

Official Journal of the European Union

L 366



English edition

Legislation

Volume 63

4 November 2020

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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2020/1625

of 25 August 2020

amending Delegated Regulation (EU) 2019/2035 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 118(1) and (2) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down rules for the prevention and control of diseases which are transmissible to animals or humans, including, inter alia, rules for establishments keeping terrestrial animals and hatcheries, and for the traceability of certain kept terrestrial animals and hatching eggs within the Union. It also empowers the Commission to adopt rules to supplement certain non-essential elements of that Regulation by means of delegated acts.
- (2) Commission Delegated Regulation (EU) 2019/2035 ⁽²⁾ lays down supplementing rules for registered and approved establishments for kept terrestrial animals and hatching eggs, and for the traceability of certain kept terrestrial animals and hatching eggs. In particular Title II of Part III of that Delegated Regulation lays down rules concerning the traceability of kept ovine and caprine animals, including obligations on operators as regards the means and methods of identification of those animals.
- (3) In addition, Article 46 of Delegated Regulation (EU) 2019/2035 provides for certain derogations from the traceability requirements for kept ovine and caprine animals laid down in Article 45 of that act. This includes the possibility for operators keeping ovine and caprine animals less than 12 months old to identify their animals by means of a single electronic eartag with a visible display of the unique registration number and identification code, where those animals are intended to be transported to a slaughterhouse in the same Member State, after undergoing an assembly operation or a fattening operation. After the adoption of Delegated Regulation (EU) 2019/2035, the Commission received various comments from certain stakeholders and Member States concerning the potential implications of applying that derogation which was considered too cumbersome for sheep and goat breeders, particularly taking into account the low market price obtained by those breeders for animals slaughtered for human consumption. Taking into account the considerations laid down in Article 118(3) of Regulation (EU) 2016/429, a

⁽¹⁾ OJ L 84, 31.3.2016, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2019/2035 of 28 June 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for establishments keeping terrestrial animals and hatcheries, and the traceability of certain kept terrestrial animals and hatching eggs (OJ L 314, 5.12.2019, p. 115).

conventional ear tag or a conventional pastern band could be regarded as ensuring a sufficient level of traceability when young kept ovine and caprine animals from different establishments of origin are moved, after a fattening operation, to a slaughterhouse. Also, a sufficient level of traceability can only be ensured if such movements are recorded in a single database, and therefore take place within the same Member State, which is also a requirement for most of the other derogations provided for in Article 46 of Delegated Regulation (EU) 2019/2035.

- (4) Taking into account those considerations, it is appropriate to amend Regulation (EU) 2019/2035 by adding an additional derogation for young kept ovine and caprine animals so that disproportionate burdens and costs are not imposed on operators, while at the same time ensuring the traceability of kept ovine and caprine animals and the smooth functioning of the identification and registration system for those animals.
- (5) Moreover, Article 108 of Regulation (EU) 2016/429 requires Member States to have in place a system for the identification and registration of kept terrestrial animals, including kept ovine and caprine animals. That system should have established procedures for its proper functioning, including for the management of derogations, which are applied in the Member States. In order to avoid any risk to animal health, and to ensure the traceability of kept ovine and caprine animals, when certain derogations provided for in Article 46 of Regulation (EU) 2019/2035 are applied, there should be an obligation on Member States to establish procedures regarding the application of such derogations.
- (6) As Delegated Regulation (EU) 2019/2035 applies from 21 April 2021, this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2035 is amended as follows:

- (1) in Article 45(4), point (a) is replaced by the following:

‘(a) one of the means of identification referred to in paragraph 2 of this Article, in accordance with the derogations provided for in Article 46;’

- (2) in Article 46, the following paragraph 5 is added:

‘5. By way of derogation from Article 45(2), operators keeping ovine and caprine animals intended to be transported to a slaughterhouse after undergoing a fattening operation in another establishment may identify each animal at least by a conventional ear tag or a conventional pastern band as listed in points (a) and (b) of Annex III with a visible, legible and indelible display of either the unique registration number of the establishment of birth of the animal, or the identification code of the animal, provided that those animals:

- (a) are not intended to be moved to another Member State;

and

- (b) are slaughtered before the age of 12 months.’

- (3) in Article 48(4), the following point (c) is added:

‘(c) operators for the application of the derogations provided for in Article 46(4) and (5).’

Article 2

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

It shall apply from 21 April 2021.

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

Done at Brussels, 25 August 2020.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION REGULATION (EU) 2020/1626**of 27 October 2020****establishing a fisheries closure for alfonsinos in Union and international waters of 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14 for vessels flying the flag of Portugal**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) 2018/2025 ⁽²⁾ lays down quotas for 2020.
- (2) According to the information received by the Commission, catches of the stock of alfonsinos in Union and international waters of 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14 by vessels flying the flag of or registered in Portugal have exhausted the quota allocated for 2020.
- (3) It is therefore necessary to prohibit certain fishing activities for that stock,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to Portugal for the stock of alfonsinos in Union and international waters of 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14 for 2020 referred to in the Annex shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

1. Fishing for the stock referred to in Article 1 by vessels flying the flag of or registered in Portugal shall be prohibited from the date set out in the Annex. In particular it shall be prohibited to search for fish, shoot, set or haul a fishing gear for the purpose of fishing that stock.
2. Transshipping, retaining on board, processing on board, transferring, caging, fattening and landing of fish and fishery products from that stock caught by those vessels shall remain authorised for catches taken prior to that date.
3. Unintended catches of species from that stock by those vessels shall be brought and retained on board the fishing vessels, recorded, landed and counted against quotas in accordance with Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾.

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Council Regulation (EU) 2018/2025 of 17 December 2018 fixing for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks (OJ L 325, 20.12.2018, p. 7).

⁽³⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

*Article 3***Entry into force**

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

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

Done at Brussels, 27 October 2020.

*For the Commission,
On behalf of the President,
Virginijus SINKEVIČIUS
Member of the Commission*

ANNEX

No	29/TQ2025
Member State	Portugal
Stock	ALF/3X14-
Species	Alfonsinos (<i>Beryx</i> spp.)
Zone	Union and international waters of 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14
Closing date	15.10.2020

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1627**of 3 November 2020****on exceptional measures for the third reference period (2020-2024) of the single European sky performance and charging scheme due to the COVID-19 pandemic**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽¹⁾, and in particular Article 11(6) thereof,

Having regard to Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) ⁽²⁾, and in particular Article 15(4) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2019/317 ⁽³⁾ sets out the detailed rules and procedures for the implementation of the performance and charging scheme, including the performance of air navigation services and network functions as well as the determination, imposition and enforcement of air navigation charges to airspace users.
- (2) The COVID-19 pandemic has led to a sharp drop in air traffic as a result of a significant fall in demand and direct measures taken by the Member States as well as third countries to contain the outbreak of the pandemic. The extraordinary circumstances caused by the COVID-19 pandemic have a significant impact on the current processes and measures for the implementation of the performance and charging scheme in the third reference period 2020-2024 ('RP3'), including the setting of performance targets and unit rates as well as the application of incentive schemes and risk sharing mechanisms. That has created an exceptional situation which needs to be addressed with specific temporary measures.
- (3) Member States have submitted to the Commission their draft performance plans for RP3 by 1 October 2019, as well as subsequent updated draft performance plans by 21 November 2019. Pursuant to Article 11(3) of Regulation (EC) No 549/2004, the Commission carried out an assessment of the consistency of those draft performance plans with the Union-wide performance targets set out in Commission Implementing Decision (EU) 2019/903 ⁽⁴⁾. However, both the draft performance plans and the Union-wide performance targets were drawn up before the outbreak of the COVID-19 pandemic and hence do not take account of the resulting significantly changed circumstances for air transport.
- (4) Because of the significant, unprecedented impact of the COVID-19 pandemic on the aviation sector, and in particular on the provision of air navigation services, certain rules derogating from Implementing Regulation (EU) 2019/317 should apply for the purpose of RP3. Implementing Regulation (EU) 2019/317 should apply to that reference period unless the present Regulation specifically provides for otherwise. Likewise, this Regulation should not affect adjustments to unit rates originating from the second reference period and based on Commission Implementing Regulation (EU) No 391/2013 ⁽⁵⁾.
- (5) Given the uncertainties about traffic evolution subsequent to the outbreak of the COVID-19 pandemic, sufficiently robust traffic forecasts for the years until 2024 are not so far available. It is therefore necessary to provide for special rules for the setting of revised Union-wide performance targets for RP3 to ensure the continued implementation of this reference period. Reassurances have been received as to the publication of an updated

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

⁽²⁾ OJ L 96, 31.3.2004, p. 10.

⁽³⁾ Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (OJ L 56, 25.2.2019, p. 1).

⁽⁴⁾ Commission Implementing Decision (EU) 2019/903 of 29 May 2019 setting the Union-wide performance targets for the air traffic management network for the third reference period starting on 1 January 2020 and ending on 31 December 2024 (OJ L 144, 3.6.2019, p. 49).

⁽⁵⁾ Commission Implementing Regulation (EU) No 391/2013 of 3 May 2013 laying down a common charging scheme for air navigation services (OJ L 128, 9.5.2013, p. 31).

STATFOR traffic forecast for RP3 in early November 2020. This traffic forecast will provide the basis for initiating the revision of the Union-wide performance targets for RP3. Considering the time constraints, the setting of those revised targets should exceptionally not be subject to all the processes and time limits set out in Article 9(1) and (2) of Implementing Regulation (EU) 2019/317. In order to enable the Commission to set the revised targets, national supervisory authorities should provide the Commission with initial cost data and information about traffic forecasts for the relevant calendar years by 15 December 2020, as inputs for the setting of the revised Union-wide performance targets for RP3. The Commission should adopt the revised Union-wide performance targets for RP3 not later than 1 May 2021.

- (6) Upon the setting of revised Union-wide performance targets by the Commission for RP3, Member States should establish performance plans containing revised performance targets for RP3. The process for performance target setting at national or functional airspace block level should be completed only after the revised Union-wide performance targets have been adopted. A new time limit for submission of draft performance plans should be set accordingly.
- (7) Since the circumstances caused by the COVID-19 pandemic have led to an unavoidable delay in the procedures related to the development, assessment and adoption of performance plans, having regard to the criteria set out in Article 11 of Regulation (EC) No 549/2004 the cost-efficiency performance targets contained in the final version of the performance plans should have a retroactive effect from the beginning of the reference period, in accordance with Article 17(2) of Implementing Regulation (EU) 2019/317. They should however only produce effects through unit rate adjustments in subsequent calendar years.
- (8) The Network Manager submitted to the Commission, in September 2019, a draft Network Performance Plan for RP3 in accordance with Article 19 of Implementing Regulation (EU) 2019/317. The Commission assessed the Network Performance Plan in accordance with Article 19(2) of that Regulation. Because of the material change of circumstances caused by the impact of the COVID-19 pandemic, which occurred after the submission of the draft Network Performance Plan, the Network Manager should draw up and submit for assessment by the Commission a new draft Network Performance Plan. The time deadline for submission of this plan should be set accordingly.
- (9) It is expected that the revised determined costs for the combined calendar years 2020 and 2021 reflect the additional uncertainty and take due account of the lower traffic volumes entailed by the circumstances of the COVID-19 pandemic.
- (10) In order to alleviate the severe impact of the COVID-19 pandemic on airspace users during RP3, it is necessary to apply specific provisions for the purposes of calendar years 2020 and 2021 as regards the revision of performance targets in the key performance area of cost-efficiency at Union-wide and local levels, the implementation of incentive schemes and risk sharing mechanisms, as well as unit rate adjustments stemming from those 2 calendar years.
- (11) For the purpose of ensuring the proper application of the performance and charging scheme in RP3, and considering the forward-looking nature of performance target setting, the revision of cost-efficiency performance targets at Union-wide and local level should cover the determined costs of calendar years 2020 and 2021 as a single period. In setting those revised cost-efficiency targets at Union-wide and local level, due account should be taken of the actual costs incurred by air navigation service providers and Member States.
- (12) The rules governing the consequences of a late adoption of performance plans set out in Implementing Regulation (EU) 2019/317 should be adapted so as to mitigate the severe adverse financial impact those mechanisms would otherwise have on airspace users as well as to avoid excessive volatility of unit rates during RP3. To this end, the corresponding unit rate adjustments should be exceptionally spread over a time period of 5 calendar years. National supervisory authorities should be allowed to extend the time period to 7 calendar years, where this is necessary in order to avoid a disproportionate effect of the carry-overs on the unit rates charged to airspace users.
- (13) Member States may take additional measures to offset the impact of the COVID-19 pandemic on the level of air navigation charges during RP3, through the application of Article 29(6) of Implementing Regulation (EU) 2019/317.
- (14) In order to facilitate the discharge by national supervisory authorities and the Commission of their monitoring tasks, air navigation service providers should be obliged to submit a report to those authorities by 15 December 2020 regarding measures put in place in order to address the financial and operational impact of the COVID-19 pandemic on their activities.

- (15) The exceptional provisions should be immediately applied in order to enable the Commission and Member States to swiftly undertake the appropriate measures in respect of the performance target setting process for RP3 and the mitigation of the financial impact of the COVID-19 crisis on airspace users. This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*.
- (16) The Single Sky Committee did not deliver an opinion. An implementing act was deemed to be necessary and the Chair submitted the draft implementing act to the Appeal Committee for further deliberation. The measures provided for in this Regulation are in accordance with the opinion of the appeal committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes exceptional measures to be applied for the third reference period ('RP3') of the single European sky performance and charging scheme referred to in Article 7(1) of Implementing Regulation (EU) 2019/317. The rules set out in Implementing Regulation (EU) 2019/317 apply, unless this Regulation specifically provides for otherwise.

Article 2

Setting of revised Union-wide performance targets for RP3

1. By way of derogation from Article 9(3) of Implementing Regulation (EU) 2019/317, the Commission shall set revised Union-wide performance targets for RP3 by 1 May 2021.
2. By way of derogation from Article 9(1) of Implementing Regulation (EU) 2019/317, national supervisory authorities shall provide the Commission, as inputs for the setting of revised Union-wide performance targets, with initial cost data and information about traffic forecasts covering RP3, by 15 December 2020.
3. The requirements set out in the first subparagraph of Article 9(2) of Implementing Regulation (EU) 2019/317 shall not apply to the preparation of the revised Union-wide performance targets for RP3 referred to in paragraph 1. The consultation referred to in the second subparagraph of Article 9(2) of Implementing Regulation (EU) 2019/317 shall, by derogation from this provision, cover draft revised Union-wide performance target values.
4. By way of derogation from Articles 8(1) and 9(3) of Implementing Regulation (EU) 2019/317, the revised Union-wide performance targets for RP3 referred to in paragraph 1 shall, in addition to performance targets for the key performance indicators as defined in Section 1 of Annex I to Implementing Regulation (EU) 2019/317, include performance targets for the key performance indicator as amended in Article 4(1) of this Regulation.

Article 3

Submission and assessment of draft performance plans

1. By way of derogation from Article 12 of Implementing Regulation (EU) 2019/317, Member States shall prepare and submit to the Commission, by 1 October 2021, draft performance plans, drawn up in accordance with Article 10 of that Implementing Regulation and containing revised performance targets ensuring consistency with the revised Union-wide performance targets referred to in Article 2 of this Regulation.
2. By way of derogation from Article 8(2) and Article 10(2)(a) of Implementing Regulation (EU) 2019/317, the draft performance plans referred to in paragraph 1 shall, in addition to the performance targets for the key performance indicators as defined in Section 2 of Annex I to Implementing Regulation (EU) 2019/317, include performance targets for the key performance indicator as amended in Article 4(2) of this Regulation.
3. By way of derogation from Article 11(1)(b) and Article 11(3) of Implementing Regulation (EU) 2019/317, the incentive schemes regarding performance targets in the key performance area of capacity referred to in Article 11(3) of that Implementing Regulation shall be subject to the following requirements in respect of RP3:
 - (a) the incentive schemes shall cover only the calendar years 2022 to 2024. Member States shall reflect this reduced period of the incentive schemes in their draft performance plans referred to in paragraph 1;

(b) the incentive schemes shall produce financial effects in the form of carry-overs and subsequent unit rate adjustments only as from the first year following the adoption of the performance plan.

4. In respect of the key performance area of cost-efficiency, the performance targets contained in the final RP3 performance plans adopted by Member States pursuant to Article 16 of Implementing Regulation (EU) 2019/317 shall apply retroactively from the beginning of the reference period in accordance with Article 17(2) of Implementing Regulation (EU) 2019/317.

5. By way of derogation from Article 19(1) of Regulation (EU) 2019/317, the Network Manager shall submit not later than 1 October 2021 a revised draft Network Performance Plan for RP3 to the Commission for assessment.

Article 4

Derogations concerning the key performance indicators for RP3

1. By way of derogation from points 4.1(a) and 4.1(b) of Section 1 of Annex I to Implementing Regulation (EU) 2019/317, the key performance indicator on the year-on-year change of the average Union-wide 'determined unit cost' (DUC) for *en route* air navigation services shall be defined, in respect of calendar years 2020 and 2021, as a combined value for those 2 years, expressed as a percentage change from the Union-wide baseline value referred to in point (a) of Article 9 (4) of Implementing Regulation (EU) 2019/317. For this purpose, a single average Union-wide DUC for calendar years 2020 and 2021 shall be calculated as a ratio between the total *en route* determined costs at Union level for those 2 calendar years and the total *en route* service units at Union level for those 2 calendar years.

2. By way of derogation from points 4.1(a)(i) and 4.1(a)(iii) of Section 2 of Annex I to Implementing Regulation (EU) 2019/317, the key performance indicator on the DUC for *en route* air navigation services at local level shall be defined, in respect of calendar years 2020 and 2021, as a combined value for those 2 years. To this end, a single average DUC for calendar years 2020 and 2021 shall be calculated as a ratio between the total *en route* determined costs for those 2 calendar years and the total *en route* service units for those 2 calendar years, in respect of the charging zone concerned.

Article 5

Derogations concerning the calculation and setting of unit rates and related adjustments

1. In respect of calendar years 2020 and 2021, adjustments to unit rates under Article 27(2) to (5) of Implementing Regulation (EU) 2019/317 shall be calculated on the basis of the relevant total determined costs for those 2 years and of the total revenue loss or total additional revenue resulting from the difference between the service units forecasted in the performance plan and the actually recorded service units for those 2 years. Those 2 years shall be referred to as a single period and replace the period referred to in those provisions as 'year n'. Without prejudice to the last sentence of the second subparagraph of Article 29(5) of Implementing Regulation (EU) 2019/317, the adjustments to unit rates shall be made in calendar years 2023 and 2024.

2. In respect of calendar years 2020 and 2021, adjustments to unit rates under Article 27(8) of Implementing Regulation (EU) 2019/317 shall be calculated on the basis of the relevant total determined costs for those 2 years and of the total revenue loss or total additional revenue resulting from the difference between the service units forecasted in the performance plan and the actually recorded service units for those 2 years. Those 2 years shall be referred to as a single period and replace the period referred to in those provisions as 'year n'. Without prejudice to the last sentence of the second subparagraph of Article 29(5) of Implementing Regulation (EU) 2019/317, the adjustments to unit rates shall be made in calendar years 2023 and 2024.

3. In respect of calendar years 2020 and 2021, reductions or increases of unit rates under Article 28(4) to (6) of Implementing Regulation (EU) 2019/317 shall be calculated on the basis of the relevant total determined costs and the relevant total actual costs for those 2 years. Those 2 years shall be referred to as a single period and replace the calendar year period referred to in those provisions. Without prejudice to the last sentence of the second subparagraph of Article 29(5) of Implementing Regulation (EU) 2019/317, the reductions or increases of unit rates to be applied in year n +2 shall be made in calendar year 2023.

4. In respect of RP3, adjustments shall in accordance with the second subparagraph of Article 29(5) of Implementing Regulation (EU) 2019/317 be calculated on the basis of the draft performance plans as relevant for the setting of unit rates under Article 17(1) of Implementing Regulation (EU) 2019/317.

By way of derogation from Article 29(5) of Implementing Regulation (EU) 2019/317, those adjustments shall be spread equally over 5 calendar years, starting in the year following the year in which the performance plan has been adopted.

5. The national supervisory authority may decide to extend the time period referred to in paragraph 4 to a maximum of 7 calendar years, where this is necessary in order to avoid a disproportionate effect of the carry-overs on the unit rates charged to airspace users.

Article 6

Additional reporting and monitoring

1. In addition to the obligations set out in Articles 4 and 36 of Implementing Regulation (EU) 2019/317, air navigation service providers shall submit, by 15 December 2020, a report to the national supervisory authority detailing the measures put in place in order to address the financial and operational impact of the COVID-19 pandemic on their activities. The report shall be transmitted to the Commission by the national supervisory authority upon its receipt.

2. The national supervisory authorities and the Commission may use the information included in the report referred to in paragraph 1 for the purpose of the monitoring tasks specified in Article 37 of Implementing Regulation (EU) 2019/317.

Article 7

Entry into force

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

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

Done at Brussels, 3 November 2020.

For the Commission

The President

Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1628**of 3 November 2020****introducing retrospective Union surveillance of imports of renewable ethanol for fuel**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports ⁽¹⁾, and in particular Article 10 thereof,

Having regard to Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries ⁽²⁾, and in particular Article 7 thereof,

After consulting the Committee on Safeguards and Common Rules for exports,

Whereas:

- (1) Pursuant to Article 2 of Regulation (EU) 2015/478, France has informed the Commission that trends in imports of renewable ethanol for fuel appear to call for surveillance. In particular, France has requested the introduction of retrospective surveillance.
- (2) According to Article 10 of Regulation (EU) 2015/478 Union surveillance may be introduced where the trend in imports of a product threatens to cause injury to Union producers and where the interest of the Union so require. Article 7 of Regulation (EU) 2015/755 allows the possibility to introduce surveillance where the Union's interests so require. Retrospective surveillance may be introduced under both Regulations, respectively pursuant to Article 10(1)(a) and Article 7(1)(a).
- (3) Based on the information submitted by France, imports into the Union of renewable ethanol for fuel increased by 512 % between 2017 and 2019, from 87,6 thousand tonnes to 536,2 thousand tonnes. Moreover, during 2019, prices of imports of renewable ethanol for fuel from the main six import sources undercut the price of Union producers by 15 % on average.
- (4) Estimated EU consumption of renewable ethanol for fuel increased by 10% between 2017 and 2019, from 3,9 million tonnes to 4,3 million tonnes. In the same period, however, world production of renewable ethanol for fuel passed from 80,6 million tonnes to 87,5 million tonnes. Due to the size of the world production in comparison to the total EU consumption, it is considered that even minor disturbances in the global market of renewable ethanol for fuel might have very severe impacts on the offer in the EU market, in terms of both quantities and prices.
- (5) Moreover, around 84% of the total world production of renewable ethanol for fuel (more than 70 million tonnes) is concentrated in the US (54 %) and Brazil (30 %). These two countries have such a large production capacity that even a limited excess in their annual production may translate in an oversupply on the world market, with potentially negative consequences for much smaller markets such as the EU. Imports from the US into the EU have increased steadily over the last three years, and imports from Brazil have surged in the first months of 2020.
- (6) It should also be recalled that a situation of slight overcapacity has already been observed in the US market over the last five years, which has prompted a number of countries (e.g. Brazil, China, Peru, Colombia) to adopt or reinstate measures to limit the level of imports of renewable ethanol for fuel from the US. Obviously, quantities previously exported from the US to those markets might now be redirected to other markets as for example the EU market. It should furthermore be recalled that EU anti-dumping measures on renewable ethanol for fuel were repealed in May 2019.
- (7) Since imports have increased in the last years, the market shares of the Union industry have been reduced. The EU demand collapsed in recent months and the economic situation of the Union industry has deteriorated. Once the market will recover, it can be expected that the existing unused stocks in the main producing countries outside the EU will be massively exported to the EU, thereby preventing the EU industry to recover. Moreover, it cannot be excluded that in an effort to sustain production activities some governments might introduce subsidies or other forms of support in favour of their ethanol industry. Some support projects are already under discussion in the US.

⁽¹⁾ OJ L 83, 27.3.2015, p. 16.

⁽²⁾ OJ L 123, 19.5.2015, p. 33.

- (8) On the basis of recent trends in imports of renewable ethanol for fuel and of the current excess capacity, injurious effects to Union producers may therefore develop quickly in the near future.
- (9) Thus, the Union interest requires that imports of renewable ethanol for fuel should be subject to retrospective Union surveillance in order to provide statistical information, before the issuance of official import statistics, permitting rapid analysis of import trends from all third countries. Rapid and anticipated trade data is necessary to deal with the vulnerability of the Union renewable ethanol for fuel market to sudden changes on world markets.
- (10) Since ethanol for fuel can be classified in various CN headings containing other products, specific TARIC codes should be created in order to ensure an adequate surveillance limited only to the relevant product. The scope of the retrospective surveillance shall include the products listed in Annex.
- (11) The surveillance system should be introduced for a period of one year, which is deemed sufficient to monitor the development of imports during the market recovery, until a stabilised situation is reached,

HAS ADOPTED THIS REGULATION:

Article 1

- 1. The release for free circulation in the Union of renewable ethanol for fuel listed in Annex to this Regulation shall be subject to retrospective Union surveillance in accordance with Regulation (EU) 2015/478 and Regulation (EU) 2015/755.
- 2. The classification of the products covered by this Regulation is based on TARIC. The origin of the products covered by this Regulation shall be determined in accordance with Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽³⁾.

Article 2

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

This Regulation shall apply from the day following its publication in the Official Journal of the European Union and shall remain in force for one year.

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

Done at Brussels, 3 November 2020.

For the Commission

The President

Ursula VON DER LEYEN

⁽³⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, (OJ L 269, 10.10.2013, p. 1)

ANNEX

List of products subject to retrospective Union surveillance

The product concerned subject to retrospective surveillance is renewable ethanol for fuel, i.e. ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union), denatured or undenatured, excluding products with a water content of more than 0,3 % (m/m) measured according to the standard EN 15376, but including ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union) contained in blends with gasoline with an ethyl alcohol content of more than 10 % (v/v) intended for fuel uses. The product concerned also covers ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union) contained in Ethyl tert-butyl ether (ETBE).

The product scope is exclusively limited to renewable ethanol used for fuel applications. Thus, synthetic ethanol and renewable ethanol destined to applications other than fuel, i.e. industrial and beverage use, is not covered by this request.

The product concerned currently falls under the following CN and TARIC codes:

CN CODES	TARIC CODE EXTENSIONS
ex 2207 10 00	11
ex 2207 20 00	11
ex 2208 90 99	11
ex 2710 12 21	10
ex 2710 12 25	10
ex 2710 12 31	10
ex 2710 12 41	10
ex 2710 12 45	10
ex 2710 12 49	10
ex 2710 12 50	10
ex 2710 12 70	10
ex 2710 12 90	10
ex 3814 00 10	10
ex 3814 00 90,	70
ex 3820 00 00	10
ex 3824 99 92	66

DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2020/1629

of 29 October 2020

authorising France to apply a reduced rate of taxation to electricity directly provided to vessels at berth in a port, in accordance with Article 19 of Directive 2003/96/EC

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽¹⁾, and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By letter of 7 August 2019, France sought authorisation to apply a reduced rate of taxation to electricity directly provided to maritime and inland waterway vessels at berth in a port ('shore-side electricity') pursuant to Article 19 of Directive 2003/96/EC. The French authorities provided additional information and clarifications on 4 March 2020 and 30 April 2020.
- (2) With the reduced rate of taxation it intends to apply, France aims to further promote the deployment and the use of shore-side electricity. The use of such electricity is considered to be an environmentally less harmful way of satisfying the electricity needs of vessels at berth in a port than the burning of bunker fuels by those vessels.
- (3) In so far as the use of shore-side electricity avoids emissions of air pollutants originating from the burning of bunker fuels by vessels at berth in a port, it improves local air quality in port cities. Under the specific conditions of the electricity generation structure in France, the use of shore-side electricity instead of electricity generated by burning bunker fuels is furthermore expected to reduce CO₂ emissions, other air pollutants and noise. The measure is therefore expected to contribute to the environmental, health and climate policy objectives of the Union.
- (4) Allowing France to apply a reduced rate of taxation to shore-side electricity does not go beyond what is necessary to increase the use of such electricity, since on-board generation of electricity will remain the more competitive alternative in most cases. For the same reason, and because of the current relatively low degree of market penetration of the relevant technology, the application of that reduced rate of taxation is unlikely to lead to significant distortions in competition during its lifetime and will therefore not negatively affect the proper functioning of the internal market.
- (5) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under Article 19(1) of that Directive is to be strictly limited in time. In order to ensure that the authorisation period is sufficiently long so as not to discourage relevant economic operators from making the necessary investments, it is appropriate to grant the authorisation requested from 1 January 2021 until 31 December 2026. However, that authorisation should cease to apply from the date of application of any general provisions on tax advantages for shore-side electricity adopted by the Council under Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, should such provisions become applicable prior to 31 December 2026.
- (6) This Decision is without prejudice to the application of Union rules regarding State aid,

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

HAS ADOPTED THIS DECISION:

Article 1

France is authorised to apply a reduced rate of taxation to electricity directly supplied to vessels, other than private pleasure craft, at berth in a port ('shore-side electricity'), provided that the minimum levels of taxation referred to in Article 10 of Directive 2003/96/EC are respected.

Article 2

This Decision shall apply from 1 January 2021 until 31 December 2026.

However, should the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, adopt any general provisions on tax advantages for shore-side electricity, this Decision shall cease to apply on the day on which those general provisions become applicable.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 29 October 2020.

For the Council
The President
M. ROTH

COMMISSION IMPLEMENTING DECISION (EU) 2020/1630**of 3 November 2020**

amending Implementing Decision (EU) 2019/1326 as regards the electromagnetic compatibility of industrial, scientific and medical equipment, household appliances, electric tools and similar apparatus, electrical lighting and similar equipment, multimedia equipment, switchgear and controlgear

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council ⁽¹⁾, and in particular Article 10(6) thereof,

Whereas:

- (1) In accordance with Article 13 of Directive 2014/30/EU of the European Parliament and of the Council ⁽²⁾, electrical equipment which is in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, are to be presumed to be in conformity with the essential requirements covered by those standards or parts thereof set out in Annex I to that Directive.
- (2) By Implementing Decision C(2016) 7641 ⁽³⁾, the Commission made a request to the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (Cenelec) and the European Telecommunications Standards Institute (ETSI) for the drafting and revision of harmonised standards for electromagnetic compatibility in support of Directive 2014/30/EU.
- (3) On the basis of the request set out in Implementing Decision C(2016) 7641, CEN and Cenelec revised the following harmonised standards, the references of which are published in the C series of the *Official Journal of the European Union* ⁽⁴⁾: EN 55011:2009, EN 55014-1:2006, EN 55015:2013 and EN 55032:2012. This resulted in the adoption of, respectively, the following harmonised standards and amendments thereto: EN 55011:2016, EN 55011:2016/A1:2017 and EN 55011:2016/A11:2020 for industrial, scientific and medical equipment; EN 55014-1:2017 and EN 55014-1:2017/A11:2020 for household appliances, electric tools and similar apparatus; EN IEC 55015:2019 and EN IEC 55015:2019/A11:2020 for electrical lighting and similar equipment; and EN 55032:2015 and EN 55032:2015/A11:20 for multimedia equipment.
- (4) On the basis of the request set out in Implementing Decision C(2016) 7641, CEN and Cenelec amended harmonised standard EN 62026-2:2013, the reference of which is published in the C series of the *Official Journal of the European Union* ⁽⁵⁾. This resulted in the adoption of harmonised standard EN 62026-2:2013/A1:2019.
- (5) The Commission, together with CEN and Cenelec, has assessed whether those harmonised standards comply with the request set out in Implementing Decision C(2016) 7641.
- (6) The harmonised standards EN 55011:2016 as amended by EN 55011:2016/A1:2017 and EN 55011:2016/A11:2020, EN 55014-1:2017 as amended by EN 55014-1:2017/A11:2020, EN IEC 55015:2019 as amended by EN IEC 55015:2019/A11:2020, EN 55032:2015 as amended by EN 55032:2015/A11:2020, and EN 62026-2:2013 as amended by EN 62026-2:2013/A1:2019 satisfy the essential requirements which they aim to cover and which are set out in Directive 2014/30/EU. It is therefore appropriate to publish the references of those harmonised standards, together with the relevant amending standards thereto, in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 316, 14.11.2012, p. 12.

⁽²⁾ 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).

⁽³⁾ Commission Implementing Decision C(2016) 7641 of 30 November 2016 on a standardisation request to the European Committee for Standardisation, to the European Committee for Electrotechnical Standardisation and to the European Telecommunications Standards Institute as regards harmonised standards in support of 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.

⁽⁴⁾ OJ C 246, 13.7.2018, p. 1.

⁽⁵⁾ OJ C 246, 13.7.2018, p. 1.

- (7) Annex I to Commission Implementing Decision (EU) 2019/1326 ⁽⁹⁾ lists the references of harmonised standards conferring a presumption of conformity with Directive 2014/30/EU. In order to ensure that the references of harmonised standards drafted in support of Directive 2014/30/EU are listed in one act, the references of those standards, together with the references of the relevant amending standards thereto, should be included in that Annex.
- (8) It is therefore necessary to withdraw from the C series of the *Official Journal of the European Union* the references of the following harmonised standards, together with the references of the relevant amending or correcting standards thereto: EN 55011:2009 as amended by EN 55011:2009/A1:2010, EN 55014-1:2006 as amended by EN 55014-1:2006/A1:2009 and EN 55014-1:2006/A2:2011, EN 55015:2013, EN 55032:2012 as corrected by EN 55032:2012/AC:2013, and EN 62026-2:2013.
- (9) Annex II to Implementing Decision (EU) 2019/1326 lists the references of harmonised standards drafted in support of Directive 2014/30/EU that are withdrawn from the C series of the *Official Journal of the European Union*. It is therefore appropriate to include those references, together with the references of the relevant amending or correcting standards thereto, in that Annex.
- (10) In order to give manufacturers sufficient time to prepare for application of harmonised standards EN 55011:2016 as amended by EN 55011:2016/A1:2017 and EN 55011:2016/A11:2020, EN 55014-1:2017 as amended by EN 55014-1:2017/A11:2020, EN IEC 55015:2019 as amended by EN IEC 55015:2019/A11:2020, EN 55032:2015 as amended by EN 55032:2015/A11:2020, and EN 62026-2:2013 as amended by EN 62026-2:2013/A1:2019, it is necessary to defer the withdrawal of the references of the following harmonised standards, together with the references of the relevant amending or correcting standards thereto: EN 55011:2009 as amended by EN 55011:2009/A1:2010, EN 55014-1:2006 as amended by EN 55014-1:2006/A1:2009 and EN 55014-1:2006/A2:2011, EN 55015:2013, EN 55032:2012 as corrected by EN 55032:2012/AC:2013, and EN 62026-2:2013.
- (11) Implementing Decision (EU) 2019/1326 should therefore be amended accordingly.
- (12) Compliance with a harmonised standard confers a presumption of conformity with the corresponding essential requirements set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should therefore enter into force on the day of its publication,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Implementing Decision (EU) 2019/1326 is amended in accordance with Annex I to this Decision.

Article 2

Annex II to Implementing Decision (EU) 2019/1326 is amended in accordance with Annex II to this Decision.

Article 3

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

Done at Brussels, 3 November 2020.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁹⁾ Commission Implementing Decision (EU) 2019/1326 of 5 August 2019 on the harmonised standards for electromagnetic compatibility drafted in support of Directive 2014/30/EU of the European Parliament and of the Council (OJ L 206, 6.8.2019, p. 27).

ANNEX I

In Annex I to Implementing Decision (EU) 2019/1326, the following entries are added:

No	Reference of the standard
10.	EN 55011:2016 Industrial, scientific and medical equipment – Radio-frequency disturbance characteristics – Limits and methods of measurement EN 55011:2016/A1:2017 EN 55011:2016/A11:2020
11.	EN 55014-1:2017 Electromagnetic compatibility – Requirements for household appliances, electric tools and similar apparatus – Part 1: Emission EN 55014-1:2017/A11:2020
12.	EN IEC 55015:2019 Limits and methods of measurement of radio disturbance characteristics of electrical lighting and similar equipment EN IEC 55015:2019/A11:2020
13.	EN 55032:2015 Electromagnetic compatibility of multimedia equipment – Emission Requirements EN 55032:2015/A11:2020
14.	EN 62026-2:2013 Low-voltage switchgear and controlgear – Controller-device interfaces (CDIs) – Part 2: Actuator sensor interface (AS-i) EN 62026-2:2013/A1:2019.

ANNEX II

In Annex II to Implementing Decision (EU) 2019/1326, the following entries are added:

No	Reference of the standard	Date of withdrawal
7.	EN 55011:2009 Industrial, scientific and medical equipment – Radio-frequency disturbance characteristics – Limits and methods of measurement EN 55011:2009/A1:2010	4 May 2022
8.	EN 55014-1:2006 Electromagnetic compatibility – Requirements for household appliances, electric tools and similar apparatus – Part 1: Emission EN 55014-1:2006/A1:2009 EN 55014-1:2006/A2:2011	4 May 2022
9.	EN 55015:2013 Limits and methods of measurement of radio disturbance characteristics of electrical lighting and similar equipment	4 May 2022
10.	EN 55032:2012 Electromagnetic compatibility of multimedia equipment – Emission Requirements EN 55032:2012/AC:2013	4 May 2022
11.	EN 62026-2:2013 Low-voltage switchgear and controlgear – Controller-device interfaces (CDIs) – Part 2: Actuator sensor interface (AS-i)	4 May 2022'

DECISION (EU) 2020/1631 OF THE EUROPEAN CENTRAL BANK**of 22 October 2020****on the delegation of decision-making powers in relation to the transmission of confidential statistical information on economic and financial statistics to the Statistical Office of the European Union (Eurostat) (ECB/2020/53)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

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

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 12.1 thereof,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽¹⁾, and in particular Article 8a thereof,

Whereas:

- (1) Pursuant to Article 8a(1) of Regulation (EC) No 2533/98, the transmission of confidential statistical information between a member of the European System of Central Banks (ESCB) that collected the information and an authority of the European Statistical System (ESS) may take place provided that this transmission is necessary for the efficient development, production or dissemination, or for increasing the quality, of European statistics within the respective spheres of competence of the ESS and the ESCB and that this necessity has been justified.
- (2) Article 8a of Regulation (EC) No 2533/98 requires further safeguards to be put in place upon exchange of confidential statistical information between the ESCB and the ESS, namely that any further transmission beyond the first transmission must be explicitly authorised by the authority that collected the information and that confidential statistical information may not be used for purposes other than statistical, such as for administrative or tax purposes or legal proceedings.
- (3) Pursuant to Article 20(2) of Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽²⁾, confidential data obtained exclusively for the production of European statistics are to be used by the Statistical Office of the European Union (Eurostat) exclusively for statistical purposes unless the statistical unit has unambiguously given its consent to use for any other purposes. Moreover, pursuant to Article 20(4) of Regulation (EC) No 223/2009, Eurostat is to take all the necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential data. On this basis, Eurostat has confirmed to the European Central Bank (ECB) that it will ensure the confidentiality of the transmitted statistical information, which shall be used solely for statistical purposes and which shall not be further disclosed. Hence, the Governing Council of the ECB has assessed that Eurostat has the necessary measures in place to safeguard the confidentiality of the confidential statistical information on economic and financial statistics transmitted by the ECB.
- (4) In March 2003 the ECB and Eurostat concluded a Memorandum of Understanding on economic and financial statistics ⁽³⁾ (hereinafter referred to as the 'MoU on economic and financial statistics') to provide, inter alia, a framework for the exchange and reproduction of data. Section G of that MoU provides that agreed arrangements for the timely exchange of data will be set out in a Service Level Agreement which also deals with the exchange of confidential statistical data. Accordingly, the Service Level Agreement (SLA) on Data Exchanges ⁽⁴⁾, set out in Annex 2

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

⁽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⁾ Memorandum of Understanding on economic and financial statistics between the Directorate-General Statistics of the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat) (Brussels, 10 March 2003), MOU/2003/03101.

⁽⁴⁾ Service Level Agreement (SLA) on Data Exchanges between the Directorate-General Statistics of the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat) – Annex 2 to the 'Memorandum of Understanding on economic and financial statistics' between Eurostat and DG Statistics (February 2008), MOU/2008/02011.

to the MoU on economic and financial statistics and concluded in February 2008, describes the respective responsibilities, modalities and means for data exchanges between the Directorate-General Statistics of the ECB and Eurostat. Appendix 1 to that SLA specifically lays down the statistical information to be shared between Eurostat and the ECB. That statistical information includes, but is not limited to: quarterly financial accounts statistics; balance sheet item statistics of monetary financial institutions (MFIs); interest rates statistics of MFIs; and external statistics collected on the basis of Guideline ECB/2013/24 ⁽⁵⁾, Regulation (EU) No 1071/2013 of the European Central Bank (ECB/2013/33) ⁽⁶⁾, Regulation (EU) No 1072/2013 of the European Central Bank (ECB/2013/34) ⁽⁷⁾ and Guideline ECB/2011/23 ⁽⁸⁾, respectively.

- (5) In order to facilitate the ECB's decision-making process in relation to decisions on the transmission of confidential economic and financial statistical information to Eurostat for the purposes of the MoU on economic and financial statistics, and decisions on any amendments to the SLA on Data Exchanges that may be needed for the transmission to Eurostat of confidential statistical information, it is necessary to allow delegation of certain decision-making powers, as laid down in this delegation decision. The delegated decision on the transmission of confidential economic and financial statistical information to Eurostat includes information at EU, euro area and national level, as well as national contributions pursuant to ECB legal acts.
- (6) In accordance with Article 12.1 of the Statute of the European System of Central Banks and of the European Central Bank, the Governing Council may decide to delegate certain powers to the Executive Board.
- (7) In accordance with the general principles on delegation as developed and confirmed by the Court of Justice of the European Union, delegation of decision-making powers should be limited, proportionate and based on specified criteria. In light of the conditions set out in Article 8a of Regulation (EC) No 2533/98 that apply for each transmission of confidential statistical information to Eurostat and the limitation of this Decision to transmissions of confidential statistical information for the purposes of the MoU on economic and financial statistics, the delegated decisions to be taken are of technical rather than a political nature which means that the criteria for the delegation should remain relatively general.
- (8) Where criteria for the adoption of a delegated decision are not met, decisions on the transmission of confidential statistical information to Eurostat should be adopted by the Governing Council upon proposal by the Executive Board,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

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

1. 'confidential statistical information' means confidential statistical information as defined in point 12 of Article 1 of Regulation (EC) No 2533/98;
2. 'delegated decision' means a decision taken on the basis of a delegation of powers by the Governing Council pursuant to this Decision;
3. 'MoU on economic and financial statistics' means the Memorandum of Understanding on economic and financial statistics between the Directorate-General Statistics of the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat), concluded on 10 March 2003;
4. 'SLA on Data Exchanges' means the Service Level Agreement (SLA) on Data Exchanges between the European Central Bank (DG Statistics) and the Statistical Office of the European Communities (Eurostat), concluded in February 2008, as amended from time to time in accordance with its terms, which forms Annex 2 to the MoU on economic and financial statistics.

⁽⁵⁾ Guideline ECB/2013/24 of 25 July 2013 on the statistical reporting requirements of the European Central Bank in the field of quarterly financial accounts (OJ L 2, 7.1.2014, p. 34).

⁽⁶⁾ Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (ECB/2013/33) (OJ L 297, 7.11.2013, p. 1).

⁽⁷⁾ Regulation (EU) No 1072/2013 of the European Central Bank of 24 September 2013 concerning statistics on interest rates applied by monetary financial institutions (ECB/2013/34) (OJ L 297, 7.11.2013, p. 51).

⁽⁸⁾ Guideline ECB/2011/23 of 9 December 2011 on the statistical reporting requirements of the European Central Bank in the field of external statistics (OJ L 65, 3.3.2012, p. 1).

*Article 2***Transmission of confidential statistical information to Eurostat**

1. The Governing Council hereby delegates to the Executive Board the power to decide on the transmission to Eurostat of confidential statistical information within the scope of the MoU on economic and financial statistics.
2. A decision on the transmission of confidential statistical information by the ECB to Eurostat as described in paragraph 1 shall only be adopted by means of a delegated decision if the criteria for the adoption of delegated decisions as set out in Article 4 are fulfilled.

*Article 3***Amendments to the SLA on Data Exchanges**

1. The Governing Council hereby delegates to the Executive Board the power to decide on amendments to the SLA on Data Exchanges to the extent necessary for the transmission to Eurostat of the confidential statistical information referred to in Article 2(1).
2. A decision on the amendment to the SLA on Data Exchanges to the extent necessary for the transmission to Eurostat of the confidential statistical information referred to in Article 2(1), as described in paragraph 1, shall only be adopted by means of a delegated decision if the criteria for the adoption of delegated decisions as set out in Article 4 are fulfilled.

*Article 4***Criteria for the adoption of delegated decisions on the transmission of confidential statistical information to Eurostat and on amendments to the SLA on Data Exchanges**

1. A decision on the transmission of confidential statistical information referred to in Article 2(1) to Eurostat or on amendments to the SLA on Data Exchanges pursuant to Articles 2 and 3, respectively, shall only be taken by means of a delegated decision where this transmission is necessary for the efficient development, production or dissemination, or for increasing the quality, of European economic and financial statistics and where this necessity has been duly justified. The confidential statistical information referred to in Article 2(1) to be transmitted to Eurostat must be adequate, relevant and not excessive in view of its tasks.
2. A decision on the transmission of confidential statistical information referred to in Article 2(1) to Eurostat or on amendments to the SLA on Data Exchanges pursuant to Articles 2 and 3, respectively, shall only be taken by means of a delegated decision where all of the following conditions are met:
 - (a) the information is necessary in order for Eurostat to ensure a meaningful compilation of European economic and financial statistics or to assess the quality of the contributions to the aggregates of such statistics;
 - (b) Eurostat agrees to obtain prior authorisation for any further transmission beyond the first transmission of confidential statistical information referred to in Article 2(1);
 - (c) the request comprises information that falls within the scope of the MoU on economic and financial statistics; and
 - (d) the transmission of such information would not be prejudicial to the performance of the tasks of the ESCB.

The ESCB's Statistics Committee shall provide the Executive Board with an assessment of whether the conditions referred to in the first subparagraph have been met.

3. The Governing Council shall be notified in due course of any decision taken by the Executive Board pursuant to Articles 2 and 3.
4. Where one or more of the criteria for the adoption of a delegated decision, as laid down in paragraphs 1 and/or 2 are not met, decisions on the transmission of confidential statistical information referred to in Article 2(1) to Eurostat and on amendments to the SLA on Data Exchanges to the extent necessary for the transmission to Eurostat of the confidential statistical information referred to in Article 2(1) shall be adopted by the Governing Council upon a proposal by the Executive Board.

*Article 5***Entry into force**

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

Done at Frankfurt am Main, 22 October 2020.

The President of the ECB

Christine LAGARDE

RECOMMENDATIONS

COUNCIL RECOMMENDATION (EU) 2020/1632

of 30 October 2020

on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic in the Schengen area

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(c) and (e) and Article 292, first and second sentence thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Article 67 TFEU, the Union shall constitute an area of freedom, security and justice, in which the absence of internal border controls for persons shall be ensured. Under the Schengen *acquis*, internal borders may be crossed at any point without a border check on persons being carried out, irrespective of their nationality. This includes third country nationals lawfully residing in the EU and third country nationals who have legally entered the territory of a Member State, who may move freely within the territories of all other Member States during the period of 90 days in 180 days.
- (2) On 30 January 2020, the Director-General of the World Health Organization (WHO) declared a public health emergency of international concern over the global outbreak of novel coronavirus, which causes Coronavirus disease 2019 (COVID-19). On 11 March 2020, the WHO made the assessment that COVID-19 can be characterised as a pandemic.
- (3) To limit the spread of the virus, the Member States have adopted various measures, some of which have had an impact on the right to move and reside freely within the territory of the Member States, such as restrictions on entry or requirements for cross-border travellers to undergo quarantine. These measures have had, in some cases, an impact on the absence of checks on persons, whatever their nationality, when crossing internal borders within the Schengen area.
- (4) The Council Recommendation (EU) 2020/1475 ⁽¹⁾ defines general principles and common criteria, including common thresholds when considering restrictions to free movement in response to the COVID-19 pandemic. It also establishes a common framework as regards possible measures for travellers coming from higher risk areas. It recommends to Member States to coordinate and to communicate to public when restrictive measures are imposed.
- (5) Given that the freedom of movement of persons in the internal market, referred to in Article 26 TFEU, closely coexists with the absence of internal border controls on persons in the Schengen area, referred to in Articles 67 and 77 TFEU, and in order to respect the coherence and the integrity of the Schengen *acquis*, this Recommendation should ensure that Member States apply the same coordinated approach when applying the Schengen *acquis* on the absence of checks on persons, irrespective of their nationality, at internal borders.
- (6) Member States should therefore also apply the principles, common criteria and the common framework of measures laid down in the Recommendation (EU) 2020/1475 when ensuring within the Schengen area the absence of checks on persons, whatever their nationality, at internal borders.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and to the TFEU, Denmark is not taking part in the adoption of this Recommendation and is not bound by it or subject to its application. Given that this Recommendation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the Council has decided on this Recommendation whether it will implement it.

⁽¹⁾ Council Recommendation (EU) 2020/1475 of 13 October 2020 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic (OJ L 337, 14.10.2020, p. 3).

- (8) This Recommendation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽²⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (9) As regards Bulgaria, Croatia, Cyprus and Romania, this Recommendation constitutes a development of the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession.
- (10) As regards Iceland and Norway, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC ⁽³⁾.
- (11) As regards Switzerland, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC ⁽⁴⁾ read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁵⁾.
- (12) As regards Liechtenstein, this Recommendation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1 point A, of Decision 1999/437/EC ⁽⁶⁾ read in conjunction with Article 3 of Decision 2011/350/EU ⁽⁷⁾,

HAS ADOPTED THIS RECOMMENDATION:

Member States should apply the recommendations on general principles, common criteria, common thresholds and common framework of measures, including recommendations on coordination and communication as laid down in the Recommendation (EU) 2020/1475.

Done at Brussels, 30 October 2020.

For the Council
The President
M. ROTH

⁽²⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁵⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽⁶⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁷⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

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



Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

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