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⁽¹⁾ Text with EEA relevance.

EN

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

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (Euratom) 2021/390**of 20 February 2020****approving the conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community and the Government of the Republic of India for research and development cooperation in the field of the peaceful uses of nuclear energy**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Commission has, in accordance with the Council Directives of 3 July 2009, conducted negotiations on an Agreement between the European Atomic Energy Community and the Government of the Republic of India for research and development cooperation in the peaceful uses of nuclear energy.
- (2) Those negotiations have now been successfully concluded.
- (3) The conclusion, by the European Commission, of the Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The conclusion, by the European Commission, of the Agreement between the European Atomic Energy Community and the Government of the Republic of India for research and development cooperation in the field of the peaceful uses of nuclear energy, is hereby approved (*).

Article 2

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

Done at Brussels, 20 February 2020.

For the Council
The President
B. DIVJAK

(*) Agreement published in OJ L 440, 30.12.2020, p. 1.

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2021/391

of 4 March 2021

implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine ⁽¹⁾, in particular Article 14(1) thereof,

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

Whereas:

- (1) On 5 March 2014, the Council adopted Regulation (EU) No 208/2014.
- (2) On the basis of a review by the Council, the entries for two persons should be deleted and the information in Annex I to Regulation (EU) No 208/2014 regarding the rights of defence and the right to effective judicial protection should be updated.
- (3) Annex I to Regulation (EU) No 208/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 208/2014 is amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 4 March 2021.

For the Council
The President
A. P. ZACARIAS

⁽¹⁾ OJ L 66, 6.3.2014, p. 1.

ANNEX

Annex I to Regulation (EU) No 208/2014 is amended as follows:

- (1) in section A ('List of natural and legal persons, entities and bodies referred to in Article 2'), the entries for the following persons are deleted:

13. Dmytro Volodymyrovych Tabachnyk;

15. Serhiy Hennadiyovych Arbuzov;

- (2) section B ('Rights of defence and right to effective judicial protection') is replaced by the following:

B. Rights of defence and right to effective judicial protection

The rights of defence and the right to effective judicial protection under the Code of Criminal Procedure of Ukraine

Article 42 of the Code of Criminal Procedure of Ukraine ("Code of Criminal Procedure") provides that every person who is suspected or accused in criminal proceedings enjoys rights of defence and the right to effective judicial protection. These include: the right to be informed of the criminal offence of which he has been suspected or accused; the right to be informed, expressly and promptly, of his rights under the Code of Criminal Procedure; the right to have, when first requested, access to a defence lawyer; the right to present petitions for procedural actions; and the right to challenge decisions, actions and omissions by the investigator, the public prosecutor and the investigating judge.

Article 303 of the Code of Criminal Procedure distinguishes between decisions and omissions that can be challenged during the pre-trial proceedings (first paragraph) and decisions, acts and omissions that can be considered in court during preparatory proceedings (second paragraph). Article 306 of the Code of Criminal Procedure provides that complaints against decisions, acts or omissions of the investigator or public prosecutor must be considered by an investigating judge of a local Court in the presence of the complainant or his defence lawyer or legal representative. Article 308 of the Code of Criminal Procedure provides that complaints regarding failure by the investigator or public prosecutor to respect reasonable time during the pre-trial investigation may be lodged with a superior public prosecutor and must be considered within three days of being lodged. In addition, Article 309 of the Code of Criminal Procedure specifies the decisions of investigating judges that may be challenged on appeal, and that other decisions may be subject to judicial review in the course of preparatory proceedings in Court. Moreover, a number of procedural investigating actions are only possible subject to a ruling by the investigating judge or a Court (e.g. seizure of property under Articles 167 – 175, and measures of detention under Articles 176 – 178, of the Code of Criminal Procedure).

Application of the rights of defence and the right to effective judicial protection of each of the listed persons

1. Viktor Fedorovych Yanukovich

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovich, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the High Anti-Corruption Court of Ukraine of 11 August 2020 in which the Court examined the petition of the National Anti-Corruption Bureau of Ukraine and granted permission to apprehend Mr Yanukovich. In the Court's ruling, the investigating judge confirmed that there is a reasonable suspicion for Mr Yanukovich's involvement in a criminal offence relating to misappropriation and confirmed Mr Yanukovich's status as suspect in the criminal proceedings.

The High Anti-Corruption Court also established that Mr Yanukovich has been staying outside Ukraine since 2014. The Court concluded that there were sufficient grounds to believe that Mr Yanukovich was hiding from the pre-trial investigation bodies.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Yanukovich has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Yanukovich have significantly contributed to the length of the investigation.

2. Vitalii Yuriyovych Zakharchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Zakharchenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 21 May 2018, 23 November 2018 and 27 November 2019 granting permission to detain Mr Zakharchenko.

Moreover, the Council has information that the Ukrainian authorities took measures to search for Mr Zakharchenko. On 12 February 2020, the investigating body decided to put Mr Zakharchenko on the international wanted list and forwarded the request to the Department of International Police Cooperation of the National Police of Ukraine for entry into the Interpol database.

On 28 February 2020, the pre-trial investigation was resumed and procedural and investigative actions were carried out. The investigating body suspended the pre-trial investigation on 3 March 2020, concluding that Mr Zakharchenko is hiding from the investigating body and from the Court in order to evade criminal liability, that his whereabouts are unknown and that all investigative (search) and procedural actions that can be conducted in the absence of suspects have been conducted. That suspension decision was open to appeal.

No violation of the rights of defence and the right to effective judicial protection can be ascertained in the circumstances where the defence is not exercising those rights.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Zakharchenko has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Zakharchenko have significantly contributed to the length of the investigation.

3. Viktor Pavlovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the fact that a written notification of suspicion was delivered on 22 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Pshonka. On 24 July 2020, a request for international legal assistance was sent to the competent authorities of the Russian Federation to establish the whereabouts of Mr Pshonka and to interrogate him. That request is still pending. The pre-trial investigation was suspended on 24 July 2020 due to the need to perform procedural actions within the context of international cooperation.

The Russian authorities rejected requests for international legal assistance sent to them in 2016 and 2018.

In its decision of 2 October 2020, the High Anti-Corruption Court of Ukraine dismissed the appeal submitted by Mr Pshonka's lawyer to cancel the notice of suspicion dated 23 December 2014. The Court concluded that the notice of suspicion was served in accordance with the Code of Criminal Procedure of Ukraine and confirmed Mr Pshonka's status as suspect in the criminal proceedings.

On 7 May 2020 and 9 November 2020, the High Anti-Corruption Court of Ukraine rejected a request to open proceedings made on the basis of a complaint by lawyers regarding inaction by the National Anti-Corruption Bureau of Ukraine in the criminal proceedings. The Appellate Chamber of the High Anti-Corruption Court confirmed those decisions on 1 June 2020 and 26 November 2020, respectively.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Pshonka has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Pshonka as well as the earlier non-execution of the requests for international legal assistance have significantly contributed to the length of the investigation.

6. Viktor Ivanovych Ratushniak

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Ratushniak, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 21 May 2018, 23 November 2018 and 4 December 2019 granting permission to detain Mr Ratushniak with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Ratushniak. On 12 February 2020, the investigating body decided to put Mr Ratushniak on the international wanted list and forwarded the request to the Department of International Police Cooperation of the National Police of Ukraine for entry into the Interpol database.

On 28 February 2020, the pre-trial investigation was resumed with a view to carrying out procedural and investigative actions. The investigating body suspended the pre-trial investigation on 3 March 2020, concluding that Mr Ratushniak is hiding from the investigating bodies and from the Court in order to evade criminal liability, that his whereabouts are unknown and that all investigative (search) and procedural actions that can be conducted in the absence of suspects have been conducted. That suspension decision was open to appeal.

No violation of the rights of defence and the right to effective judicial protection can be ascertained in the circumstances where the defence is not exercising those rights.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Ratushniak has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Ratushniak have significantly contributed to the length of the investigation.

7. Oleksandr Viktorovych Yanukovych

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovych, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied.

The Council has information that the Ukrainian authorities took measures to search for Mr Yanukovych, who is staying in the Russian Federation and avoiding investigation.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Yanukovych has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Yanukovych have significantly contributed to the length of the investigation.

9. Artem Viktorovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the fact that a written notification of suspicion was delivered on 29 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal, and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Pshonka. On 24 July 2020, a request for international legal assistance was sent to the competent authorities of the Russian Federation to establish the whereabouts of the suspect and to interrogate him. That request is still pending. The pre-trial investigation was suspended on 24 July 2020 due to the need to perform procedural actions within the context of international cooperation.

The Russian authorities rejected the request for international legal assistance sent to them in 2018.

In its decision of 8 July 2020, the High Anti-Corruption Court of Ukraine dismissed the appeal submitted by Mr Pshonka's lawyer to cancel the decision of 30 April 2015 to suspend the pre-trial investigation. The Court also concluded that the notice of suspicion was served in accordance with the Code of Criminal Procedure of Ukraine and confirmed Mr Pshonka's status as suspect in the criminal proceedings.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Pshonka has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Pshonka as well as to an earlier non-execution of the request for international legal assistance have significantly contributed to the length of the investigation.

12. Serhiy Vitalyovych Kurchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Kurchenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 7 March 2018 granting

permission for a special investigation in absentia. Moreover, the defence was notified about the completion of the pre-trial investigation on 28 March 2019 and was provided access to the materials for familiarisation. The Council has information that the familiarisation by the defence is ongoing.

In its decision of 29 April 2020, the Odessa Court of Appeal granted the appeal by the prosecutor and imposed a preventive measure of detention in custody on Mr Kurchenko. The Court also stated that Mr Kurchenko departed Ukraine in 2014 and that his location cannot be established. The Court concluded that Mr Kurchenko is hiding from the pre-trial investigation bodies in order to avoid criminal liability.

The Council was informed that on 29 April 2020 the Ukrainian authorities sent a request for international legal assistance to the Russian Federation, which was returned on 28 July 2020 without execution.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Kurchenko has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the Odessa Court of Appeal attributed to Mr Kurchenko as well as the non-execution of the request for international legal assistance have significantly contributed to the length of the investigation.

17. Oleksandr Viktorovych Klymenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Klymenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 1 March 2017 and 5 October 2018 granting permission for a special investigation in absentia. The Council observes that the defence was notified of the completion of pre-trial investigations in 2017 and 2018, respectively, and has been provided with materials of the criminal proceedings for familiarisation since then. The review and examination by the defence of the large volume of materials available in relation to the pre-trial investigation into criminal proceedings is ongoing. The Council considers that the long period of familiarisation is to be attributed to the defence.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/392**of 4 March 2021****on the monitoring and reporting of data relating to CO₂ emissions from passenger cars and light commercial vehicles pursuant to Regulation (EU) 2019/631 of the European Parliament and of the Council and repealing Commission Implementing Regulations (EU) No 1014/2010, (EU) No 293/2012, (EU) 2017/1152 and (EU) 2017/1153****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 ⁽¹⁾, and in particular Articles 7(7), 12(4), 13(4) and 15(7) thereof,

Whereas:

- (1) The monitoring and reporting of data on passenger cars and light commercial vehicles registered in the Union are essential for the functioning of the CO₂ emission performance standards set out in Regulation (EU) 2019/631. Considering that that Regulation started applying on 1 January 2020, it is appropriate to simplify and clarify the provisions set out in Commission Implementing Regulations (EU) No 1014/2010 ⁽²⁾ and (EU) No 293/2012 ⁽³⁾ and to bring those provisions into one single Implementing Regulation. For the reporting of data for the calendar year 2020, it is however appropriate to allow both the new and the existing provisions to overlap until 28 February 2021.
- (2) It is necessary to set out procedures for the monitoring and reporting of data relating to new passenger cars and light commercial vehicles that are to be followed by the competent authorities of the Member States, the manufacturers, as well as the Commission and the European Environment Agency (EEA).
- (3) The monitoring and reporting cycle provided for in Article 7 of Regulation (EU) 2019/631 consists of three main steps: the annual reporting by Member States' authorities to the Commission of the provisional data based on registrations of new vehicles in the preceding calendar year; the transmission of that provisional data by the Commission, with the support of the EEA, to the manufacturers concerned; the verification of that data by the manufacturers and, where necessary, the notification to the Commission of corrections to that data.
- (4) The measures to be taken by the different actors, as part of those three steps within the relevant time-limits, should be clearly specified, with the objective of ensuring the robustness and reliability of the final dataset published by the Commission pursuant to Article 9 of Regulation (EU) 2019/631, on the basis of which a manufacturer's average specific CO₂ emissions and compliance with its specific CO₂ emission target are determined.

⁽¹⁾ OJ L 111, 25.4.2019, p. 13.

⁽²⁾ Commission Implementing Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 293, 11.11.2010, p. 15).

⁽³⁾ Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council (OJ L 98, 4.4.2012, p. 1).

- (5) Pursuant to Article 12 of Regulation (EU) 2019/631, the Commission is required to collect, from 2021, data on the real-world fuel or energy consumption of passenger cars and light commercial vehicles that are recorded by on-board fuel and/or energy consumption monitoring devices as provided for in Article 4a of Commission Regulation (EU) 2017/1151 ⁽⁴⁾.
- (6) Such real-world data should be collected as soon as it becomes available, as it is essential to identify, as early as possible, how the difference between the real-world emissions and fuel or energy consumption and the corresponding type-approval values evolves over time, both for monitoring the effectiveness of the CO₂ emission standards in reducing vehicle CO₂ emissions, and for informing the public.
- (7) In order to ensure that it is possible to access real-world fuel and energy consumption data as early as possible, manufacturers should be required to collect such data from new passenger cars and light commercial vehicles registered from 1 January 2021. Such data may be collected either through direct data transfers from vehicles to the manufacturers, or through their authorised dealers or authorised repairers when vehicles are brought in for service or repairs and on-board data is to be read out for other purposes. Where such data is made available to a manufacturer, it should be reported to the Commission, starting with data relating to new vehicles registered in the Union for the first time in 2021.
- (8) Pursuant to Regulation (EU) 2017/1151, the obligation to equip vehicles with on-board fuel or energy consumption monitoring devices does not apply to certain small volume manufacturers, and it is therefore appropriate that they should also be exempt from the obligation to collect and report real-world data. This should, however, not prevent small volume manufacturers from delivering real-world data should they so wish.
- (9) Real-world fuel and energy consumption data should be collected by Member States as part of the roadworthiness tests performed in accordance with Directive 2014/45/EU of the European Parliament and of the Council ⁽⁵⁾. In order to facilitate this task, it is appropriate to align the obligation to collect the real-world data with the requirements set out in Directive 2014/45/EU, both as regards the national timetables for the roadworthiness tests and for the reading-out of data from the on-board diagnostics serial port of the vehicles. The data collection should therefore start from the first roadworthiness tests and should not be required before 20 May 2023, which is the date from which the bodies and establishments performing those tests are to be equipped with the necessary devices, such as scan tools, pursuant to that Directive. Member States should, however, not be prevented from delivering data before that date, should they so wish.
- (10) Manufacturers and Member States should report real-world data collected during a calendar year to the Commission and the EEA, using the data transmission procedures provided by the EEA. Should such data not be available, which may be the case in particular in the first calendar years following 2021, manufacturers and Member States should inform the Commission and provide the reasons therefore.
- (11) Real-world fuel and energy consumption data should be collected together with the vehicle's identification number (VIN). The VIN is considered to be personal data from the moment the vehicle is registered, and is therefore subject to the requirements laid down with regard to the protection of such data in Regulation (EU) 2016/679 of the

⁽⁴⁾ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

⁽⁵⁾ Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (OJ L 127, 29.4.2014, p. 51).

European Parliament and of the Council ⁽⁶⁾. The processing of the VINs for the purposes of Regulation (EU) 2019/631 should be considered lawful pursuant to Article 6(1)(c) of Regulation (EU) 2016/679. Moreover, it should be specified that the entities involved in the collection, reporting and processing of the VINs are to be considered as controllers of such data within the meaning of point 7 of Article 4 of Regulation (EU) 2016/679 and, as regards the EEA and the Commission, within the meaning of Article 3(8) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁷⁾. It should be also ensured that the VINs are collected using secure means of communication, and that the data subjects, namely the vehicle owners, are adequately informed in accordance with Articles 13 and 14 of Regulation (EU) 2016/679.

- (12) It should also be specified how the real-world data and the VINs are to be used, and the time period for which that data is to be retained by the different entities involved in the collection and reporting. As the objective is to follow the evolution of the real-world performance of the vehicle over its estimated lifetime, data should be collected for a period of 15 years for the same vehicle and be retained by the EEA for a period of 20 years. However, as regards other entities collecting and reporting data, they should hold the data only for the time needed to prepare the data for the transmission to the EEA.
- (13) The collection of real-world data and the VINs should be fully transparent, and the vehicle owners should therefore have the possibility to refuse to make that data available to the manufacturers or during the roadworthiness tests. It should be noted that the right of refusal of the vehicle owner is not based on Article 21 of Regulation (EU) 2016/679 and the refusal should be considered valid only as regards that data collected for the purposes of this Regulation.
- (14) The data to be published in accordance with Article 12(1) of Regulation (EU) 2019/631 should not allow the identification of individual vehicles or drivers, but should only be published as an anonymised and aggregated dataset without any reference to the VINs.
- (15) Based on the assessment referred to in the first subparagraph of Article 12(3) of Regulation (EU) 2019/631, the Commission should review certain aspects of the provisions on the monitoring, reporting and publication of real-world fuel and energy consumption data, taking into account, inter alia, the availability of direct data transfers from vehicles.
- (16) In order to ensure the availability of type-approval data for the purpose of establishing a procedure for verifying the CO₂ emissions of passenger cars and light commercial vehicles in-service, as required by Article 13 of Regulation (EU) 2019/631, the collection of such data under Commission Implementing Regulations (EU) 2017/1152 ⁽⁸⁾ and (EU) 2017/1153 ⁽⁹⁾ should continue also after the obligation to collect such data under those Regulations ceases to apply on 1 January 2021.

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

⁽⁷⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽⁸⁾ Commission Implementing Regulation (EU) 2017/1152 of 2 June 2017 setting out a methodology for determining the correlation parameters necessary for reflecting the change in the regulatory test procedure with regard to light commercial vehicles and amending Implementing Regulation (EU) No 293/2012 (OJ L 175, 7.7.2017, p. 644).

⁽⁹⁾ Commission Implementing Regulation (EU) 2017/1153 of 2 June 2017 setting out a methodology for determining the correlation parameters necessary for reflecting the change in the regulatory test procedure and amending Regulation (EU) No 1014/2010 (OJ L 175, 7.7.2017, p. 679).

- (17) Type-approval authorities should therefore ensure that data relating to the tests performed in accordance with Regulation (EU) 2017/1151 continues to be recorded and transmitted to the Commission Joint Research Centre, using the secure transmission procedure provided by it.
- (18) From 1 January 2021, it is no longer necessary to determine CO₂ emissions for passenger cars and light commercial vehicles in accordance with the New European Driving Cycle (NEDC) as provided for in Implementing Regulations (EU) 2017/1152 and (EU) 2017/1153, with the exception of off-vehicle-charging hybrid electric passenger cars placed on the market until 31 December 2022, where a manufacturer wishes to benefit from super-credits as set out in Article 5 of Regulation (EU) 2019/631.
- (19) As the transition from the NEDC-based CO₂ emission standards to standards based on the Worldwide Harmonised Light Vehicle Test Procedure set out in Regulation (EU) 2017/1151 will only be fully completed by the end of 2023, and will be finally reported on as part of the annual CO₂ data monitoring process in 2024, and in view of, in particular, the provisions on eco-innovations and end-of-series vehicles, Implementing Regulations (EU) 2017/1152 and (EU) 2017/1153 should remain in force until the end of 2024.
- (20) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its comments on 14 January 2021.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation sets out detailed rules on the procedures for the monitoring and reporting by Member States and manufacturers of data relating to CO₂ emissions from new passenger cars and light commercial vehicles, as well as of data on real-world CO₂ emissions and fuel or energy consumption of those vehicles.
2. For the purpose of establishing the procedure for verifying CO₂ emissions of in-service vehicles in accordance with Article 13 of Regulation (EU) 2019/631, this Regulation also provides for the reporting by the Member States' competent authorities of certain data recorded as part of the type-approval tests performed in accordance with Regulation (EU) 2017/1151.

Article 2

Definitions

In addition to the definitions set out in Article 3 of Regulation (EU) 2019/631, the following definitions shall apply:

- (a) 'detailed monitoring data' means the detailed monitoring data specified for passenger cars in Section 2 of Part B of Annex II to Regulation (EU) 2019/631 and for light commercial vehicles in Section 2 of Part C of Annex III to that Regulation;
- (b) 'aggregated monitoring data' means the aggregated data specified for passenger cars in Section 1 of Part B of Annex II to Regulation (EU) 2019/631 and for light commercial vehicles in Section 1 of Part C of Annex III to that Regulation;

- (c) 'real-world data' means the data referred to in point 3.1(a) and (b) and point 3.2(a) to (g) and (l) of Annex XXII to Regulation (EU) 2017/1151 that has been obtained from on-board fuel and/or energy consumption monitoring devices.

CHAPTER 2

REPORTING OF DATA IN ACCORDANCE WITH ARTICLE 7 OF REGULATION (EU) 2019/631

Article 3

Aggregated and detailed monitoring data

1. Member States shall ensure the maintenance, collection, control, verification and timely transmission of the aggregated and detailed monitoring data to the Commission and the European Environment Agency (EEA).

Member States shall ensure that requests by the EEA for clarifications or corrections of the transmitted data are addressed without delay by their designated contact persons.

2. The aggregated and detailed monitoring data shall be reported in two separate datasets for passenger cars and light commercial vehicles, respectively, in accordance with Part B of Annex II to Regulation (EU) 2019/631 and Part C of Annex III to that Regulation.

3. Member States shall transmit the aggregated and detailed monitoring data via electronic data transfer to the Central Data Repository (CDR) managed by the EEA. Member States shall notify the Commission when the data is transmitted.

Article 4

Provisional calculation and data

1. The Commission, together with the EEA, shall, in accordance with Article 7(4) of Regulation (EU) 2019/631, ensure that each manufacturer and pool of manufacturers responsible for new passenger cars or light commercial vehicles registered in the Union is notified of the provisional calculation of its specific emissions target and its average specific emissions of CO₂ and of the data reported by Member States.

2. The provisional calculations and the data referred to in paragraph 1 shall be notified separately for passenger cars and light commercial vehicles and shall include the records which, on the basis of the manufacturer's name and World Manufacturer Identifier, can be attributed to that manufacturer.

3. The central register of data referred to in Article 7(4) of Regulation (EU) 2019/631 shall include all data entries reported by the Member States, with the exception of the vehicle identification numbers (VINs).

The VINs shall be retained by the EEA for a period of 20 years from the date on which they were first uploaded to the CDR or the Business Data Repository (BDR) of the EEA.

Article 5

Manufacturer details

Manufacturers that place or intend to place passenger cars or light commercial vehicles that fall within the scope of Regulation (EU) 2019/631 on the market of the Union shall notify the Commission without delay of the following information and of any changes to that information:

- (a) the manufacturer name they indicate or intend to indicate on the certificates of conformity;
- (b) the World Manufacturer Identifier, corresponding to the first three characters of the VIN, that they indicate or intend to indicate on the certificates of conformity;

- (c) for the purpose of the notification referred to in the second subparagraph of Article 7(4) of Regulation (EU) 2019/631, the name and address of the contact person representing the manufacturer to whom the notification of the provisional calculations and data is to be addressed.

The names and addresses referred to in point (c) shall be considered as personal data within the meaning of Regulation (EU) 2018/1725.

Article 6

Notification of errors in the data used for the provisional calculations

1. Where a manufacturer verifies the provisional data in accordance with the first subparagraph of Article 7(5) of Regulation (EU) 2019/631, it shall use the dataset provided for that purpose by the EEA.
2. Where an error is identified in the dataset, the manufacturer shall, where possible, correct it and indicate, by a separate entry in the dataset for each vehicle record, entitled 'Manufacturer comments', one of the following codes:
 - (a) Code A, if the record has been changed by the manufacturer;
 - (b) Code B, if the vehicle cannot be identified by the manufacturer;
 - (c) Code C, if the vehicle falls out of the scope of Regulation (EU) 2019/631;
 - (d) Code D, if the manufacturer to which a vehicle of category N1 has been attributed is the manufacturer of the completed vehicle but not of the incomplete or complete base vehicle.

For the purposes of point (b), a vehicle is considered unidentifiable where the VIN is missing or is manifestly incorrect.

3. Manufacturers shall notify the Commission of any errors in accordance with Article 7(5) of Regulation (EU) 2019/631 by uploading the complete corrected dataset to the BDR. They shall also send an electronic copy of the notification for information to the following email addresses:

EC-CO2-LDV-implementation@ec.europa.eu

and

CO2-monitoring@eea.europa.eu

4. Manufacturers shall ensure that requests for clarifications of the corrections by the Commission or the EEA are addressed without delay by their contact persons designated in accordance with Article 5(c) of this Regulation.
5. Where a manufacturer does not notify the Commission of any errors before the expiry of the three-month period provided for in Article 7(5) of Regulation (EU) 2019/631, the provisional values notified in accordance with Article 7(4) of that Regulation shall be considered as final.

Article 7

Reporting of data relating to completed light commercial vehicles

Manufacturers of a base vehicle as referred to in point 1.2.2 of Annex III to Regulation (EU) 2019/631 shall transmit the data referred to in that point via electronic data transfer to the BDR at the latest within three months from being notified of the provisional data in accordance with Article 4 of this Regulation.

*Article 8***Reporting of NEDC CO₂ emissions for the purposes of Article 5 of Regulation (EU) 2019/631**

1. A manufacturer of new passenger cars registered in the calendar years 2021 or 2022 with measured NEDC CO₂ values of less than 50 g CO₂/km, as provided for in Article 5 of Implementing Regulation (EU) 2017/1153, shall report those measured NEDC CO₂ values to the Commission together with the notification referred to in Article 6 of this Regulation.
2. The Commission may request the manufacturer to provide the relevant certificates of conformity and type-approval certificates that support the reported CO₂ emission values.

CHAPTER 3

COLLECTION AND REPORTING OF REAL-WORLD DATA*Article 9***Collection and reporting of real-world data by manufacturers**

1. Manufacturers shall collect real-world data together with the VINs of new passenger cars and new light commercial vehicles that are registered from 1 January 2021 and that are equipped with on-board fuel and/or energy consumption monitoring devices in accordance with Article 4a of Regulation (EU) 2017/1151, unless the vehicle owner expressly refuses to make that data available to the manufacturer or its authorised dealer or authorised repairer.
2. Where the real-world data and the VINs are not collected by the manufacturer via direct data transfer from the vehicle, the manufacturer shall ensure that the data is collected and transmitted to it by its authorised dealer or authorised repairer each time the vehicle is brought in for service or repairs or any other intervention and data is to be read out from the on-board diagnostics serial port of the vehicle. The device or scan tool used shall be capable of reading out the data as it is recorded on the on-board fuel and/or energy consumption monitoring device. The read-out of the data shall be free of charge and not subject to any specific conditions.

The manufacturer and, where applicable, its authorised dealer or repairer, shall ensure that secure means of communication are used for the collection of the VINs.

3. On 1 April each year, with effect from 2022, a manufacturer shall report to the Commission any real-world data and the VINs that were collected in the preceding calendar year, as specified in Table 1 of the Annex, by uploading it to the BDR.

In the event that several records referring to the same VIN are collected by a manufacturer in the same calendar year, the real-world data to be reported shall be the record indicating the highest total distance travelled. Real-world data for a given vehicle shall be collected for a maximum period of 15 years from the date on which the data for that vehicle was first reported to the EEA.

Where a manufacturer claims that real-world data cannot be reported, or can only be reported in part, it shall make a statement to that effect to the Commission and shall provide the reasons therefore. The statement and the justification shall be uploaded to the BDR.

4. Paragraphs 1, 2 and 3 shall not apply to small volume manufacturers as referred to in Article 15(11) of Regulation (EU) 2017/1151.

*Article 10***Collection and reporting of real-world data by Member States**

1. Member States shall ensure that the bodies or establishments referred to in Article 4(2) of Directive 2014/45/EU collect real-world data and VINs of new passenger cars and new light commercial vehicles that are registered from 1 January 2021 and that are equipped with on-board fuel and/or energy consumption monitoring devices in accordance with Article 4a of Regulation (EU) 2017/1151.

With effect from 20 May 2023, the real-world data together with the VINs shall be collected when the vehicles undergo roadworthiness tests in accordance with Article 5 of Directive 2014/45/EU, unless the vehicle owner expressly refuses to make that data available.

The real-world data shall be read out by using a device to connect to the electronic vehicle interface, such as a scan tool as referred to in Annex III to Directive 2014/45/EU. The device used shall be capable of reading out the data as it is recorded on the on-board fuel and/or energy consumption monitoring device.

2. With effect from 2022, Member States shall ensure that the real-world data together with the VINs, as specified in Table 1 of the Annex, that were collected in the preceding calendar year are reported to the Commission annually on 1 April, by uploading that data to the CDR. Where no such data is available, a statement to that effect, including the reasons why the data is not available, shall be uploaded to the CDR.

Member States shall ensure that the real-world data for a given vehicle is collected for a maximum period of 15 years from the date on which that data was first reported for the vehicle to the EEA.

The Member State and the bodies and establishments responsible for the collection of the VINs shall ensure that secure means of communication are used for that collection.

Article 11

Obligations relating to the protection of personal data

1. The following entities responsible for collecting the VINs together with the real-world data directly from the vehicles, shall, in relation to the collection and processing of the VINs, be considered as controllers of the relevant data within the meaning of point 7 of Article 4 of Regulation (EU) 2016/679:

- (a) manufacturers in the case of direct data transfers from the vehicles to the manufacturer;
- (b) authorised dealers or authorised repairers;
- (c) bodies or establishments responsible for roadworthiness testing.

Those entities shall ensure that they meet the obligation to provide information to the vehicle owners in their capacity as data subjects, as set out in Article 13 of that Regulation.

2. Where the VINs have been obtained indirectly from the vehicle owner for the purposes of Articles 3, 9 or 10, the Member States, and, where applicable, the manufacturers shall, in their capacity as data controllers, ensure that they meet the obligation to provide information to the vehicle owners as set out in Article 14 of Regulation (EU) 2016/679.

3. The EEA and the Commission shall, in relation to the collection and processing of VINs for the purposes of this Regulation, be considered as data controllers subject to the provisions set out in Regulation (EU) 2018/1725.

4. The VINs and the real-world data collected in accordance with Articles 9 and 10 of this Regulation may not be used for any purpose other than that specified in Article 12 of Regulation (EU) 2019/631.

5. The VINs and the real-world data collected in accordance with Articles 9 and 10 may only be retained for the following periods:

- (a) by manufacturers, until that data has been reported upon in accordance with Article 9(3);
- (b) by authorised dealers and repairers, until that data has been transmitted to the manufacturer in accordance with Article 9(2);
- (c) by bodies and establishments responsible for roadworthiness tests, until that data has been transmitted to the EEA, or to the authority designated by the Member States for reporting the data to the EEA, in accordance with Article 10(2);
- (d) by the authorities designated by the Member States for reporting the real-world data to the EEA, until that data has been reported upon in accordance with Article 10(2);

- (e) by the EEA, until 20 years from the date on which the data was first uploaded to the BDR in accordance with Article 9(3) or to the CDR in accordance with Article 10(2).

Article 12

Publication of real-world data

With effect from December 2022, the Commission shall each year publish anonymised and aggregated datasets that shall be split between passenger cars and light commercial vehicles powered by internal combustion engines, and off-vehicle charging hybrid electric vehicles (OVC-HEVs) of the same categories, including the following data per manufacturer:

- (a) the average fuel consumption (l/100 km) based on the data reported pursuant to Articles 9 and 10;
- (b) the average electric energy consumption (kWh/100 km) based on the data reported pursuant to Articles 9 and 10;
- (c) the average CO₂ emissions (g/km) calculated on the basis of the data reported pursuant to Articles 9 and 10;
- (d) the difference between the average fuel consumption referred to in point (a) and the average of the fuel consumption values recorded in the certificates of conformity of the same vehicles as those for which real-world data has been reported;
- (e) the difference between the average electric energy consumption referred to in point (b) and the average of the electric energy consumption values recorded in the certificates of conformity of the same vehicles as those for which real-world data has been reported;
- (f) the difference between the average CO₂ emissions (g/km) calculated in accordance with point (c) and the average of the CO₂ emission values recorded in the certificates of conformity of the same vehicles as those for which real-world data has been reported.

Points (b) and (e) shall apply only as regards OVC-HEVs.

Article 13

Review

The Commission shall, on the basis of the assessment referred to in the first subparagraph of Article 12(3) of Regulation (EU) 2019/631, review the implementation of Articles 9 to 12 of this Regulation considering, in particular, the following:

- (a) the number of vehicles equipped with direct data transfer devices;
- (b) the need for continued monitoring and reporting of real-world data by manufacturers;
- (c) the time period during which real-world data need to be monitored and reported;
- (d) the appropriate level of aggregation of data to be published by the Commission pursuant to Article 12 of this Regulation.

CHAPTER 4

MONITORING AND REPORTING OF DATA FROM TESTS PERFORMED IN ACCORDANCE WITH REGULATION (EU) 2017/1151

Article 14

Test data

1. Type-approval authorities shall ensure that the data specified in Table 2 of the Annex is recorded for each Type 1 test performed in accordance with Annex XXI to Regulation (EU) 2017/1151.

2. The recorded data shall be uploaded in an encrypted format to the dedicated Commission server. Where the data has been correctly uploaded, a receipt shall be sent from the Commission server to the uploading entity.
3. The test data shall not be published.

Article 15

Repeal

1. Implementing Regulations (EU) No 1014/2010 and (EU) No 293/2012 are repealed with effect from 1 March 2021.
2. Implementing Regulations (EU) 2017/1152 and (EU) 2017/1153 are repealed with effect from 1 January 2025.

Article 16

Entry into force

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

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

Done at Brussels, 4 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

1. Collection and reporting of real-world data and VINS in accordance with Articles 9 and 10

Table 1

Data to be reported in accordance with Articles 9 and 10

Parameter	Unit	Vehicles of category M1 and N1	
		Pure internal combustion engine vehicles and not-off-vehicle charging hybrid electric vehicles ⁽¹⁾	Off-vehicle charging hybrid electric vehicles ⁽²⁾
Vehicle identification number	-	√	√
Total fuel consumed (lifetime)	l	√	√
Total distance travelled (lifetime)	km	√	√
Total fuel consumed in charge depleting operation (lifetime)	l	–	√
Total fuel consumed in driver-selectable charge increasing operation (lifetime)	l	–	√
Total distance travelled in charge depleting operation with engine off (lifetime)	km	–	√
Total distance travelled in charge depleting operation with engine running (lifetime)	km	–	√
Total distance travelled in driver-selectable charge increasing operation (lifetime)	km	–	√
Total grid energy into the battery (lifetime)	kWh	–	√

⁽¹⁾ Powered exclusively by mineral diesel, biodiesel, petrol, ethanol or any combination of those fuels.

⁽²⁾ Powered by electricity and mineral diesel, biodiesel, petrol or ethanol.

2. Reporting of data in accordance with Article 14

The following parameters shall be reported for each interpolation family, i.e. for vehicle high (VH) and, where applicable, vehicle low (VL) or vehicle M, for the Type 1 tests performed in accordance with Annex XXI to Regulation (EU) 2017/1151.

Except where otherwise indicated in Table 2, where more than one Type 1 test of vehicle high or vehicle low is performed, the test data shall be reported in accordance with the following:

- (a) in the case of two Type 1 tests, the test data for the Type 1 test with the highest measured CO₂ emissions (combined);
- (b) in the case of three Type 1 tests, the test data for the Type 1 test with the median measured CO₂ emissions (combined).

Table 2

Type 1 test data

No	Parameters	Unit	Source (unless otherwise specified, all references are to Regulation (EU) 2017/1151)	Remarks
1	Interpolation family identifier	-	Point 0, Section II of the type approval certificate, Appendix 4 to Annex I.	<i>Data shall be provided for each type-approved interpolation family</i>
2	Parent interpolation family identifier (where applicable)	-	-	<i>Indicate the parent interpolation family identifier, if the test data has been determined for another interpolation family</i>
3	Extension of a type approval	-	EC Type-Approval certificate	<i>0 = No 1 = Yes – if the test is performed for the purpose of an extension of a type approval</i>
4	Propulsion type	-		<i>Pure ICEV, OVC-HEV, NOVC-HEV</i>
5	Vehicle category and class		Point 0.4, Appendix 3 to Annex I	<i>M1 or N1 Class 1, 2 or 3</i>
6	Ignition type		Point 3.2.1.1, Appendix 3 to Annex I	<i>Positive ignition or compression ignition</i>
7	Number of cylinders	-	Point 3.2.1.2, Appendix 3 to Annex I	<i>Number, if not provided default is 4</i>
8	Engine stroke	mm	Point 3.2.1.2.2, Appendix 3 to Annex I	
9	Engine capacity	cm ³	Point 3.2.1.3, Appendix 3 to Annex I	
10	Rated engine power	kW	Point 3.2.1.8, Appendix 3 to Annex I	
11	Engine speed at rated engine power	min ⁻¹	Point 3.2.1.8, Appendix 3 to Annex I	<i>Engine speed at maximum net power</i>
12	Fuel type	-	Point 3.2.2.1 of Appendix 3 to Annex I	<i>Diesel/Petrol/LPG/NG or Biomethane/Ethanol(E85)/Biodiesel/Hydrogen</i>
13	Bi-fuel vehicle	-	Point 3.2.2.4, Appendix 3 to Annex I	<i>0 = No 1 = Yes In case of bi-fuel vehicles, test results shall be provided for both fuel types (2 input templates)</i>

14	Maximum power output of each electric machine (P0, P1, P2, P2 planetary, P3, or P4) (*)	kW	Point 3.3.1.1.1, Appendix 3 to Annex I	<i>OVC-HEV and NOVC-HEV</i>
15	Number of REESS cells	-	Point 3.3.2.1, Appendix 3 to Annex I	<i>OVC-HEV and NOVC-HEV</i>
16	Service battery capacity	Ah	Point 3.4.4.5, Appendix 3 to Annex I	<i>Low voltage battery capacity</i>
17	Nominal voltage of the alternator	V	Point 3.4.4.5, Appendix 3 to Annex I	<i>Nominal voltage of the alternator (mandatory for pure ICEV)</i>
18	Tyre dimensions (front/rear)	-	Point 3.5.7.1 Test vehicle parameters, Appendix 3 to Annex I	<i>Tyre code (e.g. P195/55R1685H) of tyres of the test vehicle</i>
19	Road load coefficient F0	N	Point 3.5.7.1, Appendix 3 to Annex I	<i>VH and VL (if applicable)</i>
20	Road load coefficient F1	N/(km/h)	Point 3.5.7.1, Appendix 3 to Annex I	<i>VH and VL (if applicable)</i>
21	Road load coefficient F2	N/(km/h) ²	Point 3.5.7.1, Appendix 3 to Annex I	<i>VH and VL (if applicable)</i>
22	Gearbox type	-	Point 4.5.1, Appendix 3 to Annex I	<i>automatic/manual/CVT/planetary</i>
23	Internal gearbox ratios	-	Point 4.6, Appendix 3 to Annex I	<i>For each gear separately</i>
24	Final drive ratio(s)	-	Point 4.6, Appendix 3 to Annex I	<i>If the vehicle has more than one final drive, introduce values for each gear separately</i>
25	Additional safety margin (ASM) values	%	Point 4.6.1.7.1, Appendix 3 to Annex I	<i>Report values when used for gearshift calculation</i>
26	Drive wheels	-	Point 1.7, Appendix 4 to Annex I	<i>Two-wheel drive, four-wheel drive.</i>
27	Charge-depleting CO ₂ emissions (combined)	gCO ₂ /km	Point 2.5.3.2, Appendix 4 to Annex I	<i>OVC-HEV only In case of 2 or 3 tests all results shall be provided.</i>
28	CO ₂ emissions weighted combined (measured)	gCO ₂ /km	2.5.3.3, Appendix 4 to Annex I	<i>OVC-HEV only. In case of 2 or 3 tests all results shall be provided.</i>
29	CO ₂ emissions weighted combined (declared)	gCO ₂ /km	Point 2.5.3.3, Appendix 4 to Annex I	<i>OVC-HEV only</i>

30	Equivalent All Electric range (EAER) combined	km	Point 2.5.3.7.2, (EAER), Appendix 4 to Annex I	OVC-HEV only
31	Engine idling speed	min ⁻¹	Point 1.1.2, Appendix 8a to Annex I	Idle speed in warm conditions
32	Willans factors for ICE for CO ₂ emissions	gCO ₂ /MJ	Point 1.1.3, Appendix 8a to Annex I	Value according to the Table A6.App2/3 used for RCB correction
33	Traction REESS capacity	Ah	Point 1.1.10, Appendix 8a to Annex I	OVC-HEV and NOVC-HEV
34	Traction REESS technology type	-	Point 1.1.10, Appendix 8a to Annex I	OVC-HEV and NOVC-HEV
35	Traction REESS voltage nominal or time-series	V	Point 1.1.10, Appendix 8a to Annex I	OVC-HEV and NOVC-HEV Nominal or time-series values used for the test (20Hz)
36	Test mass	kg	Point 1.2.1 for VH and Point 1.3.1 for VL, Appendix 8a, Annex I	VH and VL (if applicable)
37	Number of dyno axis during the test	-	Point 2.1, Appendix 8a to Annex I	Chassis Dyno configuration during Type 1 test (1-axle, 2-axle) for VH/VL
38	Alternator (DC/DC converter – low voltage side – in case of NOVC- and OVC-HEVs) current	A	As measured in the Type 1 test	Array: 1Hz, 0,1 A resolution, external measurement device synchronised with the chassis dynamometer
39	K _i Regenerative Factor multiplicative/additive	-	Point 2.1.1.2.1, Appendix 8a to Annex I	CO ₂ emissions; For vehicles without periodically regenerating systems this value is equal to 1.
40	CO ₂ measured value low phase	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Uncorrected measured value M _{CO₂p. 1} of phase low (charge-sustaining value in case of NOVC- and OVC-HEVs).
41	CO ₂ measured value medium phase	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Uncorrected measured value M _{CO₂p. 1} of phase medium (charge-sustaining value in case of NOVC- and OVC-HEVs)
42	CO ₂ measured value high phase	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Uncorrected measured value M _{CO₂p. 1} of phase high (charge-sustaining value in case of NOVC- and OVC-HEVs)
43	CO ₂ measured value extra-high phase	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Uncorrected measured value M _{CO₂p. 1} of phase extra-high (charge-sustaining value in case of NOVC- and OVC-HEVs).

44	CO ₂ measured value (combined)	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Uncorrected measured value $M_{CO_2,c,1}$ of complete cycle (charge-sustaining value in case of NOVC- and OVC-HEVs). In case of 2 and 3 tests all measured results shall be provided.
45	CO ₂ measured corrected (combined)	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Combined measured CO ₂ emissions for vehicle H and L after all applicable corrections, $M_{CO_2,C,5}$. In case of 2 and 3 tests all measured corrected results shall be provided. In case of OVC-HEV and NOVC-HEV this is charge-sustaining mode
46	CO ₂ declared value	gCO ₂ /km	Point 2.1.1.2.1, Appendix 8a to Annex I	Manufacturer declared value
47	ATCT family correction factor	-	Point 2.1.1.2.2, Appendix 8a to Annex I	ATCT Family correction factor (14 °C correction)
48	Fuel consumption over the Type 1 test as recorded on the on-board fuel consumption monitoring device (OBFCM)	l	Point 2.1.1.3.1, Appendix 8a to Annex I	Fuel consumed during the test (charge-sustaining value in case of NOVC-HEV and OVC-HEV). In case of 2 and 3 tests all results shall be provided.
49	Index number of the transition cycle	-	Point 2.1.1.4.1.4, Appendix 8a to Annex I	for OVC-HEV indicate the index number of the transition cycle
50	Nominal REESS voltage	V	Point 1.1.10, Appendix 8a to Annex I	For low voltage battery as described in Appendix 2 to Sub-Annex 6 to Annex XXI
51	RCB correction			Correction performed? 0 = No 1 = Yes
52	RCB correction coefficient	(g/km)/(Wh/km)	Point 2.1.1.2.1, Appendix 8a to Annex I	NOVC-HEV and OVC-HEV
53	Fuel consumption	l/100km	Determined in accordance with Point 6 of Sub-Annex 7 to Annex XXI and using results for criteria emissions and CO ₂ emissions from Step 2 in Table A7/1	Non-balanced fuel consumption of Type 1 test vehicle H and, where applicable, vehicle L. In case of two or three tests, all values shall be reported.
54	Time	sec	As measured in the Type 1 test	Array: OBD and Chassis Dynamometer data, 1Hz

55	Velocity profile (theoretical)	km/h	As applied in the Type 1 test	Array: 1Hz, resolution 0,1 km/h. If not provided the speed profile defined in Point 6 of sub-Annex 1 to Annex XXI and in particular to tables A1/7-A1/9, A1/11, and A1/12 applies
56	Velocity profile (actual)	km/h	As measured in the Type 1 test	Array: OBD and Chassis Dynamometer data, 1Hz and 10 Hz, resolution 0,1 km/h
57	Gear (theoretical)	-	As applied in the Type 1 test based on the calculations defined in sub-Annex 2 to Annex XXI	Array: 1Hz. Mandatory for manual transmission vehicles
58	Engine Speed	rpm	As measured in the Type 1 test	Array: 1Hz, 10 RPM resolution from OBD
59	Engine Coolant Temperature	°C	As measured in the Type 1 test	Array: OBD Data, 1Hz, 1 °C resolution
60	Service battery current	A	As measured in the Type 1 test	Array: 1Hz, 0,1 A resolution, external measurement device synchronised with the chassis dynamometer
61	Calculated load	-	As measured in the Type 1 test	Array: OBD data, 1Hz at least (higher frequencies possible, 1 % resolution) test measurement
62	Traction REESS current	A	As measured in the Type 1 test	20Hz time-series values used for the test(s) resampled to 1Hz mandatory for NOVC-HEV and OVC-HEV
63	Engine fuel rate	g/s	As measured in the Type 1 test	Instantaneous signal recorded for test (charge-sustaining value in case of NOVC-HEV and OVC-HEV).
64	Engine fuel rate	l/h	As measured in the Type 1 test	Idem
65	Vehicle fuel rate	g/s	As measured in the Type 1 test	Idem
66	Full load power curve for ICEVs	kW vs. rpm	Manufacturer declaration	The full load power curve over the engine speed range from n_{idle} to n_{rated} or n_{max} , or n_{dv} (n_{gymax}) $\times v_{max}$, whichever is higher
67	Traction REESS initial state of charge	%	Manufacturer declaration	Initial SOC of traction REESS in charge sustaining condition (for OVC-HEV and NOVC-HEV)

68	Engine idle fuel consumption	g/s	Manufacturer declaration	<i>Idle fuel consumption in warm condition</i>
69	Alternator maximum power	kW	Manufacturer declaration	
70	Efficiency of the alternator	-	Manufacturer declaration	<i>Default value = 0,67</i>
71	Torque converter	-	Manufacturer declaration	<i>0 = No, 1 = Yes; Does the vehicle use torque converter?</i>
72	Fuel saving gear for automatic transmission	-	Manufacturer declaration	<i>0 = No, 1 = Yes</i>
73	Turbo- or Supercharger	-	Manufacturer declaration	<i>0 = No 1 = Yes – Is the engine equipped with any kind of charging system?</i>
74	Start-stop	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have start-stop system?</i>
75	Brake energy Recuperation	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have energy recuperation technologies?</i>
76	Variable valve actuation	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the engine feature variable valve actuation?</i>
77	Thermal management	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have technologies that actively manage temperature at the gear box?</i>
78	Direct injection/Port Fuel Injection	-	Manufacturer declaration	<i>0 = PFI 1 = DI</i>
79	Lean burn	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the engine use lean burn?</i>
80	Cylinder deactivation	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the engine use a cylinder deactivation system? If yes please also provide active cylinder ratios</i>
81	Exhaust gas recirculation	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have an external EGR system?</i>
82	Particulate filter	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have a particulate filter?</i>
83	Selective Catalytic Reduction	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have an SCR system?</i>
84	NOx storage catalyst	-	Manufacturer declaration	<i>0 = No 1 = Yes – Does the vehicle have a NOx storage catalyst?</i>

85	Hybrid Vehicle Configuration (P0, P1, P2, P2 planetary, P3, or P4) (*)	-	Manufacturer declaration	<i>Does the vehicle have an electric machine used for vehicle propulsion and electric energy generation in P0, P1, P2, P2 planetary, P3, or P4 position, or a combination thereof?</i>
86	Maximum torque output of each electric machine (P0, P1, P2, P2 planetary, P3, or P4) (*)	Nm	Manufacturer declaration	
87	For each electric machine, the ratio between the electric machine rotational speed and the reference rotational speed (P0, P1, P2, P2 planetary, P3, or P4) (*)	-	Manufacturer declaration	
88	Engine-on coasting function	-	Manufacturer declaration	<i>Yes/No. Does the vehicle have the engine idle coasting function (allow the engine to idle during vehicle coasting in order to save fuel)?</i>
89	Engine-off coasting function	-	Manufacturer declaration	<i>Yes/No. Does the vehicle have the engine-stop coasting function (allow the engine to switch off during vehicle coasting in order to save fuel)?</i>
90	Vehicle is incomplete	-	Manufacturer declaration	<i>0 = No 1 = Yes – Is the vehicle incomplete?</i>
91	Mass of the vehicle in running order	kg	Point 1.1, Appendix 4 to Annex I	<i>MRO for VH and VL (if applicable)</i>
92	Capped vehicle speed	km/h	Cycle selection parameters point 1.2.3, Appendix 8a to Annex I	<i>Indicate if capped speed (and the value) was used in Type 1 test for VH and VL (if applicable)</i>
93	Maximum speed of the vehicle	km/h	Cycle selection parameters point 1.2.3, Appendix 8a to Annex I	<i>Indicate maximum speed of the vehicle for VH and VL (if applicable)</i>
94	Additional information for gearshift calculation	min ⁻¹	Gearshift point 1.2.4, Appendix 8a to Annex I	<i>For manual transmission vehicles only. Information about n_min drive.</i>

(*) P0: the electric machine is connected to the engine service belt and therefore has the engine speed as reference speed;

P1: the electric machine is connected to the engine crankshaft and therefore has the engine speed as reference speed;

P2: the electric machine is mounted right upstream the transmission (gearbox or continuously variable transmission), and therefore has the transmission input speed as reference speed;

P2 planetary: the electric machine is connected to the gear of a planetary gear set that is not connected to the internal combustion engine or the final drive sides, here referred to as the planetary side. In this case the speed ratio to be specified is the ratio between the electric machine and planetary side rotational speed (reference speed) reflecting the speed multiplication/reduction effect of a reduction gear;

P3: the electric machine is right upstream the final drive of a driven axle therefore has the final drive input rotational speed as reference speed (this includes electric machines mounted on the gear of a planetary gear set on the final drive side). A vehicle can have up to two P3 machines (one for the front (P3a) and one for the rear (P3b) axle);

P4: the electric machine is downstream the final drive, and therefore has the wheel speed as reference speed. A vehicle can have up to four P4 motors (one for each wheel, where P4a indicates front wheels and P4b rear wheels).

DECISIONS

COUNCIL DECISION (EU) 2021/393

of 1 March 2021

on the position to be taken on behalf of the European Union within the EEA Joint Committee established by the Agreement on the European Economic Area as regards amendments to Chapter IIa of, and Annexes I and II to, Protocol 10 to that Agreement, on simplification of inspections and formalities in respect of carriage of goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Protocol 10 to the Agreement on the European Economic Area ⁽¹⁾ ('EEA Agreement') on simplification of inspections and formalities in respect of carriage of goods and on customs security measures (the 'Protocol') was amended by EEA Joint Committee Decision No 76/2009 ⁽²⁾ and entered into force on 1 July 2009.
- (2) Pursuant to Article 98 of the EEA Agreement, the Joint Committee established by the EEA Agreement ('EEA Joint Committee') may adopt a decision amending Chapter IIa of, and the Annexes to, the Protocol during its next session or by an Exchange of Letters.
- (3) In accordance with Article 9h(3) of the Protocol, amendments to Chapter IIa of, and Annexes I and II to, the Protocol are necessary to take into account the development of Union legislation on matters covered by that Chapter and those Annexes. In addition, if a decision cannot be adopted for the simultaneous implementation of the amendments to the Protocol and the amendments to the Union legislation, the amendments provided for in the draft Decision submitted for the Contracting Parties' approval are to be applied provisionally where possible from 15 March 2021, with due respect for the internal procedures of the Contracting Parties. That choice of date coincides with the first release of the Import Control System 2, in which Norway has agreed to participate.
- (4) It is appropriate to establish the position to be taken on the Union's behalf within the EEA Joint Committee as regards the amendments to Chapter IIa of, and Annexes I and II to, the Protocol, as those amendments will be binding on the Union.
- (5) The position of the Union within the EEA Joint Committee should therefore be based on the draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the next meeting of the Joint Committee established by the Agreement on the European Economic Area, or by Exchange of Letters, as regards the amendments to Chapter IIa of, and Annexes I and II to, Protocol 10 to that Agreement shall be based on the draft decision of the EEA Joint Committee ⁽³⁾.

⁽¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²⁾ Decision of the EEA Joint Committee No 76/2009 of 30 June 2009 amending Protocol 10 on simplification of inspections and formalities in respect of carriage of goods and Protocol 37 containing the list provided for in Article 101 (OJ L 232, 3.9.2009, p. 40).

⁽³⁾ See document ST 5661/21 on <http://register.consilium.europa.eu>

Article 2

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

Done at Brussels, 1 March 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL DECISION (CFSP) 2021/394**of 4 March 2021****amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

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

Whereas:

- (1) On 5 March 2014, the Council adopted Decision 2014/119/CFSP ⁽¹⁾.
- (2) On the basis of a review of Decision 2014/119/CFSP, the application of restrictive measures directed against certain persons, entities and bodies should be extended until 6 September 2021 in respect of one person and until 6 March 2022 in respect of seven persons, and the entries for two persons should be deleted. The information in the Annex to Decision 2014/119/CFSP regarding the rights of defence and the right to effective judicial protection, including the fundamental right to have a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law, should be updated.
- (3) Decision 2014/119/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2014/119/CFSP is amended as follows:

- (1) in Article 5, the second paragraph is replaced by the following:
‘This Decision shall apply until 6 March 2022. With regard to entry 17 in the Annex, the measures in Article 1 shall apply until 6 September 2021.’;
- (2) the Annex is amended as set out in the Annex to this Decision.

Article 2

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

Done at Brussels, 4 March 2021.

For the Council

The President

A. P. ZACARIAS

⁽¹⁾ Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine (OJ L 66, 6.3.2014, p. 26).

ANNEX

The Annex to Decision 2014/119/CFSP is amended as follows:

- (1) in section A ('List of persons, entities and bodies referred to in Article 1'), the entries for the following persons are deleted:

13. Dmytro Volodymyrovych Tabachnyk;

15. Serhiy Hennadiyovych Arbuzov;

- (2) section B ('Rights of defence and right to effective judicial protection') is replaced by the following:

B. Rights of defence and right to effective judicial protection

The rights of defence and the right to effective judicial protection under the Code of Criminal Procedure of Ukraine

Article 42 of the Code of Criminal Procedure of Ukraine ("Code of Criminal Procedure") provides that every person who is suspected or accused in criminal proceedings enjoys rights of defence and the right to effective judicial protection. These include: the right to be informed of the criminal offence of which he has been suspected or accused; the right to be informed, expressly and promptly, of his rights under the Code of Criminal Procedure; the right to have, when first requested, access to a defence lawyer; the right to present petitions for procedural actions; and the right to challenge decisions, actions and omissions by the investigator, the public prosecutor and the investigating judge.

Article 303 of the Code of Criminal Procedure distinguishes between decisions and omissions that can be challenged during the pre-trial proceedings (first paragraph) and decisions, acts and omissions that can be considered in court during preparatory proceedings (second paragraph). Article 306 of the Code of Criminal Procedure provides that complaints against decisions, acts or omissions of the investigator or public prosecutor must be considered by an investigating judge of a local Court in the presence of the complainant or his defence lawyer or legal representative. Article 308 of the Code of Criminal Procedure provides that complaints regarding failure by the investigator or public prosecutor to respect reasonable time during the pre-trial investigation may be lodged with a superior public prosecutor and must be considered within three days of being lodged. In addition, Article 309 of the Code of Criminal Procedure specifies the decisions of investigating judges that may be challenged on appeal, and that other decisions may be subject to judicial review in the course of preparatory proceedings in Court. Moreover, a number of procedural investigating actions are only possible subject to a ruling by the investigating judge or a Court (e.g. seizure of property under Articles 167 – 175, and measures of detention under Articles 176 – 178, of the Code of Criminal Procedure).

Application of the rights of defence and the right to effective judicial protection of each of the listed persons

1. Viktor Fedorovych Yanukovich

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovich, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the High Anti-Corruption Court of Ukraine of 11 August 2020 in which the Court examined the petition of the National Anti-Corruption Bureau of Ukraine and granted permission to apprehend Mr Yanukovich. In the Court's ruling, the investigating judge confirmed that there is a reasonable suspicion for Mr Yanukovich's involvement in a criminal offence relating to misappropriation and confirmed Mr Yanukovich's status as suspect in the criminal proceedings.

The High Anti-Corruption Court also established that Mr Yanukovich has been staying outside Ukraine since 2014. The Court concluded that there were sufficient grounds to believe that Mr Yanukovich was hiding from the pre-trial investigation bodies.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Yanukovich has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Yanukovich have significantly contributed to the length of the investigation.

2. Vitalii Yuriyovych Zakharchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Zakharchenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 21 May 2018, 23 November 2018 and 27 November 2019 granting permission to detain Mr Zakharchenko.

Moreover, the Council has information that the Ukrainian authorities took measures to search for Mr Zakharchenko. On 12 February 2020, the investigating body decided to put Mr Zakharchenko on the international wanted list and forwarded the request to the Department of International Police Cooperation of the National Police of Ukraine for entry into the Interpol database.

On 28 February 2020, the pre-trial investigation was resumed and procedural and investigative actions were carried out. The investigating body suspended the pre-trial investigation on 3 March 2020, concluding that Mr Zakharchenko is hiding from the investigating body and from the Court in order to evade criminal liability, that his whereabouts are unknown and that all investigative (search) and procedural actions that can be conducted in the absence of suspects have been conducted. That suspension decision was open to appeal.

No violation of the rights of defence and the right to effective judicial protection can be ascertained in the circumstances where the defence is not exercising those rights.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Zakharchenko has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Zakharchenko have significantly contributed to the length of the investigation.

3. Viktor Pavlovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the fact that a written notification of suspicion was delivered on 22 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Pshonka. On 24 July 2020, a request for international legal assistance was sent to the competent authorities of the Russian Federation to establish the whereabouts of Mr Pshonka and to interrogate him. That request is still pending. The pre-trial investigation was suspended on 24 July 2020 due to the need to perform procedural actions within the context of international cooperation.

The Russian authorities rejected requests for international legal assistance sent to them in 2016 and 2018.

In its decision of 2 October 2020, the High Anti-Corruption Court of Ukraine dismissed the appeal submitted by Mr Pshonka's lawyer to cancel the notice of suspicion dated 23 December 2014. The Court concluded that the notice of suspicion was served in accordance with the Code of Criminal Procedure of Ukraine and confirmed Mr Pshonka's status as suspect in the criminal proceedings.

On 7 May 2020 and 9 November 2020, the High Anti-Corruption Court of Ukraine rejected a request to open proceedings made on the basis of a complaint by lawyers regarding inaction by the National Anti-Corruption Bureau of Ukraine in the criminal proceedings. The Appellate Chamber of the High Anti-Corruption Court confirmed those decisions on 1 June 2020 and 26 November 2020, respectively.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Pshonka has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Pshonka as well as the earlier non-execution of the requests for international legal assistance have significantly contributed to the length of the investigation.

6. Viktor Ivanovych Ratushniak

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Ratushniak, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 21 May 2018, 23 November 2018 and 4 December 2019 granting permission to detain Mr Ratushniak with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Ratushniak. On 12 February 2020, the investigating body decided to put Mr Ratushniak on the international wanted list and forwarded the request to the Department of International Police Cooperation of the National Police of Ukraine for entry into the Interpol database.

On 28 February 2020, the pre-trial investigation was resumed with a view to carrying out procedural and investigative actions. The investigating body suspended the pre-trial investigation on 3 March 2020, concluding that Mr Ratushniak is hiding from the investigating bodies and from the Court in order to evade criminal liability, that his whereabouts are unknown and that all investigative (search) and procedural actions that can be conducted in the absence of suspects have been conducted. That suspension decision was open to appeal.

No violation of the rights of defence and the right to effective judicial protection can be ascertained in the circumstances where the defence is not exercising those rights.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Ratushniak has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Ratushniak have significantly contributed to the length of the investigation.

7. Oleksandr Viktorovych Yanukovych

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Yanukovych, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied.

The Council has information that the Ukrainian authorities took measures to search for Mr Yanukovych, who is staying in the Russian Federation and avoiding investigation.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Yanukovych has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described above attributed to Mr Yanukovych have significantly contributed to the length of the investigation.

9. Artem Viktorovych Pshonka

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Pshonka, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the fact that a written notification of suspicion was delivered on 29 December 2014, by the fact that the decision of 16 June 2017 to suspend the criminal proceedings was open to appeal, and by the decisions of the investigating judge of 12 March 2018, 13 August 2018 and 5 September 2019 granting permission to detain Mr Pshonka with the purpose of bringing him to the Court to participate in hearing the petition for the application of detention in custody.

The Council has information that the Ukrainian authorities took measures to search for Mr Pshonka. On 24 July 2020, a request for international legal assistance was sent to the competent authorities of the Russian Federation to establish the whereabouts of the suspect and to interrogate him. That request is still pending. The pre-trial investigation was suspended on 24 July 2020 due to the need to perform procedural actions within the context of international cooperation.

The Russian authorities rejected the request for international legal assistance sent to them in 2018.

In its decision of 8 July 2020, the High Anti-Corruption Court of Ukraine dismissed the appeal submitted by Mr Pshonka's lawyer to cancel the decision of 30 April 2015 to suspend the pre-trial investigation. The Court also concluded that the notice of suspicion was served in accordance with the Code of Criminal Procedure of Ukraine and confirmed Mr Pshonka's status as suspect in the criminal proceedings.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Pshonka has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the High Anti-Corruption Court attributed to Mr Pshonka as well as to an earlier non-execution of the request for international legal assistance have significantly contributed to the length of the investigation.

12. Serhiy Vitalyovych Kurchenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Kurchenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decision of the investigating judge of 7 March 2018 granting

permission for a special investigation in absentia. Moreover, the defence was notified about the completion of the pre-trial investigation on 28 March 2019 and was provided access to the materials for familiarisation. The Council has information that the familiarisation by the defence is ongoing.

In its decision of 29 April 2020, the Odessa Court of Appeal granted the appeal by the prosecutor and imposed a preventive measure of detention in custody on Mr Kurchenko. The Court also stated that Mr Kurchenko departed Ukraine in 2014 and that his location cannot be established. The Court concluded that Mr Kurchenko is hiding from the pre-trial investigation bodies in order to avoid criminal liability.

The Council was informed that on 29 April 2020 the Ukrainian authorities sent a request for international legal assistance to the Russian Federation, which was returned on 28 July 2020 without execution.

In accordance with the case-law of the European Court of Human Rights, the Council considers that the periods during which Mr Kurchenko has been avoiding investigation must be excluded from the calculation of the period relevant for the assessment of respect for the right to a trial within a reasonable time. The Council therefore considers that the circumstances described in the decision of the Odessa Court of Appeal attributed to Mr Kurchenko as well as the non-execution of the request for international legal assistance have significantly contributed to the length of the investigation.

17. Oleksandr Viktorovych Klymenko

The criminal proceedings relating to the misappropriation of public funds or assets are still ongoing.

The information on the Council's file shows that the rights of defence and the right to effective judicial protection of Mr Klymenko, including the fundamental right to have his case heard within a reasonable time by an independent and impartial tribunal, were respected in the criminal proceedings on which the Council relied. This is demonstrated in particular by the decisions of the investigating judge of 1 March 2017 and 5 October 2018 granting permission for a special investigation in absentia. The Council observes that the defence was notified of the completion of pre-trial investigations in 2017 and 2018, respectively, and has been provided with materials of the criminal proceedings for familiarisation since then. The review and examination by the defence of the large volume of materials available in relation to the pre-trial investigation into criminal proceedings is ongoing. The Council considers that the long period of familiarisation is to be attributed to the defence.'

COMMISSION IMPLEMENTING DECISION (EU) 2021/395

of 4 March 2021

amending Implementing Decision (EU) 2020/668 as regards harmonised standards on electrostatic properties of protective clothing, protective clothing for firefighters and motorcycle riders, protective clothing for use in snowboarding and worn by operators applying pesticides and for re-entry workers, enhanced visibility equipment for medium risk situations, mountaineering equipment and protective clothing against the thermal hazards of an electric arc

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In accordance with Article 14 of Regulation (EU) 2016/425 of the European Parliament and of the Council ⁽²⁾, personal protective equipment that is in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union*, is to be presumed to be in conformity with the essential health and safety requirements set out in Annex II to that Regulation covered by those standards or parts thereof.
- (2) By letter M/031, entitled 'Standardisation mandate to CEN/CENELEC concerning standards for personal protective equipment', the Commission made a request to the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) to develop and draw up harmonised standards in support of Council Directive 89/686/EEC ⁽³⁾.
- (3) On the basis of the standardisation request M/031, CEN drafted several new standards and revised a number of existing harmonised standards.
- (4) On 19 November 2020 the standardisation request M/031 expired and was replaced by a new standardisation request as set out in Commission Implementing Decision C(2020)7924 ⁽⁴⁾.
- (5) As Regulation (EU) 2016/425 took over the essential health and safety requirements applicable to personal protective equipment laid down by Directive 89/686/EEC, draft harmonised standards developed under standardisation request M/031 are covered by the standardisation request set out in Implementing Decision C(2020)7924. Their references should therefore be published in the *Official Journal of the European Union*. It can therefore exceptionally be accepted that such standards developed and published by CEN and CENELEC during the period of transition between the standardisation request M/031 and the standardisation request set out in Implementing Decision C(2020)7924 do not contain an explicit reference to the standardisation request set out in Implementing Decision C(2020)7924.

⁽¹⁾ OJ L 316, 14.11.2012, p. 12.

⁽²⁾ Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC (OJ L 81, 31.3.2016, p. 51).

⁽³⁾ Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (OJ L 399, 30.12.1989, p. 18).

⁽⁴⁾ Commission Implementing Decision C(2020) 7924 of 19.11.2020 on a standardisation request to the European Committee for Standardization and the European Committee for Electrotechnical Standardization as regards personal protective equipment in support of Regulation (EU) 2016/425 of the European Parliament and of the Council.

- (6) On the basis of the standardisation request M/031 and the standardisation request set out in Implementing Decision C(2020)7924, CEN and CENELEC drafted the following harmonised standards: EN 17109:2020 on individual safety systems for rope courses, EN ISO 20320:2020 on wrist protectors for use in snowboarding, an amendment EN ISO 27065:2017/A1:2019 to harmonised standard EN ISO 27065:2017 on performance requirements for protective clothing worn by operators applying pesticides and for re-entry workers and EN 61482-2:2020 on protective clothing against the thermal hazards of an electric arc in support of Regulation (EU) 2016/425.
- (7) On the basis of the standardisation request M/031 and the standardisation request set out in Implementing Decision C(2020)7924, CEN revised the harmonised standards EN 469:2005, as amended by EN 469:2005/A1:2006 and corrected by EN 469:2005/AC:2006 and EN 1149-5:2008, the references of which are published in the C series of the *Official Journal of the European Union* ⁽⁵⁾. That revision resulted in the adoption of harmonised standards EN 469:2020 on performance requirements for protective clothing for firefighting activities and, respectively, EN 1149-5:2018 on electrostatic properties of protective clothing.
- (8) On the basis of the standardisation request M/031 and the standardisation request set out in Implementing Decision C(2020)7924, CEN revised the harmonised standards EN 13595-1:2002 and EN 13595-3:2002, the references of which are published in the C series of the *Official Journal of the European Union* ⁽⁶⁾. That revision resulted in the adoption of harmonised standards EN 17092-2:2020 on class AAA protective garments for motorcycle riders, EN 17092-3:2020 on class AA protective garments for motorcycle riders, EN 17092-4:2020 on class A protective garments for motorcycle riders, EN 17092-5:2020 on class B protective garments for motorcycle riders and EN 17092-6:2020 on class C protective garments for motorcycle riders.
- (9) On the basis of the standardisation request M/031 and the standardisation request set out in Implementing Decision C(2020)7924, CEN revised the harmonised standards EN 1150:1999 and EN 13356:2001, the references of which are published in the C series of the *Official Journal of the European Union* ⁽⁷⁾. This resulted in the adoption of harmonised standard EN 17353:2020 on enhanced visibility equipment for medium risk situations.
- (10) The Commission together with CEN and CENELEC has assessed whether the standards drafted and revised by CEN and CENELEC comply with the standardisation request set out in Implementing Decision C(2020)7924.
- (11) The harmonised standards EN 17109:2020, EN ISO 20320:2020, EN ISO 27065:2017/A1:2019, EN 469:2020, EN 1149-5:2018, EN 17092-2:2020, EN 17092-3:2020, EN 17092-4:2020, EN 17092-5:2020, EN 17092-6:2020, EN 17353:2020 and EN 61482-2:2020 and the amendment EN ISO 27065:2017/A1:2019 to EN ISO 27065:2017 satisfy the requirements which they aim to cover and which are set out in Regulation (EU) 2016/425. It is therefore appropriate to publish the references of those standards in the *Official Journal of the European Union*.
- (12) It is therefore necessary to withdraw the references of harmonised standard EN 469:2005 as amended by EN 469:2005/A1:2006 and corrected by EN 469:2005/AC:2006, EN 1149-5:2008, EN 13595-1:2002, EN 13595-3:2002, EN 1150:1999, EN 13356:2001 and EN ISO 27065:2017 from the C series of the *Official Journal of the European Union*, given that those standards have been revised.
- (13) Annex I to Commission Implementing Decision (EU) 2020/668 ⁽⁸⁾ lists the references of harmonised standards drafted in support of Regulation (EU) 2016/425, while Annex II to Implementing Decision (EU) 2020/668 lists the references of harmonised standards drafted in support of Regulation (EU) 2016/425 that are withdrawn from the *Official Journal of the European Union* as from the dates set out in that Annex.
- (14) Implementing Decision (EU) 2020/668 should therefore be amended accordingly.

⁽⁵⁾ OJ C 113, 27.3.2018, p. 41.

⁽⁶⁾ OJ C 113, 27.3.2018, p. 41.

⁽⁷⁾ OJ C 113, 27.3.2018, p. 41.

⁽⁸⁾ Commission Implementing Decision (EU) 2020/668 of 18 May 2020 on the harmonised standards for personal protective equipment drafted in support of Regulation (EU) 2016/425 of the European Parliament and of the Council (OJ L 156, 19.5.2020, p. 13).

- (15) In order to give manufacturers sufficient time to prepare for the application of the revised and amended standards, it is necessary to defer the respective withdrawal of the references to the standards listed in Annex II.
- (16) Compliance with a harmonised standard confers a presumption of conformity with the corresponding essential requirements set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should enter into force on the day of its publication,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Implementing Decision (EU) 2020/668 is amended in accordance with Annex I to this Decision.

Article 2

Annex II to Implementing Decision (EU) 2020/668 is amended in accordance with Annex II to this Decision.

Article 3

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

Done at Brussels, 4 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

In Annex I to Implementing Decision (EU) 2020/668, the following entries are added:

No	Reference of standard
20.	EN 1149-5:2018 Protective clothing - Electrostatic properties - Part 5: Material performance and design requirements
21.	EN 17092-2:2020 Protective garments for motorcycle riders - Part 2: Class AAA garments - Requirements
22.	EN 17092-3:2020 Protective garments for motorcycle riders - Part 3: Class AA garments - Requirements
23.	EN 17092-4:2020 Protective garments for motorcycle riders - Part 4: Class A garments - Requirements
24.	EN 17092-5:2020 Protective garments for motorcycle riders - Part 5: Class B garments - Requirements
25.	EN 17092-6:2020 Protective garments for motorcycle riders - Part 6: Class C garments - Requirements
26.	EN 17109:2020 Mountaineering equipment - Individual safety systems for rope courses - Safety requirements and test methods
27.	EN 61482-2:2020 Live working - Protective clothing against the thermal hazards of an electric arc - Part 2: Requirements
28.	EN ISO 20320:2020 Protective clothing for use in Snowboarding - Wrist Protectors - Requirements and test methods (ISO 20320:2020)
29.	EN 17353:2020 Protective clothing - Enhanced visibility equipment for medium risk situations - Test methods and requirements
30.	EN 469:2020 Protective clothing for firefighters - Performance requirements for protective clothing for firefighting activities
31.	EN ISO 27065:2017 Protective clothing - Performance requirements for protective clothing worn by operators applying pesticides and for re-entry workers (ISO 27065:2017). EN ISO 27065:2017/A1:2019

ANNEX II

In Annex II to Implementing Decision (EU) 2020/668, the following entries are added:

No	Reference of standard	Date of withdrawal
15.	EN 469:2005 Protective clothing for firefighters - Performance requirements for protective clothing for firefighting activities EN 469:2005/A1:2006 EN 469:2005/AC:2006	5 September 2022
16.	EN 1149-5:2008 Protective clothing - Electrostatic properties - Part 5: Material performance and design requirements	5 September 2022
17.	EN 13595-1:2002 Protective clothing for professional motorcycle riders — Jackets, trousers and one piece or divided suits — Part 1: General requirements	5 September 2022
18.	EN 13595-3:2002 Protective clothing for professional motorcycle riders — Jackets, trousers and one-piece or divided suits — Part 3: Test method for determination of burst strength	5 September 2022
19.	EN 1150:1999 Protective clothing — Visibility clothing for non-professional use — Test methods and requirements	5 September 2022
20.	EN 13356:2001 Visibility accessories for non-professional use — Test methods and requirements	5 September 2022
21.	EN ISO 27065:2017 Protective clothing - Performance requirements for protective clothing worn by operators applying pesticides and for re-entry workers (ISO 27065:2017)	5 September 2022'

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