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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/515 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 19 March 2019****on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The internal market comprises an area without internal frontiers in which the free movement of goods is ensured in accordance with the Treaties. Quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member States. That prohibition covers any national measure which is capable of hindering, directly or indirectly, actually or potentially, intra-Union trade in goods. The free movement of goods is ensured in the internal market by the harmonisation of rules at Union level that set common requirements for the marketing of certain goods or, for goods or aspects of goods not exhaustively covered by Union harmonisation rules, by the application of the principle of mutual recognition as defined by the Court of Justice of the European Union.
- (2) A well-functioning principle of mutual recognition is an essential complement to harmonisation of rules at Union level, especially considering that many goods have both harmonised and non-harmonised aspects.
- (3) Obstacles to the free movement of goods between Member States may be unlawfully created if, in the absence of Union harmonisation rules covering goods or certain aspects of goods, a Member State's competent authority applies national rules to goods that are lawfully marketed in another Member State, requiring the goods to meet certain technical requirements, for example, requirements relating to designation, form, size, weight, composition, presentation, labelling or packaging. The application of such rules to goods that are lawfully marketed in another Member State could be contrary to Articles 34 and 36 of the Treaty on the Functioning of the European Union (TFEU), even if the rules apply to all goods without distinction.
- (4) The principle of mutual recognition derives from the case-law of the Court of Justice of the European Union. According to this principle, Member States may not prohibit the sale on their territory of goods which are

⁽¹⁾ OJ C 283, 10.8.2018, p. 19.

⁽²⁾ Position of the European Parliament of 14 February 2019 (not yet published in the Official Journal) and decision of the Council of 5 March 2019.

lawfully marketed in another Member State, even where those goods have been produced in accordance with different technical rules, including goods that are not the result of a manufacturing process. But the principle of mutual recognition is not absolute. Member States can restrict the marketing of goods that have been lawfully marketed in another Member State, where such restrictions are justified on the grounds set out in Article 36 TFEU or on the basis of other overriding reasons of public interest, recognised by the case-law of the Court of Justice of the European Union in relation to the free movement of goods, and where those restrictions are proportionate to the aim pursued. This Regulation imposes the obligation to clearly justify why market access has been restricted or denied.

- (5) The concept of overriding reasons of public interest is an evolving concept developed by the Court of Justice of the European Union in its case-law in relation to Articles 34 and 36 TFEU. Where legitimate differences exist from one Member State to another, such overriding reasons might justify the application of national technical rules by the competent authorities. However, administrative decisions always need to be duly justified, to be legitimate, to be appropriate and to respect the principle of proportionality, and the competent authority has to make the least restrictive decision possible. In order to improve the functioning of the internal market for goods, the national technical rules should be fit for purpose and should not create disproportionate non-tariff barriers. Furthermore, administrative decisions restricting or denying market access in respect of goods that are lawfully marketed in another Member State must not be based on the mere fact that the goods under assessment fulfil the legitimate public objective pursued by the Member State in a different way from the way in which goods in that Member State fulfil that objective. In order to assist Member States, the Commission should provide non-binding guidance in relation to the case-law of the Court of Justice of the European Union on the concept of overriding reasons of public interest and how to apply the principle of mutual recognition. Competent authorities should have the opportunity to provide contributions and deliver feedback on the guidance.
- (6) In its Conclusions on the Single Market Policy of December 2013, the Competitiveness Council noted that to improve framework conditions for businesses and consumers in the Single Market, all relevant instruments should be appropriately employed, including mutual recognition. The Council invited the Commission to report on cases where the functioning of the principle of mutual recognition is still inadequate or problematic. In its Conclusions on the Single Market Policy of February 2015, the Competitiveness Council urged the Commission to take steps to ensure that the principle of mutual recognition functioned effectively and to bring forward proposals to that effect.
- (7) Regulation (EC) No 764/2008 of the European Parliament and of the Council ⁽³⁾ was adopted in order to facilitate the application of the principle of mutual recognition by establishing procedures to minimise the possibility of creating unlawful obstacles to the free movement of goods which have already been lawfully marketed in another Member State. Despite the adoption of that Regulation, many problems still exist as regards the application of the principle of mutual recognition. The evaluation carried out between 2014 and 2016 showed that the principle of mutual recognition does not function as it should, and that Regulation (EC) No 764/2008 has had limited effect in facilitating the application of that principle. The tools and procedural guarantees put in place by that Regulation failed in their aim of improving the application of the principle of mutual recognition. For example, the Product Contact Points network which was put in place in order to provide information to economic operators on applicable national rules and the application of the principle of mutual recognition is barely known or used by economic operators. Within that network, national authorities do not cooperate sufficiently. The requirement to notify administrative decisions restricting or denying market access is rarely complied with. As a result, obstacles to the free movement of goods in the internal market remain.
- (8) Regulation (EC) No 764/2008 has several shortcomings, and should therefore be revised and strengthened. For the sake of clarity, Regulation (EC) No 764/2008 should be replaced by this Regulation. This Regulation should establish clear procedures to ensure the free movement of goods lawfully marketed in another Member State and to ensure that free movement can be restricted only where Member States have legitimate public interest grounds for doing so and that the restriction is justified and proportionate. This Regulation should also ensure that existing rights and obligations deriving from the principle of mutual recognition are observed, by both economic operators and national authorities.
- (9) This Regulation should not prejudice the further harmonisation of conditions for the marketing of goods with a view to improving the functioning of the internal market, where appropriate.

⁽³⁾ Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC (OJ L 218, 13.8.2008, p. 21).

- (10) It is also possible for trade barriers to result from other types of measures falling under the scope of Articles 34 and 36 TFEU. Those measures can include, for example, technical specifications drawn up for public procurement procedures or requirements to use official languages in the Member States. However, such measures should not constitute national technical rules within the meaning of this Regulation and should not fall within its scope.
- (11) National technical rules are sometimes given effect in a Member State by means of a prior authorisation procedure, under which formal approval has to be obtained from a competent authority before the goods can be placed on the market there. The existence of a prior authorisation procedure in itself restricts the free movement of goods. Therefore, in order to be justified with regard to the fundamental principle of the free movement of goods within the internal market, such a procedure has to pursue a public interest objective recognised by Union law, and it has to be proportionate and non-discriminatory. The compliance of such a procedure with Union law is to be assessed in the light of the considerations set out in the case-law of the Court of Justice of the European Union. Therefore, administrative decisions restricting or denying market access exclusively on the grounds that the goods do not have a valid prior authorisation should be excluded from the scope of this Regulation. When, however, an application for mandatory prior authorisation of goods is made, any administrative decision to reject the application on the basis of a national technical rule applicable in that Member State should only be taken in accordance with this Regulation, so that the applicant can benefit from the procedural protection which this Regulation provides. The same applies to voluntary prior authorisation of goods, where it exists.
- (12) It is important to clarify that the types of goods covered by this Regulation include agricultural products. The term 'agricultural products' includes products of fisheries, as provided for in Article 38(1) TFEU. In order to help to identify which types of goods are subject to this Regulation, the Commission should assess the feasibility and benefits of further developing an indicative product list for mutual recognition.
- (13) It is also important to clarify that the term 'producer' includes not only manufacturers of goods, but also persons who produce goods which were not the result of a manufacturing process, including agricultural products, as well as persons who present themselves as the producers of goods.
- (14) Decisions of national courts or tribunals assessing the legality of cases in which, on account of the application of a national technical rule, goods lawfully marketed in one Member State are not granted access to the market in another Member State, and decisions of national courts or tribunals applying penalties, should be excluded from the scope of this Regulation.
- (15) To benefit from the principle of mutual recognition, goods must be lawfully marketed in another Member State. It should be clarified that, for goods to be considered to be lawfully marketed in another Member State, the goods need to comply with the relevant rules applicable in that Member State, and need to be made available to end users in that Member State.
- (16) To raise awareness on the part of national authorities and economic operators of the principle of mutual recognition, Member States should consider providing for clear and unambiguous 'single market clauses' in their national technical rules with a view to facilitating the application of that principle.
- (17) The evidence required to demonstrate that goods are lawfully marketed in another Member State varies significantly from Member State to Member State. This causes unnecessary burdens, delays and additional costs for economic operators, and prevents national authorities from obtaining the information necessary for assessing the goods in a timely manner. This may inhibit the application of the principle of mutual recognition. It is therefore essential to make it easier for economic operators to demonstrate that their goods are lawfully marketed in another Member State. Economic operators should benefit from a self-declaration that provides competent authorities with all necessary information on the goods and on their compliance with the rules applicable in that other Member State. The use of voluntary declarations should not prevent national authorities from taking administrative decisions restricting or denying market access, provided that such decisions are proportionate, justified and respect the principle of mutual recognition and are in accordance with this Regulation.
- (18) It should be possible for the producer, importer or distributor to draw up a declaration of lawful marketing of goods for the purposes of mutual recognition ('mutual recognition declaration'). The producer is best placed to provide the information in the mutual recognition declaration as the producer knows the goods best and is in possession of the evidence necessary to verify the information in the mutual recognition declaration. The producer should be able to mandate an authorised representative to draw up such declarations on the producer's

behalf and under the responsibility of the producer. However, where an economic operator is only able to provide the information on the lawfulness of the marketing of the goods in the declaration, it should be possible for another economic operator to provide the information that the goods are being made available to end users in the Member State concerned, provided that that economic operator takes responsibility for the information that it provided in the mutual recognition declaration and is able to provide the necessary evidence to verify this information.

- (19) The mutual recognition declaration should always contain accurate and complete information on the goods. The declaration should therefore be kept up to date in order to reflect changes, for example changes in the relevant national technical rules.
- (20) In order to ensure that the information provided in a mutual recognition declaration is comprehensive, a harmonised structure for such declarations should be laid down for use by economic operators wishing to make such declarations.
- (21) It is important to ensure that the mutual recognition declaration is filled in truthfully and accurately. It is therefore necessary to require economic operators to be responsible for the information provided by them in the mutual recognition declaration.
- (22) In order to enhance the efficiency and competitiveness of businesses operating in the field of goods that are not covered by Union harmonisation legislation, it should be possible to benefit from new information technologies for the purpose of facilitating the provision of the mutual recognition declaration. Therefore, economic operators should be able to make their mutual recognition declarations publicly available online, provided that the mutual recognition declaration is easily accessible and is in a reliable format.
- (23) The Commission should ensure that a template for the mutual recognition declaration and guidelines for completing it are made available on the Single Digital Gateway in all of the official languages of the Union.
- (24) This Regulation should also apply to goods in respect of which only some aspects are covered by Union harmonisation legislation. Where, pursuant to Union harmonisation legislation, the economic operator is required to draw up an EU declaration of conformity to demonstrate compliance with that legislation, that economic operator should be permitted to attach the mutual recognition declaration provided for by this Regulation to the EU declaration of conformity.
- (25) Where economic operators decide not to use the mutual recognition declaration, it should be for the competent authorities of the Member State of destination to make clearly defined requests for specific information that they consider to be necessary to assess the goods, with respect to the principle of proportionality.
- (26) The economic operator should be given appropriate time within which to submit documents or any other information requested by the competent authority of the Member State of destination, or to submit any arguments or comments in relation to the assessment of the goods in question.
- (27) Directive (EU) 2015/1535 of the European Parliament and of the Council⁽⁴⁾ requires Member States to communicate to the Commission and to the other Member States any draft national technical regulation concerning any product, including any agricultural or fishery product, and a statement of the grounds on which the enactment of that regulation is necessary. It is necessary, however, to ensure that, following the adoption of such a national technical regulation, the principle of mutual recognition is correctly applied to specific goods in individual cases. This Regulation should lay down procedures for the application of the principle of mutual recognition in individual cases, for example, by requiring Member States to indicate the national technical rules on which the administrative decision is based and the legitimate public interest grounds that justify the application of that national technical rule with respect to a good that has been lawfully marketed in another Member State. The proportionality of the national technical rule is the basis for demonstrating the proportionality of the administrative decision that is based on that rule. However, the means by which the proportionality of the administrative decision is to be demonstrated should be determined on a case-by-case basis.
- (28) As administrative decisions restricting or denying market access for goods that are already lawfully marketed in another Member State should be exceptions to the fundamental principle of the free movement of goods, it is

⁽⁴⁾ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

necessary to ensure that such decisions observe the existing obligations that derive from the principle of mutual recognition. It is therefore appropriate to establish a clear procedure for determining whether goods are lawfully marketed in that other Member State and, if so, whether the legitimate public interests covered by the applicable national technical rule of the Member State of destination are adequately protected, in accordance with Article 36 TFEU and the case-law of the Court of Justice of the European Union. Such procedure should ensure that any administrative decisions that are taken are proportionate and respect the principle of mutual recognition and are in accordance with this Regulation.

- (29) Where a competent authority is assessing goods before deciding whether to restrict or deny market access, that authority should not be able to take decisions to suspend market access, except where rapid intervention is required to prevent harm to the safety or health of persons, to prevent harm to the environment, or to prevent the goods from being made available in cases where the making available of such goods is generally prohibited on grounds of public morality or public security, including, for example, the prevention of crime.
- (30) Regulation (EC) No 765/2008 of the European Parliament and of the Council ⁽⁵⁾ establishes a system of accreditation which ensures the mutual acceptance of the level of competence of conformity assessment bodies. The competent authorities of Member States should therefore not refuse to accept test reports and certificates issued by an accredited conformity assessment body on grounds related to the competence of that body. Furthermore, in order to avoid as far as possible the duplication of tests and procedures which have been already carried out in another Member State, Member States should not refuse to accept test reports and certificates issued by other conformity assessment bodies in accordance with Union law. Competent authorities should take due account of the content of the test reports or certificates submitted.
- (31) Directive 2001/95/EC of the European Parliament and of the Council ⁽⁶⁾ specifies that only safe products may be placed on the market and lays down the obligations of producers and distributors with respect to the safety of products. It entitles the competent authorities to ban any dangerous product with immediate effect or to ban products that could be dangerous temporarily for the period needed for the various safety evaluations, checks and controls. That Directive also describes the procedure for competent authorities to apply appropriate measures if products pose a risk, such as the measures referred to in points (b) to (f) of Article 8(1) of that Directive, and it also imposes an obligation on Member States to notify such measures to the Commission and the other Member States. Therefore, competent authorities should be able to continue applying that Directive and, in particular, points (b) to (f) of Article 8(1) and Article 8(3) of that Directive.
- (32) Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽⁷⁾ establishes, inter alia, a rapid alert system for the notification of direct or indirect risks to human health deriving from food or feed. It requires Member States to notify the Commission immediately, using the rapid alert system, of any measure they adopt which is aimed at restricting the placing on the market of food or feed, or withdrawing or recalling food or feed, for the purpose of protecting human health, and which requires rapid action. Competent authorities should be able to continue applying that Regulation and, in particular, Articles 50(3) and 54 of that Regulation.
- (33) Regulation (EU) 2017/625 of European Parliament and of the Council ⁽⁸⁾ establishes a harmonised Union framework for the organisation of official controls, and for the organisation of official activities other than

⁽⁵⁾ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

⁽⁶⁾ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

⁽⁷⁾ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁽⁸⁾ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

official controls, along the entire agri-food chain, taking into account the rules on official controls laid down in Regulation (EC) No 882/2004 of the European Parliament and of the Council ⁽⁹⁾ and in relevant Union sectoral legislation. Regulation (EU) 2017/625 lays down a specific procedure for ensuring that economic operators remedy situations of non-compliance with food and feed law, animal health rules or animal welfare rules. Competent authorities should be able to continue applying Regulation (EU) 2017/625 and, in particular, Article 138 thereof.

- (34) Regulation (EU) No 1306/2013 of the European Parliament and of the Council ⁽¹⁰⁾ establishes a harmonised Union framework for carrying out checks in respect of the obligations laid down in Regulation (EU) No 1308/2013 of the European Parliament and of the Council ⁽¹¹⁾ in accordance with the criteria laid down in Regulation (EC) No 882/2004 and specifies that Member States shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks. Competent authorities should be able to continue applying Regulation (EU) No 1306/2013 and, in particular, Article 90 thereof.
- (35) Any administrative decision taken by competent authorities of Member States pursuant to this Regulation should specify the remedies available to the economic operator, so that an economic operator is able, in accordance with national law, to appeal against the decision or bring proceedings before the competent national court or tribunal. The administrative decision should also refer to the possibility for economic operators to use the Internal Market Problem Solving Network (SOLVIT) and the problem-solving procedure provided for in this Regulation.
- (36) Effective solutions for economic operators wishing for a business friendly alternative when challenging administrative decisions restricting or denying market access are essential to ensure the correct and consistent application of the principle of mutual recognition. In order to guarantee such solutions, and to avoid legal costs, especially for small and medium-sized enterprises (SMEs), a non-judicial problem-solving procedure should be available for economic operators.
- (37) SOLVIT is a service provided by the national administration in each Member State that aims to find solutions for individuals and businesses when their rights have been breached by public authorities in another Member State. The principles governing the functioning of SOLVIT are set out in Commission Recommendation 2013/461/EU ⁽¹²⁾, according to which each Member State is to provide for a SOLVIT Centre that has adequate human and financial resources to ensure that the SOLVIT Centre takes part in SOLVIT. The Commission should increase awareness about the existence and benefits of SOLVIT, especially among businesses.
- (38) SOLVIT is an effective non-judicial, problem-solving mechanism that is provided free of charge. It works under short deadlines and provides practical solutions to individuals and businesses when they are experiencing difficulties in the recognition of their Union rights by public authorities. Where the economic operator, the relevant SOLVIT Centre and the Member States involved all agree on the appropriate outcome, no further action should be required.
- (39) However, where the SOLVIT's informal approach fails, and doubts remain regarding the compatibility of the administrative decision with the principle of mutual recognition, the Commission should be empowered to look into the matter at the request of any of the SOLVIT Centres involved. Following its assessment, the Commission should issue an opinion to be communicated through the relevant SOLVIT Centre to the economic operator concerned and to the competent authorities, which should be taken into account during the SOLVIT procedure. The Commission's intervention should be subject to a time-limit of 45 working days, which should not include the time necessary for the Commission to receive any additional information and documents that it considers necessary. If the case is solved during this period, the Commission should not be required to issue an opinion. Such SOLVIT cases should be subject to a separate workflow in the SOLVIT database and should not be included in the regular SOLVIT statistics.

⁽⁹⁾ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ L 165, 30.4.2004, p. 1).

⁽¹⁰⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

⁽¹¹⁾ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

⁽¹²⁾ Commission Recommendation 2013/461/EU of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2013, p. 10).

- (40) The opinion of the Commission as regards an administrative decision restricting or denying market access should only address whether the administrative decision is compatible with the principle of mutual recognition and with the requirements of this Regulation. This is without prejudice to the Commission's powers under Article 258 TFEU and the Member States' obligation to comply with Union law, when addressing systemic problems identified as regards the application of the principle of mutual recognition.
- (41) It is important for the internal market for goods that businesses, in particular SMEs, can obtain reliable and specific information about the law in force in a given Member State. Product Contact Points should play an important role in facilitating communication between national authorities and economic operators by disseminating information about specific product rules and about how the principle of mutual recognition is applied in the territory of their Member State. Therefore, it is necessary to enhance the role of Product Contact Points as the principal providers of information on all product-related rules, including national technical rules covered by mutual recognition.
- (42) In order to facilitate the free movement of goods, Product Contact Points should provide, free of charge, a reasonable level of information on their national technical rules and the application of the principle of mutual recognition. Product Contact Points should be adequately equipped and resourced. In accordance with Regulation (EU) 2018/1724 of the European Parliament and of the Council ⁽¹³⁾ they should provide such information through a website and should be subject to the quality criteria set out in that Regulation. The tasks of Product Contact Points related to the provision of any such information, including electronic copies of, or online access to, the national technical rules, should be performed without prejudice to the national rules governing the distribution of national technical rules. Furthermore, Product Contact Points should not be required to provide copies of, or online access to, standards which are subject to the intellectual property rights of standardisation bodies or organisations.
- (43) Cooperation between competent authorities is essential for the smooth functioning of the principle of mutual recognition and for creating a mutual recognition culture. Product Contact Points and national competent authorities should therefore cooperate and exchange information and expertise in order to ensure the correct and consistent application of the principle of mutual recognition and this Regulation.
- (44) For the purposes of notifying administrative decisions restricting or denying market access, allowing communication between Product Contact Points and ensuring administrative cooperation, it is necessary to provide Member States with access to an information and communication system.
- (45) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁴⁾.
- (46) Where, for the purposes of this Regulation, it is necessary to process personal data, such processing should be carried out in accordance with Union law on the protection of personal data. Any processing of personal data under this Regulation is subject to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁵⁾ or Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹⁶⁾.
- (47) Reliable and efficient monitoring mechanisms should be established to provide information on the application of this Regulation and on its impact on the free movement of goods. Such mechanisms should not go beyond what is necessary to achieve these objectives.

⁽¹³⁾ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

⁽¹⁴⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽¹⁵⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽¹⁶⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (48) For the purposes of raising awareness about the principle of mutual recognition and ensuring that this Regulation is applied correctly and consistently, provision should be made for Union financing of awareness-raising campaigns, trainings, exchange of officials and other related activities aiming at enhancing and supporting trust and cooperation between competent authorities, Product Contact Points and economic operators.
- (49) In order to remedy the lack of accurate data related to the functioning of the principle of mutual recognition and its impact on the Single Market for goods, the Union should finance the collection of such data.
- (50) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.
- (51) It is appropriate to defer the application of this Regulation in order to allow competent authorities and economic operators sufficient time to adapt to the requirements laid down herein.
- (52) The Commission should carry out an evaluation of this Regulation in light of the objectives that it pursues. The Commission should use the data collected on the functioning of the principle of mutual recognition and its impact on the single market for goods and information available in the information and communication system to evaluate this Regulation. The Commission should be able to request Member States to provide additional information necessary for its evaluation. Pursuant to point 22 of the Interinstitutional Agreement of 13 April 2016 on Better Law Making ⁽¹⁷⁾, the evaluation of this Regulation, which should be based on efficiency, effectiveness, relevance, coherence and added value, should provide the basis for impact assessments of options for further action.
- (53) Since the objective of this Regulation, namely to ensure the smooth, consistent and correct application of the principle of mutual recognition, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. The aim of this Regulation is to strengthen the functioning of the internal market by improving the application of the principle of mutual recognition and by removing unjustified barriers to trade.
2. This Regulation lays down rules and procedures concerning the application by Member States of the principle of mutual recognition in individual cases in relation to goods which are subject to Article 34 TFEU and which are lawfully marketed in another Member State, having regard to Article 36 TFEU and the case-law of the Court of Justice of the European Union.
3. This Regulation also provides for the establishment and maintenance of Product Contact Points in Member States and for cooperation and exchange of information in the context of the principle of mutual recognition.

Article 2

Scope

1. This Regulation applies to goods of any type, including agricultural products within the meaning of the second subparagraph of Article 38(1) TFEU, and to administrative decisions that have been taken or are to be taken by a competent authority of a Member State of destination in relation to any such goods that are lawfully marketed in another Member State, where the administrative decision meets the following criteria:
 - (a) the basis for the administrative decision is a national technical rule applicable in the Member State of destination; and
 - (b) the direct or indirect effect of the administrative decision is to restrict or deny market access in the Member State of destination.

⁽¹⁷⁾ OJ L 123, 12.5.2016, p. 1.

Administrative decision includes any administrative step that is based on a national technical rule and that has the same or substantially the same legal effect as the effect referred to in point (b).

2. For the purposes of this Regulation, a 'national technical rule' is any provision of a law, regulation or other administrative provision of a Member State which has the following characteristics:

- (a) it covers goods or aspects of goods that are not the subject of harmonisation at Union level;
- (b) it either prohibits the making available of goods, or goods of a given type, on the market in that Member State, or it makes compliance with the provision compulsory, de facto or de jure, whenever goods, or goods of a given type, are made available on that market; and
- (c) it does at least one of the following:
 - (i) it lays down the characteristics required of goods or of goods of a given type, such as their levels of quality, performance or safety, or their dimensions, including the requirements applicable to those goods as regards the names under which they are sold, terminology, symbols, testing and test methods, packaging, marking or labelling and conformity assessment procedures;
 - (ii) for the purpose of protecting consumers or the environment, it imposes other requirements on goods or goods of a given type that affect the life-cycle of the goods after they have been made available on the market in that Member State, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence either the composition or nature of those goods, or the making available of them on the market in that Member State.

3. Point (c)(i) of paragraph 2 of this Article also covers production methods and processes used in respect of agricultural products as referred to in the second subparagraph of Article 38(1) TFEU, and in respect of products intended for human or animal consumption, as well as production methods and processes relating to other products, where these have an effect on their characteristics.

4. A prior authorisation procedure does not itself constitute a national technical rule for the purposes of this Regulation, but a decision to refuse prior authorisation based on a national technical rule shall be considered to be an administrative decision to which this Regulation applies, if that decision fulfils the other requirements of the first subparagraph of paragraph 1.

5. This Regulation does not apply to:

- (a) decisions of a judicial nature taken by national courts or tribunals;
- (b) decisions of a judicial nature taken by law enforcement authorities in the course of the investigation or prosecution of a criminal offence as regards the terminology, symbols or any material reference to unconstitutional or criminal organisations or offences of a racist, discriminatory or xenophobic nature.

6. Articles 5 and 6 shall not affect the application of the following provisions:

- (a) points (b) to (f) of Article 8(1) and Article 8(3) of Directive 2001/95/EC;
- (b) point (a) of Article 50(3) and Article 54 of Regulation (EC) No 178/2002;
- (c) Article 90 of Regulation (EU) No 1306/2013; and
- (d) Article 138 of Regulation (EU) 2017/625.

7. This Regulation does not affect the obligation under Directive (EU) 2015/1535 to notify draft national technical regulations to the Commission and the Member States prior to their adoption.

Article 3

Definitions

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

- (1) 'lawfully marketed in another Member State' means that goods or goods of that type comply with the relevant rules applicable in that Member State or are not subject to any such rules in that Member State, and are made available to end users in that Member State;
- (2) 'making available on the market' means any supply of goods for distribution, consumption or use on the market within the territory of a Member State in the course of a commercial activity, whether in return for payment or free of charge;

- (3) 'restricting market access' means imposing conditions to be fulfilled before goods can be made available on the market in the Member State of destination, or conditions for keeping goods on that market, which in either case require the modification of one or more of the characteristics of those goods, as referred to in point (c)(i) of Article 2(2), or require the performance of additional testing;
- (4) 'denying market access' means any of the following:
 - (a) prohibiting goods from being made available on the market in the Member State of destination or from being kept on that market; or
 - (b) requiring the withdrawal or recall of those goods from that market;
- (5) 'withdrawal' means any measure aimed at preventing goods in the supply chain from being made available on the market;
- (6) 'recall' means any measure aimed at achieving the return of goods that have already been made available to the end user;
- (7) 'prior authorisation procedure' means an administrative procedure under the law of a Member State whereby the competent authority of that Member State is required, on the basis of an application by an economic operator, to give its formal approval before goods may be made available on the market in that Member State;
- (8) 'producer' means:
 - (a) any natural or legal person who manufactures goods or has goods designed or manufactured, or who produces goods which were not the result of a manufacturing process, including agricultural products, and markets them under that person's name or trademark,
 - (b) any natural or legal person who modifies goods already lawfully marketed in a Member State in a way that might affect compliance with the relevant rules applicable in that Member State, or
 - (c) any other natural or legal person who, by putting its name, trademark or other distinguishing feature on goods or on the documents that accompany those goods, presents itself as the producer of those goods;
- (9) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from a producer to act on that producer's behalf with regard to the making available of goods on the market in question;
- (10) 'importer' means any natural or legal person established within the Union who makes goods from a third country available on the Union market for the first time;
- (11) 'distributor' means any natural or legal person in the supply chain, other than the producer or the importer, who makes goods available on the market in a Member State;
- (12) 'economic operator' means any of the following in relation to goods: the producer, the authorised representative, the importer or the distributor;
- (13) 'end user' means any natural or legal person residing or established in the Union, to whom the goods have been made available or are being made available, either as a consumer outside of any trade, business, craft or profession or as a professional end user in the course of its industrial or professional activities;
- (14) 'legitimate public interest grounds' means any of the grounds set out in Article 36 TFEU or any other overriding reasons of public interest;
- (15) 'conformity assessment body' means a conformity assessment body as defined in point 13 of Article 2 of Regulation (EC) No 765/2008.

CHAPTER II

PROCEDURES CONCERNING APPLICATION OF THE PRINCIPLE OF MUTUAL RECOGNITION IN INDIVIDUAL CASES

Article 4

Mutual recognition declaration

1. The producer of goods, or of goods of a given type, that are being made or are to be made available on the market in the Member State of destination may draw up a voluntary declaration of lawful marketing of goods for the purposes of mutual recognition ('mutual recognition declaration') in order to demonstrate to the competent authorities of the Member State of destination that the goods, or the goods of that type, are lawfully marketed in another Member State.

The producer may mandate its authorised representative to draw up the mutual recognition declaration on its behalf.

The mutual recognition declaration shall follow the structure set out in Part I and Part II of the Annex and shall contain all the information specified therein.

The producer or its authorised representative, where mandated to do so, may fill in the mutual recognition declaration with only the information set out in Part I of the Annex. In such case the information set out in Part II of the Annex shall be filled in by the importer or by the distributor.

Alternatively, both parts of the mutual recognition declaration may be drawn up by the importer or by the distributor, provided that the signatory can supply the evidence referred to in point (a) of Article 5(4).

The mutual recognition declaration shall be drawn up in one of the official languages of the Union. Where that language is not the language required by the Member State of destination, the economic operator shall translate the mutual recognition declaration into a language required by the Member State of destination.

2. Economic operators who sign the mutual recognition declaration or a part of it shall be responsible for the content and accuracy of the information that they provide in the mutual recognition declaration, including the correctness of the information they translate. For the purposes of this paragraph, economic operators shall be liable in accordance with national laws.

3. Economic operators shall ensure that the mutual recognition declaration is kept up to date at all times, reflecting any changes in the information that they have provided in the mutual recognition declaration.

4. The mutual recognition declaration may be supplied to the competent authority of the Member State of destination for the purposes of an assessment to be carried out under Article 5. It may be supplied either in paper form or by electronic means or be made available online in accordance with the requirements of the Member State of destination.

5. Where economic operators make the mutual recognition declaration available online, the following conditions apply:

- (a) the type of goods or the series to which the mutual recognition declaration applies shall be easily identifiable; and
- (b) the technical means used shall ensure easy navigation and shall be monitored to ensure the availability of, and access to, the mutual recognition declaration.

6. Where the goods for which the mutual recognition declaration is being supplied are also subject to a Union act requiring an EU declaration of conformity, the mutual recognition declaration may be attached to the EU declaration of conformity.

Article 5

Assessment of goods

1. Where a competent authority of the Member State of destination intends to assess goods subject to this Regulation to establish whether the goods or goods of that type are lawfully marketed in another Member State, and, if so, whether the legitimate public interests covered by the applicable national technical rule of the Member State of destination are adequately protected, having regard to the characteristics of the goods in question, it shall contact the economic operator concerned without delay.

2. When entering into contact with the economic operator concerned, the competent authority of the Member State of destination shall inform the economic operator of the assessment, indicating the goods that are subject to that assessment and specifying the applicable national technical rule or prior authorisation procedure. The competent authority of the Member State of destination shall also inform the economic operator of the possibility of supplying a mutual recognition declaration in accordance with Article 4 for the purposes of that assessment.

3. The economic operator shall be allowed to make the goods available on the market in the Member State of destination while the competent authority carries out the assessment under paragraph 1 of this Article, and may continue to do so unless the economic operator receives an administrative decision restricting or denying market access for those goods. This paragraph shall not apply where the assessment is carried out in the framework of a prior authorisation procedure, or where the competent authority temporarily suspends the making available on the market of the goods that are subject to that assessment in accordance with Article 6.

4. If a mutual recognition declaration is supplied to a competent authority of the Member State of destination in accordance with Article 4, then for the purposes of the assessment under paragraph 1 of this Article:

- (a) the mutual recognition declaration, together with supporting evidence necessary to verify the information contained in it that was provided in response to a request by the competent authority, shall be accepted by the competent authority as sufficient to demonstrate that the goods are lawfully marketed in another Member State; and
- (b) the competent authority shall not require any other information or documentation from any economic operator for the purpose of demonstrating that the goods are lawfully marketed in another Member State.

5. If a mutual recognition declaration is not supplied to a competent authority of the Member State of destination in accordance with Article 4, then for the purposes of the assessment under paragraph 1 of this Article, the competent authority may request the economic operators concerned to provide documentation and information that is necessary for that assessment concerning the following:

- (a) the characteristics of the goods or type of goods in question; and
- (b) lawful marketing of the goods in another Member State.

6. The economic operator concerned shall be allowed at least 15 working days following the request of the competent authority of the Member State of destination in which to submit the documents and information referred to in point (a) of paragraph 4 or in paragraph 5, or to submit any arguments or comments that the economic operator might have.

7. For the purposes of the assessment under paragraph 1 of this Article, the competent authority of the Member State of destination, in accordance with Article 10(3), may contact the competent authorities or the Product Contact Points of the Member State in which an economic operator claims to be lawfully marketing its goods, if the competent authority needs to verify any information provided by the economic operator.

8. In carrying out the assessment under paragraph 1, the competent authorities of Member States of destination shall take due account of the content of test reports or certificates issued by a conformity assessment body that have been provided by any economic operator as part of the assessment. The competent authorities of Member States of destination shall not refuse test reports or certificates that were issued by a conformity assessment body accredited for the appropriate field of conformity assessment activity in accordance with Regulation (EC) No 765/2008 on grounds related to the competence of that body.

9. Where, on completion of an assessment under paragraph 1 of this Article, the competent authority of a Member State of destination takes an administrative decision with respect to the goods that it has assessed, it shall notify that administrative decision without delay to the economic operator referred to in paragraph 1 of this Article. The competent authority shall also notify that administrative decision to the Commission and to the other Member States no later than 20 working days after it took the decision. For that purpose, it shall use the system referred to in Article 11.

10. The administrative decision referred to in paragraph 9 shall set out the reasons for the decision in a manner that is sufficiently detailed and reasoned to facilitate an assessment of its compatibility with the principle of mutual recognition and with the requirements of this Regulation.

11. In particular, the following information shall be included in the administrative decision referred to in paragraph 9:

- (a) the national technical rule on which the administrative decision is based;
- (b) the legitimate public interest grounds justifying the application of the national technical rule on which the administrative decision is based;
- (c) the technical or scientific evidence that the competent authority of the Member State of destination considered, including, where applicable, any relevant changes in the state of the art that have occurred since the national technical rule came into force;
- (d) a summary of the arguments put forward by the economic operator concerned that are relevant for the assessment under paragraph 1, if any;
- (e) the evidence demonstrating that the administrative decision is appropriate for the purpose of achieving the objective pursued and that the administrative decision does not go beyond what is necessary in order to attain that objective.

12. The administrative decision referred to in paragraph 9 of this Article shall specify the remedies available under the national law of the Member State of destination and the time limits applicable to those remedies. It shall also include a reference to the possibility for economic operators to use SOLVIT and the procedure under Article 8.

13. The administrative decision referred to in paragraph 9 shall not take effect before it has been notified to the economic operator concerned under that paragraph.

*Article 6***Temporary suspension of market access**

1. When the competent authority of a Member State is carrying out an assessment of goods pursuant to Article 5, it may temporarily suspend the making available of those goods on the market in that Member State only if:
 - (a) under normal or reasonably foreseeable conditions of use, the goods pose a serious risk to safety or health of persons or to the environment, including one where the effects are not immediate, which requires rapid intervention by the competent authority; or
 - (b) the making available of the goods, or of goods of that type, on the market in that Member State is generally prohibited in that Member State on grounds of public morality or public security.
2. The competent authority of the Member State shall immediately notify the economic operator concerned, the Commission and the other Member States of any temporary suspension pursuant to paragraph 1 of this Article. The notification to the Commission and the other Member States shall be made by means of the system referred to in Article 11. In cases falling within point (a) of paragraph 1 of this Article, the notification shall be accompanied by a detailed technical or scientific justification demonstrating why the case falls within the scope of that point.

*Article 7***Notification through RAPEX or RASFF**

If the administrative decision referred to in Article 5 or the temporary suspension referred to in Article 6 is also a measure which is to be notified through the Rapid Information Exchange System (RAPEX) in accordance with Directive 2001/95/EC or through the Rapid Alert System for Food and Feed (RASFF) in accordance with Regulation (EC) No 178/2002, a separate notification to the Commission and the other Member States under this Regulation shall not be required, provided that the following conditions are met:

- (a) the RAPEX or RASFF notification indicates that the notification of the measure also serves as a notification under this Regulation; and
- (b) the supporting evidence required for the administrative decision under Article 5 or for the temporary suspension under Article 6 is included with the RAPEX or RASFF notification.

*Article 8***Problem-solving procedure**

1. Where an economic operator affected by an administrative decision has submitted it to SOLVIT and where, during the SOLVIT procedure, the Home Centre or the Lead Centre requests the Commission to give an opinion in order to assist in solving the case, the Home Centre and the Lead Centre shall provide the Commission with all relevant documents relating to the administrative decision concerned.
2. After receiving the request referred to in paragraph 1, the Commission shall assess whether the administrative decision is compatible with the principle of mutual recognition and with the requirements of this Regulation.
3. For the purposes of the assessment referred to in paragraph 2 of this Article, the Commission shall consider the administrative decision notified in accordance with Article 5(9) and the documents and information provided within the SOLVIT procedure. Where additional information or documents are needed for the purposes of the assessment referred to in paragraph 2 of this Article, the Commission shall, without undue delay, request the relevant SOLVIT Centre to enter into communication with the economic operator concerned or with the competent authorities which took the administrative decision, for the purpose of obtaining such additional information or documents.
4. Within 45 working days of receipt of the request referred to in paragraph 1, the Commission shall complete its assessment and issue an opinion. Where appropriate, the Commission's opinion shall identify any concerns that should be addressed in the SOLVIT case or shall make recommendations to assist in solving the case. The 45 working day period does not include the time necessary for the Commission to receive the additional information and documents as provided for in paragraph 3.
5. Where the Commission has been informed that the case is solved during the assessment referred to in paragraph 2, the Commission shall not be required to issue an opinion.
6. The Commission's opinion shall be communicated through the relevant SOLVIT Centre to the economic operator concerned and to the relevant competent authorities. That opinion shall be notified by the Commission to all Member States by means of the system referred to in Article 11. The opinion shall be taken into account during the SOLVIT procedure referred to in paragraph 1 of this Article.

CHAPTER III

ADMINISTRATIVE COOPERATION, MONITORING AND COMMUNICATION*Article 9***Tasks of the Product Contact Points**

1. Member States shall designate and maintain Product Contact Points on their territory and shall ensure that their Product Contact Points have sufficient powers and adequate resources for the proper performance of their tasks. They shall ensure that Product Contact Points deliver their services in accordance with Regulation (EU) 2018/1724.
2. Product Contact Points shall provide the following information online:
 - (a) information on the principle of mutual recognition and the application of this Regulation in the territory of their Member State, including information on the procedure set out in Article 5;
 - (b) the contact details, by means of which the competent authorities within that Member State may be contacted directly, including the particulars of the authorities responsible for supervising the implementation of the national technical rules applicable in the territory of their Member State;
 - (c) the remedies and procedures available in the territory of their Member State in the event of a dispute between the competent authority and an economic operator, including the procedure set out in Article 8.
3. Where necessary to complement the information provided online under paragraph 2, Product Contact Points shall provide, at the request of an economic operator or a competent authority of another Member State, any useful information, such as electronic copies of, or online access to, the national technical rules and national administrative procedures applicable to specific goods or goods of a specific type in the territory in which the Product Contact Point is established or information on whether those goods or goods of that type are subject to prior authorisation under national law.
4. Product Contact Points shall respond within 15 working days of receiving any request under paragraph 3.
5. Product Contact Points shall not charge any fee for the provision of the information under paragraph 3.

*Article 10***Administrative cooperation**

1. The Commission shall provide for and ensure efficient cooperation among the competent authorities and the Product Contact Points of the various Member States through the following activities:
 - (a) facilitating and coordinating the exchange and collection of information and best practices with regard to the application of the principle of mutual recognition;
 - (b) supporting the functioning of the Product Contact Points and enhancing their cross-border cooperation;
 - (c) facilitating and coordinating the exchange of officials among Member States and the organisation of common training and awareness raising programmes for authorities and businesses.
2. Member States shall ensure that their competent authorities and Product Contact Points participate in the activities referred to in paragraph 1.
3. Upon a request by a competent authority of the Member State of destination pursuant to Article 5(7), the competent authorities in the Member State in which an economic operator claims to be lawfully marketing its goods shall provide the competent authority of the Member State of destination within 15 working days with any information relevant for verifying data and documents supplied by the economic operator during the assessment under Article 5 relating to those goods. The Product Contact Points may be used to facilitate contacts between the relevant competent authorities in accordance with the time limit for providing the requested information set out in Article 9(4).

*Article 11***Information and communication system**

1. For the purposes of Articles 5, 6 and 10 of this Regulation, the information and communication system set out in Article 23 of Regulation (EC) No 765/2008 shall be used, except as provided in Article 7 of this Regulation.
2. The Commission shall adopt implementing acts specifying the details and functionalities of the system referred to in paragraph 1 of this Article for the purposes of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

CHAPTER IV

FINANCING

Article 12

Financing of activities in support of this Regulation

1. The Union may finance the following activities in support of this Regulation:
 - (a) awareness-raising campaigns;
 - (b) education and training;
 - (c) exchange of officials and of best practices;
 - (d) cooperation among Product Contact Points and competent authorities, and the technical and logistic support for this cooperation;
 - (e) the collection of data related to the functioning of the principle of mutual recognition and its impact on the Single Market for goods.
2. The Union's financial assistance with respect to activities in support of this Regulation shall be implemented in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁸⁾, either directly or by entrusting budget implementation tasks to the entities listed in point (c) of Article 62(1) of that Regulation.
3. The appropriations allocated to activities referred to in this Regulation shall be determined each year by the budgetary authority within the limits of the financial framework in force.

Article 13

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures to ensure that, when activities financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹⁹⁾ and Council Regulation (Euratom, EC) No 2185/96 ⁽²⁰⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

⁽¹⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽²⁰⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2.).

CHAPTER V

EVALUATION AND COMMITTEE PROCEDURE*Article 14***Evaluation**

1. By 20 April 2025, and every four years thereafter, the Commission shall carry out an evaluation of this Regulation in light of the objectives that it pursues and shall submit a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee.
2. For the purposes of paragraph 1 of this Article, the Commission shall use the information available in the system referred to in Article 11 and any data collected in the course of activities referred to in point (e) of Article 12(1). The Commission may also ask Member States to submit any relevant information for evaluating the free movement of goods lawfully marketed in another Member State or for evaluating the effectiveness of this Regulation, as well as an assessment of the functioning of the Product Contact Points.

*Article 15***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VI

FINAL PROVISIONS*Article 16***Repeal**

Regulation (EC) No 764/2008 is repealed with effect from 19 April 2020.

References to the repealed Regulation shall be construed as references to this Regulation.

*Article 17***Entry into force and application**

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

It shall apply from 19 April 2020.

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

Done at Brussels, 19 March 2019.

For the European Parliament
The President
A. TAJANI

For the Council
The President
G. CIAMBA

ANNEX

Mutual recognition declaration for the purposes of Article 4 of Regulation (EU) 2019/515 of the European Parliament and of the Council ⁽¹⁾

Part I

1. Unique identifier for the goods or type of goods: ... [Note: insert the goods identification number or other reference marker that uniquely identifies the goods or type of goods]
2. Name and address of the economic operator: ... [Note: insert the name and address of the signatory of Part I of the mutual recognition declaration: the producer and, where applicable, its authorised representative, or the importer, or the distributor]
3. Description of the goods or type of goods subject of the mutual recognition declaration: ... [Note: the description should be sufficient to enable the goods to be identified for traceability reasons. It may be accompanied by a photograph, where appropriate]
4. Declaration and information on the lawfulness of the marketing of the goods or that type of goods
 - 4.1. The goods or type of goods described above, including their characteristics, comply with the following rules applicable in ... [Note: identify the Member State in which the goods or that type of goods are claimed to be lawfully marketed]: ... [Note: insert the title and official publication reference, in each case, of the relevant rules applicable in that Member State and reference of the authorisation decision if the goods were subject to a prior authorisation procedure],

or

the goods or type of goods described above are not subject to any relevant rules in ... [Note: identify the Member State in which the goods or that type of goods are claimed to be lawfully marketed].
 - 4.2. Reference of the conformity assessment procedure applicable to the goods or that type of goods, or reference of test reports for any tests performed by a conformity assessment body, including the name and address of that body (if such procedure was carried out or if such tests were performed): ...
5. Any additional information considered relevant to an assessment of whether the goods or that type of goods are lawfully marketed in the Member State indicated in point 4.1: ...
6. This part of the mutual recognition declaration has been drawn up under the sole responsibility of the economic operator identified under point 2.

Signed for and on behalf of:

(place and date):

(name, function) (signature):

Part II

7. Declaration and information on the marketing of the goods or that type of goods
 - 7.1. The goods or that type of goods described in Part I are made available to end users on the market in the Member State indicated in point 4.1.
 - 7.2. Information that the goods or that type of goods are made available to the end users in the Member State indicated in point 4.1, including details of the date of when the goods were first made available to end users on the market in that Member State: ...
8. Any additional information considered relevant to an assessment of whether the goods or that type of goods are lawfully marketed in the Member State indicated in point 4.1: ...

⁽¹⁾ Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (OJ L 91, 29.3.2019, p. 1).

9. This part of the mutual recognition declaration has been drawn up under the sole responsibility of ... [Note: insert the name and address of the signatory of Part II of the mutual recognition declaration: the producer and, where applicable, its authorised representative, or the importer, or the distributor]

Signed for and on behalf of:

(place and date):

(name, function) (signature):

REGULATION (EU) 2019/516 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
on the harmonisation of gross national income at market prices and repealing Council Directive
89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 (GNI Regulation)
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) Gross national income at market prices (GNI) constitutes the basis for calculating the largest share of own resources in the general budget of the Union. Therefore, it is necessary to further reinforce the comparability, reliability and exhaustiveness of that aggregate.
- (2) Statistical integrity through respect for the principles of the European Statistics Code of Practice, as reviewed and updated by the European Statistical System Committee (ESSC) on 16 November 2017, and of Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽²⁾ is of particular importance where statistics are being used directly for administrative purposes and for policy-making at Union and national levels.
- (3) Those statistical data are also an important analytical tool for the coordination of national economic policies and for various Union policies, as well as for research activities.
- (4) In accordance with Article 2(7) of Council Decision 2014/335/EU, Euratom ⁽³⁾, for own resources purposes, GNI means an annual GNI at market prices under the methodology set out in Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council ⁽⁴⁾ which established the revised European System of Accounts (ESA 2010). In accordance with Article 10(1) of Decision 2014/335/EU, Euratom, and subject to Article 10(2) thereof, Council Decision 2007/436/EC, Euratom ⁽⁵⁾ was repealed.
- (5) It is essential that GNI data be comparable across Member States and that there be compliance with the relevant definitions and accounting rules of ESA 2010. For that purpose, the assessment procedures and the basic data actually used should permit the correct application of the definitions and accounting rules of ESA 2010.
- (6) It is essential that the sources and methods used to compile GNI data be reliable. This means that sound techniques should be applied to robust, suitable and up-to-date basic statistics as much as possible.

⁽¹⁾ Position of the European Parliament of 31 January 2019 (not yet published in the Official Journal) and decision of the Council of 18 February 2019.

⁽²⁾ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

⁽³⁾ Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

⁽⁴⁾ Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ L 174, 26.6.2013, p. 1).

⁽⁵⁾ Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ L 163, 23.6.2007, p. 17).

- (7) It is essential that GNI data be exhaustive. Therefore, those data should also take into account informal, unregistered and other activities and transactions that are not reported in statistical surveys or to fiscal, social and other administrative authorities. Improved GNI coverage presupposes developing suitable statistical bases and assessment procedures in order to produce reliable statistics and, where applicable, to make necessary adjustments, avoiding gaps and double counting.
- (8) Council Regulation (EU, Euratom) No 608/2014 ⁽⁶⁾ provides for inspections in Member States for the purpose of verifying own resources. For GNI verification purposes, the Commission (Eurostat) should be entitled to carry out GNI information visits in order to verify the quality of GNI aggregates and their components and to verify compliance with ESA 2010, as well as to ensure that GNI data are comparable, reliable and exhaustive. The Commission (Eurostat) should respect rules on statistical confidentiality. The participation of representatives of national statistical authorities in GNI information visits to other Member States is essential in order to increase the transparency and quality of the process of GNI verification.
- (9) In order to ensure the reliability, exhaustiveness and highest possible degree of comparability of GNI data, in line with ESA 2010, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the list of issues to be addressed in every verification cycle. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁷⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (10) In order to ensure uniform conditions for the implementation of this Regulation by providing GNI aggregates for own resources purposes, implementing powers should be conferred on the Commission to establish the structure and detailed arrangements of the inventory of the sources and methods used to produce GNI data and their components, in accordance with Annex A to Regulation (EU) No 549/2013, as well as the timetable for its updating and transmission, and the specific measures aimed at improving the comparability, reliability and exhaustiveness of Member States' GNI data based on the list of issues defined by the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁸⁾.
- (11) The ESSC, established by Regulation (EC) No 223/2009, has been, in accordance with Article 7 of that Regulation, asked to provide its professional guidance.
- (12) The GNI Committee referred to in Article 4 of Council Regulation (EC, Euratom) No 1287/2003 ⁽⁹⁾ has issued opinions for, provided advice to, and assisted the Commission in the exercise of its implementing powers. Under the strategy for a new European Statistical System structure to improve coordination and partnership in a clear pyramid structure within the System, the ESSC should have an advisory role and assist the Commission in exercising its implementing powers. To that effect, the GNI Committee should be replaced by the ESSC for the purpose of assisting the Commission in the exercise of its implementing powers under this Regulation. Nevertheless, for the purposes of other functions previously undertaken by the GNI Committee under Regulation (EC, Euratom) No 1287/2003, and not relating to assistance in the exercise of the implementing powers of the Commission, the Commission should establish a formal expert group to assist it for such purposes.
- (13) Council Directive 89/130/EEC, Euratom ⁽¹⁰⁾ and Regulation (EC, Euratom) No 1287/2003 set up a procedure to verify and assess the comparability, reliability and exhaustiveness of Gross National Product (GNP) data and GNI data within the GNP Committee and GNI Committee in which Member States and the Commission cooperate closely. That procedure should be adjusted to take account of the use of GNI data according to ESA 2010 for the

⁽⁶⁾ Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 29).

⁽⁷⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁸⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁹⁾ Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003, p. 1).

⁽¹⁰⁾ Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonisation of the compilation of gross national product at market prices (OJ L 49, 21.2.1989, p. 26).

purposes of own resources, the revised timetable for making available own resources, and recent developments within the European Statistical System. Directive 89/130/EEC, Euratom and Regulation (EC, Euratom) No 1287/2003 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

DEFINITION AND CALCULATION OF GROSS NATIONAL INCOME AT MARKET PRICES

Article 1

1. Gross national income at market prices (GNI) and gross domestic product at market prices (GDP) shall be defined in accordance with the European System of Accounts 2010 (ESA 2010) established by Regulation (EU) No 549/2013.
2. In accordance with point 8.89 of Annex A to Regulation (EU) No 549/2013, GDP means the final result of the production activity of resident producer units. It can be defined in three ways:
 - (a) production approach: GDP is the sum of gross value added of the various institutional sectors or the various industries plus taxes and less subsidies on products (which are not allocated to sectors and industries). It is also the balancing item in the total economy production account;
 - (b) expenditure approach: GDP is the sum of final uses of goods and services by resident institutional units (final consumption and gross capital formation) plus exports and minus imports of goods and services;
 - (c) income approach: GDP is the sum of uses in the total economy generation of income account (compensation of employees, taxes on production and imports less subsidies, gross operating surplus and mixed income of the total economy).
3. In accordance with point 8.94 of Annex A to Regulation (EU) No 549/2013, GNI means the total primary income receivable by resident institutional units: compensation of employees, taxes on production and imports less subsidies, property income (receivable less payable), gross operating surplus and gross mixed income. GNI equals GDP minus primary income payable by resident institutional units to non-resident institutional units plus primary income receivable by resident institutional units from the rest of the world.

CHAPTER II

TRANSMISSION OF GNI DATA AND ADDITIONAL INFORMATION

Article 2

1. Member States shall calculate GNI as defined in Article 1 in the context of national accounts compilation.
2. Before 1 October each year, Member States shall provide the Commission (Eurostat), in the context of national accounting procedures, with figures for GNI aggregates and their components, in accordance with the definitions referred to in Article 1. Totals for GDP and its components shall be presented in accordance with the three approaches referred to in Article 1(2). Data shall be transmitted for the preceding year and any changes made to the data for previous years shall be communicated at the same time.
3. The transmission of data referred to in paragraph 2 shall be accompanied by a report on the quality of GNI data. That report shall detail the methodology used to produce the data, and in particular describe any significant changes in the sources and methods used and explain the revisions made to GNI aggregates and their components compared to the previous periods.

Article 3

1. Member States shall provide the Commission (Eurostat) with an inventory of the sources and methods used to produce GNI aggregates and their components in accordance with ESA 2010.
2. The Commission shall establish, by means of implementing acts, the structure and detailed arrangements of the inventory referred to in paragraph 1 of this Article, in accordance with Annex A to Regulation (EU) No 549/2013, as well as the timetable for its updating and transmission. In exercising its power, the Commission shall ensure that such implementing acts do not impose significant additional costs which result in a disproportionate and unjustified burden on the Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(2) of this Regulation. The inventory shall be consistent with ESA 2010 and duplication and overloading shall be avoided.

3. To facilitate comparable analyses of compliance, the Commission shall draw up an inventory guide in close cooperation with the expert group referred to in Article 4.

CHAPTER III

PROCEDURES AND CHECKS ON THE CALCULATION OF GNI

Article 4

The Commission shall establish a formal expert group, composed of representatives of all the Member States and chaired by a representative of the Commission, to advise the Commission on, and to express its views regarding, the comparability, reliability and exhaustiveness of GNI calculations, to examine issues of implementation of this Regulation and to issue annual opinions on the appropriateness of the GNI data submitted by the Member States for own resources purposes.

Article 5

1. The Commission shall verify the sources, their uses and the methods in the inventory referred to in Article 3(1). A verification model, drawn up by the Commission in close cooperation with the expert group referred to in Article 4, shall be used to that effect. The model shall be based on the principles of peer review and cost-effectiveness and shall take into account the delegated acts referred to in the second subparagraph of paragraph 2 of this Article.

2. GNI data shall be reliable, exhaustive and comparable.

The Commission shall adopt delegated acts in accordance with Article 7 to supplement the provision laid down in the first subparagraph of this paragraph by defining the list of issues to be addressed in every verification cycle to ensure the reliability, exhaustiveness and highest possible degree of comparability of GNI data, in line with ESA 2010.

3. The Commission shall establish, by means of implementing acts, specific measures to make GNI data more comparable, reliable and exhaustive, based on the list of issues defined by the Commission in the delegated acts referred to in the second subparagraph of paragraph 2 of this Article. Such implementing acts shall be duly justified and in accordance with ESA 2010. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8(2).

Article 6

1. Without prejudice to the inspections provided for in Article 2 of Regulation (EU, Euratom) No 608/2014, GNI information visits may, where deemed appropriate, be carried out in Member States by the Commission (Eurostat).

2. The purposes of the information visits referred to in paragraph 1 of this Article shall be the verification of the quality of GNI aggregates and their components and the verification of compliance with ESA 2010. In exercising its right to carry out such information visits, the Commission (Eurostat) shall respect the rules on statistical confidentiality laid down in Chapter V of Regulation (EC) No 223/2009.

3. When carrying out information visits in Member States, the Commission (Eurostat) may and is encouraged to request the assistance of national accounts experts representing national statistical authorities of other Member States.

The national accounts experts shall be registered on a list constituted on the basis of voluntary proposals sent to the Commission (Eurostat) by the national authorities responsible for the reporting of national accounts. The participation of national accounts experts of other Member States in those information visits is voluntary.

Article 7

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

2. The power to adopt delegated acts referred to in the second subparagraph of Article 5(2) shall be conferred on the Commission for a period of 5 years from 18 April 2019. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3. The delegation of power referred to in the second subparagraph of Article 5(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to the second subparagraph of Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 8

1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER IV

FINAL PROVISIONS

Article 9

Before 1 January 2023, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation.

Article 10

Directive 89/130/EEC, Euratom and Regulation (EC, Euratom) No 1287/2003 are repealed.

References to the repealed acts shall be construed as references to this Regulation and shall be read in accordance with the correlation tables in the Annex.

Article 11

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, 19 March 2019.

For the European Parliament
The President
A. TAJANI

For the Council
The President
G. CIAMBA

ANNEX

Correlation tables

Directive 89/130/EEC, Euratom	This Regulation
Article 1	Article 1(1) and (3)
Article 2	Article 1(2)
Article 3	Article 2(1) and (2)
—	Article 4
Article 4	Article 3
Article 5	Article 2(3)
—	Article 5
—	Article 6
—	Article 7
Article 6	Article 8
Article 7	—
Article 8	—
Article 9	—
Article 10	Article 9
—	Article 10
Article 11	—
—	Article 11

Regulation (EC, Euratom) No 1287/2003	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
—	Article 4
Article 4	Article 8
Article 5(1)	Article 5
Article 5(2)	—
Article 5(3)	—
Article 6	Article 6
—	Article 7
Article 7	Article 9
—	Article 10
Article 8	Article 11

REGULATION (EU) 2019/517 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
on the implementation and functioning of the .eu top-level domain name and amending and
repealing Regulation (EC) No 733/2002 and repealing Commission Regulation (EC) No 874/2004

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

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

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

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The .eu top-level domain (TLD) was established by Regulation (EC) No 733/2002 of the European Parliament and of the Council ⁽³⁾ and by Commission Regulation (EC) No 874/2004 ⁽⁴⁾. Since the adoption of those regulations, the political and legislative context in the Union, the online environment and the market have changed considerably.
- (2) The rapid evolution of the TLD market and the dynamic digital landscape requires a future-proof and flexible regulatory environment. The .eu TLD is one of the largest country code TLDs (ccTLDs). The .eu TLD is used by the Union institutions, agencies and bodies, including for European projects and initiatives. The purpose of the .eu TLD is, through good management, to help enhance the Union identity and promote Union values online, such as multilingualism, respect for users' privacy and security and respect for human rights, as well as specific online priorities.
- (3) TLDs are an essential component of the hierarchical structure of the domain name system (DNS) which ensure an interoperable system of unique identifiers, available throughout the world, on any application and any network.
- (4) The .eu TLD should promote the use of, and access to, internet networks in accordance with Articles 170 and 171 TFEU by providing registration complementary to existing ccTLDs and to the global registration of generic TLDs.
- (5) The .eu TLD, which is a clear and easily recognisable label, should provide a clearly identifiable link with the Union and the European market place. It should enable undertakings, organisations and natural persons within the Union to register a domain name under the .eu TLD. The existence of such a domain name is important to strengthen the Union's identity online. Regulation (EC) No 733/2002 should therefore be amended in order to allow Union citizens to register a .eu TLD name, regardless of their place of residence, from 19 October 2019.
- (6) Domain names in the .eu TLD should be allocated to eligible parties, subject to availability.
- (7) The Commission should promote cooperation between the Registry, the European Union Intellectual Property Office (EUIPO) and other Union agencies, with a view to combating the speculative and abusive registrations of domain names, including cybersquatting, and providing simple administrative procedures, in particular for small and medium-sized enterprises (SMEs).

⁽¹⁾ OJ C 367, 10.10.2018, p. 112.

⁽²⁾ Position of the European Parliament of 31 January 2019 (not yet published in the Official Journal) and decision of the Council of 18 February 2019.

⁽³⁾ Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain (OJ L 113, 30.4.2002, p. 1).

⁽⁴⁾ Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration (OJ L 162, 30.4.2004, p. 40).

- (8) To ensure the better protection of the right of the parties to contract with, respectively, the Registry and Registrars, disputes with regard to the registration of domain names in the .eu TLD should be solved by bodies located in the Union applying the relevant national law, without prejudice to rights and obligations recognised by the Member States or by the Union arising from international instruments.
- (9) The Commission should, on the basis of an open, transparent and non-discriminatory selection procedure, having regard to cost-efficiency and administrative simplicity, designate a Registry for the .eu TLD. In order to support the digital single market, to build an online European identity and to encourage cross-border online activities, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the eligibility and selection criteria and the procedure for the designation of the Registry. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁵⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (10) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt the lists of reserved and blocked domain names by Member States, to establish the principles that are to be included in the contract between the Commission and the Registry and to designate the Registry on duly justified imperative grounds of urgency, in particular to ensure the continuity of the service. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁶⁾. Such lists should be compiled subject to the domain names' availability taking into account domain names at second level already reserved or registered by the Member States.
- (11) The Commission should enter into a contract with the designated Registry, which should include the detailed principles and procedures that apply to the Registry for the organisation, administration and management of the .eu TLD. The contract should be of a fixed duration and should be renewable once without the need for a new selection procedure.
- (12) The principles and procedures relating to the functioning of the .eu TLD should be annexed to the contract between the Commission and the designated Registry.
- (13) This Regulation is without prejudice to the application of the rules on competition provided for in Articles 101 and 102 TFEU.
- (14) The Registry should comply with the principles of non-discrimination and transparency, and should implement measures to safeguard fair competition that are to be authorised in advance by the Commission, in particular when the Registry provides services to undertakings with whom it competes on downstream markets.
- (15) The Internet Corporation for Assigned Names and Numbers (ICANN) is at present responsible for coordinating the delegation of codes representing ccTLD to Registries. The Registry should enter into an appropriate contract with ICANN that provides for the delegation of the .eu ccTLD code, taking account of the relevant principles adopted by the Governmental Advisory Committee (GAC).
- (16) The Registry should enter into an appropriate escrow agreement to ensure continuity of service, and in particular to ensure that it is possible to continue to provide services to the local internet community with minimum disruption in the event of re-delegation or other unforeseen circumstances. The Registry should submit an electronic copy of the current content of the .eu TLD database to the escrow agent on a daily basis.
- (17) The alternative dispute resolution (ADR) procedures to be adopted should comply with Directive 2013/11/EU of the European Parliament and of the Council ⁽⁷⁾ and take into account the international best practices in this area and in particular the relevant recommendations of the World Intellectual Property Organization, to ensure that speculative and abusive registrations are avoided as far as possible. Those ADR procedures should respect uniform procedural rules that are in line with those set out in ICANN's Uniform Domain Name Dispute-Resolution Policy.

⁽⁵⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁶⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽⁷⁾ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L 165, 18.6.2013, p. 63).

- (18) The policy on the abusive registration of .eu domain names should provide for verification by the Registry of the data that it receives, specifically data concerning the identity of registrants, as well as revocation and blocking from future registration of domain names considered by a final decision of a Member State court to be defamatory, racist or otherwise contrary to the law of the Member State. The Registry should take the utmost care to ensure the correctness of the data that it receives and holds. The revocation procedure should allow the domain name holder a reasonable opportunity to rectify any breach of the eligibility criteria, registration requirements or outstanding debts before the revocation is to take effect.
- (19) A domain name that is identical or confusingly similar to a name in respect of which a right is established by Union or national law and which has been registered without rights or legitimate interest in the name, should, in principle, be revoked and, where necessary, transferred to the legitimate holder. Where such a domain name has been found to have been used in bad faith, it should always be revoked.
- (20) The Registry should adopt clear policies aiming to ensure the timely identification of abusive registrations of domain names and, where necessary, should cooperate with competent authorities and other public bodies relevant to cybersecurity and information security which are specifically involved in the fight against such registrations, such as national computer emergency response teams (CERTs).
- (21) The Registry should support law enforcement agencies in the fight against crime, by implementing technical and organisational measures aimed at enabling competent authorities to have access to the data in the Registry for purposes of the prevention, detection, investigation and prosecution of crimes, as provided for by Union or national law.
- (22) This Regulation should be implemented in compliance with the principles relating to privacy and the protection of personal data. The Registry should comply with the relevant Union data protection rules, principles and guidelines, in particular with the relevant security requirements, with the principles of necessity, proportionality, purpose limitation and proportionate data retention period. Also, personal data protection by design and data protection by default should be embedded in all data-processing systems and databases developed and maintained.
- (23) In order to ensure effective periodic supervision, the Registry should be audited at its own expense at least every two years by an independent body with the purpose of confirming, by means of a conformity assessment report, that the Registry complies with the requirements laid down in this Regulation. The Registry should submit that report to the Commission in accordance with its contract with the Commission.
- (24) The contract between the Commission and the Registry should provide for procedures to improve the organisation, administration and management of the .eu TLD by the Registry in accordance with the instructions of the Commission resulting from the Commission's supervisory activities as provided for in this Regulation.
- (25) In its conclusions of 27 November 2014, entitled 'Internet Governance', the Council reaffirmed the Union's commitment to promote multistakeholder governance structures that are based on a coherent set of global internet governance principles. Inclusive internet governance refers to the development and applications of shared principles, norms, rules, decision-making procedures and programmes that shape the evolution and use of the internet by governments, the private sector, civil society, international organisations and the technical community, all acting in their respective roles.
- (26) A .eu Multistakeholder Advisory Group should be set up with the role of advising the Commission in order to strengthen and widen input into the good governance of the Registry. The Group should reflect the internet governance multistakeholder model, and its members, apart from those drawn from Member State authorities and international organisations, should be appointed by the Commission on the basis of an open, non-discriminatory and transparent procedure. The representatives drawn from the Member State authorities should be appointed on the basis of a rotation system ensuring sufficient continuity of participation in the Group.
- (27) The Commission should carry out an evaluation of the effectiveness and functioning of the .eu TLD. That evaluation should have regard to the designated Registry working practices and the relevance of the Registry's tasks. The Commission should also submit regular reports on the functioning of the .eu TLD name to the European Parliament and to the Council.

- (28) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union (the 'Charter'), as enshrined in the Treaties, in particular the protection of personal data, the freedom of expression and information, and the protection of consumers. Appropriate Union procedures should be observed when ensuring that provisions in national law that affect this Regulation comply with Union law and, in particular, the Charter. The Registry should seek guidance from the Commission in cases of doubt with regard to compliance with Union law.
- (29) Since the objective of this Regulation, namely the implementation of a pan-European TLD in addition to the national ccTLDs, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (30) In order to limit any risk of disruption to the services of the .eu TLD during the implementation of the new regulatory framework, transitional provisions are laid down in this Regulation.
- (31) Regulation (EC) No 733/2002 should therefore be amended and repealed, and Regulation (EC) No 874/2004 should be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and objectives

1. This Regulation implements the .eu country code top-level domain ('ccTLD') and its available variants in other scripts, in order to support the digital single market, to build an online Union identity and to encourage cross-border online activities. It also lays down the conditions for its implementation, including the designation and characteristics of the Registry. This Regulation also establishes the legal and general policy framework within which the designated Registry is to function.
2. This Regulation applies without prejudice to arrangements in Member States regarding their national ccTLDs.

Article 2

Definitions

For the purposes of this Regulation:

- (1) 'Registry' means the entity entrusted with the organisation, administration and management of the .eu TLD, including the maintenance of the corresponding databases and the associated public query services, the registration of domain names, the operation of the Registry of domain names, the operation of the Registry's TLD name servers, and the distribution of TLD zone files across name servers;
- (2) 'Registrar' means a natural or legal person that, on the basis of a contract with the Registry, provides domain name registration services to registrants;
- (3) 'Internationalised Domain Name protocols' means standards and protocols that support the use of domain names in characters that are not American Standard Code for Information Interchange (ASCII) characters;
- (4) 'WHOIS database' means the collection of data containing information on the technical and administrative aspects of the .eu TLD registrations;
- (5) 'principles and procedures on the functioning of the .eu TLD' means detailed rules concerning the functioning and management of the .eu TLD;
- (6) 'registration' means the series of acts and procedural steps, from initiation to completion, taken by Registrars and the Registry upon the request of a natural or legal person for the purpose of implementing the registration of a domain name for a specified duration.

CHAPTER II

IMPLEMENTATION OF THE .eu TLD

SECTION 1

General principles*Article 3***Eligibility criteria**

Registration of one or more domain names under the .eu TLD can be requested by any of the following:

- (a) a Union citizen, independently of their place of residence;
- (b) a natural person who is not a Union citizen and who is a resident of a Member State;
- (c) an undertaking that is established in the Union; and
- (d) an organisation that is established in the Union without prejudice to the application of national law.

*Article 4***Registration and revocation of domain names**

1. A domain name shall be allocated to the eligible party whose request was first received by the Registry in the technically correct manner as laid down by the procedures for registration requests on the basis of point (b) of Article 11.
2. A registered domain name shall be unavailable for further registration until the registration has expired without renewal, or until the domain name has been revoked.
3. The Registry may revoke a domain name at its own initiative, without submitting the dispute to an ADR or judicial procedure, on the following grounds:
 - (a) there are outstanding unpaid debts owed to the Registry;
 - (b) the non-fulfilment by the domain name holder of the eligibility criteria pursuant to Article 3;
 - (c) the breach by the domain name holder of the requirements for registration requests laid down on the basis of points (b) and (c) of Article 11.
4. A domain name may also be revoked, and where necessary subsequently transferred to another party, following an appropriate ADR or judicial procedure, in accordance with the principles and procedures on the functioning of the .eu TLD laid down pursuant to Article 11, where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law, and where it:
 - (a) has been registered by its holder without rights or legitimate interest in the name; or
 - (b) has been registered or is being used in bad faith.
5. Where a domain name is found by a decision of a court of a Member State to be defamatory, racist or contrary to public policy or public security under Union law, or national law that complies with Union law, that domain name shall be blocked by the Registry upon notification of the court's decision and shall be revoked upon notification of the final court decision. The Registry shall block from future registration those domain names which have been subject to such a court order for as long as that order remains valid.
6. Domain names registered under the .eu TLD shall be transferable only to parties eligible for registration of .eu TLD names.

*Article 5***Languages, applicable law and jurisdiction**

1. The registration of domain names shall be carried out in all the characters of the official languages of the Union institutions, in accordance with the available international standards as allowed by the relevant Internationalised Domain Name protocols.

2. Without prejudice to Regulation (EU) No 1215/2012 of the European Parliament and of the Council ⁽⁸⁾ or to the rights and obligations recognised by the Member States or by the Union that arise from international instruments, neither contracts between the Registry and Registrars nor contracts between Registrars and registrants of domain names shall designate a law other than that of one of the Member States as the applicable law, nor shall they designate a court, arbitration court or other body located outside the Union as the relevant dispute resolution body.

Article 6

Reservation of domain names

1. The Registry may reserve or register a number of domain names considered necessary for its operational functions under the contract referred to in Article 8(4).

2. The Commission may instruct the Registry to reserve or to register a domain name directly under the .eu TLD for use by the Union institutions and bodies.

3. Member States may, without prejudice to domain names that have already been reserved or registered, notify to the Commission a list of domain names which:

- (a) are not to be registered pursuant to their national law; or
- (b) may be registered or reserved only at the second-level by the Member States.

With respect to point (b) of the first subparagraph, such domain names shall be limited to broadly recognised geographical or geopolitical terms which affect the Member States' political or territorial organisation.

4. The Commission shall adopt the lists notified by the Member States by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

Article 7

Registrars

1. The Registry shall accredit Registrars in accordance with reasonable, transparent and non-discriminatory accreditation procedures which have been approved in advance by the Commission. The Registry shall make the accreditation procedures publicly available in readily accessible form.

2. The Registry shall apply equivalent conditions in equivalent circumstances in relation to accredited .eu Registrars that provide equivalent services. The Registry shall provide those Registrars with services and information under the same conditions, and of the same quality, as provided for its own equivalent services.

SECTION 2

Registry

Article 8

Designation of the Registry

1. The Commission shall adopt delegated acts in accordance with Article 18 to supplement this Regulation by establishing the eligibility and selection criteria and the procedure for the designation of the Registry.

2. The Commission shall set out the principles to be included in the contract between the Commission and the Registry, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(2).

3. The Commission shall designate an entity as the Registry following the completion of the procedure referred to in paragraphs 1 and 2.

⁽⁸⁾ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

4. The Commission shall enter into a contract with the designated Registry. The contract shall specify the rules, policies and procedures for the provision of services by the Registry and the conditions according to which the Commission is to supervise the organisation, administration and management of the .eu TLD by the Registry. The contract shall be limited in time and shall be renewable once without the need to organise a new selection procedure. The contract shall reflect the obligations of the Registry and shall include the principles and procedures on the functioning of the .eu TLD laid down on the basis of Articles 10 and 11.

5. By way of derogation from paragraphs 1, 2 and 3, the Commission may, where imperative grounds of urgency exist, designate the Registry by means of immediately applicable implementing acts in accordance with the procedure referred to in Article 17(3).

Article 9

Characteristics of the Registry

1. The Registry shall be a not-for-profit organisation. It shall have its registered office, central administration and principal place of business within the territory of the Union.
2. The Registry may impose fees. Those fees shall be directly related to the costs incurred.

Article 10

Obligations of the Registry

The Registry shall be required to:

- (a) promote the .eu TLD across the Union and in third countries;
- (b) comply with the rules, policies and procedures laid down in this Regulation, with the contract referred to in Article 8(4), and, in particular, with Union data protection law;
- (c) organise, administer and manage the .eu TLD in the general public interest and ensure in all aspects of the administration and management of the .eu TLD, high quality, transparency, security, stability, predictability, reliability, accessibility, efficiency, non-discrimination, fair conditions of competition and consumer protection;
- (d) enter into an appropriate contract providing for the delegation of the .eu TLD code, subject to the prior consent of the Commission;
- (e) perform the registration of domain names in the .eu TLD where requested by any eligible party referred to in Article 3;
- (f) ensure, without prejudice to any court proceedings, and subject to adequate procedural guarantees for the parties concerned, the possibility for Registrars and registrants to resolve any contractual dispute with the Registry by means of ADR;
- (g) ensure the availability and integrity of the databases of domain names;
- (h) at its own expense and with the consent of the Commission, enter into an agreement with a reputable trustee or other escrow agent established within the territory of the Union designating the Commission as the beneficiary of the escrow agreement, and submit an up-to-date electronic copy of the content of the .eu TLD database to the respective trustee or escrow agent on a daily basis;
- (i) implement the lists referred to in Article 6(3);
- (j) promote the objectives of the Union in the field of internet governance, inter alia by participating in international forums;
- (k) publish the principles and procedures on the functioning of the .eu TLD laid down on the basis of Article 11 in all of the official languages of the Union institutions;
- (l) at its own expense, undertake an audit by an independent body at least every two years to certify its compliance with this Regulation and send the outcome of such audits to the Commission;
- (m) participate, where requested by the Commission, in the work of the .eu Multistakeholder Advisory Group and cooperate with the Commission to improve the functioning and management of the .eu TLD.

*Article 11***Principles and procedures on the functioning of the .eu TLD**

The contract, concluded between the Commission and the designated Registry in accordance with Article 8(4) shall contain the principles and procedures concerning the functioning of the .eu TLD, in compliance with this Regulation, including the following:

- (a) an ADR policy;
- (b) requirements and procedures for registration requests, a policy on the verification of registration criteria, a policy on the verification of registrants' data, and a policy on the speculative registration of domain names;
- (c) a policy on abusive registration of domain names and a policy on the timely identification of domain names that have been registered and used in bad faith, referred to in Article 4;
- (d) a policy on the revocation of domain names;
- (e) the treatment of intellectual property rights;
- (f) measures to enable competent authorities to have access to data in the Registry for the purposes of prevention, detection, investigation and prosecution of crime, as provided by Union law or national law that complies with Union law, subject to appropriate checks and balances;
- (g) detailed procedures by means of which to amend the contract.

*Article 12***WHOIS database**

1. The Registry shall set up and manage, with due diligence, a WHOIS database facility for the purpose of ensuring the security, stability and resilience of the .eu TLD by providing accurate and up-to-date registration information about the domain names under the .eu TLD.
2. The WHOIS database shall contain relevant information about the points of contact administering the domain names under the .eu TLD and the holders of the domain names. The information on the WHOIS database shall not be excessive in relation to the purpose of the database. The Registry shall comply with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁹⁾.

SECTION 3

Oversight of the registry*Article 13***Supervision**

1. The Commission shall monitor and supervise the organisation, administration and management of the .eu TLD by the Registry.
2. The Commission shall ascertain the soundness of financial management of the Registry and its compliance with this Regulation and with the principles and procedures on the functioning of the .eu TLD as referred to in Article 11. The Commission may request information from the Registry to that end.
3. In accordance with its supervisory activities, the Commission may convey specific instructions to the Registry for correcting or improving the organisation, administration and management of the .eu TLD.
4. The Commission may, as appropriate, consult the .eu Multistakeholder Advisory Group and other relevant stakeholders and may seek expert advice on the results of the supervisory activities provided for in this Article and on ways to improve the organisation, administration and management of the .eu TLD by the Registry.

⁽⁹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

*Article 14***.eu Multistakeholder Advisory Group**

1. The Commission shall establish a .eu Multistakeholder Advisory Group. The .eu Multistakeholder Advisory Group shall have the following tasks:
 - (a) to advise the Commission on the implementation of this Regulation;
 - (b) to issue opinions to the Commission on strategic matters relating to the management, organisation and administration of the .eu TLD, including issues relating to cybersecurity and data protection;
 - (c) to advise the Commission on matters relating to the monitoring and supervision of the Registry, in particular with regard to the audit referred to in point (l) of Article 10;
 - (d) to advise the Commission on best practices as regards policies and measures against abusive registrations of domain names, in particular registrations without rights or legitimate interests and registrations used in bad faith.
2. The Commission shall take account of any advice provided by the .eu Multistakeholder Advisory Group in implementing this Regulation.
3. The .eu Multistakeholder Advisory Group shall be composed of representatives of stakeholders that are established in the Union. Those representatives shall be drawn from the private sector, the technical community, civil society and academia, as well as Member States' authorities and international organisations. Representatives other than those drawn from Member States' authorities and international organisations shall be appointed by the Commission on the basis of an open, non-discriminatory and transparent procedure, taking the utmost account the principle of gender equality.
4. Notwithstanding paragraph 3, the .eu Multistakeholder Advisory Group may include one representative of stakeholders established outside the Union.
5. The .eu Multistakeholder Advisory Group shall be chaired by a representative of the Commission or by a person appointed by the Commission. The Commission shall provide secretarial services to the .eu Multistakeholder Advisory Group.

CHAPTER III

FINAL PROVISIONS*Article 15***Reservation of rights**

The Union shall retain all rights relating to the .eu TLD including, in particular, any intellectual property rights or other rights to the Registry databases that are required to ensure the implementation of this Regulation, as well as the right to re-designate the Registry.

*Article 16***Evaluation and review**

1. By 13 October 2027 and every three years thereafter, the Commission shall assess the implementation, effectiveness and functioning of the .eu TLD, based in particular on the information submitted by the Registry pursuant to point (l) of Article 10.
2. By 30 June 2020, the Commission shall assess, taking into account current practice, whether and how the Registry is to cooperate with the EUIPO and other Union agencies with a view to combating speculative and abusive registrations of domain names, and whether and how simple administrative procedures are to be provided for, in particular with regard to SMEs. The Commission may propose further measures in that regard, if necessary.
3. By 13 October 2024, the Commission shall assess the possibility of extending the criteria set out in Article 9 and may, if appropriate, submit a legislative proposal.
4. The Commission shall submit a report to the European Parliament and the Council on the findings of the assessment referred to in paragraphs 1 and 2.

*Article 17***Committee procedure**

1. The Commission shall be assisted by the Communications committee (COCOM) established by Directive (EU) 2018/1972 of the European Parliament and of the Council ⁽¹⁰⁾. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

*Article 18***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 8(1) shall be conferred on the Commission for a period of five years from 18 April 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 8(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 8(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 19***Transitional provisions**

1. Domain name holders that have domain names that were registered pursuant to point (b) of Article 4(2) of Regulation (EC) No 733/2002 shall retain their rights in relation to the existing registered domain names.
2. By 12 October 2021, the Commission shall take the necessary measures to designate an entity as the Registry and to enter into a contract with the Registry pursuant to this Regulation. The contract shall be effective from 13 October 2022.
3. The contract concluded between the Commission and the Registry pursuant to point (c) of Article 3(1) of Regulation (EC) No 733/2002 shall continue to be effective until 12 October 2022.

⁽¹⁰⁾ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

*Article 20***Amendment of Regulation (EC) No 733/2002**

In Article 4(2) of Regulation (EC) No 733/2002, point (b) is replaced by the following:

- ‘(b) register domain names in the .eu TLD through any accredited .eu Registrar requested by:
- (i) a Union citizen, independently of their place of residence;
 - (ii) a natural person who is not a Union citizen and who is a resident of a Member State;
 - (iii) an undertaking that is established in the Union; or
 - (iv) an organisation that is established in the Union, without prejudice to the application of national law.’.

*Article 21***Repeal**

Regulations (EC) No 733/2002 and (EC) No 874/2004 are repealed with effect from 13 October 2022.

*Article 22***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*.

It shall apply from 13 October 2022.

However, Article 20 shall apply from 19 October 2019.

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

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

REGULATION (EU) 2019/518 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the
Union and currency conversion charges

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

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

Whereas:

- (1) Since the adoption of Regulations (EC) No 2560/2001 ⁽⁴⁾ and (EC) No 924/2009 ⁽⁵⁾ of the European Parliament and of the Council, charges for cross-border payments in euro between Member States of the euro area have strongly decreased to levels that are insignificant in the vast majority of cases.
- (2) Cross-border payments in euro from non-euro area Member States however account for around 80 % of all cross-border payments from non-euro area Member States. The charges for such cross-border payments remain excessively high in most non-euro area Member States, even though payment service providers that are located in non-euro area Member States have access to the same efficient infrastructures to process those transactions at very low costs as payment service providers that are located in the euro area.
- (3) High charges for cross-border payments remain a barrier to the full integration of businesses and citizens in non-euro area Member States into the internal market, affecting their competitiveness. Those high charges perpetuate the existence of two categories of payment service users in the Union: payment service users that benefit from the single euro payments area (SEPA), and payment service users that pay high costs for their cross-border payments in euro.
- (4) In order to facilitate the functioning of the internal market and to end the inequalities between payment service users in the euro area and non-euro area Member States in respect of cross-border payments in euro, it is necessary to ensure that charges for cross-border payments in euro within the Union are aligned with charges for corresponding national payments made in the national currency of the Member State in which the payment service provider of the payment service user is located. A payment service provider is considered to be located in the Member State in which it provides its services to the payment service user.
- (5) Currency conversion charges represent a significant cost of cross-border payments when different currencies are in use in the Member State of the payer and the Member State of the payee. Article 45 of Directive (EU) 2015/2366 of the European Parliament and of the Council ⁽⁶⁾ requires charges and the exchange rate used to be transparent, Article 52(3) of that Directive specifies information requirements with regard to payment transactions covered by a framework contract and Article 59(2) of that Directive covers the information

⁽¹⁾ OJ C 382, 23.10.2018, p. 7.

⁽²⁾ OJ C 367, 10.10.2018, p. 28.

⁽³⁾ Position of the European Parliament of 14 February 2019 (not yet published in the Official Journal) and decision of the Council of 4 March 2019.

⁽⁴⁾ Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro (OJ L 344, 28.12.2001, p. 13).

⁽⁵⁾ Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11).

⁽⁶⁾ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

requirements for parties offering currency conversion services at an automated teller machine (ATM) or at the point of sale. Those information requirements have not achieved sufficient transparency and comparability of currency conversion charges in situations in which alternative currency conversion options are offered at an ATM or at the point of sale. That lack of transparency and comparability prevents competition which would reduce currency conversion charges and increases the risk of payers choosing expensive currency conversion options. It is therefore necessary to introduce additional measures in order to protect consumers against excessive charges for currency conversion services and ensure that consumers are given the information they need to choose the best currency conversion option.

- (6) To ensure that market players are not confronted with the need to make a disproportionate level of investment to adapt their payment infrastructure, equipment and processes to provide for increased transparency, the measures to be implemented should be appropriate, adequate and cost-effective. At the same time, in situations in which the payer is confronted with different currency conversion options at an ATM or at the point of sale, the information provided should enable comparison, to allow the payer to make an informed choice.
- (7) To achieve comparability, currency conversion charges for all card-based payments should be expressed in the same way, namely as percentage mark-ups over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). A mark-up might have to be based on a rate derived from two ECB rates in the case of a conversion between two non-euro currencies.
- (8) In accordance with the general information requirements on currency conversion charges laid down in Directive (EU) 2015/2366, providers of currency conversion services must disclose information on their currency conversion charges prior to the initiation of the payment transaction. Parties that offer currency conversion services at an ATM or at the point of sale should provide information on their charges for such services in a clear and accessible manner, for example by displaying their charges at the counter or digitally on the terminal, or on-screen in the case of online purchases. In addition to the information referred to in Article 59(2) of Directive (EU) 2015/2366, those parties should provide, prior to the initiation of the payment, explicit information on the amount to be paid to the payee in the currency used by the payee and the total amount to be paid by the payer in the currency of the payer's account. The amount to be paid in the currency used by the payee should express the price of the goods and services to be bought and might be displayed at the check-out rather than on the payment terminal. The currency used by the payee is in general the local currency, but according to the principal of contractual freedom might in some cases be another Union currency. The total amount to be paid by the payer in the currency of the payer's account should consist of the price of the goods or services and the currency conversion charges. In addition, both amounts should be documented on the receipt or on another durable medium.
- (9) With regard to Article 59(2) of Directive (EU) 2015/2366, where a currency conversion service is offered at an ATM or at the point of sale, it should be possible for the payer to refuse that service and to pay in the currency used by the payee instead.
- (10) In order to enable payers to compare the charges of currency conversion options at an ATM or at the point of sale, the payers' payment service providers should not only include fully comparable information on the applicable charges for currency conversion in the terms and conditions of their framework contract, but should also make that information public on a broadly available and easily accessible electronic platform, in particular on their customer websites, on their home-banking websites and on their mobile banking applications, in an easily understandable and accessible manner. This would cater for the development of comparison websites to make it easier for consumers to compare prices when travelling or shopping abroad. In addition, payers' payment service providers should remind payers about the applicable currency conversion charges when a card-based payment is made in another currency, through the use of broadly available and easily accessible electronic communication channels, such as SMS messages, e-mails or push notifications through the payer's mobile banking application. Payment service providers should agree with payment service users on the electronic communication channel through which they will provide the information on currency conversion charges, taking into consideration the most effective channel for reaching the payer. Payment service providers should also accept requests from payment service users to opt out of receiving the electronic messages containing information on the currency conversion charges.
- (11) Periodic reminders are appropriate in situations in which the payer stays abroad for longer periods of time, for example where the payer is posted or studies abroad, or where the payer regularly uses a card for online purchases in the local currency. An obligation to provide such reminders would not require disproportionate investments to adapt the existing business processes and payment processing infrastructures of the payment service provider, and would ensure that the payer is better informed when considering the different currency conversion options.

- (12) The Commission should submit to the European Parliament, to the Council, to the ECB and to the European Economic and Social Committee a report on the application of the rule equalising the cost of cross-border payments in euro with the cost of national transactions in national currencies and on the effectiveness of the information requirements on currency conversion set out in this Regulation. The Commission should also analyse further possibilities – and the technical feasibility of those possibilities – of extending the equal charges rule to all Union currencies and of further improving the transparency and comparability of currency conversion charges, as well as the possibility of disabling and enabling the option of accepting currency conversion by parties other than the payer's payment service provider.
- (13) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the cross-border nature of the payments, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 924/2009

Regulation (EC) No 924/2009 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. This Regulation lays down rules on cross-border payments and on the transparency of currency conversion charges within the Union.’;

(b) in paragraph 2, the following subparagraph is added:

‘Notwithstanding the first subparagraph of this paragraph, Articles 3a and 3b shall apply to national and cross-border payments that are denominated either in euro or in a national currency of a Member State other than the euro and that involve a currency conversion service.’;

(2) in Article 2, point (9) is replaced by the following:

‘(9) “charge” means any amount levied on a payment service user by a payment service provider that is directly or indirectly linked to a payment transaction, any amount levied on a payment service user by a payment service provider or a party providing currency conversion services in accordance with Article 59(2) of Directive (EU) 2015/2366 of the European Parliament and of the Council (*) for a currency conversion service, or a combination thereof;

(*) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).’;

(3) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in euro shall be the same as the charges levied by that payment service provider for corresponding national payments of the same value in the national currency of the Member State in which the payment service provider of the payment service user is located.’;

(b) the following paragraph is inserted:

‘1a. Charges levied by a payment service provider on a payment service user in respect of cross-border payments in the national currency of a Member State that has notified its decision to extend the application of this Regulation to its national currency in accordance with Article 14 shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the same currency.’;

(c) paragraph 3 is deleted,

(d) paragraph 4 is replaced by the following:

‘4. Paragraphs 1 and 1a shall not apply to currency conversion charges.’;

(4) the following article is inserted:

‘Article 3a

Currency conversion charges related to card-based transactions

1. With regard to the information requirements on currency conversion charges and the applicable exchange rate, as set out in Articles 45(1), 52(3) and 59(2) of Directive (EU) 2015/2366, payment service providers, and parties providing currency conversion services at an automated teller machine (ATM) or at the point of sale, as referred to in Article 59(2) of that Directive, shall express the total currency conversion charges as a percentage mark-up over the latest available euro foreign exchange reference rates issued by the European Central Bank (ECB). That mark-up shall be disclosed to the payer prior to the initiation of the payment transaction.

2. Payment service providers shall also make the mark-ups referred to in paragraph 1 public in a comprehensible and easily accessible manner on a broadly available and easily accessible electronic platform.

3. In addition to the information referred to in paragraph 1, a party providing a currency conversion service at an ATM or at the point of sale shall provide the payer with the following information prior to the initiation of the payment transaction:

(a) the amount to be paid to the payee in the currency used by the payee;

(b) the amount to be paid by the payer in the currency of the payer’s account.

4. A party providing currency conversion services at an ATM or at the point of sale shall clearly display the information referred to in paragraph 1 at the ATM or at the point of sale. Prior to the initiation of the payment transaction, that party shall also inform the payer of the possibility of paying in the currency used by the payee and having the currency conversion subsequently performed by the payer’s payment service provider. The information referred to in paragraphs 1 and 3 shall also be made available to the payer on a durable medium following the initiation of the payment transaction.

5. The payer’s payment service provider shall, for each payment card that was issued to the payer by the payer’s payment service provider and that is linked to the same account, send to the payer an electronic message with the information referred to in paragraph 1, without undue delay after the payer’s payment service provider receives a payment order for a cash withdrawal at an ATM or a payment at the point of sale that is denominated in any Union currency that is different from the currency of the payer’s account.

Notwithstanding the first subparagraph, such a message shall be sent once every month in which the payer’s payment service provider receives from the payer a payment order denominated in the same currency.

6. The payment service provider shall agree with the payment service user on the broadly available and easily accessible electronic communication channel or channels through which the payment service provider will send the message referred to in paragraph 5.

The payment service provider shall offer payment service users the possibility of opting out of receiving the electronic messages referred to in paragraph 5.

The payment service provider and the payment service user may agree that paragraph 5 and this paragraph do not apply in whole or in part where the payment service user is not a consumer.

7. The information referred to in this Article shall be provided free of charge and in a neutral and comprehensible manner.’;

(5) the following article is inserted:

‘Article 3b

Currency conversion charges related to credit transfers

1. When a currency conversion service is offered by the payer’s payment service provider in relation to a credit transfer, as defined in point (24) of Article 4 of Directive (EU) 2015/2366, that is initiated online directly, using the website or the mobile banking application of the payment service provider, the payment service provider, with regard to Articles 45(1) and 52(3) of that Directive, shall inform the payer prior to the initiation of the payment transaction, in a clear, neutral and comprehensible manner, of the estimated charges for currency conversion services applicable to the credit transfer.

2. Prior to the initiation of a payment transaction, the payment service provider shall communicate to the payer, in a clear, neutral and comprehensible manner, the estimated total amount of the credit transfer in the currency of the payer's account, including any transaction fee and any currency conversion charges. The payment service provider shall also communicate the estimated amount to be transferred to the payee in the currency used by the payee.';

(6) Article 15 is replaced by the following:

'Article 15

Review

1. By 19 April 2022, the Commission shall present to the European Parliament, the Council, the ECB and the European Economic and Social Committee a report on the application and impact of this Regulation, which shall contain, in particular:

- (a) an evaluation of the way payment service providers apply Article 3 of this Regulation, as amended by Regulation (EU) 2019/518 of the European Parliament and of the Council (*);
- (b) an evaluation of the development of volumes and charges for national and cross-border payments in national currencies of Member States and in euro since the adoption of Regulation (EU) 2019/518;
- (c) an evaluation of the impact of Article 3 of this Regulation, as amended by Regulation (EU) 2019/518, on the development of currency conversion charges and other charges related to payment services, both to payers and payees;
- (d) an evaluation of the estimated impact of amending Article 3(1) of this Regulation to cover all currencies of Member States;
- (e) an evaluation of how providers of currency conversion services apply the information requirements laid down in Articles 3a and 3b of this Regulation and the national legislation implementing Articles 45(1), 52(3) and 59(2) of Directive (EU) 2015/2366, and whether those rules have enhanced the transparency of currency conversion charges;
- (f) an evaluation of whether and to what extent providers of currency conversion services have faced difficulties with the practical application of Articles 3a and 3b of this Regulation and the national legislation implementing Articles 45(1), 52(3) and 59(2) of Directive (EU) 2015/2366;
- (g) a cost-benefit analysis of communication channels and technologies that are used by, or are available to, providers of currency conversion services and that can further improve the transparency of currency conversion charges, including an evaluation of whether there are certain channels which payment service providers should be required to offer for the sending of the information referred to in Article 3a; that analysis shall also include an assessment of the technical feasibility of disclosing the information in Article 3a(1) and (3) of this Regulation simultaneously, prior to the initiation of each transaction, for all currency conversion options available at an ATM or at the point of sale;
- (h) a cost-benefit analysis of introducing the possibility for payers to block the option of currency conversion offered by a party other than the payer's payment service provider at an ATM or at the point of sale and to change their preferences in this regard;
- (i) a cost-benefit analysis of introducing a requirement for the payer's payment service provider, to apply, when providing currency conversion services in relation to an individual payment transaction, the currency conversion rate applicable at the moment of initiation of the transaction when clearing and settling the transaction.

2. The report referred to in paragraph 1 of this Article shall cover at least the period from 15 December 2019 until 19 October 2021. It shall take account of the specificities of various payment transactions, distinguishing in particular between transactions initiated at an ATM and at the point of sale.

When preparing its report, the Commission may use data collected by Member States in relation to paragraph 1.

(*) Regulation (EU) 2019/518 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EC) No 924/2009 as regards certain charges on cross-border payments in the Union and currency conversion charges (OJ L 91, 29.3.2019, p. 36).'

Article 2

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

2. It shall apply from 15 December 2019, except for the following:
- (a) point (6) of Article 1 shall apply from 18 April 2019;
 - (b) points (4) and (5) of Article 1, as regards Article 3a(1) to (4) and Article 3b of Regulation (EC) No 924/2009, shall apply from 19 April 2020;
 - (c) point (4) of Article 1, as regards Article 3a(5) and (6) of Regulation (EC) No 924/2009, shall apply from 19 April 2021;
 - (d) point (4) of Article 1, as regards Article 3a(7) of Regulation (EC) No 924/2009 insofar as it relates to Article 3a(1) to (4) of that Regulation, shall apply from 19 April 2020;
 - (e) point (4) of Article 1, as regards Article 3a(7) of Regulation (EC) No 924/2009 insofar as it relates to Article 3a(5) and (6) of that Regulation, shall apply from 19 April 2021.

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

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

REGULATION (EU) 2019/519 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
amending Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural
and forestry vehicles
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The descriptions of T1 and T2 category vehicles provided for in Regulation (EU) No 167/2013 of the European Parliament and of the Council ⁽³⁾ require clarification regarding the position of the axle closest to the driver for tractors with a reversible driving position and regarding the method of calculating the height of the centre of gravity. In order to accurately and uniformly establish the height of the centre of gravity for T2 category vehicles, reference should be made to internationally applicable standards which determine the centre of gravity of a tractor.
- (2) An accurate definition of the different features of agricultural tractors based on the analysis of their technical characteristics is of the utmost importance for the correct and complete implementation of this Regulation and of the delegated and implementing acts adopted under it. Considering that discussions on the definitions of the categories take place in the relevant international fora, of which the Union is a party, such work should be taken into account by the Commission to prevent any disproportionate and negative effects on the application of technical requirements and test procedures, as well as any negative impacts for the manufacturers, in particular of highly specialised tractors.
- (3) In Regulation (EU) No 167/2013, it should be made clear that the term ‘interchangeable machinery’ means ‘interchangeable equipment’, thereby ensuring that terminology is used consistently throughout that Regulation.
- (4) In Regulation (EU) No 167/2013, importers are required to retain a copy of the certificate of conformity in respect of products that are not in conformity with that Regulation or which present a serious risk. It should be made clear that what is being referred to is an EU type-approval certificate. That Regulation should therefore be amended to refer to the appropriate document.
- (5) Regulation (EU) No 167/2013 requires that an EU type-approval certificate contains, as an attachment, the test results. It should be made clear that what is being referred to is the test results sheet. That Regulation should therefore be amended to refer to the appropriate attachment.
- (6) Regulation (EU) No 167/2013 empowered the Commission to adopt delegated acts for a period of five years, which expired on 21 March 2018. As there is a continuing need to update various elements of the type-approval process as laid down by that Regulation and the acts adopted pursuant to it, in particular to adapt them to technical progress or to introduce corrections, the period for the exercise of the delegation of power should be extended, with the possibility for further tacit extensions.

⁽¹⁾ OJ C 440, 6.12.2018, p. 104.

⁽²⁾ Position of the European Parliament of 12 February 2019 (not yet published in the Official Journal) and Decision of the Council of 4 March 2019.

⁽³⁾ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

- (7) Regulation (EU) No 167/2013, refers to the repeal of Council Directive 74/347/EEC ⁽⁴⁾ when it should refer instead to the repeal of Directive 2008/2/EC of the European Parliament and of the Council ⁽⁵⁾, which codified the former Directive. It is therefore necessary to amend the relevant reference in Regulation (EU) No 167/2013.
- (8) As this Regulation amends Regulation (EU) No 167/2013 without expanding its regulatory content, and since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (9) Regulation (EU) No 167/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 167/2013

Regulation (EU) No 167/2013 is amended as follows:

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

‘2. This Regulation shall not apply to interchangeable equipment that is fully raised from the ground or that cannot articulate around a vertical axis when the vehicle to which it is attached is in use on a road.’;

- (2) in Article 4, points (2) and (3) are replaced by the following:

‘(2) “category T1” comprises wheeled tractors, with the closest axle to the driver having a minimum track width of not less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg, and with a ground clearance of not more than 1 000 mm; for tractors with a reversible driving position (reversible seat and steering wheel), the closest axle to the driver is the one fitted with the largest diameter tyres;

(3) “category T2” comprises wheeled tractors with a minimum track width of less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg, with a ground clearance of not more than 600 mm; if the height of the centre of gravity of the tractor (determined in accordance with ISO standard 789-6:1982 and measured in relation to the ground) divided by the average minimum track for each axle exceeds 0,90, the maximum design speed shall be restricted to 30 km/h.’;

- (3) in Article 12, paragraph 3 is replaced by the following:

‘3. Importers shall, for a period of 10 years after the placing on the market of the vehicle and for a period of five years after the placing on the market for a system, component or separate technical unit, keep a copy of the EU type-approval certificate at the disposal of the approval and market surveillance authorities and shall ensure that the information package as referred to in Article 24(10) can be made available to those authorities, upon request.’;

- (4) in Article 25(1), point (b) is replaced by the following:

‘(b) the test results sheet’;

- (5) in Article 39(1), the second subparagraph is replaced by the following:

‘The first subparagraph shall apply only to vehicles within the territory of the Union which were covered by a valid EU type-approval at the time of their production, but which had neither been registered nor entered into service before that EU type-approval lost its validity.’;

⁽⁴⁾ Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (OJ L 191, 15.7.1974, p. 5).

⁽⁵⁾ Directive 2008/2/EC of the European Parliament and of the Council of 15 January 2008 on the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (OJ L 24, 29.1.2008, p. 30).

(6) in Article 71, paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 17(5), Article 18(4), Article 19(6), Article 20(8), Article 27(6), Article 28(6), Article 45(4), Article 49(3), Article 53(12), Article 61 and Article 70 shall be conferred on the Commission for a period of five years from 22 March 2013. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegation of power not later than 22 June 2022 and nine months before the end of each subsequent five-year period.’;

(7) in Article 76, paragraph 1 is replaced by the following:

‘1. Without prejudice to Article 73(2) of this Regulation, Directives 76/432/EEC, 76/763/EEC, 77/537/EEC, 78/764/EEC, 80/720/EEC, 86/297/EEC, 86/298/EEC, 86/415/EEC, 87/402/EEC, 2000/25/EC, 2003/37/EC, 2008/2/EC, 2009/57/EC, 2009/58/EC, 2009/59/EC, 2009/60/EC, 2009/61/EC, 2009/63/EC, 2009/64/EC, 2009/66/EC, 2009/68/EC, 2009/75/EC, 2009/76/EC and 2009/144/EC are repealed with effect from 1 January 2016.’.

Article 2

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, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

DIRECTIVES

DIRECTIVE (EU) 2019/520 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 March 2019

on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

- (1) Directive 2004/52/EC of the European Parliament and of the Council ⁽⁴⁾ has been substantially amended. Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (2) It is desirable to achieve widespread deployment of electronic road toll systems in the Member States and in the neighbouring countries, and to have, as far as possible, reliable, user friendly, and cost-efficient systems suited to the future development of road-charging policy at Union level and to future technical developments. Therefore, it is necessary to make electronic road toll systems interoperable to reduce the cost of, and the burdens linked to, the payment of tolls across the Union.
- (3) Interoperable electronic road toll systems contribute to achieving the objectives laid down by Union law on road tolls.
- (4) The lack of interoperability is a significant problem in electronic road toll systems where the road fee due is linked to the distance covered by the vehicle (distance-based tolls) or to the vehicle passing a specific point (for example, cordon pricing). The provisions regarding the interoperability of electronic road toll systems should therefore apply only to those systems and should not apply to systems where the road fee due is linked to the time spent by the vehicle on the tolled infrastructure (for example, time-based systems such as vignettes).
- (5) Cross-border enforcement of the obligation to pay road fees in the Union is a significant problem in all kind of systems, whether distance-based, cordon-based or time-based, electronic or manual. To deal with the problem of cross-border enforcement following a failure to pay a road fee, the provisions regarding the cross-border exchange of information should therefore apply to all those systems.
- (6) In national law, the offence of failing to pay a road fee can be classified as an administrative offence or as a criminal offence. This Directive should apply regardless of the classification of the offence.

⁽¹⁾ OJ C 81, 2.3.2018, p. 181.

⁽²⁾ OJ C 176, 23.5.2018, p. 66.

⁽³⁾ Position of the European Parliament of 14 February 2019 (not yet published in the Official Journal) and decision of the Council of 4 March 2019.

⁽⁴⁾ Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (OJ L 166, 30.4.2004, p. 124).

- (7) Due to the lack of consistent classification across the Union, and their indirect link to the use of the infrastructure, parking fees should be left outside the scope of this Directive.
- (8) The interoperability of electronic road toll systems requires harmonisation of the technology used and of the interfaces between interoperability constituents.
- (9) The harmonisation of technologies and interfaces should be supported by the development and maintenance of appropriate open and public standards, available on a non-discriminatory basis to all system suppliers.
- (10) For the purpose of covering, with their on-board equipment (OBE), the required communication technologies, European Electronic Toll Service (EETS) providers should be allowed to make use of, and link to, other hardware and software systems already present in the vehicle, such as satellite navigation systems or handheld devices.
- (11) The specific characteristics of electronic road toll systems which are currently applied to light-duty vehicles should be taken into account. Since no such electronic road toll systems currently use satellite positioning or mobile communications, EETS providers should be allowed, for a limited period of time, to provide users of light-duty vehicles with OBE suitable for use with 5,8 GHz microwave technology only. This derogation should be without prejudice to the right of Member States to implement satellite-based tolling for light-duty vehicles.
- (12) Toll systems based on automatic number plate recognition (ANPR) technology require more manual checks of toll transactions in the back office than systems using OBE. Systems using OBE are more efficient for large electronic toll domains, and systems using ANPR technology are more suitable for small domains, such as city tolls, where the use of OBE would generate disproportionate costs or administrative burdens. ANPR technology can be useful in particular when combined with other technologies.
- (13) In view of technical developments connected with solutions based on ANPR technology, the standardisation bodies should be encouraged to define the necessary technical standards.
- (14) The specific rights and obligations of EETS providers should apply to entities which prove that they have fulfilled certain requirements and have obtained registration as EETS providers in their Member State of establishment.
- (15) The rights and obligations of the main EETS actors, that is to say, the EETS providers, toll chargers and EETS users, should be clearly defined to ensure that the market functions in a fair and efficient manner.
- (16) It is particularly important to safeguard certain rights of the EETS providers, such as the right to the protection of commercially sensitive data, and to do so without negatively impacting the quality of the services provided to the toll chargers and EETS users. In particular, the toll charger should be required not to disclose commercially sensitive data to any of the EETS provider's competitors. The amount and type of data which EETS providers communicate to toll chargers, for the purpose of calculating and applying tolls or of verifying the calculation of applied toll on the vehicles of EETS users by the EETS providers, should be kept to a strict minimum.
- (17) EETS providers should be required to fully cooperate with toll chargers in their enforcement efforts, so as to increase the overall efficiency of electronic road toll systems. Therefore, toll chargers should be allowed to request from the EETS provider, where a failure to pay a road fee is suspected, data relating to the vehicle and to the owner or holder of the vehicle who is the EETS provider's client, provided that those data are not used for any purpose other than enforcement.
- (18) In order to enable EETS providers to compete, in a non-discriminatory manner, for all clients in a given EETS domain, it is important that the possibility is given to them to become accredited to that domain sufficiently early so that they are able to offer services to the users as of the first day of operation of the toll system.
- (19) Toll chargers should give access to their EETS domain to EETS providers on a non-discriminatory basis.
- (20) To ensure transparency and non-discriminatory access to EETS domains for all EETS providers, toll chargers should publish all the necessary information relating to access rights in an EETS domain statement.

- (21) All OBE user rebates or discounts on tolls offered by a Member State or by a toll charger should be transparent, publicly announced and available under the same conditions to clients of EETS providers.
- (22) EETS providers should be entitled to fair remuneration, calculated based on a transparent, non-discriminatory and identical methodology.
- (23) Toll chargers should be allowed to deduct from the remuneration of EETS providers the appropriate costs incurred to provide, operate and maintain the EETS-specific elements of the electronic road toll system.
- (24) EETS providers should pay to the toll charger all tolls due by their clients. EETS providers should, however, not be liable for tolls that their clients have not paid, when the latter are equipped with an OBE that has been declared to the toll charger as invalidated.
- (25) Where a legal entity that is a toll service provider also plays other roles in an electronic road toll system, or has other activities not directly related to electronic toll collection, it should be required to keep accounting records which make a clear distinction possible between the costs and revenues related to the provision of toll services and the costs and revenues related to other activities, and to provide, upon request, information on those costs and revenues related to the provision of toll services to the relevant Conciliation Body or judicial body. Cross subsidies between the activities performed in the role of toll service provider and other activities should not be allowed.
- (26) Users should have the possibility to subscribe to EETS through any EETS provider, regardless of their nationality, Member State of residence or Member State of registration of the vehicle.
- (27) To avoid double payment and to give users legal certainty, the payment of a toll to an EETS provider should be considered as fulfilling the user's obligations towards the relevant toll charger.
- (28) The contractual relationships between toll chargers and EETS providers should ensure, inter alia, that tolls are paid correctly.
- (29) A mediation procedure should be established with a view to settling disputes between toll chargers and EETS providers during contractual negotiations and in their contractual relationships. National Conciliation Bodies should be consulted by toll chargers and EETS providers who are seeking a settlement of a dispute relating to the right to non-discriminatory access to EETS domains.
- (30) Conciliation Bodies should have the power to verify that the contractual conditions imposed on any EETS provider are non-discriminatory. In particular, they should have the power to verify that the remuneration offered by the toll charger to the EETS providers respects the principles set out in this Directive.
- (31) The traffic data of EETS users constitutes input that is essential for enhancing transport policies of the Member States. Member States should therefore have the possibility to request such data from toll service providers, including EETS providers for the purpose of designing traffic policies and enhancing traffic management or for other non-commercial use by the State, in compliance with applicable data protection rules.
- (32) A framework is needed that lays down the procedures for accrediting EETS providers to an EETS domain and that ensures fair access to the market while safeguarding the adequate level of service. The EETS domain statement should set out in detail the procedure for accrediting an EETS provider to the EETS domain, and in particular the procedure for checking conformity to specifications and suitability for use of interoperability constituents. The procedure should be the same for all EETS providers.
- (33) To ensure easy access to information by EETS market actors, Member States should be required to compile and publish all important data regarding EETS in publicly available national registers.

- (34) To allow for technological progress, it is important that toll chargers have the possibility to test new tolling technologies or concepts. Such tests should however be limited, and EETS providers should not be required to take part in them. The Commission should have the possibility of not authorising such tests if they could prejudice the correct functioning of the regular electronic road toll system or of the EETS.
- (35) Large differences in technical specifications of electronic road toll systems might hamper the achievement of EU-wide interoperability of electronic tolls, and thus contribute to the persistence of the current situation where users need several pieces of OBE to pay tolls in the Union. This situation is detrimental to the efficiency of transport operations, to the cost-efficiency of toll systems, and to the achievement of transport policy objectives. The issues underlying this situation should therefore be addressed.
- (36) While cross-border interoperability is improving throughout the Union, the mid- to long-term objective is to make it possible to travel across the Union with only one piece of OBE. Therefore, in order to avoid administrative burdens and costs for road users, it is important that the Commission set up a roadmap to achieve this objective, and to facilitate the free movement of people and goods in the Union, without negatively affecting competition on the market.
- (37) The EETS is a market-based service and therefore EETS providers should not be obliged to provide their services across the Union. However, in the interest of users, EETS providers should cover all EETS domains in any Member State in which they decide to provide their services. Furthermore, the Commission should assess whether the flexibility given to EETS providers leads to the exclusion from EETS of small or peripheral EETS domains, and, if it finds that it does, take action where necessary.
- (38) The EETS domain statement should describe in detail the framework commercial conditions for EETS providers' operations in the EETS domain in question. In particular, it should describe the methodology used for calculating the remuneration of EETS providers.
- (39) Where a new electronic road toll system is being launched or an existing system is being substantially modified, the toll charger should publish the new or updated EETS domain statements with sufficient notice to allow EETS providers to be accredited or re-accredited to the system at the latest one month before the day of its operational launch. The toll charger should design and follow the procedure for the accreditation or, respectively, re-accreditation of EETS providers in such a way that the procedure can be concluded at the latest one month before the operational launch of the new or substantially modified system. Toll chargers should respect their part of the planned procedure as defined in the EETS domain statement.
- (40) Toll chargers should not request or require from EETS providers any specific technical solutions which could jeopardise interoperability with other EETS domains and with the existing interoperability constituents of the EETS provider.
- (41) The EETS has the potential to considerably reduce the administrative costs and burdens of international road transport operators and drivers.
- (42) EETS providers should be allowed to issue invoices to EETS users. However, toll chargers should be allowed to request that invoices are sent on their behalf and in their name, since invoicing directly in the name of the EETS provider can, in certain EETS domains, have adverse administrative and tax implications.
- (43) Each Member State with at least two EETS domains should designate a contact office for EETS providers wishing to provide the EETS in its territory in order to facilitate their contacts with the toll chargers.
- (44) Electronic tolling and other services, such as cooperative ITS (C-ITS) applications use similar technologies and neighbouring frequency bands for short range vehicle-to-vehicle and vehicle-to-infrastructure communication. In the future, the potential for applying other emerging technologies to electronic tolling merits exploration, after a thorough assessment of the costs, benefits, technical barriers and possible solutions thereto. It is important that measures are implemented to protect existing investments in the 5,8 GHz microwave technology from the interference of other technologies.
- (45) Without prejudice to State aid and competition law, Member States should be allowed to develop measures to promote electronic toll collection and billing.

- (46) When standards relevant for the EETS are reviewed by the standardisation bodies, there should be appropriate transition arrangements to ensure the continuity of the EETS and the compatibility, with the toll systems, of interoperability constituents already in use at the moment of the revision of the standards.
- (47) The EETS should allow intermodality to develop, whilst pursuing compliance with the ‘user pays’ and ‘polluter pays’ principles.
- (48) Problems with identifying non-resident offenders to electronic road toll systems hamper further deployment of such systems and the wider application of the ‘user pays’ and ‘polluter pays’ principles on Union roads and therefore there is a need to find a way to identify such persons and to process their personal data.
- (49) For reasons of consistency and efficient use of resources, the system for exchanging information on those who fail to pay a road fee, and on their vehicles, should use the same tools as the system that is used for exchanging information on road-safety-related traffic offences provided for in Directive (EU) 2015/413 of the European Parliament and of the Council ⁽⁵⁾.
- (50) In certain Member States a failure to pay a road fee is established only once the obligation to pay the road fee has been notified to the user. Since this Directive does not harmonise national laws in this regard, Member States should have the possibility to apply this Directive to identify users and vehicles for the purpose of notification. However, such extended application should be allowed only if certain conditions are fulfilled.
- (51) Follow-up proceedings initiated after a failure to pay a road fee are not harmonised across the Union. Often, the identified road user is given the possibility of paying the road fee due, or a fixed substitute amount, directly to the entity responsible for levying the road fee, before any further administrative or criminal proceedings are initiated by Member State authorities. It is important that such efficient procedure to put an end to the failure to pay a road fee is available on similar terms to all road users. For this purpose, Member States should be allowed to provide the entity responsible for levying the road fee with the data necessary to identify the vehicle in respect of which there was a failure to pay a road fee and to identify its owner or holder, provided that proper protection of personal data is ensured. In this context, Member States should ensure that compliance with the payment order issued by the entity concerned puts an end to the failure to pay a road fee.
- (52) In certain Member States, the absence, or dysfunctioning, of OBE is regarded as a failure to pay a road fee where such fees can only be paid by using OBE.
- (53) Member States should provide the Commission with the information and data necessary to evaluate the effectiveness and efficiency of the system for exchanging information on those who fail to pay a road fee. The Commission should assess the data and information obtained, and propose, if necessary, amendments to this Directive.
- (54) While analysing possible measures to further facilitate the cross-border enforcement of the obligation to pay road fees in the Union, the Commission should also assess in its report the need for mutual assistance between Member States.
- (55) The enforcement of the obligation to pay road fees, the identification of the vehicle and of the owner or holder of the vehicle for which a failure to pay a road fee was established and the collection of information on the user for the purpose of ensuring the compliance of the toll charger with its obligations to tax authorities all entail the processing of personal data. Such processing needs to be carried out in accordance with Union rules, as set out, *inter alia*, in Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁶⁾, Directive (EU) 2016/680 of the European Parliament and of the Council ⁽⁷⁾ and Directive 2002/58/EC of the European Parliament and of the Council ⁽⁸⁾. The right to protection of personal data is explicitly recognised by Article 8 of the Charter of Fundamental Rights of the European Union.

⁽⁵⁾ Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences (OJ L 68, 13.3.2015, p. 9).

⁽⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽⁷⁾ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

⁽⁸⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

- (56) This Directive does not affect the Member States' freedom to lay down rules governing road infrastructure charging and taxation matters.
- (57) In order to facilitate the cross-border exchange of information on the vehicles and owners or holders of vehicles for which there was a failure to pay road fees, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the amendment of Annex I to reflect changes in the Union law. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission also in respect of laying down the details for the classification of vehicles for the purposes of establishing the applicable tariff schemes, further defining the obligations of the EETS users regarding the provision of data to the EETS provider and the use and handling of the OBE, laying down the requirements for interoperability constituents regarding safety and health, reliability and availability, environment protection, technical compatibility, security and privacy and operation and management, laying down the general infrastructure requirements for interoperability constituents and laying down the minimum criteria of eligibility for notified bodies. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (58) The implementation of this Directive requires uniform conditions for the application of technical and administrative specifications for the deployment, in the Member States, of procedures that involve EETS actors and the interfaces between them, so as to facilitate interoperability and ensure that national toll collection markets are governed by equivalent rules. In order to ensure uniform conditions for the implementation of this Directive and to define those technical and administrative specifications, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹⁰⁾.
- (59) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex III, Part B.
- (60) This Directive respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably the protection of personal data.
- (61) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽¹¹⁾,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Directive lays down the conditions necessary for the following purposes:
- (a) to ensure the interoperability of electronic road toll systems on the entire Union road network, urban and interurban motorways, major and minor roads, and various structures, such as tunnels or bridges, and ferries; and
 - (b) to facilitate the cross-border exchange of vehicle registration data regarding the vehicles and the owners or holders of vehicles for which there was a failure to pay road fees of any kind in the Union.

In order to respect the principle of subsidiarity, this Directive shall apply without prejudice to the decisions taken by Member States to levy road fees on particular types of vehicles, and to determine the level of those fees and the purpose for which such fees are levied.

⁽⁹⁾ OJ L 123, 12.5.2016, p. 1.

⁽¹⁰⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽¹¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

2. Articles 3 to 22 do not apply to:
 - (a) road toll systems which are not electronic within the meaning of point 10 of Article 2; and
 - (b) small, strictly local road toll systems for which the costs of compliance with the requirements of Articles 3 to 22 would be disproportionate to the benefits.
3. This Directive does not apply to parking fees.
4. The objective of the interoperability of electronic road toll systems in the Union shall be achieved by means of the European Electronic Toll Service (EETS) which shall be complementary to the national electronic toll services of the Member States.
5. Where the national law requires a notification to the user of the obligation to pay before a failure to pay a road fee can be established, Member States may also apply this Directive to identify the owner or the holder of the vehicle and the vehicle itself for notification purposes, only if all the following conditions are fulfilled:
 - (a) there are no other means to identify the owner or holder of the vehicle; and
 - (b) the notification to the owner or holder of the vehicle of the obligation to pay is a compulsory stage of the road fee payment procedure under national law.
6. Where a Member State applies paragraph 5, it shall take the measures necessary to ensure that any follow-up proceedings in relation to the obligation to pay the road fee are pursued by public authorities. References to failure to pay a road fee in this Directive shall include cases covered by paragraph 5 if the Member State where the failure to pay takes place, applies that paragraph.

Article 2

Definitions

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

- (1) 'toll service' means the service that enables users to use a vehicle in one or more EETS domains under a single contract and, where necessary, with one piece of on-board equipment (OBE), and which includes:
 - (a) where necessary, providing a customised OBE to users and maintaining its functionality;
 - (b) guaranteeing that the toll charger is paid the toll due by the user;
 - (c) providing to the user the means by which the payment is to be made or accepting an existing one;
 - (d) collecting the toll from the user;
 - (e) managing customer relations with the user; and
 - (f) implementing and adhering to the security and privacy policies for the road toll systems;
- (2) 'toll service provider' means a legal entity providing toll services on one or more EETS domains for one or more classes of vehicles;
- (3) 'toll charger' means a public or private entity which levies tolls for the circulation of vehicles in an EETS domain;
- (4) 'designated toll charger' means a public or private entity which has been appointed as the toll charger in a future EETS domain;
- (5) 'European Electronic Toll Service (EETS)' means the toll service provided under a contract on one or more EETS domains by an EETS provider to an EETS user;
- (6) 'EETS provider' means an entity which, under a separate contract, grants access to EETS to an EETS user, transfers the tolls to the relevant toll charger, and which is registered by its Member State of establishment;
- (7) 'EETS user' means a natural or legal person who has a contract with an EETS provider in order to have access to the EETS;
- (8) 'EETS domain' means a road, a road network, a structure, such as a bridge or a tunnel, or a ferry, where tolls are collected using an electronic road toll system;

- (9) 'EETS compliant system' means the set of elements of an electronic road toll system which are specifically needed for the integration of EETS providers in the system and for the operation of EETS;
- (10) 'electronic road toll system' means a toll collection system in which the obligation, for the user, to pay the toll is exclusively triggered by and linked to the automatic detection of the presence of the vehicle in a certain location through remote communication with OBE in the vehicle or automatic number plate recognition;
- (11) 'on-board equipment (OBE)', means the complete set of hardware and software components to be used as part of the toll service which is installed or carried on board a vehicle in order to collect, store, process and remotely receive/transmit data, either as a separate device or embedded in the vehicle;
- (12) 'main service provider' means a toll service provider with specific obligations, such as the obligation to sign contracts with all interested users, or specific rights, such as specific remuneration or a guaranteed long term contract, different from the rights and obligations of other service providers;
- (13) 'interoperability constituent' means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into EETS upon which the interoperability of the service depends directly or indirectly, including both tangible objects and intangible objects such as software;
- (14) 'suitability for use' means the ability of an interoperability constituent to achieve and maintain a specified performance when in service, integrated representatively into EETS in relation with a toll charger's system;
- (15) 'toll context data' means the information defined by the responsible toll charger as necessary to establish the toll due for circulating a vehicle on a particular toll domain and conclude the toll transaction;
- (16) 'toll declaration' means a statement to a toll charger that confirms the presence of a vehicle in an EETS domain in a format agreed between the toll service provider and the toll charger;
- (17) 'vehicle classification parameters' means the vehicle related information in accordance with which tolls are calculated based on the toll context data;
- (18) 'back office' means the central electronic system used by the toll charger, a group of toll chargers who have created an interoperability hub, or by the EETS provider to collect, process and send information in the framework of an electronic road toll system;
- (19) 'substantially modified system' means an existing electronic road toll system that has undergone or undergoes a change which requires EETS providers to make modifications to the interoperability constituents that are in operation, such as reprogramming or adapting the interfaces of their back office, to such an extent that re-accreditation is required;
- (20) 'accreditation' means the process defined and managed by the toll charger, which an EETS provider must undergo before it is authorised to provide the EETS in an EETS domain;
- (21) 'toll' or 'road fee' means the fee which must be paid by the road user for circulating on a given road, a road network, a structure, such as a bridge or a tunnel, or a ferry;
- (22) 'failure to pay a road fee' means the offence consisting of the failure by a road user to pay a road fee in a Member State, defined by the relevant national provisions of that Member State;
- (23) 'Member State of registration' means the Member State where the vehicle which is subject to the payment of the road fee is registered;
- (24) 'national contact point' means a designated competent authority of a Member State for the cross-border exchange of vehicle registration data;
- (25) 'automated search' means an online access procedure for consulting the databases of one, more than one, or all of the Member States;
- (26) 'vehicle' means a motor vehicle, or articulated vehicle combination intended or used for the carriage by road of passengers or goods;
- (27) 'holder of the vehicle' means the person in whose name the vehicle is registered, as defined in the law of the Member State of registration;
- (28) 'heavy-duty vehicle' means a vehicle having a maximum permissible mass exceeding 3,5 tonnes;
- (29) 'light-duty vehicle' means a vehicle having a maximum permissible mass not exceeding 3,5 tonnes.

*Article 3***Technological solutions**

1. All new electronic road toll systems which require the installation or use of OBE shall, for carrying out electronic toll transactions, use one or more of the following technologies:

- (a) satellite positioning;
- (b) mobile communications;
- (c) 5,8 GHz microwave technology.

Existing electronic road toll systems which require the installation or use of OBE and use other technologies shall comply with the requirements set out in the first subparagraph of this paragraph if substantial technological improvements are carried out.

2. The Commission shall request the relevant standardisation bodies, in accordance with the procedure laid down by Directive (EU) 2015/1535 of the European Parliament and of the Council ⁽¹²⁾ to swiftly adopt standards applicable to electronic road toll systems with regard to the technologies listed in the first subparagraph of paragraph 1 and the ANPR technology, and to update them where necessary. The Commission shall request that the standardisation bodies ensure the continual compatibility of interoperability constituents.

3. OBE which uses satellite positioning technology and is placed on the market after 19 October 2021 shall be compatible with the positioning services provided by the Galileo and the European Geostationary Navigation Overlay Service ('EGNOS') systems.

4. Without prejudice to paragraph 6, EETS providers shall make available to EETS users OBE which is suitable for use, interoperable and capable of communicating with the relevant electronic road toll systems in service in the Member States using the technologies listed in the first subparagraph of paragraph 1.

5. The OBE may use its own hardware and software, use elements of other hardware and software present in the vehicle, or both. For the purpose of communicating with other hardware systems present in the vehicle, the OBE may use technologies other than those listed in the first subparagraph of paragraph 1, provided that security, quality of service and privacy are ensured.

EETS OBE is allowed to facilitate services other than tolling, provided that the operation of such services does not interfere with the toll services in any EETS domain.

6. Without prejudice to the right of Member States to introduce electronic road toll systems for light-duty vehicles based on satellite positioning or mobile communications, EETS providers may until 31 December 2027 provide users of light-duty vehicles with OBE suitable for use with 5,8 GHz microwave technology only, to be used in EETS domains which do not require satellite positioning or mobile communications technologies.

CHAPTER II**GENERAL PRINCIPLES OF EETS***Article 4***Registration of EETS providers**

Each Member State shall establish a procedure for registering EETS providers. It shall grant the registration to entities which are established on its territory, which request registration and which can demonstrate that they fulfil the following requirements:

- (a) hold EN ISO 9001 certification or equivalent;
- (b) have the technical equipment and the EC declaration or certificate attesting the conformity of the interoperability constituents to specifications;
- (c) have competence in the provision of electronic toll services or in other relevant domains;
- (d) have appropriate financial standing;
- (e) maintain a global risk management plan, which is audited at least every two years; and
- (f) are of good repute.

⁽¹²⁾ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

Article 5

Rights and obligations of EETS providers

1. Member States shall take the measures necessary to ensure that EETS providers whom they have registered conclude EETS contracts covering all EETS domains on the territories of at least four Member States within the 36 months following their registration in accordance with Article 4. They shall take the measures necessary to ensure that those EETS providers conclude contracts covering all EETS domains in a given Member State within the 24 months following the conclusion of the first contract in that Member State, except for those EETS domains in which the responsible toll chargers do not comply with Article 6(3).
2. Member States shall take the measures necessary to ensure that EETS providers whom they have registered maintain at all times the coverage of all EETS domains once they have concluded contracts therefor. They shall take the measures necessary to ensure that, where an EETS provider is not able to maintain coverage of an EETS domain because the toll charger does not comply with this Directive, it re-establishes the coverage of the concerned domain as soon as possible.
3. Member States shall take the measures necessary to ensure that EETS providers whom they have registered publish information on their EETS domains coverage and any changes thereto, as well as, within one month of registration, detailed plans regarding any extension of their service to further EETS domains, with annual updates.
4. Member States shall take the measures necessary to ensure that, where necessary, EETS providers whom they have registered, or who provide the EETS on their territory, provide EETS users with OBE which fulfils the requirements set out in this Directive, as well as in Directives 2014/53/EU ⁽¹³⁾ and 2014/30/EU ⁽¹⁴⁾ of the European Parliament and of the Council. They may request from concerned EETS providers evidence that those requirements are fulfilled.
5. Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory keep lists of invalidated OBE related to their EETS contracts with the EETS users. They shall take the measures necessary to ensure that such lists are maintained in strict compliance with the Union rules on the protection of personal data as set out, inter alia, in Regulation (EU) 2016/679 and Directive 2002/58/EC.
6. Member States shall take the measures necessary to ensure that EETS providers whom they registered make public their contracting policy towards EETS users.
7. Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory provide toll chargers with the information they need to calculate and apply the toll on the vehicles of EETS users or provide toll chargers with all information necessary to allow them to verify the calculation of applied toll on the vehicles of EETS users by the EETS providers.
8. Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory cooperate with toll chargers in their efforts to identify suspected offenders. Member States shall take the measures necessary to ensure that, where a failure to pay a road fee is suspected, the toll charger is able to obtain, from the EETS provider, the data relating to the vehicle involved in the suspected failure to pay a road fee and to the owner or holder of that vehicle who is a client of the EETS provider. Such data shall be made available instantly by the EETS provider.

Member States shall take the measures necessary to ensure that the toll charger does not disclose such data to any other toll service provider. They shall take the measures necessary to ensure that, where the toll charger is integrated with a toll service provider in one entity, the data are used for the sole purpose of identifying suspected offenders, or in accordance with Article 27(3).

9. Member States shall take the measures necessary to ensure that a toll charger responsible for an EETS domain on their territory is able to obtain, from an EETS provider, data relating to all vehicles owned or held by clients of the EETS provider, which have, in a given period of time, driven on the EETS domain for which the toll charger is responsible, as well as data relating to the owners or holders of these vehicles, provided that the toll charger needs this data to comply with its obligations to tax authorities. Member States shall take the measures necessary to ensure that the EETS provider

⁽¹³⁾ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

⁽¹⁴⁾ Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

provides the requested data no later than two days after receiving the request. They shall take the measures necessary to ensure that the toll charger does not disclose such data to any other toll service provider. They shall take the measures necessary to ensure that, where the toll charger is integrated with a toll service provider in one entity, the data are used for the sole purpose of compliance by the toll charger with its obligations to tax authorities.

10. The data provided by EETS providers to toll chargers shall be processed in compliance with Union rules on the protection of personal data as set out in Regulation (EU) 2016/679, as well as with the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and (EU) 2016/680.

11. The Commission shall adopt implementing acts, at the latest by 19 October 2019, to further define the obligations of the EETS providers regarding:

- (a) monitoring the performance of their service level, and cooperation with toll chargers in verification audits;
- (b) cooperation with toll chargers in the performance of toll chargers' systems' tests;
- (c) service and technical support to EETS users and personalisation of OBE;
- (d) the invoicing of EETS users;
- (e) the information which EETS providers must provide to toll chargers and which is referred to in paragraph 7; and
- (f) informing the EETS user of a detected toll non-declaration situation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 6

Rights and obligations of toll chargers

1. Where an EETS domain does not comply with the technical and procedural EETS interoperability conditions provided for in this Directive, the Member State on whose territory the EETS domain lies shall take the measures necessary to ensure that the responsible toll charger assesses the problem with the stakeholders concerned and, if within its sphere of responsibilities, takes remedial actions with a view to ensuring EETS interoperability of the toll system. Where necessary, the Member State shall update the register referred to in Article 21(1) in respect of the information referred to in point (a) thereof.

2. Each Member State shall take the measures necessary to ensure that any toll charger responsible for an EETS domain on the territory of that Member State develops and maintains an EETS domain statement setting out the general conditions for EETS providers for accessing their EETS domains, in accordance with the implementing acts referred to in paragraph 9.

Where a new electronic road toll system is created on the territory of a Member State, that Member State shall take the measures necessary to ensure that the designated toll charger responsible for the system publishes the EETS domain statement with sufficient notice to allow for an accreditation of interested EETS providers at the latest one month before the operational launch of the new system, with due regard to the length of the process of assessment of conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 15(1).

Where an electronic road toll system on the territory of a Member State is substantially modified, that Member State shall take the measures necessary to ensure that the toll charger responsible for the system publishes the updated EETS domain statement with sufficient notice to allow already accredited EETS providers to adapt their interoperability constituents to the new requirements and to obtain re-accreditation at the latest one month before the operational launch of the modified system, giving due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 15(1).

3. Member States shall take the measures necessary to ensure that toll chargers responsible for EETS domains on their territory accept on a non-discriminatory basis any EETS provider requesting to provide EETS on the said EETS domains.

Acceptance of an EETS provider in a EETS domain shall be subject to the provider's compliance with the obligations and general conditions set out in the EETS domain statement.

Member States shall take the measures necessary to ensure that toll chargers do not require EETS providers to use specific technical solutions, or processes, that hinder the interoperability of an EETS provider's interoperability constituents with electronic road toll systems in other EETS domains.

If a toll charger and an EETS provider cannot reach an agreement, the matter may be referred to the Conciliation Body responsible for the relevant toll domain.

4. Each Member State shall take the measures necessary to ensure that the contracts between the toll charger and the EETS provider, regarding the provision of EETS on the territory of that Member State, permit the invoice for the toll to be issued to the EETS user directly by the EETS provider.

The toll charger may require that the EETS provider invoices the user in the name and on behalf of the toll charger, and the EETS provider shall comply with that request.

5. The toll charged by toll chargers to EETS users shall not exceed the corresponding national or local toll. This is without prejudice to the right of Member States to introduce rebates or discounts to promote the use of electronic toll payments. All OBE user rebates or discounts on tolls offered by a Member State or by a toll charger shall be transparent, publicly announced and available under the same conditions to clients of EETS providers.

6. Member States shall take the measures necessary to ensure that toll chargers accept on their EETS domains any operational OBE from EETS providers with whom they have contractual relationships which have been certified in accordance with the procedure defined in the implementing acts referred to in Article 15(7) and which do not appear on a list of invalidated OBE referred to in Article 5(5).

7. In the event of an EETS dysfunction attributable to the toll charger, the toll charger shall provide for a degraded mode of service enabling vehicles with the equipment referred to in paragraph 6 to circulate safely with a minimum of delay and without being suspected of a failure to pay a road fee.

8. Member States shall take the measures necessary to ensure that toll chargers collaborate in a non-discriminatory way with EETS providers or manufacturers or notified bodies with a view to assessing the suitability for use of interoperability constituents on their EETS domains.

9. The Commission shall adopt implementing acts, at the latest by 19 October 2019, to lay down the minimum content of the EETS domain statement, including:

- (a) the requirements for EETS providers;
- (b) the procedural conditions, including commercial conditions;
- (c) the procedure of accreditation of EETS providers; and
- (d) the toll context data.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 7

Remuneration

1. Member States shall take the measures necessary to ensure that EETS providers are entitled to be remunerated by the toll charger.

2. Member States shall take the measures necessary to ensure that the methodology for defining the remuneration of the EETS providers is transparent, non-discriminatory and identical for all EETS providers accredited to a given EETS domain. They shall take the measures necessary to ensure that the methodology is published as part of the commercial conditions in the EETS domain statement.

3. Member States shall take the measures necessary to ensure that in EETS domains with a main service provider, the methodology for calculating the remuneration of EETS providers follows the same structure as the remuneration of comparable services provided by the main service provider. The amount of remuneration of EETS providers may differ from the remuneration of the main service provider provided that it is justified by:

- (a) the cost of specific requirements and obligations of the main service provider and not of the EETS providers; and
- (b) the need to deduct, from the remuneration of EETS providers, the fixed charges imposed by the toll charger based on the costs, for the toll charger, of providing, operating and maintaining an EETS compliant system in its toll domain, including the costs of accreditation, where such costs are not included in the toll.

*Article 8***Tolls**

1. Member States shall take the measures necessary to ensure that where, for the purpose of establishing the toll tariff applicable to a given vehicle, there is discrepancy between the vehicle classification used by the EETS provider and the toll charger, the toll charger's classification prevails, unless an error can be demonstrated.
2. Member States shall take the measures necessary to ensure that the toll charger is entitled to require, from an EETS provider, payment for any substantiated toll declaration and any substantiated toll non-declaration relating to any EETS user account managed by that EETS provider.
3. Member States shall take the measures necessary to ensure that, where an EETS provider has sent to a toll charger a list of invalidated OBE referred to in Article 5(5), the EETS provider shall not be held liable for any further toll incurred through the use of such invalidated OBE. The number of entries in the list of invalidated OBE, the list's format and its updating frequency shall be agreed between toll chargers and EETS providers.
4. Member States shall take the measures necessary to ensure that, in microwave-based toll systems, toll chargers communicate to EETS providers substantiated toll declarations for tolls incurred by their respective EETS users.
5. The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to lay down the details for the classification of vehicles for the purposes of establishing the applicable tariff schemes, including any procedures necessary for establishing such schemes. The set of vehicle classification parameters to be supported by EETS shall not restrict the choice of tariff schemes by toll chargers. The Commission shall ensure sufficient flexibility to allow the set of classification parameters to be supported by EETS to evolve according to foreseeable future needs. Those acts shall be without prejudice to the definition, in Directive 1999/62/EC of the European Parliament and of the Council ⁽¹⁵⁾, of the parameters according to which tolls shall vary.

*Article 9***Accounting**

Member States shall take the measures necessary to ensure that legal entities which provide toll services keep accounting records which make a clear distinction possible between the costs and revenues related to the provision of toll services and the costs and revenues related to other activities. The information on the costs and revenues related to the toll service provision shall be provided, upon request, to the relevant Conciliation Body or judicial body. Member States shall also take the measures necessary to ensure that cross subsidies between the activities performed in the role of toll service provider and other activities are not allowed.

*Article 10***Rights and obligations of EETS users**

1. Member States shall take the measures necessary to allow EETS users to subscribe to EETS through any EETS provider, regardless of their nationality, Member State of residence or the Member State in which the vehicle is registered. When entering into a contract, EETS users shall be duly informed about valid means of payment and, in accordance with Regulation (EU) 2016/679, about the processing of their personal data and the rights stemming from applicable legislation on the protection of personal data.
2. The payment of a toll by an EETS user to its EETS provider shall be deemed to fulfil the EETS user's payment obligations to the relevant toll charger.

If two or more OBE are installed or carried on-board a vehicle, it is the responsibility of the EETS user to use or activate the relevant OBE for the specific EETS domain.

3. The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to further define the obligations of the EETS users regarding:

- (a) the provision of data to the EETS provider; and
- (b) the use and handling of the OBE.

⁽¹⁵⁾ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p. 42).

CHAPTER III

CONCILIATION BODY*Article 11***Establishment and functions**

1. Each Member State with at least one EETS domain shall designate or establish a Conciliation Body in order to facilitate mediation between toll chargers with an EETS domain located within its territory and EETS providers that have contracts or are in contractual negotiations with those toll chargers.
2. The Conciliation Body shall be empowered, in particular, to verify that the contractual conditions imposed by a toll charger on EETS providers are non-discriminatory. It shall be empowered to verify that the EETS providers are remunerated in accordance with the principles provided for in Article 7.
3. The Member States referred to in paragraph 1 shall take the measures necessary to ensure that their Conciliation Body is independent, in its organisation and legal structure, from the commercial interests of toll chargers and toll service providers.

*Article 12***Mediation procedure**

1. Each Member State with at least one EETS domain shall lay down a mediation procedure in order to enable a toll charger or an EETS provider to request the relevant Conciliation Body to intervene in any dispute relating to their contractual relations or negotiations.
2. The mediation procedure referred to in paragraph 1 shall require that the Conciliation Body states, within a period of one month following the receipt of a request for it to intervene, whether all documents necessary for the mediation are in its possession.
3. The mediation procedure referred to in paragraph 1 shall require that the Conciliation Body issues its opinion on a dispute no later than six months after receipt of the request for it to intervene.
4. In order to facilitate its tasks, Member States shall give the Conciliation Body the power to request relevant information from toll chargers, EETS providers and any third parties active in the provision of EETS within the Member State concerned.
5. The Member States with at least one EETS domain and the Commission shall take the measures necessary to ensure the exchange of information between the Conciliation Bodies concerning their work, guiding principles and practices.

CHAPTER IV

TECHNICAL PROVISIONS*Article 13***Single continuous service**

Member States shall take the measures necessary to ensure that EETS is provided to EETS users as a single continuous service.

This means that:

- (a) once the vehicle classification parameters, including the variable ones, have been stored or declared, or both, no further in-vehicle human intervention is required during a journey unless there is a modification to the vehicle's characteristics; and
- (b) human interaction with a particular piece of OBE stays the same whatever the EETS domain.

*Article 14***Additional elements regarding EETS**

1. Member States shall take the measures necessary to ensure that the interaction of EETS users with toll chargers as part of EETS is limited, where applicable, to the invoicing process in accordance with Article 6(4) and to enforcement processes. Interactions between EETS users and EETS providers, or their OBE, may be specific to each EETS provider, without compromising EETS interoperability.

2. Member States may require that toll service providers, including EETS providers, at the request of the Member States authorities, provide traffic data in respect of their clients, subject to compliance with the applicable data protection rules. Such data shall only be used by the Member States for the purpose of traffic policies and enhancing traffic management and the data shall not be used to identify the clients.

3. The Commission shall adopt, at the latest by 19 October 2019, implementing acts laying down the specifications of electronic interfaces between the interoperability constituents of toll chargers, EETS providers and EETS users, including, where applicable, the content of the messages exchanged between the actors through those interfaces. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 15

Interoperability constituents

1. Where a new electronic road toll system is created on the territory of a Member State, that Member State shall take the measures necessary to ensure that the designated toll charger responsible for the system establishes and publishes in the EETS domain statement the detailed planning of the process of assessment of conformity to specifications and of the suitability for use of interoperability constituents, which allows for the accreditation of interested EETS providers at the latest one month before the operational launch of the new system.

Where an electronic road toll system on the territory of a Member State is substantially modified, that Member State shall take the measures necessary to ensure that the toll charger responsible for the system establishes and publishes in the EETS domain statement, in addition to the elements referred to in the first subparagraph, the detailed planning of the re-assessment of conformity to specifications and of the suitability for use of the interoperability constituents of EETS providers already accredited to the system before its substantial modification. The planning shall allow for the re-accreditation of concerned EETS providers at the latest one month before the operational launch of the modified system.

The toll charger shall respect that planning.

2. Member States shall take the measures necessary to ensure that each toll charger responsible for an EETS domain on the territory of that Member States sets up a test environment in which the EETS provider or its authorised representatives can check that its OBE is suitable for use in the toll charger's EETS domain and obtain certification of the successful completion of the respective tests. Member States shall take the measures necessary to allow toll chargers to set up a single test environment for more than one EETS domain, and to allow one authorised representative to check the suitability for use of one type of OBE on behalf of more than one EETS provider.

Member States shall take the measures necessary to allow toll chargers to require EETS providers or their authorised representatives to cover the cost of the respective tests.

3. Member States shall not prohibit, restrict or hinder the placing on the market of interoperability constituents for use in EETS where they bear the CE marking or either a declaration of conformity to specifications or a declaration of suitability for use, or both. In particular, Member States shall not require checks which have already been carried out as part of the procedure for checking conformity to specifications or suitability for use, or both.

4. The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to lay down the requirements for interoperability constituents regarding safety and health, reliability and availability, environment protection, technical compatibility, security and privacy and operation and management.

5. The Commission shall also adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to lay down the general infrastructure requirements regarding:

- (a) the accuracy of toll declaration data with a view to guaranteeing equality of treatment between EETS users in respect of tolls and charges;
- (b) the identification, through the OBE, of the responsible EETS provider;
- (c) the use of open standards for the interoperability constituents of the EETS equipment;
- (d) the integration of the OBE in the vehicle; and
- (e) the signalisation, to the driver, of the requirement to pay a road fee.

6. The Commission shall adopt implementing acts, at the latest by 19 October 2019, to lay down the following specific infrastructure requirements:

- (a) requirements on common communication protocols between toll chargers and EETS providers equipment;
- (b) requirements on mechanisms for toll chargers to detect whether a vehicle circulating on their EETS domain is equipped with a valid and functioning OBE;
- (c) requirements on the human-machine interface in the OBE;
- (d) requirements applying specifically to interoperability constituents in microwave technologies-based toll systems; and
- (e) requirements applying specifically in Global Navigation Satellite System (GNSS)-based toll systems.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

7. The Commission shall adopt implementing acts, at the latest by 19 October 2019, to lay down the procedure to be applied by the Member States for assessing the conformity to specifications and suitability for use of interoperability constituents, including the content and format of the EC declarations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

CHAPTER V

SAFEGUARD CLAUSES

Article 16

Safeguard procedure

1. Where a Member State has reason to believe that interoperability constituents bearing a CE marking and placed on the market are unlikely, when used as intended, to meet the relevant requirements, it shall take all necessary steps to restrict their field of application, prohibit their use or withdraw them from the market. The Member State shall immediately inform the Commission of the measures taken and give the reasons for its decision, stating in particular whether failure to conform is due to:

- (a) incorrect application of technical specifications; or
- (b) inadequacy of technical specifications.

2. The Commission shall consult the concerned Member State, manufacturer, EETS provider or their authorised representatives established within the Union as quickly as possible. Where, following that consultation, the Commission establishes that the measure is justified, it shall immediately inform the Member State concerned as well as the other Member States. However, where, following that consultation, the Commission establishes that the measure is unjustified, it shall immediately inform the Member State concerned, as well as the manufacturer or its authorised representative established within the Union and the other Member States.

3. Where interoperability constituents bearing the CE marking fail to comply with interoperability requirements, the competent Member State shall require the manufacturer or its authorised representative established in the Union to restore the interoperability constituent to a state of conformity to specifications or suitability for use, or both, under the conditions laid down by that Member State and shall inform the Commission and the other Member States thereof.

Article 17

Transparency of assessments

Any decision taken by a Member State or a toll charger concerning the assessment of conformity to specifications or suitability for use of interoperability constituents and any decision taken pursuant to Article 16 shall set out in detail the reasons on which it is based. It shall be notified as soon as possible to the concerned manufacturer, EETS provider or their authorised representatives, together with an indication of the remedies available under the laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

CHAPTER VI

ADMINISTRATIVE ARRANGEMENTS

Article 18

Single contact office

Each Member State with at least two EETS domains on its territory shall designate a single contact office for EETS providers. The Member State shall make public the contact details of that office, and provide them, upon request, to interested EETS providers. The Member State shall take the measures necessary to ensure that, upon request of the EETS provider, the contact office facilitates and coordinates early administrative contacts between the EETS provider and the toll chargers responsible for the EETS domains on the territory of the Member State. The contact office may be a natural person or a public or a private body.

Article 19

Notified bodies

1. Member States shall notify to the Commission and the other Member States any bodies entitled to carry out or supervise the procedure for the assessment of conformity to specifications or suitability for use referred to in the implementing acts referred to in Article 15(7), indicating each body's area of competence, and the identification numbers obtained in advance from the Commission. The Commission shall publish in the *Official Journal of the European Union* the list of bodies, their identification numbers and areas of competence, and shall keep the list updated.
2. Member States shall apply the criteria provided for in the delegated acts referred to in paragraph 5 of this Article for the assessment of the bodies to be notified. Bodies meeting the assessment criteria provided for in the relevant European standards shall be deemed to meet the said criteria.
3. A Member State shall withdraw approval from a body which no longer meets the criteria provided for in the delegated acts referred to in paragraph 5 of this Article. It shall immediately inform the Commission and the other Member States thereof.
4. Where a Member State or the Commission considers that a body notified by another Member State does not meet the criteria provided for in the delegated acts referred to in paragraph 5 of this Article, the matter shall be referred to the Electronic Toll Committee referred to in Article 31(1), which shall deliver its opinion within three months. In the light of the opinion of that Committee, the Commission shall inform the Member State which notified the body in question of any changes that are necessary for the notified body to retain the status conferred upon it.
5. The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to lay down the minimum criteria of eligibility for notified bodies.

Article 20

Coordination Group

A Coordination Group of the bodies notified under Article 19(1) (the 'Coordination Group') shall be set up as a working group of the Electronic Toll Committee referred to in Article 31(1), in accordance with that Committee's Rules of Procedure.

Article 21

Registers

1. For the purposes of the implementation of this Directive, each Member State shall keep a national electronic register of the following:
 - (a) the EETS domains within their territory, including information relating to:
 - (i) the corresponding toll chargers;
 - (ii) the tolling technologies employed;
 - (iii) the toll context data;
 - (iv) the EETS domain statement; and
 - (v) the EETS providers having EETS contracts with the toll chargers active in the territory of that Member State;
 - (b) the EETS providers to whom it has granted registration in accordance with Article 4; and
 - (c) the details of the single contact office referred to in Article 18 for EETS including a contact email address and telephone number.

Unless otherwise specified, Member States shall verify at least once a year that the requirements set out in points (a), (d), (e) and (f) of Article 4 are still met, and shall update the register accordingly. The register shall also contain the conclusions of the audit provided for in point (e) of Article 4. A Member State shall not be held liable for the actions of the EETS providers mentioned in its register.

2. Member States shall take the measures necessary to ensure that all the data contained in the national electronic register are kept up-to-date and are accurate.
3. The registers shall be electronically accessible to the public.
4. These registers shall be available as of 19 October 2021.
5. At the end of each calendar year, the Member States authorities in charge of the registers shall communicate, to the Commission, by electronic means, the registers of EETS domains and EETS providers. The Commission shall make the information available to the other Member States. Any inconsistencies with the situation in a Member State shall be brought to the attention of the Member State of registration and of the Commission.

CHAPTER VII

PILOT SYSTEMS

Article 22

Pilot toll systems

1. To allow for EETS technical development, Member States may temporarily authorise, on limited parts of their toll domain and in parallel with the EETS compliant system, pilot toll systems incorporating new technologies or concepts which do not comply with one or more provisions of this Directive.
2. EETS providers shall not be required to participate in pilot toll systems.
3. Before starting a pilot toll system, the Member State concerned shall request the authorisation of the Commission. The Commission shall issue the authorisation or refuse it, in the form of a Decision, within six months from the moment it received the request. The Commission may refuse the authorisation if the pilot toll system could prejudice the correct functioning of the regular electronic road toll system or of the EETS. The initial period of such authorisation shall not exceed three years.

CHAPTER VIII

EXCHANGE OF INFORMATION ON THE FAILURE TO PAY ROAD FEES

Article 23

Procedure for the exchange of information between Member States

1. In order to allow the identification of the vehicle, and the owner or holder of that vehicle, for which a failure to pay a road fee has been established, each Member State shall grant access only to other Member States' national contact points to the following national vehicle registration data, with the power to conduct automated searches thereon:
 - (a) data relating to vehicles; and
 - (b) data relating to the owners or holders of the vehicle.

The data elements referred to in points (a) and (b) which are necessary in order to conduct an automated search shall comply with Annex I.

2. For the purposes of the exchange of data referred to in paragraph 1, each Member State shall designate a national contact point. Member States shall take the measures necessary to ensure that the exchange of information between Member States takes place only between the national contact points. The powers of the national contact points shall be governed by the applicable law of the Member State concerned. In that data exchange process, particular attention shall be paid to the proper protection of personal data.
3. When conducting an automated search in the form of an outgoing request, the national contact point of the Member State in whose territory there was a failure to pay a road fee shall use a full registration number.

Those automated searches shall be conducted in compliance with the procedures referred to in points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA ⁽¹⁶⁾ and with the requirements of Annex I to this Directive.

⁽¹⁶⁾ Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

The Member State in whose territory there was a failure to pay a road fee shall use the data obtained in order to establish who is liable for the failure to pay that fee.

4. Member States shall take the measures necessary to ensure that the exchange of information is carried out using the European Vehicle and Driving Licence Information System (Eucaris) software application and amended versions of this software, in compliance with Annex I to this Directive and with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA.

5. Each Member State shall bear its own costs arising from the administration, use and maintenance of the software applications referred to in paragraph 4.

Article 24

Information letter on the failure to pay a road fee

1. The Member State in whose territory there was a failure to pay a road fee shall decide whether or not to initiate follow-up proceedings in relation to the failure to pay a road fee.

Where the Member State in whose territory there was a failure to pay a road fee decides to initiate such proceedings, that Member State shall, in accordance with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of failing to pay the road fee.

This information shall, as applicable under national law, include the legal consequences thereof within the territory of the Member State in which there was a failure to pay a road fee under the law of that Member State.

2. When sending the information letter to the owner, the holder of the vehicle or to the otherwise identified person suspected of failing to pay the road fee, the Member State in whose territory there was a failure to pay a road fee shall, in accordance with its national law, include any relevant information, notably the nature of the failure to pay the road fee, the place, date and time of the failure to pay the road fee, the title of the texts of the national law infringed, the right to appeal and to have access to information, and the sanction and, where appropriate, data concerning the device used for detecting the failure to pay a road fee. For that purpose, the Member State in whose territory there was a failure to pay a road fee shall base the information letter on the template set out in Annex II.

3. Where the Member State in whose territory there was a failure to pay a road fee decides to initiate follow-up proceedings in relation to the failure to pay a road fee, it shall, for the purpose of ensuring the respect of fundamental rights, send the information letter in the language of the registration document of the vehicle, if available, or in one of the official languages of the Member State of registration.

Article 25

Follow-up proceedings by the levying entities

1. The Member State on whose territory there was a failure to pay a road fee may provide to the entity responsible for levying the road fee the data obtained through the procedure referred to in Article 23(1) only if the following conditions are met:

- (a) the data transferred is limited to what is needed by that entity to obtain the road fee due;
- (b) the procedure for obtaining the road fee due complies with the procedure provided for in Article 24;
- (c) the entity concerned is responsible for carrying out this procedure; and
- (d) compliance with the payment order issued by the entity receiving the data puts an end to the failure to pay a road fee.

2. Member States shall ensure that the data provided to the responsible entity are used solely for the purpose of obtaining the road fee due and is immediately deleted once the road fee is paid or, if the failure to pay persists, within a reasonable period after the transfer of the data, to be set by the Member State.

Article 26

Reporting by Member States to the Commission

Each Member State shall send a comprehensive report to the Commission by 19 April 2023 and every three years thereafter.

The comprehensive report shall indicate the number of automated searches conducted by the Member State in whose territory there was a failure to pay a road fee addressed to the national contact point of the Member State of registration, following failures to pay road fees that occurred on its territory, together with the number of failed requests.

The comprehensive report shall also include a description of the situation at national level in relation to the follow-up concerning the failures to pay road fees, based on the proportion of such failures to pay road fees which have been followed up by information letters.

Article 27

Data protection

1. Regulation (EU) 2016/679 and the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and (EU) 2016/680 shall apply to personal data processed under this Directive.
2. Member States shall, in accordance with applicable data protection legislation, take the measures necessary, to ensure that:
 - (a) the processing of personal data for the purposes of Articles 23, 24 and 25 is limited to the types of data listed in Annex I to this Directive;
 - (b) personal data are accurate, kept up-to date and requests for rectification or erasure are handled without undue delay; and
 - (c) a time limit is established for the storage of personal data.

Member States shall take the measures necessary to ensure that personal data processed under this Directive are used only for the purposes of:

- (a) identification of suspected offenders in view of the obligation to pay road fees within the scope of Article 5(8);
- (b) ensuring the compliance of the toll charger as regards its obligations to tax authorities within the scope of Article 5(9); and
- (c) identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a road fee has been established within the scope of Articles 23 and 24.

Member States shall also take the measures necessary to ensure that the data subjects have the same rights of information, access, rectification, erasure and restriction of processing, and to lodge a complaint with a data protection supervisory authority, compensation and an effective judicial remedy as provided for in Regulation (EU) 2016/679 or, where applicable, Directive (EU) 2016/680.

3. This Article shall not affect the possibility of Member States to restrict the scope of the obligations and rights provided for in certain provisions of Regulation (EU) 2016/679 in accordance with Article 23 of that Regulation for the purposes listed in the first paragraph of that Article.

4. Any person concerned shall have the right to obtain, without undue delay, information on which personal data recorded in the Member State of registration were transmitted to the Member State in which there was a failure to pay a road fee, including the date of the request and the competent authority of the Member State in whose territory there was a failure to pay a road fee.

CHAPTER IX

FINAL PROVISIONS

Article 28

Report

1. By 19 April 2023, the Commission shall present a report to the European Parliament and to the Council on the implementation and effects of this Directive, in particular as regards the advancement and deployment of the EETS and the effectiveness and efficiency of the mechanism for the exchange of data in the framework of the investigation of events of failure to pay road fees.

The report shall analyse in particular the following:

- (a) the effect of Article 5(1) and (2) on the deployment of EETS, with a particular focus on the availability of the service in small or peripheral EETS domains;
- (b) the effectiveness of Articles 23, 24 and 25 on the reduction in the number of failures to pay road fees in the Union; and
- (c) the progress made on interoperability aspects between electronic road toll systems using satellite positioning and 5,8 GHz microwave technology.

2. The report shall be accompanied, if appropriate, by a proposal to the European Parliament and the Council for further revision of this Directive, regarding notably the following elements:

- (a) additional measures to ensure that the EETS is available in all EETS domains, including small and peripheral ones;
- (b) measures to further facilitate the cross-border enforcement of the obligation to pay road fees in the Union, including mutual assistance arrangements; and
- (c) the extension of the provisions facilitating cross-border enforcement to low emission zones, restricted access zones or other urban vehicle access regulation schemes.

Article 29

Delegated acts

The Commission is empowered to adopt delegated acts, in accordance with Article 30, updating Annex I to take into account any relevant amendments to be made to Council Decisions 2008/615/JHA ⁽¹⁷⁾ and 2008/616/JHA or where this is required by any other relevant legal acts of the Union.

Article 30

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 8(5), Article 10(3), Article 15(4) and (5), Article 19(5) and Article 29 shall be conferred on the Commission for a period of five years from 18 April 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 8(5), Article 10(3), Article 15(4) and (5), Article 19(5) and Article 29 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 8(5), Article 10(3), Article 15(4) and (5), Article 19(5) and Article 29 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 31

Committee procedure

1. The Commission shall be assisted by the Electronic Toll Committee.

That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

⁽¹⁷⁾ Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

*Article 32***Transposition**

1. Member States shall adopt and publish, by 19 October 2021, the laws, regulations and administrative provisions necessary to comply with Articles 1 to 27 and Annexes I and II. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from 19 October 2021.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 33***Repeal**

Directive 2004/52/EC is repealed with effect from 20 October 2021, without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex III, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex IV.

*Article 34***Entry into force**

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

*Article 35***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

ANNEX I

Data elements necessary to conduct the automated search referred to in Article 23(1)

Item	M/O ⁽¹⁾	Remarks
Data relating to the vehicle	M	
Member State of registration	M	
Registration number	M	(A ⁽²⁾)
Data relating to the failure to pay a road fee	M	
Member State in whose territory there was a failure to pay a road fee	M	
Reference date of the occurrence	M	
Reference time of the occurrence	M	

⁽¹⁾ M = mandatory when available in national register, O = optional.

⁽²⁾ Harmonised Union code, see Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57).

Data elements provided as a result of the automated search conducted pursuant to Article 23(1)

Part I. Data relating to vehicles

Item	M/O ⁽¹⁾	Remarks
Registration number	M	
Chassis number/VIN	M	
Member State of registration	M	
Make	M	(D.1 ⁽²⁾) e.g. Ford, Opel, Renault
Commercial type of the vehicle	M	(D.3) e.g. Focus, Astra, Megane
EU Category Code	M	(J) e.g. mopeds, motorbikes, cars
Euro emissions class	M	e.g. Euro 4, Euro 6

⁽¹⁾ M = mandatory when available in national register, O = optional.

⁽²⁾ Harmonised Union code, see Directive 1999/37/EC.

Part II. Data relating to owners or holders of the vehicles

Item	M/O ⁽¹⁾	Remarks
Data relating to holders of the vehicle		(C.1 ⁽²⁾) The data refer to the holder of the specific registration certificate.
Registration holders' (company) name	M	(C.1.1) Separate fields shall be used for surname, infixes, titles, etc., and the name in printable format shall be communicated.

Item	M/O ⁽¹⁾	Remarks
First name	M	(C.1.2) Separate fields for first name(s) and initials shall be used, and the name in printable format shall be communicated.
Address	M	(C.1.3) Separate fields shall be used for street, house number and annex, post code, place of residence, country of residence, etc., and the address in printable format shall be communicated.
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
Data relating to owners of the vehicle		(C.2) The data refer to the owner of the vehicle.
Owners' (company) name	M	(C.2.1)
First name	M	(C.2.2)
Address	M	(C.2.3)
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
		In case of scrap vehicles, stolen vehicles or number plates, or out-dated vehicle registration no owner/holder information shall be provided. Instead, the message 'Information not disclosed' shall be returned.

⁽¹⁾ M = mandatory when available in national register, O = optional.

⁽²⁾ Harmonised Union code, see Directive 1999/37/EC.

ANNEX II

TEMPLATE FOR THE INFORMATION LETTER
referred to in Article 24

[Cover page]

.....

.....

[Name, address and telephone number of sender]

.....

.....

[Name and address of addressee]

INFORMATION LETTER

regarding the failure to pay a road fee occurred in

[name of the Member State in whose territory there was
a failure to pay a road fee]

Page 2

On a failure to pay a road fee with the vehicle with registration
[date]

number make model

was detected by

[name of the responsible body]

[Option 1] ⁽¹⁾

You are registered as the holder of the registration certificate of the abovementioned vehicle.

[Option 2] ⁽¹⁾

The holder of the registration certificate of the abovementioned vehicle indicated that you were driving that vehicle when the failure to pay a road fee was committed.

The relevant details of the failure to pay a road fee are described on page 3 below.

The amount of the financial penalty due for the failure to pay a road fee is EUR/national currency. ⁽¹⁾

The amount of the road fee due to pay is EUR/national currency. ⁽¹⁾

Deadline for the payment is

You are advised to complete the attached reply form (page 4) and send it to the address shown, if you do not pay this financial penalty ⁽¹⁾/road fee ⁽¹⁾.

This letter shall be processed in accordance with the national law of

[name of the Member State in whose territory there was a failure to pay a road fee].

Relevant details concerning the failure to pay a road fee

- (a) Data concerning the vehicle which was used in the failure to pay a road fee:

Registration number:

Member State of registration:

Make and model

- (b) Data concerning the failure to pay a road fee:

Place, date and time where the failure to pay a road fee occurred:

.....
.....
.....
.....

Nature and legal classification of the failure to pay a road fee:

.....
.....
.....
.....

Detailed description of the failure to pay a road fee:

.....
.....

Reference to the relevant legal provision(s):

.....
.....

Description of or reference to the evidence regarding the failure to pay a road fee:

.....
.....

- (c) Data concerning the device that was used for detecting the failure to pay a road fee ⁽²⁾:

Specification of the device:

.....
.....

Identification number of the device:

.....
.....

Expiry date for the last gauging:

.....
.....

⁽¹⁾ Delete if not applicable.

⁽²⁾ Not applicable if no device has been used.

Page 4

Reply form

(please complete using block capitals)

A. Identity of the driver:

— Full name:

.....

— Place and date of birth:

.....

— Number of driving licence: delivered (date): and at (place):

— Address:

.....

B. List of questions:

1. Is the vehicle, make, registration number, registered in your name? yes/no ⁽¹⁾

If not, the holder of the registration certificate is:

.....
 (name, first name, address)

2. Do you acknowledge that you failed to pay a road fee? yes/no ⁽¹⁾

3. If you do not acknowledge this, please explain why:

.....

Please send the completed form within 60 days from the date of this information letter to the following authority or entity:

at the following address

INFORMATION

(Where the information letter is sent by the entity responsible for levying the road fee pursuant to Article 25):

If the road fee due is not paid within the deadline set out in this information letter, this case will be forwarded to and examined by the competent authority of

[name of the Member State in whose territory there was a failure to pay a road fee].

If this case is not pursued, you will be informed within 60 days after receipt of the reply form or the proof of payment. ⁽¹⁾

/

(Where the information letter is sent by the competent authority of the Member State):

This case will be examined by the competent authority of

[name of the Member State in whose territory there was a failure to pay a road fee].

If this case is not pursued, you will be informed within 60 days after receipt of the reply form or the proof of payment. ⁽¹⁾

⁽¹⁾ Delete if not applicable.

If this case is pursued, the following procedure applies:

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

[to be filled in by the Member State in whose territory there was a failure to pay a road fee – what the further procedure will be, including details of the possibility and procedure of appeal against the decision to pursue the case. These details shall in any event include: name and address of the authority or entity in charge of pursuing the case; deadline for payment; name and address of the body of appeal concerned; deadline for appeal].

This letter as such does not lead to legal consequences.

Data protection disclaimer

[Where Regulation (EU) 2016/679 is applicable:

In accordance with Regulation (EU) 2016/679, you have the right to request access to, and rectification or erasure of, personal data or restriction of processing of your personal data or to object to the processing, as well as the right to data portability. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].

[Where Directive (EU) 2016/680 is applicable:

In accordance with [name of the national law applying Directive (EU) 2016/680], you have the right to request from the controller access to and rectification or erasure of personal data and restriction of processing of your personal data. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].

ANNEX III

PART A

Repealed Directive with the amendment thereto

(referred to in Article 33)

Directive 2004/52/EC of the European Parliament and of the Council	OJ L 166, 30.4.2004, p. 124.
Regulation (EC) No 219/2009 of the European Parliament and of the Council	OJ L 87, 31.3.2009, p. 109.

PART B

Time-limit for transposition into national law

(referred to in Article 33)

Directive	Time-limit for transposition
Directive 2004/52/EC	20 November 2005

ANNEX IV

Correlation Table

Directive 2004/52/EC	This Directive
Article 1(1)	Article 1(1), first subparagraph (a)
—	Article 1(1), first subparagraph (b)
Article 3(2), first sentence	Article 1(1), second subparagraph
Article 1(2), introductory wording	Article 1(2), introductory wording
Article 1(2)(a)	Article 1(2)(a)
Article 1(2)(b)	—
Article 1(2)(c)	Article 1(2)(b)
—	Article 1(3)
Article 1(3)	Article 1(4)
—	Article 1(5)
—	Article 1(6)
—	Article 2
Article 2(1)	Article 3(1), first subparagraph
—	Article 3(1), second subparagraph
Article 2(2), first sentence	—
Article 4(7)	Article 3(2)
—	Article 3(3)
Article 2(2), second and third sentence	Article 3(4)
Article 2(2), fourth sentence	—
—	Article 3(5)
—	Article 3(6)
Article 2(3)	—
Article 2(4)	—
Article 2(5)	—
Article 2(6)	—
Article 2(7)	Article 27
Article 3(1)	—
Article 3(2), first sentence	Article 1(1), second subparagraph
Article 3(2), second sentence	—
Article 3(2), third sentence	—
Article 3(3)	—
Article 3(4)	—
Article 4(1)	—
Article 4(2)	—
Article 4(3)	—
Article 4(4)	—
Article 4(5)	—
Article 4(7)	Article 3(2)
Article 4(8)	Article 5(4)
—	Article 23
—	Article 24
—	Article 26
Article 2(7)	Article 27
—	Article 28
—	Article 29
—	Article 30

Directive 2004/52/EC	This Directive
Article 5	Article 31
Article 6	Article 32(1)
—	Article 32(2)
—	Article 33
Article 7	Article 34
Article 8	Article 35
Annex	—
—	Annex I
—	Annex II
—	Annex III
—	Annex IV

CORRIGENDA**Corrigendum to Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services**

(Official Journal of the European Union L 173 of 9 July 2018)

On page 22, Article 1, point (2)(c), second subparagraph, second sentence:

for: 'The employer shall, without prejudice to point (h) of the first subparagraph of paragraph 1, reimburse the posted worker for such expenditure in accordance with the national law and/or practice applicable to the employment relationship.'

read: 'The employer shall, without prejudice to point (i) of the first subparagraph of paragraph 1, reimburse the posted worker for such expenditure in accordance with the national law and/or practice applicable to the employment relationship.'

