part of Harpa was run at a negative EBITDA of ISK 120 million in 2012 and the same goes for 'other art events' (negative EBITDA of ISK 131 million). The projected annual accounts and earning analysis for the year 2013 also foresee a considerable operating loss, a total negative EBITDA of around ISK 348 million, with both the conference activities and 'other art events' operating at a loss ⁽¹⁶⁾.

2.6. Cost allocation and the separation of accounts

- (26) According to the original Project agreement, there was to be a financial separation between the different companies involved in the operation of Harpa and between the different operations and activities:

'13.11.1. The Private Partner will at all times ensure that there is financial separation between the Real Estate Company, the Operation Company, Hringur and the Private Partner. Each entity shall be managed and operated separately with regards to finances.

13.11.2. The Private Partner will at all times ensure that there is sufficient financial separation, i.e. separation in book-keeping, between the Paid for Work and other operations and activities within the CC. The Private Partner shall at all times during the Term be able to demonstrate, upon request from the Client, that such financial separation exists.'

- (27) The operations of Harpa are divided into several categories: 1) The Icelandic Symphony Orchestra, 2) The Icelandic Opera, 3) Other art events, 4) Conference department, 5) Operations, 6) Ticket sales, 7) Operating of facilities, 8) Management cost. All these cost categories now fall under Harpa — tónlistar- og ráðstefnuhús ehf. and the revenue and costs attributed to each of these categories are included in the budget under the relevant category. Common operational costs such as salary, housing (heating and electricity) and administrative costs are divided among the categories according to a cost allocation model ⁽¹⁷⁾.
- (28) For a more detailed description of the measure, reference is made to the Authority's Decision No 128/13/COL ⁽¹⁸⁾.

3. GROUNDS FOR INITIATING THE FORMAL INVESTIGATION PROCEDURE

- (29) In Decision No 128/13/COL, the Authority assessed preliminarily whether the financing of Harpa constituted State aid and, if so, whether the aid was compatible with the State aid provisions of the EEA Agreement.
- (30) According to the Icelandic authorities, the financing of Harpa does not involve State aid since it has been properly ensured that there are separate accounts for the different activities within the concert hall and conference centre. To support this claim the Icelandic authorities submitted reports by two accounting firms concerning the separation of accounts of the companies involved in the operation of Harpa. The Icelandic authorities also submitted a

⁽¹³⁾ See memorandum issued by the Director of Harpa, dated 24 September 2012 (Event No 648320).

⁽¹⁴⁾ Agreement between the Icelandic State, the City of Reykjavik and Harpa tónlistar og ráðstefnuhús ehf. on the operation and the activities of Harpa Concert Hall and Conference Centre, of 16.4.2013.

⁽¹⁵⁾ Ibid.

⁽¹⁶⁾ See report by KPMG, dated 7.2.2013 (Event No 662444).

⁽¹⁷⁾ Ibid.

⁽¹⁸⁾ In particular, part 3 of the Decision.

pricing analysis where they compared the prices of comparable conference facilities in Reykjavik, based on size and capacity. Furthermore, the Icelandic authorities maintained that the conference business positively contributed towards other activities in Harpa and without the conference business, the costs other activities would have to carry would be considerably higher.

(31) However, in the preliminary view of the Authority, the financing of Harpa was considered to involve State aid within the meaning of Article 61(1) of the EEA Agreement. The following aspects were identified in Decision No 128/13/COL:

- (i) The Authority concluded that since the Icelandic State and the City of Reykjavík together cover the annual deficit of the operation of Harpa by contributing a certain amount from their budgets, state resources within the meaning of Article 61 of the EEA Agreement are involved.
- (ii) The Authority expressed its opinion that both the construction and operation of an infrastructure constitutes an economic activity if that infrastructure is, or will be, used to provide goods or services on the market ⁽¹⁹⁾. Some of the activities taking place in Harpa, notably conferences, theatre performances, popular music concerts etc., can attract a significant number of customers while they are in competition with private conference centres, theatres or other music venues. Therefore, the Authority took the preliminary view that the companies involved in the operation of Harpa, in so far as they engage in commercial activities, qualify as undertakings.
- (iii) Furthermore, the Authority considered that the public financing of the construction of Harpa would constitute an economic advantage and thus aid, since the project would admittedly not have been realised in the absence of such funding. Additionally, it considered that an advantage is conferred on the companies involved in the operation of Harpa in the form of foregone profits when the State and the City do not require a return on their investment in the concert hall and conference centre, in so far as those companies engage in commercial activities, such as the hosting of conferences or other art events. The preliminary assessment of the Authority was thus considered to show that a selective economic advantage could not be excluded at any level (construction, operation and use).
- (iv) Finally, the Authority concluded that the measures were liable to distort competition. As the market for organising international events such as conferences and events is open to competition between venue providers and event organisers, which generally engage in activities which are subject to trade between EEA States, the effect on trade could be assumed. In this case, the effect on trade between certain neighbouring EEA States is even more likely due to the nature of the conference industry ⁽²⁰⁾. Therefore, the Authority came to the preliminary view that the measure threatened to distort competition and affect trade within the EEA.

(32) Moreover, the Authority doubted that the State aid could be considered compatible with the EEA Agreement. According to Article 61(3)(c) of the EEA Agreement, aid to promote culture and heritage conservation may be considered compatible with the functioning of the EEA Agreement, where such aid does not affect trading conditions and competition in the EEA to the extent that is contrary to the common interest. The Icelandic authorities had stated that the primary objective of the measure in question was to promote culture through the construction of a concert hall that could house both the Icelandic Symphony Orchestra and the Icelandic Opera. The Authority accepted that, given its cultural purpose, the construction and operation of a Symphony and Opera facility, could qualify as aid to promote culture.

(33) The Authority also accepted that an infrastructure such as Harpa could also be used to house various commercial activities such as restaurants, coffee shops, stores, conferences and popular concerts. However, in order not to distort competition, safeguards had to be put in place to ensure that there is no cross subsidisation between the commercial activities and the subsidised cultural activities. The Authority came to the preliminary conclusion that it had doubts as to whether the Icelandic authorities had put the necessary safeguards in place to ensure that such cross subsidisation did not occur. Consequently, following its preliminary assessment, the Authority had doubts whether the construction and operation of Harpa could be deemed compatible under Article 61(3)(c) of the EEA Agreement.

⁽¹⁹⁾ See the Commission Decision in Case SA. 33618 (Sweden) *Financing of the Uppsala arena* (OJ C 152, 30.5.2012, p. 18), paragraph 19.

⁽²⁰⁾ See Case T-90/09 *Mojo Concerts BV and Amsterdam Music Dome Exploitatatie BV v The European Commission*, Order of the General Court of 26.1.2012, para 45, published in OJ C 89, 24.3.2012, p. 36.

4. COMMENTS BY THE ICELANDIC AUTHORITIES

- (34) The comments of the Icelandic authorities reflected their view that the financing of the operation of Harpa does not involve State aid since they had properly ensured that the companies keep separate accounts for the different activities within Harpa ⁽²¹⁾.
- (35) The Icelandic authorities do not dispute that the financial contributions to Harpa are granted through state resources and are imputable to the State. However, they maintain that Harpa cannot be considered to be an undertaking within the meaning of Article 61(1) of the EEA Agreement. According to the Icelandic authorities, Harpa is an infrastructure and a culture venue that aims at preserving and promoting culture and Icelandic heritage, and therefore it cannot be seen as providing goods and services on a competitive market. Furthermore, the Icelandic authorities are of the opinion that the condition regarding an economic advantage is not met in this case, as it has been ensured that the commercial part of Harpa is not financed through state resources which are only allocated to cultural activities. Finally, with regard to the effect on competition and trade between the Contracting Parties, the Icelandic authorities note that the geographical position of Iceland must be kept in mind and that it is not likely that audiences from other states that are parties to the EEA Agreement will travel to Iceland specifically to attend concerts or similar events.
- (36) The Icelandic authorities emphasize that the overall operations of Harpa are not of a commercial nature. According to them, Harpa would not have been created by a private undertaking and cannot be compared to a private group of undertakings. Therefore, according to the Icelandic authorities, the facts demonstrate clearly that the market economy investor test (MEIP) has its limits in this case.
- (37) After consulting with the directors of Harpa the Icelandic authorities have proposed that the structure used to ensure prevention of cross-subsidy will not be in the form of separate companies or mandatory tendering of the conference operations. The Icelandic authorities are confident that other measures are better suited and will create less difficulty in the operations of the facility. Thus, irrespective of whether the state resources used to finance and operate Harpa are considered to be State aid compatible with State aid rules — or not to constitute State aid at all — the Icelandic authorities agree that measures have to be implemented to ensure that any support does not unlawfully distort competition in the conference market.
- (38) The Icelandic authorities agree with the Authority that it has to be secured that the conference operations are financially independent from other operations of Harpa and that safeguards need to be implemented to prevent cross-subsidisation between the two parts. Therefore, to ensure proper division between the commercial activities and other activities, and in order to prevent any subsidy to the former, two main measures have been taken:
- (i) *Firstly*, the directors of Harpa have implemented a new business and accounting software ⁽²²⁾. It enables Harpa tónlistar- og ráðstefnuhús ehf. to ensure proper division of different activities and link its accounting system more closely with its project management. Much more transparency and analytical functions are included in the new system. The separation of accounts in Harpa takes note of guidance given by Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings (the 'Transparency Directive') ⁽²³⁾. Special accounts (divisions) are kept for all cultural activities and tenants, as well as the conference operations, thereby ensuring that internal accounts corresponding to different activities are kept.
- (ii) *Secondly*, the Icelandic authorities have ensured that a certain part of Harpa's fixed and common costs are allocated to each individual division of the operations, based on actual usage and commercial activity. Additionally, the conference department has been charged market rent for office space and other facilities. The Icelandic authorities established the market rate for the rent and the remuneration for the usage of common services by comparing what private parties would charge in comparable situations.

⁽²¹⁾ See footnote 6.

⁽²²⁾ The new software, Microsoft Dynamics Nav, was introduced in January 2013. See memorandum from the CFO of Harpa, dated 21.5.2013 (Event No 673770).

⁽²³⁾ Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 318, 17.11.2006, p. 17), incorporated at point 1a of Annex XV to the EEA Agreement.

- (39) The Icelandic authorities have submitted a draft proposal for a complete separation of accounts for the conference department of Harpa that takes account of the new cost and income allocation methodology ⁽²⁴⁾. The following table demonstrates the suggested separation of accounts within Harpa ⁽²⁵⁾:

The separation of accounts for the conference department of Harpa			
	Operating revenue	2013	2016
1	Conference facility rental income	109 282	141 815
2	Technical equipment rental income	37 965	47 870
3	Technician service income	38 054	48 105
4	Other income	2 186	2 836
	— Total income excluding catering related income:	187 486	240 626
	Catering related income		
5	Conference department share in catering revenue	34 396	38 697
6	Fixed rent	7 209	7 209
	Total conference revenue	229 091	286 533
	Operating expenses		
7	Fixed rental — conference office	686	686
8	Fixed rental — catering	7 209	7 209
9	Salaries and related expenses — conference employees	42 908	42 908
10	Financial administrative charge (bookkeeping)	1 000	1 000
11	Salaries and related expenses — marketing employees	6 738	6 738
12	Marketing cost	22 000	22 000
	Event related cost		
13	Rental charge (75 % of facility rental income)	81 961	106 361
14	Equipment rental cost (75 % of equipment lease income)	28 474	35 903
15	Technician service cost (75 % of technical service income)	28 541	36 079
	Total operating expenses	219 571	258 884
	EBITDA	9 574	27 649

- (40) With regard to the rental charge, the Icelandic authorities submitted to the Authority a comparison of the rent charged by other conference facilities in Iceland which shows that the conference department's rent is above the

⁽²⁴⁾ It is the Authority's understanding that the new cost and income allocation methodology and the separate accounts model will be reflected in the 2013 annual account for Harpa.

⁽²⁵⁾ All figures are in thousand ISK.

comparable market rate to retail customers. According to the Icelandic authorities the rental price to a wholesale-operator such as the conference department, would normally be considerably lower than what a retail customer would pay. Therefore, the Icelandic authorities propose that a 25 % margin (discount) be applied ⁽²⁶⁾. According to the Icelandic authorities, such a low level of margin should ensure that the conference department is properly charged in comparison with other market operators.

- (41) According to the Icelandic authorities, it is understandable that an investment such as Harpa, like any other large investment project, would not return a profit for the first couple of years of its operation. However, the new cost and income allocation model shows that the commercial part will become gradually more profitable, providing the owners of Harpa with a return on their investment in the next couple of years. The new model also demonstrates that the conference department has, until now, most likely borne an un-proportionally high part of the common cost.
- (42) Finally, if the Authority were to consider the measure to constitute State aid, the Icelandic authorities have expressed the view that such aid could be considered compatible with Article 61(3) of the EEA Agreement, having regard to the objectives of the measure, including the objective to preserve and promote culture and the Icelandic heritage. In this regard, the Icelandic authorities have also invited the Authority to assess whether such aid should be considered to constitute the financing of a service of general economic interest ('SGEI').

II. ASSESSMENT

1. THE PRESENCE OF STATE AID WITHIN THE MEANING OF ARTICLE 61(1) EEA

- (43) Article 61(1) of the EEA Agreement reads as follows:
- 'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.'
- (44) This implies that a measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled: the measure (i) is granted by the State or through State resources; (ii) confers an economic advantage to the beneficiary; (iii) is selective; (iv) has an impact on trade between Contracting Parties and is liable to distort competition ⁽²⁷⁾.
- (45) In the following chapters the state funding of the financing of Harpa will be assessed with respect to these criteria.

1.1. State resources

- (46) According to Article 61(1) of the EEA Agreement, a measure must be granted by the state or through state resources in order to constitute State aid.
- (47) At the outset, the Authority notes that both local and regional authorities are considered to be equivalent to the State ⁽²⁸⁾. Consequently, the State for the purpose of Article 61(1) covers all bodies of the state administration, from the central government to the City level or the lowest administrative level as well as public undertakings and bodies. Furthermore, municipal resources are considered to be state resources within the meaning of Article 61 of the EEA Agreement ⁽²⁹⁾.
- (48) Since the Icelandic State and the City of Reykjavík cover jointly the annual deficit of the company operating Harpa by annually contributing a certain amount from their budgets, state resources are involved. Furthermore, the conversion of loans into share capital also entails a transfer of state resources since the State and the City would forego their entitlement to receive a full repayment of the outstanding loans. Therefore, the first criterion of Article 61(1) of the EEA Agreement is fulfilled.

⁽²⁶⁾ According to the Icelandic authorities, it is customary for the margin in comparable industries to be between 20-30 %.

⁽²⁷⁾ According to settled case-law, classification as aid requires that all the conditions set out in the provision should be fulfilled, see Case C-142/87 *Belgium v Commission* ('Tubemeuse') [1990] ECR I-959.

⁽²⁸⁾ See Article 2 of the Transparency Directive 2006/111/EC.

⁽²⁹⁾ See the Authority's Decision No 55/05/COL section II.3, p. 19 with further references, published in OJ L 324, 23.11.2006, p. 11, and EEA Supplement No 56, 23.11.2006, p. 1.

1.2. Undertaking

- (49) In order to constitute State aid within the meaning of Article 61(1) of the EEA Agreement, the measure must confer an advantage upon an undertaking. Undertakings are entities engaged in an economic activity, regardless of their legal status and the way in which they are financed ⁽³⁰⁾. Economic activities are activities consisting of offering goods or services on a market ⁽³¹⁾. Conversely, entities that are not commercially active, in the sense that they are not offering goods and services on a given market, do not constitute undertakings.
- (50) As was noted in Decision No 128/13/COL, the Authority is of the opinion that both the construction and operation of an infrastructure constitute an economic activity in itself (and are thus subject to State aid rules) if that infrastructure is, or will be used, to provide goods or services on the market ⁽³²⁾. In this case, Harpa is intended for e.g. hosting conferences as well as music, culture and 'other art events' on a commercial basis, i.e. for the provision of services on the market. This view has been confirmed by the Court of Justice of the European Union ('the Court of Justice') in the *Leipzig/Halle* case ⁽³³⁾. Consequently, in infrastructure cases, aid may be granted at several levels: construction, operation and use of the facilities ⁽³⁴⁾.
- (51) As previously noted, Harpa hosts concerts by the Icelandic Symphony Orchestra, the Icelandic Opera, and various other art events as well as conferences. In the view of the Icelandic authorities only the conference aspect of Harpa's operation constitutes an economic activity. All other activities should therefore be classified as non-economic.
- (52) However, some of the activities taking place in Harpa, notably conferences, theatre performances, popular music concerts etc., can attract significant numbers of customers while they are in competition with private conference centres, theatres or other music venues. Therefore, the Authority takes the view that Harpa Concert Hall and Conference Centre and the company involved in its operation, in so far as they engage in commercial activities, qualify as an undertaking ⁽³⁵⁾.

1.3. Advantage

- (53) In order to constitute State aid within the meaning of Article 61 of the EEA Agreement the measure must confer an economic advantage on the aid recipient.
- (54) Regarding the financing of the construction of Harpa, State aid can be excluded if it is in conformity with the market economy investor principle ('MEIP') ⁽³⁶⁾. However, the Icelandic authorities have objected to the application of the MEIP test in this case since, according to them, the overall operations of Harpa are not of a commercial nature. According to the Icelandic authorities, Harpa would not have been created by a private undertaking and therefore cannot be compared to a private group of undertakings. Thus, it is the view of the Icelandic authorities that the market economy investor test (MEIP) has its limits in this case.
- (55) As regards the construction of Harpa the State and the City had, according to the Icelandic authorities, initially hoped that a private investor would finance the realization of the project. However, due to the financial crisis, it became impossible to carry out the project without public funding. The direct grants by the State and the City are thus claimed to be necessary, as without them there would not have been enough funds to finance the project. The Authority therefore considers that the public financing of the construction of Harpa would constitute an economic advantage and thus aid, since the project would admittedly not have been realised in the absence of public funding. The participation by the State and the City was therefore essential to the Harpa project as a whole.
- (56) It follows from the Authority's decisional practice that when an entity carries out both commercial and non-commercial activities, a cost-accounting system that ensures that the commercial activities are not financed

⁽³⁰⁾ Case C-41/90 *Höfner and Elser v Macroton* [1991] ECR I-1979, paragraphs 21-23 and Case E-5/07 *Private Barnehagers Landsforbund v EFTA Surveillance Authority* [2008] Ct. Rep. 61, paragraph 78.

⁽³¹⁾ Case C-222/04 *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA* [2006] ECR I-289, paragraph 108.

⁽³²⁾ See footnote 19.

⁽³³⁾ Case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v The European Commission*, 19/12/2012, paragraphs 40-43, not yet published.

⁽³⁴⁾ See the Commission Decision in Case SA. 33728 (Denmark) *Financing of a new multiarena in Copenhagen* (OJ C 152, 30.5.2012, p. 6), paragraph 24.

⁽³⁵⁾ See the Commission Decision in Case N 293/2008 (Hungary) *Cultural aid for multifunctional community cultural centres, museums, public libraries* (OJ C 66, 20.3.2009, p. 22), paragraph 19.

⁽³⁶⁾ See the Commission Decision in Case SA. 33728 (Denmark) *Financing of a new multiarena in Copenhagen* (OJ C 152, 30.5.2012, p. 6), paragraph 25.

through State resources allocated to the non-profit making activities must be in place ⁽³⁷⁾. This principle is also laid down in the Transparency Directive. The Transparency Directive does not apply directly to the case at hand, since the total net annual turnover of Harpa, for the last two years, is below the turnover threshold laid out in Article 5(1)(d) of the Directive ⁽³⁸⁾. However, the Authority is of the opinion that the principles of operating economic activities on commercial terms with separate accounts, and a clear establishment of the cost accounting principles according to which separate accounts are maintained, still apply.

- (57) As described in Section I.2 above, the operations of Harpa are divided into several categories, e.g. hosting the Icelandic Symphony Orchestra and the Icelandic Opera as well as other art events and conferences. The Icelandic authorities have however not until after the Authority adopted Decision No 128/13/COL, properly ensured that there is a clear and consistent separation of the accounts for the different activities of Harpa. Simply dividing the losses associated with the operation of the building and common administrative costs between the different activities of Harpa based on estimated usage and other criteria, as was the practice for the first years of the operation of Harpa, cannot be seen as a clear separation of accounts under EEA law. This situation therefore could have led to cross-subsidisation between the cultural activities and the economic activities within Harpa.
- (58) As described in Section I.4, the Icelandic authorities have introduced certain measures in order to separate the accounts of the commercial and the non-commercial activities within Harpa ⁽³⁹⁾. The measures include a new cost- and income allocation methodology and the keeping of separate accounts for Harpa's conference department. Although these new arrangements minimise the advantage of the companies involved in the operation of Harpa to the minimum necessary to ensure operation of the infrastructure, an advantage to the conference department cannot be entirely excluded.
- (59) Additionally, an advantage is conferred on the companies involved in the operation of Harpa in the form of foregone profits when the State and the City do not require a return on their investment in the concert hall and conference centre, in so far as those companies engage in commercial activities, such as the hosting of conferences. Any business owner or investor will normally require a return on its investment in a commercial undertaking. Such a requirement effectively represents an expense for the undertaking. If a state owned undertaking is not required to generate a normal rate of return for its owner this effectively means that the undertaking benefits from an advantage whenever the owner foregoes that profit ⁽⁴⁰⁾.

1.4. Advantage assessed in the light of *Altmark*

- (60) The Icelandic authorities take the view that the financing of the construction and operation of Harpa should be characterised as the funding of a service of general economic interest and that the four cumulative criteria of the 'Altmark test' are fulfilled so that the measure does not constitute State aid within the meaning of Article 61(1) of the EEA Agreement.
- (61) The Court of Justice's judgment in the *Altmark* case provides clarification regarding the conditions under which public service compensation does not constitute State aid, owing to the absence of any advantage ⁽⁴¹⁾. However, for such compensation to escape qualification as State aid in a particular case, four cumulative conditions, commonly referred to as the *Altmark* criteria, must be satisfied ⁽⁴²⁾.
- (62) The four conditions are as follows: (i) the beneficiary of a state-funding mechanism for an SGEI must be formally entrusted with the provision and discharge of an SGEI, the obligations of which must be clearly defined; (ii) the parameters for calculating the compensation must be established beforehand in an objective and transparent manner, to avoid it conferring an economic advantage which may favour the recipient undertaking over competing undertakings; (iii) the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the SGEI, taking into account the relevant receipts and a reasonable profit for discharging those obligations; and (iv) where the beneficiary is not chosen pursuant to a public procurement procedure, the level of compensation granted must be determined on the basis of an analysis of the costs which a typically well-run undertaking would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit.

⁽³⁷⁾ See the Authority's Decision No 343/09/COL on the property transactions engaged in by the Municipality of Tím concerning property numbers 1/152, 1/301, 1/630, 4/165, 2/70, 2/32 (OJ L 123, 12.5.2011, p. 72; EEA Supplement No 27, 12.5.2011, p. 1) and the Authority's Decision No 91/13/COL, of 27.2.2013, on the financing of municipal waste collectors, paragraph 34, available online at: <http://www.eftasurv.int/media/decisions/91-13-COL.pdf>

⁽³⁸⁾ See footnote 23.

⁽³⁹⁾ It is the Authority's understanding that these measures will be reflected in the 2013 annual account for Harpa.

⁽⁴⁰⁾ Case C-234/84 *Belgium v Commission* [1986] ECR I-2263, paragraph 14.

⁽⁴¹⁾ Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH*, [2003] ECR I-7747.

⁽⁴²⁾ See paragraphs 87 to 93 of the judgment, cited above.

- (63) EEA States have, in general, a wide discretion concerning the identification of a service as an SGEI, while following the relevant case-law which sets out the general principles to be respected. It transpires from Article 59(2) of the EEA Agreement that undertakings entrusted with the operation of SGEIs are undertakings entrusted with 'a particular task' ⁽⁴³⁾.
- (64) According to the Authority's guidelines on the application of the State aid rules to compensation granted for the provision of services of general economic interest ⁽⁴⁴⁾, the public service task must be assigned by way of an act that, depending on the legislation in the EFTA States, may take the form of a legislative or regulatory instrument or a contract. It may also be laid down in several acts. Based on the approach taken by the Commission and the Authority in such cases, the act or series of acts must at least specify:
- (a) the content and duration of the public service obligations;
 - (b) the undertaking and, where applicable, the territory concerned;
 - (c) the nature of any exclusive or special rights assigned to the undertaking by the authority in question;
 - (d) the parameters for calculating, controlling and reviewing the compensation; and
 - (e) the arrangements for avoiding and recovering any overcompensation.
- (65) The public service obligations of Harpa are, according to the Icelandic authorities, clearly defined in its ownership policy. According to the ownership policy, the purpose of Harpa is to: (i) be a forum for music- and cultural life in Iceland, (ii) to strengthen the position of Iceland as venue for conferences, (iii) to fortify the position of the travel industry in Iceland and (iv) to promote life in the city centre of Reykjavik. Furthermore, the ownership policy stipulates that the operations of Harpa shall be self-sustainable and that there should be no further contributions to Harpa other than those agreed upon in the Project Agreement. However, the ownership policy neither addresses the duration of the public service obligations nor does it outline particular parameters for calculating, controlling and reviewing the compensation or describe arrangements for avoiding and recovering overcompensation. Therefore, in the view of the Authority, the first *Altmark* criterion is not fulfilled.
- (66) Furthermore, according to the Project Agreement, the contribution from the State and the City was to be a fixed annual amount (ISK 595 000 000) which was to be amended on each payment date to reflect changes in the consumer price index. However, due to Harpa's financial situation there have been considerable temporary financial contributions from Harpa's owners as well as loan conversion arrangements ⁽⁴⁵⁾. Therefore, contrary to the view of the Icelandic authorities, the compensation for the alleged public service obligation appears not to have been established in advance in an objective and transparent manner. Moreover, the non-transparent nature of the aid (the coverage of the annual deficit of Harpa, the potential cross subsidisation and the practice of not requiring a reasonable return on investment) can only lead the Authority to conclude that the Icelandic authorities did not properly ensure that the compensation did not exceed what was necessary.
- (67) Finally, the Authority notes that the operator of Harpa has not been selected in a public procurement procedure and that the Icelandic authorities have not provided the Authority with information enabling a verification of whether the costs incurred by Harpa correspond to the costs of a typical undertaking, well run and adequately equipped as required by the 4th *Altmark* criterion.
- (68) Hence, on the basis of the above, the Authority concludes that the financing of Harpa, does not fulfil all of the *Altmark* criteria and can therefore not be characterised as the funding of a service of general economic interest.

1.5. Selectivity

- (69) In order to constitute State aid within the meaning of Article 61 of the EEA Agreement the measure must be selective.

⁽⁴³⁾ See, for example, Case C-127/73 *BRT v SABAM* [1974] ECR-313, paragraphs 19-20.

⁽⁴⁴⁾ See the Authority's Guidelines on the application of the State aid rules to compensation granted for the provision of services of general economic interest (OJ L 161, 13.6.2013, p. 12 and EEA Supplement No 34, 13.6.2013, p. 1), available online at: <http://www.eftasurv.int/media/state-aid-guidelines/Part-VI—Compensation-granted-for-the-provision-of-services-of-general-economic-interest.pdf>

⁽⁴⁵⁾ The converting of loans into share capital.

- (70) The Icelandic authorities provide funding to the companies involved in the operation of Harpa. The funding is used to cover the losses stemming from the different activities within Harpa, including economic activities such as the hosting of conferences. This system of compensation, under which cross-subsidisation may occur, is not available to other companies that are active on the conference market in Iceland or elsewhere.
- (71) In light of the above, it is the Authority's view that the companies involved in the operation of Harpa receive a selective economic advantage compared to their competitors on the market.

1.6. Distortion of competition and effect on trade between Contracting Parties

- (72) Finally, the measure must be liable to distort competition and affect trade between the Contracting Parties to the EEA Agreement in order to be considered State aid within the meaning of Article 61(1) of the EEA Agreement.
- (73) According to settled case law, the mere fact that a measure strengthens the position of an undertaking compared with other undertakings competing in intra-EEA trade, is considered to be sufficient in order to conclude that the measure is likely to affect trade between Contracting Parties and distort competition between undertakings established in other EEA States ⁽⁴⁶⁾. The state resources allocated to the companies involved in the operation of Harpa, in order to cover their losses, constitute an advantage that strengthens Harpa's position compared to that of other undertakings competing in the same market.
- (74) Even if most of the activities carried out in Harpa are of local character, Harpa has the capacity to host large and mid-size international events as well, and thus an effect on competition and trade between Contracting Parties cannot be excluded ⁽⁴⁷⁾. Although, according to the Icelandic authorities, it is rather unlikely that more than a few, if any, of the events taken place in Harpa will be of such an interest to persons living in neighbouring countries that they would be willing to travel a long distance to Reykjavík in order to attend the events and thus it would be unlikely that events taken place in Harpa would compete with similar arenas in nearby countries.
- (75) However, as the market for organising international events is open to competition between venue providers and event organisers, which generally engage in activities which are subject to trade between EEA States, the effect on trade can be assumed. In this case, the effect on trade between certain neighbouring EEA States is even more likely due to the nature of the conference industry. Moreover, the General Court has recently, in its Order concerning the Ahoy complex in the Netherlands, held that there was no reason to limit the market to the territory of that Member State ⁽⁴⁸⁾.
- (76) Therefore, as in the opening decision, the Authority considers that aid to Harpa has the potential to affect competition and trade within the EEA.

1.7. Conclusion with regard to the presence of State aid

- (77) With reference to the above considerations the Authority concludes that the measure under assessment, i.e. the financing of Harpa, includes elements of State aid within the meaning of Article 61(1) of the EEA Agreement. Under the conditions referred to above, it is thus necessary to consider whether the measure can be found to be compatible with the functioning of the EEA Agreement.

2. PROCEDURAL REQUIREMENTS

- (78) Pursuant to Article 1(3) of Part I of Protocol 3, '[t]he EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. [...] The State concerned shall not put its proposed measures into effect until th[e] procedure has resulted in a final decision'.
- (79) The Icelandic authorities did not notify the aid measures to the Authority. Moreover, the Icelandic authorities have, by constructing and operating Harpa, put those measures into effect before the Authority has adopted a final decision. The Authority therefore concludes that the Icelandic authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3. The granting of any aid involved is therefore unlawful.

⁽⁴⁶⁾ Case E-6/98 *The Government of Norway v EFTA Surveillance Authority* [1999] Rep. EFTA Court page 76, paragraph 59; Case 730/79 *Philip Morris v Commission* [1980] ECR 2671, paragraph 11.

⁽⁴⁷⁾ See Commission Decision in Case SA. 33618 (Sweden) *Financing of the Uppsala arena* of 2.5.2013 [not yet published], paragraph 45.

⁽⁴⁸⁾ See footnote 20.

3. COMPATIBILITY ASSESSMENT

- (80) Support measures caught by Article 61(1) of the EEA Agreement are generally incompatible with the functioning of the EEA Agreement, unless they qualify for a derogation under Article 61(2) or (3) or Article 59(2) of the EEA Agreement and are necessary, proportional and do not cause undue distortion of competition. The Icelandic authorities argue that any aid involved in the project would be compatible with Article 61(3) of the EEA Agreement.
- (81) The EEA Agreement does not include a provision corresponding to Article 107(3)(d) of the Treaty on the Functioning of the European Union. The Authority nevertheless acknowledges that State aid measures may be approved on cultural grounds on the basis of Article 61(3)(c) of the EEA Agreement ⁽⁴⁹⁾.
- (82) On the basis of Article 61(3)(c) of the EEA Agreement, aid to promote culture and heritage conservation may be considered compatible with the functioning of the EEA Agreement, where such aid does not affect trading conditions and competition in the EEA to the extent that is considered to be contrary to the common interest. The Authority must therefore assess whether granting aid to the various activities in Harpa can be justified as aid to promote culture on the grounds of Article 61(3)(c) of the EEA Agreement.
- (83) It should be noted that the principles laid down in Article 61(3)(c) of the EEA Agreement have been applied to cases somewhat similar to this case ⁽⁵⁰⁾. The Icelandic authorities have stated that the primary objective of the measure in question was to promote culture through the construction of a concert hall that could house both the Icelandic Symphony Orchestra and the Icelandic Opera. Similar multipurpose cultural centres already exist in most other European cities. Harpa is intended to be Iceland's national concert hall, providing the necessary cultural infrastructure that was missing in Iceland and it will act as the focal point for the development and advancement of those performance arts in Iceland. Harpa therefore contributes to the development of cultural knowledge and grants access to cultural, educational and recreational values for the public ⁽⁵¹⁾.
- (84) In view of the above, the Authority considers that, given its cultural purpose, the construction and operation of a Symphony and Opera facility, would qualify as aid to promote culture within the meaning of Article 61(3)(c) of the EEA Agreement. However, the Authority has expressed doubts as to whether aid granted to subsidize conference activities, can be justified under Article 61(3)(c) and this matter must therefore be assessed separately.
- (85) Concerning necessity, proportionality and whether the measure is likely to distort competition, the Authority has the following observations: as previously noted, the main reason for constructing Harpa was the apparent need for a suitable concert hall to accommodate both the Icelandic Symphony Orchestra and the Icelandic Opera. Given the scale of the project it is understandable that an infrastructure such as Harpa would also be used to house various commercial activities such as restaurants, coffee shops, stores, conferences and popular concerts. However, in order not to distort competition, safeguards must be put in place to ensure that there is no cross subsidisation between the commercial activities and the heavily subsidised cultural activities.
- (86) In Decision No 128/13/COL the Authority outlined three methods, by which the Icelandic authorities could ensure that there was no cross subsidisation between the commercial activities and the cultural activities within Harpa ⁽⁵²⁾. *Firstly*, the Authority noted that this goal could be achieved by tendering out the facilities intended for the commercial activities, thereby ensuring that the economic operator pays market price for the facilities and does not benefit from cross subsidisation. *Secondly*, the Icelandic authorities could have established a separate legal entity for the commercial activities. The *third* option outlined in the Authority's opening decision was to sufficiently separate the economic activities from the non-commercial activities by establishing a sufficient system of cost allocation and separate accounts that ensures a reasonable return on investment.

⁽⁴⁹⁾ See for example paragraph 7 (with further references) of the Authority's Guidelines on State aid to cinematographic and other audiovisual work, available at the Authority's webpage at: <http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽⁵⁰⁾ See Commission Decision in Case N 122/2010 (Hungary) *State aid to Danube Cultural Palace* (OJ C 147, 18.5.2011, p. 3) and Commission Decision in Case N 293/2008 (Hungary) *Cultural aid for multifunctional community cultural centres, museums, public libraries* (OJ C 66, 20.3.2009, p. 22).

⁽⁵¹⁾ See Commission Decision in Case SA 33241 (Cyprus) *State support to the Cyprus Cultural Centre* (OJ C 377, 23.12.2011, p. 11), paragraphs 36-39.

⁽⁵²⁾ See paragraph 64 of the Decision.

- (87) The Icelandic authorities have emphasised that the operation of Harpa needs certain flexibility as both the cultural events and conference activities need to co-exist and there are various instances where these two main activities would collide unless the supervision and planning was done in a very coherent manner. Thus it would increase the administrative burden and incur additional restraints and costs on the already difficult operation of Harpa to introduce a new operator, either a private operator or separate publicly owned entity, within the building. Therefore, the Icelandic authorities, after consulting with the directors of Harpa, concluded that the *third* option, i.e. the separation of the economic activities and the non-commercial activities of Harpa and the establishment of a sufficient system of cost allocation and separate accounts, was the most viable in light of the circumstances described above.
- (88) As previously noted, the separate accounts and the new cost- and income allocation methodology, that have been introduced by the owners of Harpa, take account of guidance given by the 'Transparency Directive'. Special accounts (divisions) are kept for all cultural activities and tenants, as well as the conference operations, thereby ensuring that internal accounts corresponding to different activities are kept. Moreover, the Icelandic authorities have ensured that a certain part of Harpa's fixed and common costs are allocated to each individual division of the operations, based on actual usage and commercial activity. In addition, the conference department will be charged market rent for office space and other facilities ⁽⁵³⁾. The measures implemented by the Icelandic authorities effectively ensure that there will be no cross subsidisation between the commercial activities and the cultural activities within Harpa.
- (89) According to the preliminary accounts for 2013, the conference department is expected to deliver a marginal profit of ISK 9 574 000. By the year 2016 this profit is expected to have grown to over ISK 23 million. Therefore, the new cost and income allocation model shows that the commercial part will become gradually more profitable, providing the owners of Harpa with a return on their investment in the next couple of years.
- (90) With regard to the conference department's deficit in the first years of Harpa's operation, the Authority agrees that it is understandable that an investment such as Harpa, like any other large investment project, would not return a profit for the first years of its operation. The covering of an operational deficit for the first years of commercial operations can thus be seen as a necessary start up cost in line with the MEIP. Furthermore, the separated accounts and the new cost- and income methodology would appear to suggest that the huge deficit of the commercial parts of Harpa that was assessed in the Authority's opening decision, a negative EBITDA of ISK 120 million for the year 2012, did not necessarily reflect the actual financial situation of the conference department.
- (91) Moreover, the Icelandic authorities have shown that Harpa will both complement existing facilities with additional capacity and increase the types of events, both cultural and commercial, which can take place in Reykjavik, and considerably benefit cultural development and the general public in Iceland. Thus, the aid must be considered well-targeted and the public financing thereof justified.
- (92) In addition, considering the location of Harpa and that most of the activities that take place within it are of local character, the effect on competition and trade between Contracting Parties is limited, although, as described above, it cannot be excluded ⁽⁵⁴⁾.
- (93) From the above reasons, it has been demonstrated that the involvement of the State and the City in the financing of Harpa is both necessary, proportionate and does not cause undue distortion of competition. Furthermore, by fully separating the accounts of the commercial and non-commercial part of Harpa, the Icelandic authorities have managed to ensure that there are no negative spillover effects stemming from their contributions to the cultural aspects of Harpa's operation. The financing of Harpa is therefore compatible with the State aid rules of the EEA Agreement.

4. CONCLUSION

- (94) Based on the above considerations, the Authority concludes that the financing of Harpa constitutes State aid that is compatible with the functioning of the EEA Agreement within the meaning of Article 61(3)(c) of the EEA Agreement.
- (95) The Icelandic authorities are reminded that all plans to modify the financing of Harpa, including any increase in the grants by the State or the City by more than 20 %, should be notified to the Authority.

⁽⁵³⁾ The market rent and the remuneration for the usage of common services were established by comparing what private parties would charge in comparable situations.

⁽⁵⁴⁾ See Commission Decision in Case SA. 33618 (Sweden) *Financing of the Uppsala arena* of 2.5.2013 [not yet published], paragraph 59.

HAS ADOPTED THIS DECISION:

Article 1

The financing of Harpa Concert Hall and Conference Centre is compatible with the EEA Agreement.

Article 2

This Decision is addressed to the Republic of Iceland.

Article 3

Only the English language version of this Decision is authentic.

Done at Brussels, 11 December 2013.

For the EFTA Surveillance Authority

Oda Helen SLETNES

President

Sverrir Haukur GUNNLAUGSSON

College Member

EFTA SURVEILLANCE AUTHORITY DECISION**No 91/14/COL****of 26 February 2014****on the Norwegian regional aid map 2014-2020 (Norway)**

THE EFTA SURVEILLANCE AUTHORITY ('THE AUTHORITY')

HAVING REGARD to:

The Agreement on the European Economic Area ('the EEA Agreement'), in particular to Articles 61 to 63 and Protocol 26 thereof,

The Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('the Surveillance and Court Agreement'), in particular to Article 24,

Whereas:

1. PROCEDURE

- (1) By letter of 31 January 2014 the Norwegian authorities notified their regional aid map applicable from 1 July 2014 to 31 December 2020 ('the regional aid map') pursuant to paragraph 156 of the Authority's Guidelines on regional state aid for 2014-2020 ('the RAG') ⁽¹⁾. These guidelines require the EFTA States that intend to grant regional aid to notify regional aid maps.
- (2) This decision represents the Authority's assessment of the compatibility of the notified map with the RAG in accordance with paragraph 157 of these guidelines. The map itself does not involve any state aid within the meaning of Article 61 of the EEA Agreement. The Authority's approval of the map does not constitute an authorisation to grant any aid. The authorisation of the map establishes together with the RAG, the framework for granting regional investment aid. In that respect the map constitutes an integral part of the RAG ⁽²⁾.

2. REGIONS ELIGIBLE UNDER THE POPULATION DENSITY TEST**2.1. INTRODUCTION**

- (3) The Norwegian authorities have only notified regions qualifying for the derogation under Article 61(3)(c) of the EEA Agreement. Due to the relatively high GDP per capita, no Norwegian region qualifies for the derogation under Article 61(3)(a) of the EEA Agreement ⁽³⁾.
- (4) In Norway, Statistical regions at level 3 correspond to counties and Statistical regions at level 5 to municipalities.
- (5) Norway currently has 19 counties and 428 municipalities.
- (6) Norway has eight counties with population density of less than 12,5 inhabitants per km² ⁽⁴⁾. These are the following:
 1. Finnmark,
 2. Troms,
 3. Nordland,

⁽¹⁾ Adopted by Decision No 407/13/COL of 23 October 2013, not yet published.

⁽²⁾ RAG paragraph 157.

⁽³⁾ RAG paragraph 142(a) and 143-144.

⁽⁴⁾ RAG paragraph 149. The Norwegian authorities have, in accordance with paragraph 142, footnote 47 of the RAG, used population data from 31 December 2010.

4. Nord-Trøndelag,
5. Sogn og Fjordane,
6. Hedmark,
7. Oppland, and
8. Telemark.

- (7) The total population of these 8 counties is 1 255 027 ⁽¹⁾ which represents 25,51 % of the Norwegian population. Consequently, the national population coverage for Norway for the relevant period is 25,51 % ⁽²⁾.

2.2. FLEXIBLE APPROACH AS ALLOWED FOR UNDER PARAGRAPH 149 OF THE RAG

2.2.1. Four counties included in their entirety

- (8) The Norwegian authorities have notified the following four counties as eligible for regional investment aid in their entirety:
1. Finnmark,
 2. Troms,
 3. Nordland, and
 4. Sogn og Fjordane.

2.2.2. Partially included counties

- (9) The remaining four counties are only partially covered by the notified map. The Norwegian authorities have explained that individual counties in Norway are very heterogeneous. Some counties contain central regions with high population densities and thriving economic activities as well as areas with low population densities that struggle with depopulation. This applies both to counties with population densities above and below 12,5 inhabitants per km². For this reason, the Norwegian authorities argue that an assisted area solely based on Statistical regions at level 3 would not reflect the real challenges that Norway faces in certain regions. Therefore the Norwegian authorities have applied the flexible approach set out in paragraph 149 of the RAG when considering the delimitation of areas eligible for regional aid.

2.2.3. Swapped-out municipalities

- (10) Table 1, below, provides an overview of the municipalities in low population density counties that are excluded from the regional aid map ('swapped-out municipalities').

Table 1

Counties	Municipalities	Population density
Nord-Trøndelag	Stjørdal, Levanger.	26,5
Hedmark	Elverum, Stange, Løten, Ringsaker, Hamar.	29,4
Oppland	Gran, Lunner, Jevnaker, Østre Toten, Gjøvik, Lillehammer.	36,6
Telemark	Bamble, Siljan, Skien, Porsgrunn.	75,9

- (11) These swapped-out municipalities have a total population of 350 555.

⁽¹⁾ The population figures indicated herein reflect the information received from Norway in its notification.

⁽²⁾ RAG paragraph 142. In keeping with paragraph 140 of the RAG, the population of the assisted area is lower than that of the unassisted areas (the total population of unassisted areas is 3 666 831).

2.2.4. Swapped-in municipalities

- (12) Table 2, below, provides an overview of municipalities in high population density counties that are included in the regional aid map ('swapped-in municipalities').

Table 2

Counties	Municipalities	Population density
Sør-Trøndelag	Tydal, Selbu, Midtre Gauldal, Holtålen, Røros, Meldal, Rennebu, Oppdal, Osen, Roan, Ålfjord, Bjugn, Rissa, Agdenes, Ørland, Frøya, Hitra, Snillfjord, Hemne.	4,4
Møre og Romsdal	Aure, Smøla, Halså, Rindal, Surnadal, Sunndal, Tingvoll, Gjemnes, Averøy, Eide, Sandøy, Midsund, Nesset, Rauma, Vestnes, Haram, Stordal, Standa, Norddal, Ørsta, Volda, Sande, Vanylven.	7,8
Hordaland	Masfjorden, Fedje, Modalen, Vaksdal, Samnanger, Kvam, Voss, Granvin, Ulvik, Eidfjord, Ullensvang, Odda, Jondal, Kvinnherad, Tysnes, Fitjar, Etne.	6
Rogaland	Utsira, Kvitsøy, Sauda, Suldal, Hjelmeland, Lund, Sokndal.	5
Vest-Agder	Sirdal, Kvinesdal, Hægebostad, Audnedal, Åseral, Marnardal, Flekkefjord, Farsund.	6,7
Aust-Agder	Risør, Gjerstad, Vegårshei, Tvedestrand, Åmli, Evje og Hornnes, Bygland, Valle, Bykle.	4,3
Buskerud	Nore og Uvdal, Rollag, Krødsherad, Sigdal, Hol, Ål, Hemsedal, Gol, Nes, Flå.	3,2
Østfold	Rømskog, Marker, Aremark.	6,9

- (13) The swapped-in areas have a total population of 349 002.

2.3. OVERVIEW OF MUNICIPALITIES COVERED BY THE REGIONAL AID MAP AS NOTIFIED

- (14) Table 3, below, provides an overview of all the municipalities included in the regional aid map.

Table 3

Counties	Municipalities
Finnmark	Sør-Varanger, Båtsfjord, Unjárga — Nesseby, Deatnu — Tana, Berlevåg, Gamvik, Lebesby, Kárášjohka — Karasjok, Porsángu — Porsanki — Porsanger, Nordkapp, Måsøy, Kvalsund, Hasvik, Loppa, Alta, Guovdageaidnu — Kautokeino, Hammerfest, Vadsø, Vardø.
Troms	Kvænangen, Nordreisa, Skjervøy, Gáivuotna — Kåfjord, Storfjord, Lyngen, Karlsøy, Balsfjord, Lenvik, Berg, Torsken, Tranøy, Dyrøy, Sørreisa, Målselv, Salangen, Bardu, Lavangen, Gratangen, Ibestad, Skånland, Kvæfjord, Tromsø, Harstad.

Counties	Municipalities
Nordland	Moskenes, Andøy, Sortland, Øksnes, Bø, Hadsel, Vågan, Vestvågøy, Flakstad, Værøy, Røst, Ballangen, Evenes, Tjeldsund, Lødingen, Tysfjord, Hamarøy, Steigen, Sørfold, Fauske, Saltdal, Beiarn, Gildeskål, Meløy, Rødøy, Træna, Lurøy, Rana, Hemnes, Nesna, Dønna, Hattfjelldal, Grane, Vefsn, Leirfjord, Alstahaug, Herøy, Vevelstad, Vega, Brønnøy, Sømna, Bindal, Narvik, Bodø.
Nord-Trøndelag	Leka, Nærøy, Vikna, Flatanger, Fosnes, Overhalla, Høylandet, Grong, Namsskogan, Røyrvik, Lierne, Snåsa, Inderøy, Namdalseid, Verran, Verdal, Leksvik, Frosta, Meråker, Namsos, Steinkjer.
Sør-Trøndelag	Tydal, Selbu, Midtre Gauldal, Holtålen, Røros, Meldal, Rennebu, Oppdal, Osen, Roan, Åfjord, Bjugn, Rissa, Agdenes, Ørland, Frøya, Hitra, Snillfjord, Hemne.
Møre og Romsdal	Aure, Smøla, Halså, Rindal, Surnadal, Sunndal, Tingvoll, Gjemnes, Averøy, Eide, Sandøy, Midsund, Nesset, Rauma, Vestnes, Haram, Stordal, Stranda, Norddal, Ørsta, Volda, Sande, Vanylven.
Sogn og Fjordane	Flora, Gulen, Solund, Hyllestad, Høyanger, Vik, Balestrand, Leikanger, Sogndal, Aurland, Lærdal, Årdal, Luster, Askvoll, Fjaler, Gaular, Jølster, Førde, Naustdal, Bremanger, Vågsøy, Selje, Eid, Hornindal, Gloppen, Stryn.
Hordaland	Masfjorden, Fedje, Modalen, Vaksdal, Samnanger, Kvam, Voss, Granvin, Ulvik, Eidfjord, Ullensvang, Odda, Jondal, Kvinnherad, Tysnes, Fitjar, Etne.
Rogaland	Utsira, Kvitsøy, Sauda, Suldal, Hjelmeland, Lund, Sokndal.
Vest-Agder	Sirdal, Kvinesdal, Hægebostad, Audnedal, Åseral, Marnardal, Flekkefjord, Farsund.
Aust-Agder	Risør, Gjerstad, Vegårshei, Tvedestrand, Åmli, Evje og Hornnes, Bygland, Valle, Bykle.
Telemark	Notodden, Kragerø, Drangedal, Nome, Bø, Sauherad, Tinn, Hjartdal, Seljord, Kviteseid, Nissedal, Fyresdal, Tokke, Vinje.
Buskerud	Nore og Uvdal, Rollag, Krødsherad, Sigdal, Hol, Ål, Hemsedal, Gol, Nes, Flå.
Oppland	Dovre, Lesja, Sjøk, Lom, Vågå, Nord-Fron, Sel, Sør-Fron, Ringebu, Øyer, Gausdal, Vestre Toten, Søndre Land, Nordre Land, Sør-Aurdal, Etne, Nord-Aurdal, Vestre Slidre, Øystre Slidre, Vang.
Hedmark	Kongsvinger, Nord-Odal, Sør-Odal, Eidskog, Grue, Åsnes, Våler, Trysil, Åmot, Stor-Elvdal, Rendalen, Engerdal, Tolga, Tynset, Alvdal, Folldal, Os.
Østfold	Rømskog, Marker, Aremark.

(15) The total number of municipalities covered by the regional aid map is 281.

2.4. ASSESSMENT OF THE FLEXIBLE APPROACH

- (16) Paragraph 149 of the RAG sets out three requirements which must be met in order to swap-in areas from counties with a population density above 12,5 inhabitants per km².
- (17) Firstly, the swapping exercise must not result in an increase in the population covered as set out in paragraph 142 of the RAG. The pre-notified aid area covers 1 253 474 inhabitants which represents 25,48 % of Norway's total population, and thus falls below the 25,51 % national population ceiling as set out in paragraph 142 of the RAG. The Authority therefore concludes that this requirement is met.
- (18) Secondly, the parts of the counties qualifying for flexibility must have a population density of less than 12,5 inhabitants per km² at county level. As demonstrated by table 2 above, this requirement is met for the swapped-in municipalities at county level.
- (19) Thirdly, the swapped-in municipalities must be contiguous areas adjacent to the counties with a population density of less than 12,5 inhabitants per km². The Authority concludes that the swapped-in municipalities meet this requirement, as illustrated by the map attached as Annex 1 to this decision ⁽¹⁾.

3. AID INTENSITIES

- (20) All eligible areas will have a general aid ceiling of 15 % gross grant equivalent (GGE), this is supplemented by an increase of 20 % for small enterprises or 10 % for medium-sized enterprises. These aid intensities comply with the thresholds set out in paragraphs 154 and 155 of the RAG.

4. DURATION AND REVIEW

- (21) In compliance with paragraph 156 of the RAG, the notified map will be in force from 1 July 2014 to 31 December 2020. If necessary, as provided for in paragraph 161 of the RAG, the notified map may be subject to a mid-term review in June 2016 to identify possible areas that may be eligible for regional aid under Article 61(1)(a) of the EEA Agreement and the level of the aid intensity corresponding to their GDP per capital.
- (22) In addition, this decision does not restrict the powers of the Authority to review the map in accordance with Article 1(1) in Part I of Protocol 3 to the Surveillance and Court Agreement, if necessary, before the end of the period referred to above.

5. CONCLUSION — THE REGIONAL AID MAP IS COMPATIBLE WITH THE RAG

- (23) On the basis of the foregoing assessment, the Authority considers that the Norwegian regional aid map for 2014-2020 is compatible with the principles set out in the RAG as the area covered does not exceed the eligible population coverage as set out by paragraph 142 of the RAG. The swapped-in areas also meet the other requirements set out in paragraph 149 of the RAG, as the aid intensities respect the thresholds set out in paragraphs 154 and 155 of the RAG, and as the duration does not exceed the duration of the RAG as set out in paragraph 156 therein,

HAS ADOPTED THIS DECISION:

Article 1

The Norwegian regional aid map 2014-2020 is compatible with the principles set out in the RAG. The map, set out in the Annex to this decision, hereby constitutes an integral part of the RAG.

Article 2

This Decision is addressed to the Kingdom of Norway.

⁽¹⁾ The Authority notes that there is a gap of less than 10 kilometres, along the Swedish border, between the three municipalities of Rømskog, Marker and Aremark (in Østfold county) and the eligible areas in Hedmark county. In the view of the Authority, the three municipalities in Østfold can, nevertheless, be considered as adjacent to the other eligible areas within the meaning of paragraph 147 of the RAG. The Authority further notes that the population density of Rømskog, Marker and Aremark is low (6,9 per km²).

Article 3

Only the English language version of this decision is authentic.

Done at Brussels, 26 February 2014.

For the EFTA Surveillance Authority

Oda Helen SLETNES

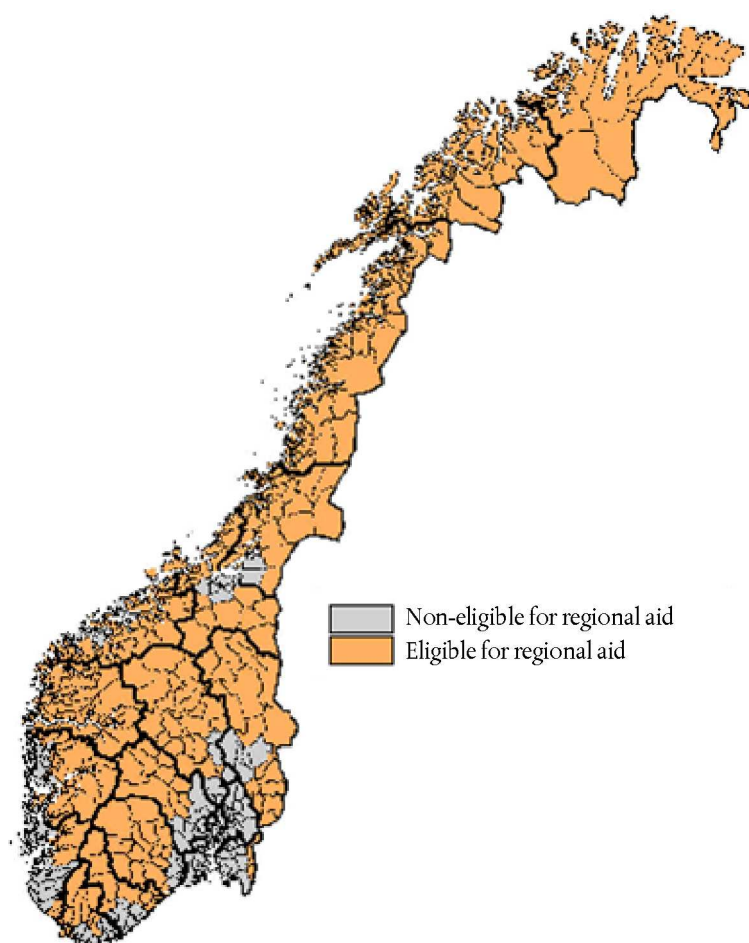
President

Frank BÜCHEL

College Member

ANNEX

REGIONAL AID MAP 2014-2020



CORRIGENDA

**Corrigendum to Commission Implementing Regulation (EU) No 1242/2013 of 25 November 2013
entering a name in the register of protected designations of origin and protected geographical indi-
cations [Cordero Segureño (PGI)]**

(Official Journal of the European Union L 323 of 4 December 2013)

On page 6, Annex:

for: **'Class 1.2. Meat products (cooked, salted, smoked, etc.)'**,

read: **'Class 1.1. Fresh meat (and offal)'**.

