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⁽¹⁾ Text with EEA relevance.

EN

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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/277**of 16 December 2020****amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants as regards pentachlorophenol and its salts and esters****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants ⁽¹⁾, and in particular Article 15(1) thereof,

Whereas:

- (1) Regulation (EU) 2019/1021 implements the commitments of the Union under the Stockholm Convention on Persistent Organic Pollutants ⁽²⁾ and under the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution ⁽³⁾.
- (2) Pursuant to Article 3(1) of Regulation (EU) 2019/1021, the manufacturing, placing on the market and use, whether on their own, in mixtures or in articles, of substances listed in Annex I to that Regulation are prohibited, subject to Article 4 of that Regulation.
- (3) Pentachlorophenol and its salts and esters are listed in Annex I to Regulation (EU) 2019/1021 without an Unintentional Trace Contaminant (UTC) limit value.
- (4) Article 15(1) of Regulation (EU) 2019/1021 empowers the Commission to adopt delegated acts to modify existing entries of Annex I to adapt them to scientific and technical progress.
- (5) The Commission has determined the presence of pentachlorophenol and its salts and esters as an impurity in some articles, including imported textiles and recovered wood chips for the production of wood panels.
- (6) To allow the continuation of recycling of wood chips and to facilitate enforcement, a UTC limit of 5 mg/kg (0,0005 % by weight) should be set for pentachlorophenol and its salts and esters.
- (7) Regulation (EU) 2019/1021 should therefore be amended accordingly,

⁽¹⁾ OJ L 169, 25.6.2019, p. 45.⁽²⁾ OJ L 209, 31.7.2006, p. 3.⁽³⁾ OJ L 81, 19.3.2004, p. 37.

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2019/1021 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 16 December 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Part A of Annex I to Regulation (EU) 2019/1021, in the fourth column ('Specific exemption on intermediate use or other specification') of the entry for pentachlorophenol and its salts and esters, the following text is added:

'For the purposes of this entry, point (b) of Article 4(1) shall apply to concentrations of pentachlorophenol and its salts and esters equal to or below 5 mg/kg (0,0005 % by weight) where they are present in substances, mixtures or articles.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/278**of 16 February 2021****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ‘Volaille de Bresse’/‘Poulet de Bresse’/‘Poularde de Bresse’/‘Chapon de Bresse’ (PDO)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 53(1) of Regulation (EU) No 1151/2012, the Commission has examined France's application for the approval of amendments to the specification for the protected designation of origin ‘Volaille de Bresse’/‘Poulet de Bresse’/‘Poularde de Bresse’/‘Chapon de Bresse’, registered under Commission Regulation (EC) No 1107/96 ⁽²⁾, as amended by Commission Regulation (EC) No 1509/2000 ⁽³⁾ and Commission Implementing Regulation (EU) No 1121/2013 ⁽⁴⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽⁵⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name ‘Volaille de Bresse’/‘Poulet de Bresse’/‘Poularde de Bresse’/‘Chapon de Bresse’ (PDO) are hereby approved.

Article 2

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ L 148, 21.6.1996, p. 1).

⁽³⁾ Commission Regulation (EC) No 1509/2000 of 12 July 2000 amending items in the specifications for several names listed in the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ L 174, 13.7.2000, p. 7).

⁽⁴⁾ Commission Implementing Regulation (EU) No 1121/2013 of 6 November 2013 approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications [Volaille de Bresse/Poulet de Bresse/Poularde de Bresse/Chapon de Bresse (PDO)] (OJ L 299, 9.11.2013, p. 26).

⁽⁵⁾ OJ C 322, 30.9.2020, p. 30.

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

Done at Brussels, 16 February 2021.

*For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission*

COMMISSION IMPLEMENTING REGULATION (EU) 2021/279**of 22 February 2021****laying down detailed rules for the implementation of Regulation (EU) 2018/848 of the European Parliament and of the Council on controls and other measures ensuring traceability and compliance in organic production and the labelling of organic products****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 ⁽¹⁾, and in particular Articles 28(3)(a), 29(8)(a), 30(8), 32(5), 36(4), 38(9), 41(5) and 43(7) thereof,

Whereas:

- (1) Chapter III of Regulation (EU) 2018/848 lays down general production rules for operators, including precautionary measures to avoid the presence of non-authorised products and substances and measures to be taken in the event of the presence of non-authorised products or substances. In order to ensure harmonised conditions for the implementation of that Regulation, some additional rules should be laid down.
- (2) Considering the importance of the precautionary measures that operators have to take to avoid the presence of non-authorised products and substances referred to in Article 28 of Regulation (EU) 2018/848, it is appropriate to establish procedural steps to be followed and the relevant documents to be provided in case operators suspect, due to presence of non-authorised products or substances, that the product that is intended to be used or marketed as organic or in-conversion product does not comply with Regulation (EU) 2018/848.
- (3) In order to ensure a harmonised approach across the Union as regards the official investigation referred to in Article 29(1)(a) of Regulation (EU) 2018/848 in the event of the presence of non-authorised products or substances in organic or in-conversion products, further rules covering the elements to be determined when carrying out the official investigation, the expected results of the official investigation as well as minimum reporting obligations should be established.
- (4) Chapter IV of Regulation (EU) 2018/848 lays down specific provisions relating to the labelling of organic and in-conversion products. In order to ensure uniform conditions for the implementation of that Regulation, some additional rules should be laid down as regards the place and the appearance of certain indications on the label.
- (5) Chapter V of Regulation (EU) 2018/848 lays down rules for certification of operators and groups of operators. In order to ensure harmonised conditions for the implementation of that Regulation, some additional rules for the certification of a group of operators should be laid down.
- (6) In the interest of the efficiency and affordable operational cost of the system for internal controls (ICS), it is appropriate to provide for a maximum size of a group of operators. By setting this limit, it is expected that the ICS can ensure the compliance of all members of the group with Regulation (EU) 2018/848 by means of internal controls and necessary training. Furthermore, the competent authority or, where appropriate, the control authority or control body that certifies the group can re-inspect a reasonable number of members. The limitation of the size will provide additional guarantees for an updated list of members, rapid and regular exchange of information with control authorities or control bodies, and ensure the implementation of adequate measures. However, the maximum size should take into consideration that a group of operators should be able to generate sufficient resources to establish an efficient ICS relying on qualified staff.

⁽¹⁾ OJ L 150, 14.6.2018, p. 1.

- (7) In order to provide evidence of compliance and to allow the exchange of information and sharing of knowledge, the list of documents and records that a group of operators has to keep for the purposes of the ICS should be laid down.
- (8) The ICS should constitute the basis for the certification of a group of operators. Therefore, ICS managers should be required to inform the competent authority or, where appropriate, the control authority or control body that provides the certificate of the most important issues, such as suspicions of non-compliances, suspensions or withdrawals of members and any prohibition of the placing on the market of products as organic or in-conversion products.
- (9) Chapter VI of Regulation (EU) 2018/848 lays down rules for official controls and other official activities. In order to ensure harmonised conditions for the implementation of that Regulation, some additional rules should be laid down.
- (10) In order to ensure the continuity of the current national control systems in the Member States, rules on minimum percentages for official controls and sampling should be established.
- (11) With a view to eliminating the substantial divergence in the current application of national catalogues of measures in the Member States, a common template for a catalogue of measures should be established and further guidelines on the classification of non-compliances and the appropriate measures should be provided for.
- (12) Information on any suspicion of non-compliance or any established non-compliance that affects the integrity of organic or in-conversion products should be shared between the Member States and the Commission directly and as effectively as possible, primarily in order to allow all competent authorities concerned to carry out official investigations and apply necessary measures as required in Article 29(1) and (2), Article 41(1), (2) and (3) and Article 42 of Regulation (EU) 2018/848. Furthermore, it is appropriate to specify the details and procedures for sharing that information, including functionalities of the Organic Farming Information System. In that context, this Regulation should also clarify that in case of any suspicion or established non-compliance that affects the integrity of organic or in-conversion products discovered by the control authority or control body, such information should be transferred without delay to their competent authorities. Finally, this Regulation should specify which information should at least be shared by control authorities and control bodies with other control authorities and control bodies and their competent authorities and set an obligation for the competent authorities to take the appropriate measures and establish documented procedures to enable such exchange of information on their territory.
- (13) Groups of operators in third countries operating in compliance with Council Regulation (EC) No 834/2007 ⁽²⁾ and Commission Regulations (EC) No 889/2008 ⁽³⁾ and (EC) No 1235/2008 ⁽⁴⁾ may have a number of members significantly higher than the maximum size set by this Regulation. Establishing new groups of operators complying with this new requirement may imply tangible adaptations for establishing the corresponding legal entity, an ICS and the necessary elements for the certification by a control authority or control body. Hence, a transitional period of maximum 3 years from 1 January 2022 should be provided for in respect of those groups of operators to permit them to carry out the necessary adaptations to comply with the new maximum size.
- (14) The requirement related to the national catalogue of measures may imply the changing of already existing national catalogues of measures that have been developed in Member States until now in compliance with Regulations (EC) No 834/2007 and (EC) No 889/2008. Hence, a transitional period of maximum 1 year from 1 January 2022 should be provided for all Member States in respect of those existing national catalogues of measures in order to permit them to carry out the necessary improvements or the replacement of their national catalogues of measures to comply with the new requirements.

⁽²⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

⁽³⁾ Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

⁽⁴⁾ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

- (15) In the interest of clarity and legal certainty, this Regulation should apply from the date of application of Regulation (EU) 2018/848.
- (16) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Organic Production,

HAS ADOPTED THIS REGULATION:

Article 1

Procedural steps to be followed by the operator in case of a suspicion of non-compliance due to the presence of non-authorised products or substances

1. In order to check whether the suspicion can be substantiated in accordance with Article 28(2)(b) of Regulation (EU) 2018/848, the operator shall take into account the following elements:
 - (a) where the suspicion of non-compliance concerns an incoming organic or in-conversion product, the operator shall check whether:
 - (i) the information on the label of the organic or in-conversion product and the information on the accompanying documents match;
 - (ii) the information on the certificate provided by the supplier relates to the product actually purchased;
 - (b) where there is a suspicion that the cause of the presence of the non-authorised products or substances lies under the control of the operator, the operator shall examine any possible cause for the presence of non-authorised products or substances.
2. When the operator informs the competent authority or, where appropriate, the control authority or control body in accordance with Article 28(2)(d) of Regulation (EU) 2018/848 about a substantiated suspicion or when the suspicion cannot be eliminated, the operator shall provide, if relevant and where available, the following elements:
 - (a) information and documents about the supplier (delivery note, invoice, certificate of the supplier, Certificate of Inspection for organic products (COI));
 - (b) the traceability of the product with the lot identification, stock quantity, and quantity of product sold;
 - (c) laboratory results, from accredited laboratory when relevant and available;
 - (d) the sampling sheet detailing the time, place and method used to take the sample;
 - (e) any information about any previous suspicion with regard to the specific non-authorised product or substance;
 - (f) every other relevant document to clarify the case.

Article 2

Methodology of an official investigation

1. Without prejudice to Article 38(2) of Regulation (EU) 2018/848, when carrying out an official investigation referred to in Article 29(1)(a) of that Regulation, the competent authorities or, where appropriate, control bodies or control authorities shall determine at least the following:
 - (a) the name, lot identification, ownership and physical location of the organic or in-conversion products concerned;
 - (b) whether the products concerned are still placed on the market as organic or in-conversion products or used in organic production;
 - (c) the type, name, quantity and other relevant information of the present non-authorised products or substances;

- (d) at which stage of production, preparation, storing or distribution and where exactly the presence of non-authorised products or substances has been detected, in particular for plant production, whether the sample was taken pre-harvest or post-harvest;
 - (e) whether other operators in the supply chain are affected;
 - (f) the results of previous official investigations on the organic or in-conversion products and operators concerned.
2. The official investigation shall be pursued by using appropriate methods and techniques, including those referred to in Article 14 and Article 137(3) of Regulation (EU) 2017/625 of the European Parliament and of the Council ⁽³⁾.
3. The official investigation shall at least conclude on:
- (a) the integrity of organic and in-conversion products;
 - (b) the source and the cause of the presence of non-authorised products or substances;
 - (c) the elements provided in Article 29(2)(a), (b) and (c) of Regulation (EU) 2018/848.
4. The competent authorities or, where appropriate, control authorities or control bodies shall draw up a final report for each official investigation. That final report shall contain:
- (a) the records of the specific elements required pursuant to this Article;
 - (b) the records of the information exchanged with the competent authority, other control authorities and control bodies and the Commission related to this official investigation.

Article 3

Conditions for the uses of certain indications

1. The indication provided for in-conversion products of plant origin as referred to in Article 30(3) of Regulation (EU) 2018/848 shall appear in:
- (a) a colour, size and style of lettering that is not more prominent than the sales description of the product, while the entire indication shall have the same size of letters;
 - (b) the same visual field as the code number of the control authority or control body as referred to in Article 32(1)(a) of Regulation (EU) 2018/848.
2. The indication of the code number of the control authority or control body as referred to in Article 32(1)(a) of Regulation (EU) 2018/848 shall appear in the same visual field as the organic production logo of the European Union, where it is used in the labelling.
3. The indication of the place where the agricultural raw materials of which the product is composed have been farmed, as referred to in Article 32(2) of Regulation (EU) 2018/848, shall be placed immediately below the code number referred to in paragraph 2 of this Article.

Article 4

Composition and dimension of a group of operators

A member of a group of operators shall register to only one group of operators for a given product, also where the operator is engaged in different activities related to that product.

The maximum size of a group of operators shall be 2 000 members.

⁽³⁾ 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).

*Article 5***Documents and records of a group of operators**

The group of operators shall keep the following documents and records for the purposes of the system for internal controls (ICS):

- (a) the list of members of the group of operators based on their registration of each member and consisting of the following elements for each member of the group of operators:
 - (i) name and identification (code number);
 - (ii) contact details;
 - (iii) date of registration;
 - (iv) total land surface under the management of the member and whether it is part of an organic, in-conversion or non-organic production unit;
 - (v) information on each production unit and/or activity: size, location, including a map where available, product, date of the beginning of the conversion period and yield estimates;
 - (vi) date of the last internal inspection with the name of the ICS inspector;
 - (vii) date of the last official control performed by the competent authority or, where appropriate, control authority or control body with the name of the inspector;
 - (viii) date and version of the list;
- (b) the signed membership agreements between the member and the group of operators as legal person, which shall include the rights and responsibilities of the member;
- (c) the internal inspection reports signed by the ICS inspector and the inspected member of the group of operators and including at least the following elements:
 - (i) the name of the member and the location of the production unit or premises, including purchase and collection centres where the activities referred to in Article 36(1)(a) of Regulation (EU) 2018/848 subject to the inspection take place;
 - (ii) the date and starting and ending hour of the internal inspection;
 - (iii) the findings of the inspection;
 - (iv) the audit scope/perimeter;
 - (v) the date of issue of the report;
 - (vi) the name of the internal inspector;
- (d) the training records of the ICS inspectors consisting of:
 - (i) the dates of the training;
 - (ii) the subject matter of the training;
 - (iii) the name of the trainer;
 - (iv) the signature of the trainee;
 - (v) where appropriate, an assessment of the knowledge acquired;
- (e) the training records of the members of the group of operators;
- (f) the records of the measures taken in case of non-compliance by the ICS manager, which shall include:
 - (i) the members subject to measures in case of non-compliance, including those suspended, withdrawn or required to comply with a new conversion period;
 - (ii) documentation of identified non-compliance;
 - (iii) documentation of follow-up of the measures;
- (g) traceability records, including information on the quantities, on the following activities, where relevant:
 - (i) purchase and distribution of farm inputs including plant reproductive material by the group;
 - (ii) production including harvest;

- (iii) storing;
- (iv) preparation;
- (v) delivery of products from each member to the joint marketing system;
- (vi) placing on the market of products by the group of operators;
- (h) the written agreements and contracts between the group of operators and subcontractors including information on the nature of the subcontracted activities;
- (i) the appointment of the ICS manager;
- (j) the appointment of the ICS inspectors as well as the list of ICS inspectors.

The list of members referred to in point (a) of the first paragraph shall be updated by the ICS manager after any modification of the elements listed in point (a)(i) to (viii) and it shall be indicated whether any of the members has been suspended or withdrawn due to measures in case of non-compliance resulting from internal inspections or official controls.

Article 6

Notifications from the ICS manager

The ICS manager shall immediately notify the competent authority or, where appropriate, the control authority or control body of the following information:

- (a) any suspicion of major and critical non-compliance;
- (b) any suspension or withdrawal of a member or a production unit or premises, including purchase and collection centres, from the group;
- (c) any prohibition of the placing on the market of a product as organic or in-conversion, including the name of the member or members concerned, the relevant quantities and lot identification.

Article 7

Minimum percentages of controls and sampling

The following rules on minimum percentages shall apply to the official controls referred to in Article 38(4) of Regulation (EU) 2018/848 to be carried out by each competent authority or, where appropriate, control authority or control body according to the risk of non-compliance:

- (a) minimum 10 % of all official controls of operators or groups of operators shall be carried out without prior notice every year;
- (b) minimum 10 % of additional controls to those referred to in Article 38(3) of Regulation (EU) 2018/848 shall be carried out every year;
- (c) minimum 5 % of the number of operators, excluding operators exempted in accordance with Articles 34(2) and 35 (8) of Regulation (EU) 2018/848 shall be subject to sampling in accordance with Article 14(h) of Regulation (EU) 2017/625 every year;
- (d) minimum 2 % of the members of each group of operators shall be subject to sampling in accordance with Article 14(h) of Regulation (EU) 2017/625 every year;
- (e) minimum 5 % of the operators that are members of a group of operators, but not less than 10 members, shall be subject to re-inspection every year. Where the group of operators has 10 members or less, all members shall be controlled in connection with the verification of compliance referred to in Article 38(3) of Regulation (EU) 2018/848.

*Article 8***Measures in case of established non-compliance**

The competent authorities may use the uniform arrangements set out in the Annex I to this Regulation to develop a national catalogue of measures as referred to in Article 41(4) of Regulation (EU) 2018/848.

That national catalogue of measures shall cover at least:

- (a) a list of non-compliances with a reference to the specific rules of Regulation (EU) 2018/848 or of the delegated or implementing act adopted in accordance with that Regulation;
- (b) the classification of the non-compliances into three categories: minor, major and critical, taking into account at least the following criteria:
 - (i) the application of precautionary measures referred to in Article 28(1) of Regulation (EU) 2018/848 and the own controls referred to in Article 9(1)(d) of Regulation (EU) 2017/625;
 - (ii) the impact on the integrity of the organic or in-conversion status of products;
 - (iii) the ability of the traceability system to locate the affected product(s) in the supply chain;
 - (iv) the response to previous requests by the competent authority or, where appropriate, the control authority or control body;
- (c) the measures corresponding to different categories of non-compliances.

*Article 9***Exchange of information**

1. For the purposes of Article 43(1) of Regulation (EU) 2018/848, the competent authorities shall use the Organic Farming Information System (OFIS) and the templates set out in Annex II to this Regulation to exchange information with the Commission and other Member States in accordance with the following rules:

- (a) a Member State (notifying Member State) shall notify the Commission and relevant Member State or Member States (notified Member State or Member States) at least in the following situations:
 - (i) when the suspected or established non-compliance affects the integrity of organic or in-conversion products coming from another Member State;
 - (ii) when the suspected or established non-compliance affects the integrity of organic or in-conversion products imported from a third country pursuant to Article 45(1) or Article 57 of Regulation (EU) 2018/848;
 - (iii) when the suspected or established non-compliance affects the integrity of organic or in-conversion products coming from the notifying Member State, since it could have implications for one or more notified Member States (alert notification);
- (b) in the situations referred to in point (a)(i) and (ii) the notified Member State or Member States shall reply within 30 calendar days from the date of receipt of the notification and shall inform about the actions and measures taken, including the results of the official investigation and provide any other information available and/or required by the notifying Member State;
- (c) the notifying Member State may ask the notified Member State or Member States for any necessary additional information;
- (d) the notifying Member State shall, as soon as possible, make the necessary entries and updates in OFIS, including the updates relating to the results of its own official investigations;
- (e) in the situation referred to in point (a) (ii) and when the Commission is notified by a Member State, the Commission shall inform the competent authority, or where relevant, the control authority or control body of the third country.

2. In addition to the information obligation referred to in Article 32(b) of Regulation (EU) 2017/625, the control authority or control body shall, without delay, inform the competent authority that has conferred to it or has delegated to it certain official control tasks or certain tasks related to other official activities in accordance with Article 4(3) and Article 28(1) or Article 31 of that Regulation, about any suspicion or established non-compliance that affects the integrity of organic or in-conversion products. It shall also provide any other information required by that competent authority.

3. For the purposes of Article 43(3) of Regulation (EU) 2018/848, where operators or groups of operators and/or their subcontractors are controlled by different control authorities or control bodies, those control authorities and control bodies shall exchange the relevant information on the operations under their control.

4. For the purposes of Article 43(3) of Regulation (EU) 2018/848, where operators or groups of operators and/or their subcontractors change their control authority or control body, such operators and/or the control authority or control body concerned shall notify the competent authority without delay of that change.

The new control authority or control body shall request the control file of the operator or group of operators concerned from the previous control authority or control body. The previous control authority or control body shall hand over without delay to the new control authority or control body the control file of the operator or group of operators concerned, including the written records referred to in Article 38(6) of Regulation (EU) 2018/848, the status of the certification, the list of non-compliances and the corresponding measures taken by the previous control authority or control body.

The new control authority or control body shall ensure that non-compliances noted in the records of the previous control authority or control body have been or will be addressed by the operator.

5. For the purposes of Article 43(3) of Regulation (EU) 2018/848, where operators or groups of operators are subject to a traceability check and a mass balance check, control authorities and control bodies shall exchange the relevant information allowing finalisation of these checks.

6. The competent authorities shall take the appropriate measures and establish documented procedures to enable the exchange of information between them and the control authorities and/or control bodies to which they have conferred or delegated certain official control tasks or certain tasks related to other official activities as well as between those control authorities and/or control bodies.

Article 10

Transitional provisions

1. Groups of operators in third countries complying with Regulations (EC) No 834/2007, (EC) No 889/2008 and (EC) No 1235/2008 before the date of entry into application of this Regulation and for which important administrative, legal and structural changes are necessary with regard to the maximum size of the group of operators laid down in the second paragraph of Article 4 of this Regulation, shall comply with that provision from 1 January 2025 at the latest.

2. The national catalogue of measures developed in accordance with Article 8 shall apply from 1 January 2023 at the latest.

Article 11

Entry into force and application

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

It shall apply from 1 January 2022.

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

Done at Brussels, 22 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Uniform arrangements for the development and application of a national catalogue of measures as referred to in Article 8

1. Competent authorities may classify cases of non-compliance as minor, major or critical, on the basis of the classification criteria in article 8, when one or more of the following situations apply:

(a) the case of non-compliance is minor when:

- (i) the precautionary measures are proportionate and appropriate, and the controls that the operator has put in place are efficient;
- (ii) the non-compliance does not affect the integrity of the organic or in-conversion product;
- (iii) the traceability system can locate the affected product(s) in the supply chain and prohibition of placing products on the market with reference to organic production is possible;

(b) the case of non-compliance is major when:

- (i) the precautionary measures are not proportionate and appropriate and the controls that the operator has put in place are not efficient;
- (ii) the non-compliance affects the integrity of the organic or in-conversion product;
- (iii) the operator did not correct in a timely manner a minor non-compliance;
- (iv) the traceability system can locate the affected product(s) in the supply chain and prohibition of placing products on the market with reference to organic production is possible;

(c) the case of non-compliance is critical when:

- (i) the precautionary measures are not proportionate and appropriate and the controls that the operator has put in place are not efficient;
- (ii) the non-compliance affects the integrity of the organic or in-conversion product;
- (iii) the operator fails to correct previous major non-compliances or repeatedly fails to correct other categories of non-compliances;
- (iv) there is no information from the traceability system to locate the affected product(s) in the supply chain and prohibition of placing products on the market with reference to organic production is not possible.

2. Measures

Competent authorities or, where appropriate, control authorities or control bodies may apply one or more of the following measures in a proportionate manner to the listed categories of cases of non-compliance:

Category of non-compliance	Measure
Minor	Submission by the operator of an action plan within time limit set on the correction of non-compliance
Major	No reference to organic production in the labelling and advertising of the entire lot or production run concerned (crop(s) or animal(s) affected) in accordance with Article 42(1) of Regulation (EU) 2018/848 New conversion period required Limitation of certificate's scope

	Improvement of the implementation of the precautionary measures and the controls that the operator has put in place to ensure compliance
Critical	No reference to organic production in the labelling and advertising of the entire lot or production run concerned (crop(s) or animal(s) affected) in accordance with Article 42(1) of Regulation (EU) 2018/848 Prohibition of marketing products which refer to organic production for a given period in accordance with Article 42(2) of Regulation (EU) 2018/848 New conversion period required Limitation of the certificate's scope Suspension of the certificate Withdrawal of the certificate

ANNEX II

OFIS templates as referred to in Article 9

1. Template for a standard notification on suspected or established non-compliance

*First language:

Second language:

A. Notifying Member State:

1) Country:

2) Competent authority – contact details:

*3) Date of notification (DD/MM/YYYY):

*4) Reference

B. Notified Member State or Member States:

*1) Country/countries:

2) Competent authority/authorities – contact details:

C. Product:

*1) Category of product:

*2) Product/trade name:

*3) Country of origin:

4) Description of the product (packaging size and form, etc.) – please attach copied or scanned seal or label:

5) Identification of the lot (e.g. lot number, delivery number, delivery date, etc.):

6) Other information:

D. Traceability:

Please describe in detail the complete supply chain:

1) Producer – contact details – competent authority or, where appropriate, the control authority or control body:

2) Processor/seller in the country of origin – contact details – competent authority or, where appropriate, the control authority or control body:

3) Importer in the notifying country – contact details – competent authority or, where appropriate, the control authority or control body:

4) Wholesaler – contact details – competent authority or, where appropriate, the control authority or control body:

5) Retailer or other operator in the notifying country, where the non-compliance has been detected – contact details – competent authority or, where appropriate, the control authority or control body:

Authority (ies):

Other actors:

E. Non-compliance, suspicion of non-compliance, other problem raised:

*1) Nature of the non-compliance/suspicion of non-compliance/other problem raised.
Which non-compliance/suspicion of non-compliance/other problem raised has been identified?:

*In what aspect does it represent a non-compliance/suspicion of non-compliance/other problem raised with Regulation (EU) 2018/848 of the European Parliament and of the Council ⁽¹⁾?:

2) Context of the detection of the non-compliance/suspicion of non-compliance/other problem raised – please attach a copy of invoice or other supporting documents:

Date of the detection of the non-compliance/suspicion of non-compliance/other problem raised (DD/MM/YYYY):

Place of the detection of the non-compliance/suspicion of non-compliance/other problem raised:

3) Analysis of the samples/tests (if any) – please attach a copy of analysis report:

Date of sampling/testing (DD/MM/YYYY):

Place of sampling/testing:

Date of the analysis – report (DD/MM/YYYY):

Details (name of the laboratory, methods used, results):

Name of the substances found:

Level of the residues detected:

Is the level above the threshold allowed in food (or feed) in general?:

Is the level for labeling of GMO-contents overshot?:

F. Market influence:

1) Has the product been withdrawn from the market, blocked or marketed?:

2) Which actors have been already informed?:

3) Are other Member States affected? If so, which Member States?:

G. Measures taken:

1) Have any voluntary measures been taken (on the product/operator/market)?:

2) Have any compulsory measures been taken?:

3) What is the scope of the measures (national, regional, exports, etc.)?:

4) Date of entry into force: (DD/MM/YYYY):

5) Duration (in months):

6) Justification/legal basis of the measures:

7) Which competent authority or, where appropriate, control authority or control body has adopted the measures?:

H. Other information/Evaluation:**I. Annexes:**

Copied or scanned documentation of the product (seal, label, etc.). Copy of invoice, documentary account or document of transport or delivery order. Analysis report and/or any other relevant documents:

⁽¹⁾ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

2. Template for a standard reply to a standard notification on suspected or established non-compliance

*First language:

Second language:

Version of reply:

A. Notified Member State:

1) Country:

2) Competent authority – contact details:

*3) Date (DD/MM/YYYY):

*4) Reference:

B. Notification:

1) Country:

2) Competent authority – contact details:

*3) Date of notification (DD/MM/YYYY):

*4) Reference of notification (same as in point A.4 of the notification):

*5) Product:

6) Non-compliance/suspicion of non-compliance/other problem raised:

C. Investigation

1) Which competent authority(-ies) or, where appropriate, control authority(-ies) and/or control body(-ies) are/were in charge of the investigation?:

2) Describe cooperation between the different operators and competent authority(-ies) or, where appropriate, control authority(-ies) and/or control body(-ies) involved, in the different countries involved (if any)?:

3) Which investigation methods/procedures have been used?:

For instance, have the operators concerned been submitted to a specific control?:

Have samples been taken and analysed?:

4) What is the outcome of the investigation?:

What are the results of the inspections/analyses (if any)?:

Has the origin of the non-compliance/suspicion of non-compliance/other problem raised been cleared out?:

What is your assessment on the seriousness of the non-compliance/suspicion of non-compliance/other problem raised?:

5) Have the origin of the contamination/non-compliance/suspicion of non-compliance/other problem raised and the responsibility of the actors been clearly identified and established?:

Have the operators identified been involved in other non-compliance/suspicion of non-compliance/other problem raised cases in the last 3 years?:

D. Measures and penalties:

*1) What preventive and corrective measures have been taken (e.g. as regards the distribution/circulation of the product on the Union market and third-country markets)?:

2) What actions in case of non-compliance/suspicion of non-compliance/other problem raised were taken on the operators and/or the products concerned? ⁽²⁾:

*Mode of actions (written form, warning, etc.):

Was the certification of the producer/processor limited, suspended or withdrawn?:

Date of entry into force of the actions (if any) (DD/MM/YYYY):

Duration of the actions (if any) (in months):

Competent authority or, where appropriate, control authority and/or control body which adopted and applied the actions (if any):

3) Are additional inspections planned at the operators concerned?:

4) What other measures are the competent authority or, where appropriate, the control authority or control body planning to prevent the occurrence of similar cases?:

E. **Other information:**

F. **Annexes:**

3. Template for an alert notification

1. Alert origin and status

Alerting Country:

Competent authority:

2. Alerted country or countries

Country	Competent authority	Coordinator	Scope
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3. Non-compliance, fraud, other issue and suspicion thereof (hereinafter "non-compliance")

Title:

Description:

What is your assessment on the seriousness of the non-compliance?

Which actors have been already informed?

Detection context

Date:

Place:

Person/body detecting the non-compliance:

Union legislation at stake (reference(s)):

4. Product traceability

Description

Name:

Brand/trade name:

Other aspects:

Consignment

Consignment/lot/delivery number:

Country of origin:

Total net/gross weight, volume:

Other information:

⁽²⁾ Measure pursuant to Articles 29(1) and (2), 41(1) to (4) and 42 of Regulation (EU) 2018/848.

Supply chain – description of operators (name – type – contact details – control body/control authority (with contact details))

5. Measures taken

- 0. No action yet (please explain why)
 - 1. Prohibition of the placing on the market of the product (basis – date – quantities)
 - 2. Downgrading product to conventional (basis – date – quantities – from/to)
 - 3. Suspension of certificate of the operator (from/to – scope)
 - 4. De-certification of operator (as from)
 - 5. Other measures (please describe)
-

6. Other information

7. Files

- 4. Template for a standard international notification on suspected or established non-compliance
-

Notifying country:

Country:

Notified Actor details:

Notified Actor Type:

Actor code:

Actor version:

Name:

Street:

Postcode:

Locality:

Telephone:

Mail:

Fax

Website link:

URL site:

Comments:

A. Product:

*1) Country of origin:

*2) Category of product:

*3) Product/trade name:

4) Description of the product (packaging size and form, etc.) – please attach copied or scanned seal or label:

5) Identification of the lot (e.g. lot number, delivery number, delivery date, etc.):

6) Other information:

B. Traceability:

Please describe in detail the complete supply chain:

1) Producer – contact details – control authority or control body:

2) Processor/seller/exporter in the country of origin – contact details – control authority or control body:

3) Importer in the notifying country – contact details – control authority or control body:

4) Wholesaler – contact details – control authority or control body:

5) Retailer or other operator in the notifying country, where the non-compliance has been detected – contact details – control authority or control body:

Authority (ies):

Other actors:

C. Non-compliance, suspicion of non-compliance, other problem raised:

*1) Nature of the non-compliance/suspicion of non-compliance/other problem raised.
Which non-compliance/suspicion of non-compliance/other problem raised has been identified?:

In what aspect does it represent a non-compliance/suspicion of non-compliance/other problem raised with Regulation (EU) 2018/848 of the European Parliament and of the Council ()?:

2) Context of the detection of the non-compliance/suspicion of non-compliance/other problem raised – please attach a copy of invoice or other supporting documents:

Date of the detection of the non-compliance/suspicion of non-compliance/other problem raised (DD/MM/YYYY):

Place of the detection of the non-compliance/suspicion of non-compliance/other problem raised:

3) Analysis of the samples/tests (if any) – please attach a copy of analysis report:

Date of sampling/testing (DD/MM/YYYY):

Place of sampling/testing:

Date of the analysis – report (DD/MM/YYYY):

Details (name of the laboratory, methods used, results):

Name of the substances found:

Level of the residues detected:

Is the level above the threshold allowed in food (or feed) in general?:

Is the level for labeling of GMO-contents overshot?:

D. Market influence:

1) Has the product been withdrawn from the market, blocked?:

2) Which actors have been already informed?:

3) Are other Member States affected? If so, which Member States?:

E. Measures taken:

1) Have any voluntary measures been taken (on the product/operator/market)?:

2) Have any compulsory measures been taken?:

3) What is the scope of the measures (national, regional, exports, etc.)?:

4) Date of entry into force: (DD/MM/YYYY):

5) Duration (in months):

(*) Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

6) Justification/legal basis of the measures:

7) Which control authority or control body has adopted the measures?:

F. Other information/Evaluation:

G. Annexes:

Copied or scanned documentation of the product (seal, label, etc.). Copy of invoice, documentary account or document of transport or delivery order. Analysis report and/or any other relevant documents:

(*) *Mandatory fields.*

COMMISSION IMPLEMENTING REGULATION (EU) 2021/280**of 22 February 2021****amending Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 in order to align them with Regulation (EU) 2019/943****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity ⁽¹⁾, and in particular Article 59(1) and (2) and Article 60(1) thereof,

Whereas:

- (1) The introduction of harmonised rules on electricity trade and grid operation through electricity network codes and guidelines has proven to be crucial for the achievement of an integrated electricity market in the Union.
- (2) Commission Regulation (EU) 2015/1222 ⁽²⁾, Commission Regulation (EU) 2016/1719 ⁽³⁾, Commission Regulation (EU) 2017/2195 ⁽⁴⁾ and Commission Regulation (EU) 2017/1485 ⁽⁵⁾ provide important rules for the well-functioning of the internal market for electricity, as they set out detailed rules to be followed by regulatory authorities to jointly define the terms and conditions or methodologies necessary for the alignment of electricity trade and grid operation in the Union.
- (3) The practice with the adoption process of TCM has shown that two aspects of the adoption process should be clarified.
- (4) Regulations (EU) 2019/942 of the European Parliament and of the Council ⁽⁶⁾ and (EU) 2019/943 modified the regulatory framework of the internal market for electricity, including the process to agree on terms and conditions or methodologies.
- (5) As set out in Article 5(2) of Regulation (EU) 2019/942, terms and conditions or methodologies which previously required the approval of all regulatory authorities are now directly adopted by the Agency for the Cooperation of European Energy Regulators ('the Agency'). Regulations (EU) 2019/942 and (EU) 2019/943 also provide that national regulatory authorities and the Agency are entitled to revise and amend the proposals for terms and conditions or methodologies submitted by transmission system operators ('TSOs') and nominated electricity market Operators ('NEMOs').
- (6) Regulations (EU) 2019/942 and (EU) 2019/943 also establish that national regulators and the Agency are responsible for the adoption of the final texts of terms and conditions or methodologies, and that they have the right to revise and amend the proposals from TSOs or NEMOs in order to ensure that they are in line with the objectives of Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 and contribute to market integration, non-discrimination, effective competition and the proper functioning of the electricity market.
- (7) Those changes should be reflected in Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485.

⁽¹⁾ OJ L 158, 14.6.2019, p. 54.

⁽²⁾ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

⁽³⁾ Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).

⁽⁴⁾ Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ L 312, 28.11.2017, p. 6).

⁽⁵⁾ Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (OJ L 220, 25.8.2017, p. 1).

⁽⁶⁾ Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22).

- (8) Experience with the existing development process of terms and conditions or methodologies, including recent jurisprudence and delays in agreeing on certain terms and conditions or methodologies, have made it necessary to revise the regulatory procedure for defining terms and conditions or methodologies in order to ensure their timely adoption.
- (9) In accordance with the recent Court case-law ⁽⁷⁾, Regulation (EU) 2015/1222 allows every single national regulatory authorities to request amendments to proposals for terms and conditions or methodologies by TSOs or NEMOs. Such a possibility may potentially lead to a sequence of multiple individual amendment requests and respective amended proposals for terms and conditions or methodologies, with no realistic perspective of a timely approval and implementation. This could not only lead to significant delays in the development of terms and conditions or methodologies, but uncoordinated individual requests for changes of proposals for terms and conditions or methodologies could also create legal uncertainty, as it would remain uncertain which amendment request should ultimately prevail. In order to avoid that situation, Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485 should set out a clear procedure for the coordination of amendment requests for terms and conditions or methodologies.
- (10) The procedure of coordinated decisions on terms and conditions or methodologies is identical in Regulations (EU) 2015/1222, (EU) 2016/1719, (EU) 2017/2195 and (EU) 2017/1485. Also the process for the amendment of those four Regulations is identical. It is therefore warranted to adopt the changes to those four Regulations by way of one single amending Regulation.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 67(2) of Regulation (EU) 2019/943,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2015/1222

Article 9 of Regulation (EU) 2015/1222 is replaced by the following:

'Article 9

Adoption of terms and conditions or methodologies

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs or NEMOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, jointly by all competent regulatory authorities in procedures pursuant to paragraph 7, and by the competent regulatory authority in procedures pursuant to paragraph 8.

Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

⁽⁷⁾ Judgment of the General Court of 24 October 2019 in case T-332/17, *E-Control Austria v ACER*.

2. Where TSOs or NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6 are not able to reach an agreement, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals listed in paragraph 6 shall require the following majority:

- (a) TSOs or NEMOs representing at least 55 % of the Member States; and
- (b) TSOs or NEMOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 6 shall include TSOs or NEMOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

For NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. Each NEMO shall have a number of votes equal to the number of Member States where it is designated. If more than one NEMO is designated in the territory of a Member State, the Member State shall allocate the voting powers among the NEMOs, taking into account their respective volume of transacted electricity in that particular Member State in the preceding financial year.

3. Except for Article 43(1), Article 44, Article 56(1), Article 63 and Article 74(1), where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph (7) are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals for terms and conditions or methodologies listed in paragraph 7 shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 7, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 shall decide by consensus.

4. If TSOs or NEMOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or the Agency in accordance with paragraphs 6 to 8 or 12 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. The Agency, all competent regulatory authorities jointly, or the competent regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

5. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6, 7 and 8. Before approving the terms and conditions or methodologies, the Agency or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs or NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the plan on joint performance of MCO functions in accordance with Article 7(3);
- (b) the capacity calculation regions in accordance with Article 15(1);
- (c) the generation and load data provision methodology in accordance with Article 16(1);
- (d) the common grid model methodology in accordance with Article 17(1);
- (e) the proposal for a harmonised capacity calculation methodology in accordance with Article 21(4);
- (f) back-up methodology in accordance with Article 36(3);
- (g) the algorithm submitted by NEMOs in accordance with Article 37(5), including the TSOs' and NEMOs' sets of requirements for algorithm development in accordance with Article 37(1);
- (h) products that can be taken into account by NEMOs in the single day-ahead and intraday coupling process in accordance with Articles 40 and 53;
- (i) the maximum and minimum prices in accordance with Articles 41(1) and 54(2);
- (j) the intraday capacity pricing methodology to be developed in accordance with Article 55(1);
- (k) the intraday cross-zonal gate opening and intraday cross-zonal gate closure times in accordance with Article 59(1);
- (l) the day-ahead firmness deadline in accordance with Article 69;
- (m) the congestion income distribution methodology in accordance with Article 73(1).

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the common capacity calculation methodology in accordance with Article 20(2);
- (b) decisions on the introduction and postponement of flow-based calculation in accordance with Article 20(2) to (6) and on exemptions in accordance with Article 20(7);
- (c) the methodology for coordinated redispatching and countertrading in accordance with Article 35(1);
- (d) the common methodologies for the calculation of scheduled exchanges in accordance with Articles 43(1) and 56(1);
- (e) the fallback procedures in accordance with Article 44;
- (f) complementary regional auctions in accordance with Article 63(1);
- (g) the conditions for the provision of explicit allocation in accordance with Article 64(2);
- (h) the redispatching or countertrading cost sharing methodology in accordance with Article 74(1).

8. The following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by each regulatory authority or other competent authority of the Member States concerned:

- (a) where applicable, NEMO designation and revocation or suspension of designation in accordance with Article 4(2), (8) and (9);
- (b) if applicable, the fees or the methodologies used to calculate the fees of NEMOs relating to trading in the day-ahead and intraday markets in accordance with Article 5(1);

- (c) proposals of individual TSOs for a review of the bidding zone configuration in accordance with Article 32(1)(d);
- (d) where applicable, the proposal for cross-zonal capacity allocation and other arrangements in accordance with Articles 45 and 57;
- (e) capacity allocation and congestion management costs in accordance with Articles 75 to 79;
- (f) if applicable, cost sharing of regional costs of single day-ahead and intraday coupling in accordance with Article 80(4).

9. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 8 may be submitted to the Agency within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3 paragraph 2 of the Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

10. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 12 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 6, to the last regulatory authority concerned in accordance with paragraph 7 or, where applicable, to the regulatory authority in accordance with paragraph 8.

11. Where the regulatory authorities have not been able to reach agreement within the period referred to in paragraph 10, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

12. In the event that the Agency, or all competent regulatory authorities jointly, or the competent regulatory authority request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6, 7 and 8 respectively, the relevant TSOs or NEMOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the competent regulatory authorities or the competent regulatory authority. The Agency or the competent regulatory authorities or the competent regulatory authority shall decide on the amended terms and conditions or methodologies within 2 months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraph 7 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs or NEMOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 of this Article shall apply.

13. The Agency, or all competent regulatory authorities jointly, or the competent regulatory authority, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6, 7 and 8, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs or NEMOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 12 and approved in accordance with the procedure set out in this Article.

14. TSOs and NEMOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 13.

Article 2

Amendments to Regulation (EU) 2016/1719

Article 4 of Regulation (EU) 2016/1719 is replaced by the following:

Article 4

Adoption of terms and conditions or methodologies

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to paragraph 6, and jointly by all competent regulatory authorities in procedures pursuant to paragraph 7. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of those terms and conditions or methodologies.

2. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 6 are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with paragraph 6 shall require the following majority:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 6 shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 6, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 are not able to reach an agreement and where regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with paragraph 7 shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 7, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

4. If TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or the Agency in accordance with paragraphs 6 and 7 or 11 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and the Agency with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. The Agency or all competent regulatory authorities jointly, shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 6 or 7 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

5. Each regulatory authority or where applicable the Agency, as the case may be, shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7. Before approving the terms and conditions or methodologies, the Agency or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

6. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the generation and load data provision methodology pursuant to Article 17;
- (b) the common grid model methodology pursuant to Article 18;
- (c) the requirements for the single allocation platform pursuant to Article 49;
- (d) the harmonised allocation rules pursuant to Article 51;
- (e) the congestion income distribution methodology pursuant to Article 57;
- (f) the methodology for sharing costs of establishing, developing and operating the single allocation platform pursuant to Article 59;
- (g) the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights pursuant to Article 61.

7. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the capacity calculation methodology pursuant to Article 10;
- (b) the methodology for splitting cross-zonal capacity pursuant to Article 16;
- (c) the regional design of long-term transmission rights pursuant to Article 31;
- (d) the establishment of fallback procedures in accordance with Article 42;
- (e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.

8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several or all regulatory authorities in accordance with paragraph 7 shall be submitted to the Agency within 1 week of their submission to the regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

9. Where the approval of the terms and conditions or methodologies in accordance with paragraph 7 or the amendment in accordance with paragraph 11 requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 6 or to the last regulatory authority concerned in accordance with paragraph 7.

10. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 9, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

11. In the event that the Agency or all competent regulatory authorities jointly request an amendment to approve the terms and conditions or methodologies submitted in accordance with paragraphs 6 and 7, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraph 7 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in paragraph 4 shall apply.

12. The Agency or the regulatory authorities jointly, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 6 and 7, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency.

The proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 6 and approved in accordance with the procedure set out in this Article.

13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the Agency or the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.'

Article 3

Amendments to Regulation (EU) 2017/2195

Articles 4 to 7 of Regulation (EU) 2017/2195 are replaced by the following:

'Article 4

Terms and conditions or methodologies of TSOs

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 5(2), or to the relevant regulatory authorities in accordance with Article 5(3) within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a

deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to Article 5(2), jointly by all relevant regulatory authorities in procedures pursuant to Article 5(3), and by the relevant regulatory authority in procedures pursuant to Article 5(4).

2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the relevant regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(2) are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals listed in Article 5(2) shall require the following majority:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 5(2) shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

4. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) are not able to reach an agreement, and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 5(3) shall require the following majority:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned area.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 5(3) shall include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

5. TSOs deciding on proposals for terms and conditions or methodologies listed in Article 5(3) in relation to regions composed of five Member States or less shall decide by consensus.

6. For TSO decisions on proposals for terms and conditions or methodologies pursuant to paragraphs 3 and 4, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

7. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the relevant regulatory authorities or the Agency in accordance with Articles 5 and 6 within the deadlines set out in this Regulation, they shall provide the relevant regulatory authorities and the Agency with the relevant drafts of the proposals for terms and conditions or methodologies and explain why an agreement has not been reached. The Agency, all relevant regulatory authorities jointly, or the relevant regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with Article 5, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

Article 5

Approval of terms and conditions or methodologies of TSOs

1. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2, 3 and 4. Before approving the terms and conditions or methodologies, the Agency or the relevant regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency:

- (a) the frameworks for the establishment of the European platforms pursuant to Articles 20(1), 21(1) and 22(1);
- (b) the modifications of the frameworks for the establishment of the European platforms pursuant to Articles 20(5) and 21(5);
- (c) the standard products for balancing capacity pursuant to Article 25(2);
- (d) the classification methodology for the activation purposes of balancing energy bids pursuant to Article 29(3);
- (e) the assessment on the possible increase of the minimum volume of balancing energy bids that shall be forwarded to the European platforms pursuant to Article 29(11);
- (f) the methodologies for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process pursuant to Article 30(1) and (5);
- (g) the harmonisation of the methodology for the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(3);
- (h) the methodology for a co-optimised allocation process of cross-zonal capacity pursuant to Article 40(1);
- (i) the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(1);
- (j) the harmonisation of the main features of imbalance settlement pursuant to Article 52(2).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- (a) the framework, for the geographical area concerning all TSOs performing the reserve replacement process pursuant to Part IV of Regulation (EU) 2017/1485, for the establishment of the European platform for replacement reserves pursuant to Article 19(1);
- (b) for the geographical area concerning two or more TSOs exchanging or mutually willing to exchange balancing capacity, the establishment of common and harmonised rules and process for the exchange and procurement of balancing capacity pursuant to Article 33(1);
- (c) for the geographical area covering TSOs exchanging balancing capacity, the methodology for calculating the probability of available cross-zonal capacity after intraday cross-zonal gate closure time pursuant to Article 33(6);
- (d) the exemption, for the geographical area in which the procurement of balancing capacity has taken place, for not allowing balancing service providers to transfer their obligations to provide balancing capacity pursuant to Article 34(1);
- (e) the application of a TSO-BSP model, in a geographical area comprising two or more TSOs, pursuant to Article 35(1);
- (f) the cross-zonal capacity calculation methodology for each capacity calculation region pursuant to Article 37(3);
- (g) in a geographical area comprising two or more TSOs, the application of the allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves pursuant to Article 38(1);
- (h) for each capacity calculation region, the methodology for a market-based allocation process of cross-zonal capacity pursuant to Article 41(1);
- (i) for each capacity calculation region, the methodology for an allocation process of cross-zonal capacity based on an economic efficiency analysis and the list of each individual allocation of cross-zonal capacity based on an economic efficiency analysis pursuant to Article 42(1) to (5);
- (j) for the geographical area comprising all TSOs intentionally exchanging energy within a synchronous area, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(3);

- (k) for the geographical area comprising all asynchronously connected TSOs intentionally exchanging energy, the TSO-TSO settlement rules for the intended exchange of energy pursuant to Article 50(4);
- (l) for each synchronous area, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(1);
- (m) for the geographical area comprising all asynchronously connected TSOs, the TSO-TSO settlement rules for the unintended exchange of energy pursuant to Article 51(2);
- (n) the exemption, at synchronous area level, to the harmonisation of the imbalance settlement periods pursuant to Article 53(2);
- (o) for the geographical area comprising two or more TSOs exchanging balancing capacity, the principles for balancing algorithms pursuant to Article 58(3).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

4. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by each regulatory authority of each concerned Member State on a case-by-case basis:

- (a) the exemption to publish information on offered prices of balancing energy or balancing capacity bids due to market abuse concerns pursuant to Article 12(4);
- (b) where appropriate, the methodology for allocating costs resulting from actions taken by DSOs, pursuant to Article 15(3);
- (c) the terms and conditions related to balancing pursuant to Article 18;
- (d) the definition and the use of specific products pursuant to Article 26(1);
- (e) the limitation on the amount of bids that is forwarded to the European platforms pursuant to Article 29(10);
- (f) the exemption to separate procurement of upward and downward balancing capacity pursuant to Article 32(3);
- (g) where appropriate, the additional settlement mechanism separate from the imbalance settlement, to settle the procurement costs of balancing capacity, administrative costs and other costs related to balancing with balance responsible parties pursuant to Article 44(3);
- (h) the derogations to one or more provisions of this Regulation pursuant to Article 62(2);
- (i) the costs relating to the obligations imposed on system operators or assigned third entities in accordance with this Regulation pursuant to Article 8(1).

A Member State may provide an opinion to the concerned regulatory authority on the proposals for the terms and conditions or methodologies listed in the first subparagraph.

5. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. The implementation timescale shall not be longer than 12 months after the approval by the relevant regulatory authorities, except where all relevant regulatory authorities agree to extend the implementation timescale or where different timescales are set out in this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 3 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 4 may be submitted to the Agency within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3 paragraph 2 of the Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the relevant regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

6. Where the approval of the terms and conditions or methodologies in accordance with paragraph 3 of this Article or the amendment in accordance with Article 6 requires a decision by more than one regulatory authority, the relevant regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the relevant regulatory authorities shall take that opinion into account. Regulatory authorities or, where competent, the Agency shall decide on the terms and conditions or methodologies submitted in accordance with paragraphs 2, 3 and 4, within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the relevant regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 2, to the last regulatory authority concerned in accordance with paragraph 3 or, where applicable, to the relevant regulatory authority in accordance with paragraph 4.

7. Where the relevant regulatory authorities have not been able to reach agreement within the period referred to in paragraph 6, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months from the day of referral, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

8. Any party may complain against a relevant system operator or TSO in relation to that system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the relevant regulatory authority which, acting as dispute settlement authority, shall issue a decision within 2 months after receipt of the complaint. That period may be extended by a further 2 months where additional information is sought by the relevant regulatory authority. That extended period may be further extended with the agreement of the complainant. The relevant regulatory authority's decision shall be binding unless and until overruled on appeal.

Article 6

Amendments to terms and conditions or methodologies of TSOs

1. Where the Agency, all relevant regulatory authorities jointly or the relevant regulatory authority require an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 5(2), (3) and (4) respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the relevant regulatory authorities. The Agency or the relevant regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

2. Where the relevant regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 4 shall apply.

3. The Agency or the regulatory authorities where they are responsible for the adoption of terms and conditions or methodologies in accordance with Article 5(2), (3) and (4) may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency. The proposals for amendments to the terms and conditions or methodologies shall be submitted to consultation in accordance with the procedure set out in Article 10 and approved in accordance with the procedure set out in Articles 4 and 5.

*Article 7***Publication of terms and conditions or methodologies on the internet**

TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the relevant regulatory authorities or, where no such approval is required, following their establishment, except where such information is considered as confidential in accordance with Article 11.

*Article 4***Amendments to Regulation (EU) 2017/1485**

Articles 5 to 8 of Regulation (EU) 2017/1485 are replaced by the following:

*Article 5***Terms and conditions or methodologies of TSOs**

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the Agency in accordance with Article 6(2), to the competent regulatory authorities in accordance with Article 6(3), or to the entity designated by the Member State in accordance with Article 6(4) and (5) within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs, the deadlines for terms and conditions or methodologies may be prolonged by the Agency in procedures pursuant to Article 6(2), jointly by all competent regulatory authorities in procedures pursuant to Article 6(3), and by the competent regulatory authority in procedures pursuant to Article 6(4) and (5).

2. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, shall regularly inform the regulatory authorities and the Agency about the progress of developing those terms and conditions or methodologies.

3. Where TSOs deciding on proposals for terms and conditions or methodologies listed in Article 6(2) are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 6(2) shall require a majority of:

- (a) TSOs representing at least 55 % of the Member States; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the Union.

4. A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 6(2) shall include TSOs representing at least four Member States, failing of which the qualified majority shall be deemed attained.

5. Where TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. A qualified majority for proposals in accordance with Article 6(3) shall require a majority of:

- (a) TSOs representing at least 72 % of the Member States concerned; and
- (b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

6. A blocking minority for decisions on proposals for terms and conditions or methodologies listed in Article 6(3) shall include at least a minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

7. TSOs deciding on proposals for terms and conditions or methodologies in accordance with Article 6(3) in relation to regions composed of five Member States or less shall decide by consensus.

8. For TSO decisions on proposals for terms and conditions or methodologies pursuant to paragraphs 3 and 5, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

9. Where TSOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the regulatory authorities or to the Agency in accordance with Articles 6 and 7 or to the entities designated by the Member States in accordance with Article 6(4) within the deadlines set out in this Regulation, they shall provide the designated entity, competent regulatory authorities and the Agency with the relevant drafts of the terms and conditions or methodologies, and explain why an agreement has not been reached. The Agency, all competent regulatory authorities jointly, or the competent designated entity shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with Article 6, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

Article 6

Approval of terms and conditions or methodologies of TSOs

1. Each regulatory authority or where applicable the Agency, as the case may be, shall approve the terms and conditions or methodologies developed by TSOs under paragraphs 2 and 3. The entity designated by the Member State shall approve the terms and conditions or methodologies developed by TSOs under paragraph 4. The designated entity shall be the regulatory authority unless otherwise provided by the Member State. Before approving the terms and conditions or methodologies, the regulatory authority, the Agency or the designated entity shall revise the proposals where necessary, after consulting the respective TSOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

2. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by the Agency, on which a Member State may provide an opinion to the concerned regulatory authority:

- (a) key organizational requirements, roles and responsibilities in relation to data exchange related to operational security in accordance with Article 40(6);
- (b) methodology for building the common grid models in accordance with Article 67(1) and Article 70;
- (c) methodology for coordinating operational security analysis in accordance with Article 75.

3. The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region, on which a Member State may provide an opinion to the concerned regulatory authority:

- (a) methodology for each synchronous area for the definition of minimum inertia in accordance with Article 39(3)(b);
- (b) common provisions for each capacity calculation region for regional operational security coordination in accordance with Article 76;
- (c) methodology, at least per synchronous area, for assessing the relevance of assets for outage coordination in accordance with Article 84;
- (d) methodologies, conditions and values included in the synchronous area operational agreements in Article 118 concerning:
 - (i) the frequency quality defining parameters and the frequency quality target parameter in accordance with Article 127;
 - (ii) the dimensioning rules for FCR in accordance with Article 153;
 - (iii) the additional properties of the FCR in accordance with Article 154(2);

- (iv) for the GB and IE/Nl synchronous areas, the measures to ensure the recovery of energy reservoirs in accordance with Article 156(6)(b);
 - (v) for the CE and Nordic synchronous areas, the minimum activation period to be ensured by FCR providers in accordance with Article 156(10);
 - (vi) for the CE and Nordic synchronous areas, the assumptions and methodology for a cost-benefit analysis in accordance with Article 156(11);
 - (vii) for synchronous areas other than CE and if applicable, the limits for the exchange of FCR between TSOs in accordance with Article 163(2);
 - (viii) for the GB and IE/Nl synchronous areas, the methodology to determine the minimum provision of reserve capacity on FCR between synchronous areas, defined in accordance with Article 174(2)(b);
 - (ix) limits on the amount of exchange of FRR between synchronous areas defined in accordance with Article 176(1) and limits on the amount of sharing of FRR between synchronous areas defined in accordance with Article 177(1);
 - (x) limits on the amount of exchange of RR between synchronous areas defined in accordance with Article 178(1) and limits on the amount of sharing of RR between synchronous areas defined in accordance with Article 179(1);
- (e) methodologies and conditions included in the LFC block operational agreements in Article 119, concerning:
- (i) ramping restrictions for active power output in accordance with Article 137(3) and (4);
 - (ii) coordination actions aiming to reduce FRCE as defined in Article 152(14);
 - (iii) measures to reduce FRCE by requiring changes in the active power production or consumption of power generating modules and demand units in accordance with Article 152(16);
 - (iv) the FRR dimensioning rules in accordance with Article 157(1);
- (f) mitigation measures per synchronous area or LFC block in accordance with Article 138;
- (g) common proposal per synchronous area for the determination of LFC blocks in accordance with Article 141(2).
4. Unless determined otherwise by the Member State, the following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by the entity designated in accordance with paragraph 1 by the Member State:
- (a) for the GB and IE/Nl synchronous areas, the proposal of each TSO specifying the level of demand loss at which the transmission system shall be in the blackout state;
 - (b) scope of data exchange with DSOs and significant grid users in accordance with Article 40(5);
 - (c) additional requirements for FCR providing groups in accordance with Article 154(3);
 - (d) exclusion of FCR providing groups from the provision of FCR in accordance with Article 154(4);
 - (e) for the CE and Nordic synchronous areas, the proposal concerning the interim minimum activation period to be ensured by FCR providers as proposed by the TSO in accordance with Article 156(9);
 - (f) FRR technical requirements defined by the TSO in accordance with Article 158(3);
 - (g) rejection of FRR providing groups from the provision of FRR in accordance with Article 159(7);
 - (h) technical requirements for the connection of RR providing units and RR providing groups defined by the TSO in accordance with Article 161(3); and
 - (i) rejection of RR providing groups from the provision of RR in accordance with Article 162(6).

5. Where an individual relevant system operator or TSO is required or permitted under this Regulation to specify or agree on requirements that are not subject to paragraph 4, Member States may require prior approval by the competent regulatory authority of those requirements and any amendments thereof.

6. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 3 shall be submitted to the Agency within 1 week of their submission to regulatory authorities. Proposals for terms and conditions or methodologies subject to the approval by a designated entity in accordance with paragraph 4 may be submitted to the Agency within 1 month of their submission at the discretion of the designated entity while they shall be submitted upon the Agency's request for information purposes in accordance with Article 3(2) of Regulation (EU) 2019/942 if the Agency considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

7. Where the approval of the terms and conditions or methodologies in accordance with paragraph 3 or the amendment in accordance with Article 7 requires a decision by more than one regulatory authority pursuant to paragraph 3, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order to reach an agreement. Where the Agency issues an opinion, the competent regulatory authorities shall take that opinion into account. Regulatory authorities or, where competent, the Agency shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 2 and 3 within 6 months following the receipt of the terms and conditions or methodologies by the Agency or the regulatory authority or, where applicable, by the last regulatory authority concerned. The period shall begin on the day following that on which the proposal was submitted to the Agency in accordance with paragraph 2 or to the last regulatory authority concerned in accordance with paragraph 3.

8. Where the regulatory authorities have not been able to reach an agreement within the period referred to in paragraph 7 or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months, in accordance with Article 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

9. Where the approval of the terms and conditions or methodologies requires a decision by a single designated entity in accordance with paragraph 4 or competent regulatory authority in accordance with paragraph 5, the designated entity or competent regulatory authority shall reach a decision within 6 months following the receipt of the terms and conditions or methodologies. The period shall begin on the day following that on which the proposal was submitted to the designated entity in accordance with paragraph 4 or competent regulatory authority in accordance with paragraph 5.

10. Any party can complain against a relevant system operator or TSO in relation to that relevant system operator's or TSO's obligations or decisions under this Regulation and may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within 2 months after receipt of the complaint. That period may be extended by a further 2 months where additional information is sought by the regulatory authority. That extended period may be further extended with the agreement of the complainant. The regulatory authority's decision shall be binding unless and until overruled on appeal.

Article 7

Amendments to the terms and conditions or methodologies of TSOs

1. Where the Agency or all competent regulatory authorities jointly request an amendment in order to approve the terms and conditions or methodologies submitted in accordance with paragraphs 2 and 3 of Article 6 respectively, the relevant TSOs shall submit a proposal for amended terms and conditions or methodologies for approval within 2 months following the request from the Agency or the regulatory authorities. The Agency or the competent regulatory authorities shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

2. Where a designated entity requires an amendment in order to approve the terms and conditions or methodologies submitted in accordance with Article 6(4) or the competent regulatory authority requires an amendment in order to approve the requirements submitted in accordance with Article 6(5), the relevant TSO shall submit a proposal for amended terms and conditions or methodologies or requirements for approval within 2 months following the request from the designated entity or competent regulatory authority. The designated entity or competent regulatory authority shall decide on the amended terms and conditions or methodologies within 2 months following their submission.

3. Where the competent regulatory authorities have not been able to reach an agreement on terms and conditions or methodologies pursuant to paragraphs 2 and 3 of Article 6 within the 2-month deadline, or upon their joint request, or upon the Agency's request according to the third subparagraph of Article 5(3) of Regulation (EU) 2019/942, the Agency shall adopt a decision concerning the amended terms and conditions or methodologies within 6 months, in accordance with Articles 5(3) and the second subparagraph of Article 6(10) of Regulation (EU) 2019/942. If the relevant TSOs fail to submit a proposal for amended terms and conditions or methodologies, the procedure provided for in Article 5(9) shall apply.

4. The Agency or regulatory authorities or designated entities, where they are responsible for the adoption of terms and conditions or methodologies in accordance with paragraphs 2, 3 and 4 of Article 6, may respectively request proposals for amendments of those terms and conditions or methodologies and determine a deadline for the submission of those proposals. TSOs responsible for developing a proposal for terms and conditions or methodologies may propose amendments to regulatory authorities and the Agency. Proposals for amendment to the terms and conditions or methodologies shall be submitted to consultation if applicable in accordance with the procedure set out in Article 11 and approved in accordance with the procedure set out in Articles 5 and 6.

Article 8

Publication of terms and conditions or methodologies on the internet

1. TSOs responsible for specifying the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet following approval by the Agency or the competent regulatory authorities or, where no such approval is required, following their specification, except where such information is considered confidential in accordance with Article 12.

2. The publication shall also concern:

- (a) enhancements of network operation tools in accordance with Article 55(e);
- (b) FRCE target parameters in accordance with Article 128;
- (c) ramping restrictions on synchronous area level in accordance with Article 137(1);
- (d) ramping restrictions on LFC block level in accordance with Article 137(3);
- (e) measures taken in the alert state due to there being insufficient active power reserves in accordance with Article 152(11); and
- (f) request of the reserve connecting TSO to an FCR provider to make the information available in real time in accordance with Article 154(11).'

Article 5

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, 22 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL DECISION (Euratom) 2021/281

of 22 February 2021

amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the third and fourth paragraphs of Article 47 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project ⁽¹⁾ (the 'ITER Agreement') was signed in November 2006 by Euratom, China, India, Japan, South Korea, the Russian Federation and the United States. Euratom, which is the Host Party under the ITER Agreement, has taken the lead in this project.
- (2) By Decision 2007/198/Euratom ⁽²⁾, the Council established the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy) (the 'Joint Undertaking') to provide for the contribution of Euratom to the ITER International Fusion Energy Organisation and the Broader Approach Activities with Japan and to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities.
- (3) Article 5 of Decision 2007/198/Euratom provides that the Joint Undertaking is to have a distinct financial regulation based on the principles of Commission Delegated Regulation (EU) No 1271/2013 ⁽³⁾ and which may depart from that Delegated Regulation where the specific operating needs of the Joint Undertaking so require, subject to prior consultation with the Commission. Title IV of the financial regulation of the Joint undertaking regulates the implementation of the budget.
- (4) Decision 2007/198/Euratom provided a financial reference amount that was considered necessary for the Joint Undertaking, together with the indicative total contribution of Euratom towards that amount, which is to be made available through the Community research and training programmes adopted pursuant to Article 7 of the Treaty or through any other decision adopted by the Council.
- (5) Decision 2007/198/Euratom was amended by Council Decision 2013/791/Euratom ⁽⁴⁾ to allow the financing of the activities of the Joint Undertaking for the duration of the multiannual financial framework for the years 2014 to 2020 laid down in Council Regulation (EU, Euratom) No 1311/2013 ⁽⁵⁾.

⁽¹⁾ OJ L 358, 16.12.2006, p. 62.

⁽²⁾ Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).

⁽³⁾ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

⁽⁴⁾ Council Decision 2013/791/Euratom of 13 December 2013 amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 349, 21.12.2013, p. 100).

⁽⁵⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

- (6) A new ITER project baseline, which was prepared as part of the improvements in the management of the project, gained the support of the ITER Council in 2016 and 2017. It was subsequently used for estimating the funding needs of the Joint Undertaking. The updated schedule of the new baseline envisages that First Plasma will be achieved in December 2025 and full performance operation, using deuterium-tritium fuel, in 2035. That schedule does not include contingencies and therefore assumes that all major risks have to be mitigated.
- (7) On 12 April 2018, the Council reaffirmed the continued commitment of Euratom to the successful completion of the ITER project and mandated the Commission to approve the new ITER project baseline on behalf of Euratom at an ITER Council meeting at Ministerial level. At the same time, the Council requested that the Joint Undertaking continue its reporting and review duties in line with the Council conclusions of 12 July 2010 and carry out regular independent assessments of the progress of ITER with a focus on the performance and project management, including cost containment, schedule project control as well as risk management.
- (8) This Decision will allow synergies and complementarities with fusion research activities funded through the Euratom Research and Training Programme. The successful construction and operation of ITER are on the critical path of the European fusion roadmap endorsed by all fusion research stakeholders in Europe.
- (9) The European Parliament and the Council set the maximum level of the Euratom commitments for ITER in the multiannual financial framework for the years 2021 to 2027 laid down in Council Regulation (EU, Euratom) 2020/2093 ⁽⁶⁾ (the '2021-2027 MFF') at EUR 5 614 000 000 in current prices.
- (10) In full respect of the Member States' right to decide on their energy mix, actions under this Decision can contribute to the realisation of the objectives of the European fusion roadmap.
- (11) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽⁷⁾, there is a need to evaluate ITER on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens. Those requirements, where appropriate, could include measurable indicators, as a basis for evaluating the effects of ITER. The conclusions of the evaluations carried out by the Commission should be communicated to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions. If the timings of the *ex post* and interim evaluations are close to each other, it should be possible for both evaluations to be combined into one single evaluation covering the combined period.
- (12) In accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾ (the 'Financial Regulation'), Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽⁹⁾, and Council Regulations (EC, Euratom) No 2988/95 ⁽¹⁰⁾, (Euratom, EC) No 2185/96 ⁽¹¹⁾ and (EU) 2017/1939 ⁽¹²⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties.

⁽⁶⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433I, 22.12.2020, p. 11).

⁽⁷⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁸⁾ 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).

⁽⁹⁾ 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).

⁽¹⁰⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽¹¹⁾ 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).

⁽¹²⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁽¹³⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (13) This Decision should ensure the visibility of the Community funding through the provision of coherent, effective and proportionate targeted information to multiple audiences, including to the media and the public.
- (14) It is necessary to amend Decision 2007/198/Euratom to allow the financing of the activities of the Joint Undertaking and the related activities of the Commission for the period 2021-2027 from the general budget of the European Union.
- (15) In order to ensure the successful completion of the ITER project and continuity in providing support in the relevant policy area from the beginning of the 2021-2027 MFF, this Decision should apply, with retroactive effect, from 1 January 2021 and should enter into force as a matter of urgency.
- (16) Decision 2007/198/Euratom should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/198/Euratom is amended as follows:

- (1) Article 4 is amended as follows:

- (a) paragraph 3 is replaced by the following:

‘3. The indicative Euratom contribution to the Joint Undertaking for the period 2021-2027, including the related supporting expenditure as referred to in paragraph 4 for the same period, shall be EUR 5 614 000 000 in current prices.’;

- (b) the following paragraph is added:

‘4. The amount referred to in paragraph 3 may also cover expenses relating to preparation, monitoring, control, audit, evaluation and other activities and expenditure necessary for managing and implementing this Decision, including administrative expenditure, as well as evaluating the achievement of its objectives. It may also cover expenses relating to studies and meetings of experts, and expenses relating to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of this Decision.’;

- (2) Article 5b is deleted;
- (3) the following Article is inserted:

‘Article 5c

Evaluation

- 1. Evaluations of the implementation of this Decision shall be carried out regularly and in a timely manner to feed into the decision-making process.

⁽¹³⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

2. Once sufficient information about the implementation of this Decision during the period 2021-2027 is available, the Commission shall carry out an interim evaluation of the implementation of this Decision at the latest by 2024.

3. At the end of the implementation of this Decision, at the latest by four years after the end of the period specified in Article 4(3), the Commission shall carry out a final evaluation of the implementation of this Decision.

4. The Commission shall communicate the conclusions of the evaluations carried out under this Article, accompanied by its observations, to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions.’;

(4) the following Article is inserted:

‘Article 5d

Communication, visibility and publicity

1. The recipients of Community funding shall acknowledge the origin of those funds and ensure the visibility of the Community funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including to the media and the public.

2. The Commission shall implement information and communication actions relating to this Decision, to actions taken pursuant to this Decision and to the results obtained. Financial resources allocated to this Decision shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 1.’.

Article 2

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

It shall apply from 1 January 2021.

This Decision is addressed to the Member States.

Done at Brussels, 22 February 2021.

For the Council

The President

J. BORRELL FONTELLES

COUNCIL DECISION (CFSP) 2021/282**of 22 February 2021****amending Decision (CFSP) 2018/904 extending the mandate of the European Union Special Representative for Central Asia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 33 and Article 31(2) thereof,

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

Whereas:

- (1) On 15 April 2015, the Council adopted Decision (CFSP) 2015/598 ⁽¹⁾ appointing Mr Peter BURIAN as the European Union Special Representative (EUSR) for Central Asia.
- (2) On 25 June 2018, the Council adopted Decision (CFSP) 2018/904 ⁽²⁾ extending the mandate of Mr BURIAN as the EUSR for Central Asia. The EUSR's mandate was further extended by Council Decision (CFSP) 2020/252 ⁽³⁾. The EUSR's mandate is to expire on 28 February 2021.
- (3) The EUSR's mandate should be extended for a further period of four months, within the financial reference amount as set out in Article 5(1) of Decision (CFSP) 2018/904, as amended by Decision (CFSP) 2020/252.
- (4) The EUSR will implement the mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2018/904 is amended as follows:

- (1) Article 1 is replaced by the following:

*'Article 1***European Union Special Representative**

The mandate of Mr Peter BURIAN as the European Union Special Representative (EUSR) for Central Asia is extended until 30 June 2021. The Council may decide that the EUSR's mandate be terminated earlier, based on an assessment of the Political and Security Committee (PSC) and a proposal from the High Representative of the Union for Foreign Affairs and Security Policy (HR).';

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

'The final comprehensive mandate implementation report of the EUSR shall be presented by 30 April 2021.'.

⁽¹⁾ Council Decision (CFSP) 2015/598 of 15 April 2015 appointing the European Union Special Representative for Central Asia (OJ L 99, 16.4.2015, p. 25).

⁽²⁾ Council Decision (CFSP) 2018/904 of 25 June 2018 extending the mandate of the European Union Special Representative for Central Asia (OJ L 161, 26.6.2018, p. 12).

⁽³⁾ Council Decision (CFSP) 2020/252 of 25 February 2020 amending Decision (CFSP) 2018/904 extending the mandate of the European Union Special Representative for Central Asia (OJ L 54I, 26.2.2020, p. 7).

Article 2

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

Done at Brussels, 22 February 2021.

For the Council
The President
J. BORRELL FONTELLES

COUNCIL DECISION (CFSP) 2021/283
of 22 February 2021
amending Decision (CFSP) 2018/906 extending the mandate of the European Union Special Representative for the Sahel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 33 and Article 31(2) thereof,

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

Whereas:

- (1) On 7 December 2015, the Council adopted Decision (CFSP) 2015/2274 ⁽¹⁾ appointing Mr Ángel LOSADA FERNÁNDEZ as the European Union Special Representative (EUSR) for the Sahel.
- (2) On 25 June 2018, the Council adopted Decision (CFSP) 2018/906 ⁽²⁾ extending the mandate of Mr Ángel LOSADA FERNÁNDEZ as the EUSR for the Sahel. The EUSR's mandate was further extended by Council Decision (CFSP) 2020/253 ⁽³⁾. The EUSR's mandate is to expire on 28 February 2021.
- (3) The EUSR's mandate should be extended for a further period of four months, within the financial reference amount as set out in Article 5(1) of Decision (CFSP) 2018/906, as amended by Decision (CFSP) 2020/253.
- (4) The EUSR will implement the mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2018/906 is amended as follows:

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

‘The mandate of Mr Ángel LOSADA FERNÁNDEZ as the European Union Special Representative (EUSR) for the Sahel is extended until 30 June 2021. The Council may decide that the EUSR's mandate be terminated earlier, based on an assessment of the Political and Security Committee (PSC) and a proposal from the High Representative of the Union for Foreign Affairs and Security Policy (HR).’;

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

‘The final comprehensive mandate implementation report of the EUSR shall be presented by 30 April 2021.’.

⁽¹⁾ Council Decision (CFSP) 2015/2274 of 7 December 2015 appointing the European Union Special Representative for the Sahel (OJ L 322, 8.12.2015, p. 44).

⁽²⁾ Council Decision (CFSP) 2018/906 of 25 June 2018 extending the mandate of the European Union Special Representative for the Sahel (OJ L 161, 26.6.2018, p. 22).

⁽³⁾ Council Decision (CFSP) 2020/253 of 25 February 2020 amending Decision (CFSP) 2018/906 extending the mandate of the European Union Special Representative for the Sahel (OJ L 54 I, 26.2.2020, p. 9).

Article 2

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

Done at Brussels, 22 February 2021.

For the Council
The President
J. BORRELL FONTELLES

COUNCIL DECISION (CFSP) 2021/284
of 22 February 2021
amending Decision (CFSP) 2019/346 appointing the European Union Special Representative for Human Rights

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 33 and Article 31(2) thereof,

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

Whereas:

- (1) On 28 February 2019, the Council adopted Decision (CFSP) 2019/346 ⁽¹⁾ appointing Mr Eamon GILMORE as the European Union Special Representative (EUSR) for Human Rights. The EUSR's mandate is to expire on 28 February 2021.
- (2) The EUSR's mandate should be extended for a further period of 24 months and a new financial reference amount for the period from 1 March 2021 to 28 February 2023 should be established.
- (3) The EUSR will implement the mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2019/346 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

European Union Special Representative

The mandate of Mr Eamon GILMORE as the European Union Special Representative (EUSR) for Human Rights is extended until 28 February 2023. The Council may decide that the EUSR's mandate be terminated earlier, based on an assessment of the Political and Security Committee (PSC) and a proposal from the High Representative of the Union for Foreign Affairs and Security Policy (HR).';

- (2) in Article 5(1), the following subparagraph is added:

'The financial reference amount intended to cover the expenditure related to the EUSR's mandate for the period from 1 March 2021 to 28 February 2023 shall be EUR 2 690 000,00;'

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

'The EUSR shall present the Council, the HR and the Commission with regular progress reports and a final comprehensive mandate implementation report by 30 November 2022.'

⁽¹⁾ Council Decision (CFSP) 2019/346 of 28 February 2019 appointing the European Union Special Representative for Human Rights (OJ L 62, 1.3.2019, p. 12).

Article 2

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

Done at Brussels, 22 February 2021.

For the Council
The President
J. BORRELL FONTELLES

COUNCIL DECISION (CFSP) 2021/285**of 22 February 2021****amending Decision (CFSP) 2018/907 extending the mandate of the European Union Special Representative for the South Caucasus and the crisis in Georgia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 33 and Article 31(2) thereof,

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

Whereas:

- (1) On 13 November 2017, the Council adopted Decision (CFSP) 2017/2071 ⁽¹⁾ appointing Mr Toivo KLAAR as the European Union Special Representative (EUSR) for the South Caucasus and the crisis in Georgia.
- (2) On 25 June 2018, the Council adopted Decision (CFSP) 2018/907 ⁽²⁾ extending the mandate of the EUSR, as amended by Council Decision (CFSP) 2020/254 ⁽³⁾. The EUSR's mandate is to expire on 28 February 2021.
- (3) The mandate of the EUSR for the South Caucasus and the crisis in Georgia should be extended for a further period of 12 months and a new financial reference amount for the period from 1 March 2021 to 28 February 2022 should be established.
- (4) The EUSR will implement the mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Decision (CFSP) 2018/907 is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

European Union Special Representative

The mandate of Mr Toivo KLAAR as the European Union Special Representative (EUSR) for the South Caucasus and the crisis in Georgia is extended until 28 February 2022. The Council may decide that the mandate of the EUSR be terminated earlier, based on an assessment of the Political and Security Committee (PSC) and a proposal from the High Representative of the Union for Foreign Affairs and Security Policy (HR).';

- (2) Article 3 is replaced by the following:

'Article 3

Mandate

In order to achieve the policy objectives, the EUSR's mandate shall be to:

- (a) develop contacts with governments, parliaments, other key political actors, the judiciary and civil society in the region;

⁽¹⁾ Council Decision (CFSP) 2017/2071 of 13 November 2017 appointing the European Union Special Representative for the South Caucasus and the crisis in Georgia (OJ L 295, 14.11.2017, p. 55).

⁽²⁾ Council Decision (CFSP) 2018/907 of 25 June 2018 extending the mandate of the European Union Special Representative for the South Caucasus and the crisis in Georgia (OJ L 161, 26.6.2018, p. 27).

⁽³⁾ Council Decision (CFSP) 2020/254 of 25 February 2020 amending Decision (CFSP) 2018/907 extending the mandate of the European Union Special Representative for the South Caucasus and the crisis in Georgia (OJ L 54 I, 26.2.2020, p. 11).

- (b) encourage the countries in the region to cooperate and facilitate such cooperation on regional themes of common interest, such as common security threats, the fight against terrorism, illicit trafficking and organised crime; encourage and facilitate cross-border and trans-boundary cooperation where feasible to address local needs and build trust and reconciliation;
 - (c) contribute to the peaceful settlement of conflicts in accordance with the principles of international law and facilitate the implementation of such settlement in close coordination with the United Nations and the OSCE; and in support of the OSCE Minsk Group and its co-chairs;
 - (d) with respect to the crisis in Georgia:
 - (i) help prepare for the international talks held under point 6 of the settlement plan of 12 August 2008, the Geneva International Discussions, and its implementing measures of 8 September 2008, including on arrangements for security and stability in the region, the issue of refugees and internally displaced persons, on the basis of internationally recognised principles, and any other subject, by mutual agreement between the parties;
 - (ii) help establish the Union's position and represent it, at the level of the EUSR, in the talks referred to in point (i); and
 - (iii) facilitate the implementation of the settlement plan of 12 August 2008 and its implementing measures of 8 September 2008;
 - (e) facilitate the development and implementation of confidence-building measures in coordination with Member States' expertise where available and appropriate;
 - (f) facilitate and contribute to inclusive peace-building efforts within the societies with the aim of overcoming the conflicts and consolidating peace;
 - (g) assist in the preparation, as appropriate, of Union contributions to possible conflict settlement;
 - (h) intensify the Union's dialogue with the main actors concerned regarding the region;
 - (i) assist the Union in further developing a comprehensive policy towards the South Caucasus;
 - (j) in the framework of the activities set out in this Article, contribute to the implementation of the Union's human rights policy and the Union Guidelines on Human Rights, in particular with regard to children and women in areas affected by conflicts, especially by monitoring and addressing developments in this regard.;
- (3) in Article 5(1), the following subparagraph is added:
- 'The financial reference amount intended to cover the expenditure related to the EUSR's mandate for the period from 1 March 2021 to 28 February 2022 shall be EUR 2 940 000.:'
- (4) in Article 14, first paragraph, the second sentence is replaced by the following:
- 'The EUSR shall present the Council, the HR and the Commission with regular progress reports and a final comprehensive mandate implementation report by 30 November 2021.'

Article 2

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

Done at Brussels, 22 February 2021.

For the Council
The President
J. BORRELL FONTELLES

COUNCIL DECISION (CFSP) 2021/286
of 22 February 2021
amending Decision (CFSP) 2018/1248 appointing the European Union Special Representative for the
Middle East Peace Process

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 33 and Article 31(2) thereof,

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

Whereas:

- (1) On 18 September 2018, the Council adopted Decision (CFSP) 2018/1248 ⁽¹⁾ appointing Ms Susanna TERSTAL as the European Union Special Representative (EUSR) for the Middle East Peace Process (MEPP).
- (2) On 25 February 2020, the Council adopted Decision (CFSP) 2020/250 ⁽²⁾ extending the mandate of Ms Susanna TERSTAL as the EUSR for the MEPP. The EUSR's mandate is to expire on 28 February 2021.
- (3) The mandate of the EUSR for the MEPP should be extended for a further period of two months, within the financial reference amount set out in Article 5(1) of Decision (CFSP) 2018/1248, as amended by Decision (CFSP) 2020/250.
- (4) The EUSR for the MEPP will implement the mandate in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision (CFSP) 2018/1248 is replaced by the following:

'Article 1

European Union Special Representative

The mandate of Ms Susanna TERSTAL as the European Union Special Representative (EUSR) for the Middle East Peace Process (MEPP) is extended until 30 April 2021.'

Article 2

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

Done at Brussels, 22 February 2021.

For the Council
The President
J. BORRELL FONTELLES

⁽¹⁾ Council Decision (CFSP) 2018/1248 of 18 September 2018 appointing the European Union Special Representative for the Middle East Peace Process (OJ L 235, 19.9.2018, p. 9).

⁽²⁾ Council Decision (CFSP) 2020/250 of 25 February 2020 amending Decision (CFSP) 2018/1248 appointing the European Union Special Representative for the Middle East Peace Process (OJ L 54 I, 26.2.2020, p. 3).

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