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Contents

II *Non-legislative acts*

DECISIONS

- ★ **Council Decision (EU) 2021/675 of 20 April 2021 authorising the opening of negotiations to amend the International Cocoa Agreement 2010** 1
- ★ **Council Implementing Decision (EU) 2021/676 of 23 April 2021 amending Implementing Decision (EU) 2020/1352 granting temporary support under Regulation (EU) 2020/672 to the Republic of Malta to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 3
- ★ **Council Implementing Decision (EU) 2021/677 of 23 April 2021 amending Implementing Decision (EU) 2020/1351 granting temporary support under Regulation (EU) 2020/672 to the Republic of Latvia to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 7
- ★ **Council Implementing Decision (EU) 2021/678 of 23 April 2021 amending Implementing Decision (EU) 2020/1350 granting temporary support under Regulation (EU) 2020/672 to the Republic of Lithuania to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 12
- ★ **Council Implementing Decision (EU) 2021/679 of 23 April 2021 amending Implementing Decision (EU) 2020/1346 granting temporary support under Regulation (EU) 2020/672 to the Hellenic Republic to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 16
- ★ **Council Implementing Decision (EU) 2021/680 of 23 April 2021 amending Implementing Decision (EU) 2020/1344 granting temporary support under Regulation (EU) 2020/672 to the Republic of Cyprus to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 19
- ★ **Council Implementing Decision (EU) 2021/681 of 23 April 2021 amending Implementing Decision (EU) 2020/1342 granting temporary support under Regulation (EU) 2020/672 to the Kingdom of Belgium to mitigate unemployment risks in the emergency following the COVID-19 outbreak** 24

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.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Implementing Decision (EU) 2021/682 of 26 April 2021 amending Implementing Decision (EU) 2016/715 as regards specified fruits originating in Argentina <i>(notified under document C(2021) 2744)</i>	31
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RULES OF PROCEDURE

★ Decision of the Steering Committee of the European Research Council Executive Agency of 11 December 2020 on internal rules concerning restrictions of certain rights of data subjects in relation to the processing of personal data in the framework of activities carried out by the European Research Council Executive Agency	35
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II

(Non-legislative acts)

DECISIONS

COUNCIL DECISION (EU) 2021/675

of 20 April 2021

authorising the opening of negotiations to amend the International Cocoa Agreement 2010

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(3) and the first subparagraph of Article 207(4), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union is a Contracting Party to the International Cocoa Agreement 2010 (ICA) pursuant to Council Decision 2012/189/EU ⁽¹⁾ and a member of the International Cocoa Organisation (ICCO).
- (2) Pursuant to Article 7 of the ICA, the International Cocoa Council (ICC) performs or arranges for the performance of all such functions as are necessary to implement the ICA. Pursuant to Article 12 thereof, decisions of the ICC are taken in principle by consensus. In the absence of consensus, decisions are taken by a special vote.
- (3) Pursuant to Article 10 of the ICA, ICCO members hold 2000 votes in total in the ICC. Each member holds a specified number of votes which is adjusted annually in accordance with the criteria set out in that Article.
- (4) It is in the interest of the Union to participate in an international agreement on cocoa, considering the importance of that sector for a number of Member States and for the economy of the European cocoa sector.
- (5) A technical working group composed of ICCO members from both producing and exporting countries engaged in substantial work in order to present concrete proposals for the amendment of the ICA. ICCO members were invited to submit any suggestions to initiate this technical analysis, as did the Union. The ICC needs to open negotiations for a partial review of the ICA well before the deadline of the validity of the ICA, namely, 30 September 2022, under the guidance of the United Nations Conference on Trade and Development (Unctad). Any areas of the ICA to be reviewed need to be the subject of formal negotiations. Such negotiations are to be concluded no later than 30 September 2022.
- (6) Any amendments agreed in the formal negotiations should be adopted in accordance with the procedure set out in Article 63 of the ICA. Pursuant to that Article, the ICC may, by consensus or, if not, by special vote, recommend an amendment to the ICA to the Contracting Parties of the ICA. The amendment becomes effective in accordance with Article 63(1) of the ICA, which requires the notification of acceptance from a certain percentage of the Contracting Parties of the ICA. As a member of the ICCO and Contracting Party to ICA, in accordance with Article 4 thereof, the Union should be able to participate in negotiations with a view to amending the ICA.

⁽¹⁾ Council Decision 2012/189/EU of 26 March 2012 on the conclusion of the International Cocoa Agreement 2010 (OJ L 102, 12.4.2012, p. 1).

- (7) It is therefore appropriate that the Commission be authorised to engage in negotiations for the partial review of the ICA,

HAS ADOPTED THIS DECISION:

Article 1

1. The Commission is hereby authorised to negotiate, on behalf of the Union, to amend the International Cocoa Agreement 2010.
2. The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the addendum to this Decision.

Article 2

The negotiations shall be conducted in consultation with the Working Party on Commodities.

Article 3

This Decision is addressed to the Commission.

Done at Brussels, 20 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/676**of 23 April 2021****amending Implementing Decision (EU) 2020/1352 granting temporary support under Regulation (EU) 2020/672 to the Republic of Malta to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Malta on 7 August 2020, on 25 September 2020 the Council granted financial assistance to Malta in the form of a loan amounting to a maximum of EUR 243 632 000 with a maximum average maturity of 15 years, with a view to complementing Malta's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Malta to finance the short-time work schemes, similar measures and health-related measures referred to in Article 3 of Council Implementing Decision (EU) 2020/1352 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Malta. This has led to a sudden and severe increase in public expenditure in Malta in respect of the measure referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1352.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Malta in 2020 and 2021 to contain that outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Malta was expected to have a general government deficit and debt of 9,4 % and 55,2 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Malta's general government deficit is forecast to narrow to 6,3 % of GDP while debt is forecast to increase to 60,0 % of GDP. According to the Commission's 2021 winter interim forecast, Malta's GDP is projected to increase by 4,5 % in 2021.
- (5) On 10 March 2021, Malta requested further financial assistance from the Union of EUR 177 185 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed. In particular it concerns the measure set out in recital (6).
- (6) 'Malta Enterprise Act (Chap. 463 of the Laws of Malta)'/L-Att dwar il-Korporazzjoni għall-Intrapriża ta' Malta (Kap. 463 tal-Liġijiet ta' Malta)' and 'Government Notice No 389 of 13 April 2020'/Notifikazzjoni tal-Gvern Nru 389 tat-13 ta' April 2020', which are referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1352, introduced a COVID-19 wage supplement, which covers employees and the self-employed, to address the disruption caused by the COVID-19 outbreak. In the period from March to June 2020, full-time employees working in the sectors hardest hit by the crisis, listed in Annex A referred to in Government Notice No 389 were eligible for wage support of EUR 800 per month. In less affected sectors, listed in Annex B referred to in Government Notice No 389, full-time employees were eligible to receive EUR 160 per month. Support was available also to part-time employees for a lower amount. In July 2020 the lists of sectors included in the two annexes were revised. Sectors previously supported under the scheme but not included in the revised Annex A or B were assisted with a wage supplement of EUR 600 for full-time employees. The scheme featuring those conditions was extended until the end

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1352 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Republic of Malta to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 42).

of 2020. As of January 2021, the size of the wage supplement reflects a drop in sales over six months between March and October 2020 against turnover declared over six months between March and October 2019. Where no VAT records are available, the wage supplement is disbursed based on the criteria applicable in 2020. The scheme is envisaged to run until the end of 2021. In the second half of 2021, support will remain in effect for accommodation and catering activities in line with the set parameters. For other eligible activities, support will decline to 66 % in the third quarter of 2021 and further decline to 33 % in the last quarter of the year. The scheme will remain available only for those enterprises who were already eligible for support under the original scheme. Currently the scheme is applied in practice by 'Malta Enterprise' and it will be specified in a forthcoming Government Notice. According to the new rules, the scheme will also cover replacement of employees (i.e. replacement of those who voluntarily terminated their employment after June 2020), as long as the number of employees as at the end of May 2020 is not exceeded. Only the part of the public expenditure related to the employees who were continuously in employment was requested by the authorities, excluding the part for newly-hired employees.

- (7) Malta fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Malta has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 427 961 805 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is directly related to the extension of an existing national job measure similar to short-time work that covers a significant proportion of undertakings and of the labour force in Malta. Malta financed EUR 7 144 805 of the increased amount of public expenditure through its own financing.
- (8) The Commission has consulted Malta and verified the sudden and severe increase in the actual and planned public expenditure directly related to a measure similar to short-time work referred to in Malta's request of 10 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (9) Financial assistance should therefore be provided with a view to helping Malta to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.
- (10) Malta and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (11) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.
- (12) Malta should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Malta has implemented that expenditure.
- (13) The decision to provide financial assistance has been reached taking into account existing and expected needs of Malta, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1352 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Malta a loan amounting to a maximum of EUR 420 817 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

(2) Article 3 is replaced by the following:

‘Article 3

Malta may finance the following measures:

- (a) the COVID-19 wage supplement, as provided for in ‘Malta Enterprise Act (Chap. 463 of the Laws of Malta)’/‘L-Att dwar il-Korporazzjoni għall-Intrapriża ta’ Malta (Kap. 463 tal-Liġijiet ta’ Malta)’ and ‘Government Notice No 389 of 13 April 2020’/‘Notifikazzjoni tal-Gvern Nru 389 tat-13 ta’ April 2020’, as extended and amended in 2020 and 2021;
- (b) the COVID-19 disability benefit, as provided for in ‘Government Notice No 331 of 25 March 2020’/‘Notifikazzjoni tal-Gvern Nru 331 tal-25 ta’ Marzu 2020’;
- (c) the COVID-19 parent benefit, as provided for in ‘Government Notice No 330 of 25 March 2020’/‘Notifikazzjoni tal-Gvern Nru 330 tal-25 ta’ Marzu 2020’;
- (d) the COVID-19 medical benefit, as provided for in ‘Government Notice No 353 of 30 March 2020’/‘Notifikazzjoni tal-Gvern Nru 353 tat-30 ta’ Marzu 2020’.’;

(3) Article 4 is replaced by the following:

‘Article 4

1. Malta shall inform the Commission by 30 March 2021, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.

2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an implementing decision amending Implementing Decision (EU) 2020/1352, Malta shall inform the Commission within six months after the date of adoption of that amending implementing decision, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.’.

Article 2

This Decision is addressed to the Republic of Malta.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/677**of 23 April 2021****amending Implementing Decision (EU) 2020/1351 granting temporary support under Regulation (EU) 2020/672 to the Republic of Latvia to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Latvia on 7 August 2020, on 25 September 2020 the Council granted financial assistance to Latvia in the form of a loan amounting to a maximum of EUR 192 700 000 with a maximum average maturity of 15 years, with a view to complementing Latvia's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Latvia to finance the short-time work schemes, similar measures and health-related measures, as referred to in Article 3 of Council Implementing Decision (EU) 2020/1351 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Latvia. This has led to a sudden and severe increase in public expenditure in Latvia in respect of new measures, namely sickness aid benefits for parents and caretakers and premiums for medical practitioners and employees dealing with the COVID -19 crisis and measures referred to in Article 3, points (a), (c), (d), (f) and (g), of Implementing Decision (EU) 2020/1351.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Latvia in 2020 and 2021 to contain that outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Latvia was expected to have a general government deficit and debt of 7,4 % and 47,5 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Latvia's general government deficit and debt are forecast to narrow to 3,5 % and 45,9 % of GDP respectively. According to the Commission's 2021 winter interim forecast, Latvia's real GDP is projected to increase by 3,5 % in 2021.
- (5) On 11 March 2021, Latvia requested further financial assistance from the Union of EUR 112 500 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed. In particular it concerns the measures set out in recitals (6) to (8).
- (6) 'Cabinet Regulation No 709 "Regulations Regarding the Allowance for Idle Time for Taxpayers for the Continuation of their Activity in the Circumstances of the COVID-19 Crisis"' (adopted on 24 November 2020 ⁽³⁾ and amended on 12 January 2021 ⁽⁴⁾) extended and amended a scheme for the compensation of idle time for workers, as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1351. That scheme applies to companies, self-employed

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1351 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Republic of Latvia to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 38).

⁽³⁾ Latvijas Vēstnesis, 230B, 27.11.2020.

⁽⁴⁾ Latvijas Vēstnesis, 9A, 14.1.2021.

persons and payers of the licence fee, whose income from economic activity has decreased by at least 20 %, as compared to August-October 2020 on average. The scheme pays compensation to furloughed employees or self-employed persons of 50 % or 70 % of their salaries or incomes, depending on the tax regime under which they operate. The minimum level of support is set at EUR 500 and the maximum at EUR 1 000 per employee per calendar month. Attached to the scheme for the compensation of idle time for workers is the workers' bonus for children, as referred to in Article 3, point (c), of Implementing Decision (EU) 2020/1351.

The bonus of EUR 50 per month per child provides an additional support for idle workers who are entitled to personal income tax relief for dependants. The support measure was extended by 'Cabinet Order No 706 of 1 December 2020 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"⁽⁵⁾ and 'Cabinet Order No 15 of 11 January 2021 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"⁽⁶⁾. The measure can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it provides income support to employees and the self-employed.

- (7) The scheme for wage subsidies provides support to employers facing a decrease in revenue of at least 20 % from any economic activity. The scheme amounts to 50 % of the average monthly gross wage, but not more than EUR 500 per calendar month. The beneficiary employers are obliged to maintain employment of supported workers and to top up the wage subsidy to the full regular wage. The scheme was established by 'Cabinet Regulation No 675 on "Regulations Regarding the Provision of Aid to Taxpayers for the Continuation of their Activity in the Circumstances of the COVID-19 Crisis"' (adopted on 10 November 2020⁽⁷⁾ and amended on 12 January 2021⁽⁸⁾) and 'Cabinet Order No 128 of 26 February 2021 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"⁽⁹⁾. The measure extends the scheme for wage subsidies for the tourism and export industries, as referred to in Article 3, point (d), of Implementing Decision (EU) 2020/1351, and expands the coverage to all eligible employers.
- (8) Sickness aid benefits for parents and caretakers provide support for employees who cannot work remotely and have to look after children under 10 years of age or persons with disabilities when schools and day-care centres are closed due to the COVID-19 outbreak. The measure can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it provides income support to parents and caretakers and helps to preserve employment by preventing parents and caretakers who have to look after children or persons with disabilities while schools and day-care centres are closed from needing to terminate the employment relationship. Sickness aid benefits are provided for in the 'Amendment to the Law "On Maternity and Sickness Insurance" of 26 November 2020'⁽¹⁰⁾ and 'Cabinet Order No 707 of 1 December 2020 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"⁽¹¹⁾ and 'Cabinet Order No 13 of 11 January 2021 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"⁽¹²⁾.
- (9) Latvia also further extended and introduced a series of health-related measures to address the COVID-19 crisis. In particular, this concerns the measures set out in recitals (10) to (12).
- (10) An extension until 30 June 2021 of the COVID-19-related sickness benefits as referred to in Article 3, point (g), of Implementing Decision (EU) 2020/1351 was established by the 'Amendments to the Law "On Maternity and Sickness Insurance" of 12 November 2020'⁽¹³⁾. The measure provides state-paid sickness benefits for those who had to miss work due to a requirement to self-isolate or self-quarantine, while usually part of the sickness benefit is shared with the employer.

⁽⁵⁾ Latvijas Vēstnesis, 234, 3.12.2020.

⁽⁶⁾ Latvijas Vēstnesis, 9, 14.1.2021.

⁽⁷⁾ Latvijas Vēstnesis, 222A, 16.11.2020.

⁽⁸⁾ Latvijas Vēstnesis, 9, 14.1.2021.

⁽⁹⁾ Latvijas Vēstnesis, 42, 2.3.2021.

⁽¹⁰⁾ Latvijas Vēstnesis, 230A, 27.11.2020.

⁽¹¹⁾ Latvijas Vēstnesis, 234, 3.12.2020.

⁽¹²⁾ Latvijas Vēstnesis, 9, 14.1.2021.

⁽¹³⁾ Latvijas Vēstnesis, 221A, 13.11.2020.

- (11) Additional support is provided for health-related expenditure on personal protective equipment, as referred to in Article 3, point (f), of Implementing Decision (EU) 2020/1351. The expenditure was already implemented in 2020, including that established by 'Cabinet Regulation No 380 of 9 June 2020 "Regulations on the Resources for Ensuring Epidemiological Safety Necessary for Institutions Included in the List of Priority Institutions and Needs"' ⁽¹⁴⁾.
- (12) Premiums for medical practitioners and employees dealing with the COVID-19 crisis of 20 % to 100 % of monthly salaries rewards work performed in conditions of increased risk and increased workload, as provided for in 'Cabinet Orders No 136 of 27 March 2020 and No 656 of 6 November 2020 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"' ⁽¹⁵⁾, 'Cabinet Order No 743 of 8 December 2020 "Amendments to Cabinet Order No 655 of 6 November 2020 'On Declaring a State of Emergency'"' ⁽¹⁶⁾ and 'Cabinet Order No 37 of 21 January 2021 "Regarding the Allocation of Funds from the State Budget Programme 'Funds for Unforeseen Events'"' ⁽¹⁷⁾. Those premiums are additional to the maximum premium set in the 'Law On Remuneration of Officials and Employees of State and Local Government Authorities'. The measure supports employment by ensuring health safety of employees and continuity of essential public services.
- (13) Latvia fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Latvia has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 405 297 901 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is related both to new measures and to an extension of existing measures directly related to short-time work schemes and similar measures that cover a significant proportion of undertakings and of the labour force in Latvia. Latvia intends to finance EUR 100 097 901 of the increased amount of public expenditure through its own financing.
- (14) The Commission has consulted Latvia and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures, as well as the recourse to relevant health-related measures related to the COVID-19 outbreak, referred to in Latvia's request of 11 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (15) Health-related measures, as referred to in Latvia's request of 11 March 2021 and in recitals (10) to (12), amount to EUR 22 304 365.
- (16) Financial assistance should therefore be provided with a view to helping Latvia to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.
- (17) Latvia and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (18) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.
- (19) Latvia should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Latvia has implemented that expenditure.
- (20) The decision to provide financial assistance has been reached taking into account existing and expected needs of Latvia, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

⁽¹⁴⁾ Latvijas Vēstnesis, 113A, 12.6.2020.

⁽¹⁵⁾ Latvijas Vēstnesis, 62B, 27.3.2020., Latvijas Vēstnesis, 218, 10.11.2020.

⁽¹⁶⁾ Latvijas Vēstnesis, 237A, 8.12.2020.

⁽¹⁷⁾ Latvijas Vēstnesis, 16, 25.1.2021.

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1351 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Latvia a loan amounting to a maximum of EUR 305 200 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

(2) Article 3 is replaced by the following:

‘Article 3

Latvia may finance the following measures:

- (a) the scheme for the compensation of idle time for workers, as provided for in “Cabinet Regulations No 179 (adopted 31 March 2020) ‘Regulations Regarding the Allowance for Idle Time for the Self-employed Persons Affected by the Spread of COVID-19’ and No 165 (adopted 26 March 2020) ‘Regulations Regarding the Employers Affected by the Crisis Caused by COVID-19 which are Eligible for the Allowance for Idle Time and Division of the Payment for Late Tax Payments in Instalments or Deferral Thereof for up to Three Years’”, as extended and amended;
- (b) the downtime allowance, as provided for on the basis of “Cabinet Regulation No 236 (adopted 23 April 2020) ‘Regulations Regarding the Assistance Allowance for Idle Time for Employed or Self-employed Persons Who have been Affected by the Spread of COVID-19’”;
- (c) the workers’ bonus for children, as provided for in “Cabinet Order No 178 of 16 April 2020 ‘Regarding the Allocation of Funds from the State Budget Programme “Funds for Unforeseen Events””, as extended;
- (d) the scheme for wage subsidies for the tourism and export industries, as provided for in “Information report on measures to overcome the Covid-19 crisis and economic recovery”, as extended;
- (e) wage support payments for medical professionals and those employed by the cultural industry, as provided for in the “Law On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of COVID-19”, the “Law on the Suppression of Consequences of the Spread of COVID-19 Infection” and “Cabinet Order No 303 of 3 June 2020 ‘Regarding the Allocation of Funds from the State Budget Programme “Funds for Unforeseen Events””, respectively;
- (f) health related expenditure on protective personal equipment, as provided for in “Cabinet Orders No 79 of 3 March 2020, No 118 of 20 March 2020 and No 220 of 27 April 2020, ‘Regarding the Allocation of Funds from the State Budget Programme “Funds for Unforeseen Events””, “Cabinet Regulation No 380 of 9 June 2020 ‘Regulations on the Resources for Ensuring Epidemiological Safety Necessary for Institutions Included in the List of Priority Institutions and Needs’”;
- (g) COVID-19 related sickness benefits, as provided for in the “Amendment to the Law ‘On Maternity and Sickness Insurance’” (adopted 20 March 2020), as extended;
- (h) sickness aid benefits for parents and caretakers, as provided for in the “Amendment to the Law ‘On Maternity and Sickness Insurance’” (Sections 48 and 49 of transitional provisions), adopted 26 November 2020, “Cabinet Order No 707 of 1 December 2020 ‘Regarding the Allocation of Funds from the State Budget Programme “Funds for Unforeseen Events”” and “Cabinet Order No 13 of 11 January 2021 ‘Regarding the Allocation of Funds from the State Budget Programme “Funds for Unforeseen Events””;

- (i) premiums for medical practitioners and employees dealing with the Covid-19 crisis, as provided for in “Cabinet Order No 136 Adopted 27 March 2020 ‘Regarding the Allocation of Funds from the State Budget Programme ‘Funds for Unforeseen Events’”, “Cabinet Order No 656 Adopted 6 November 2020 Regarding the Allocation of Funds from the State Budget Programme ‘Funds for Unforeseen Events’”, “Cabinet Order No 743 of 8 December 2020. ‘Amendment to Cabinet Order No 655 of 6 November 2020’ On Declaring a State of Emergency” and “Cabinet Order No 37 Adopted 21 January 2021 Regarding the Allocation of Funds from the State Budget Programme ‘Funds for Unforeseen Events’”.”;

(3) Article 4 is replaced by the following:

Article 4

1. Latvia shall inform the Commission by 30 March 2021, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.

2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an implementing decision amending Implementing Decision (EU) 2020/1351, Latvia shall inform the Commission within six months after the date of adoption of that amending implementing decision, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.’.

Article 2

This Decision is addressed to the Republic of Latvia.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/678**of 23 April 2021****amending Implementing Decision (EU) 2020/1350 granting temporary support under Regulation (EU) 2020/672 to the Republic of Lithuania to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Lithuania on 7 August 2020, on 25 September 2020 the Council granted financial assistance to Lithuania in the form of a loan amounting to a maximum of EUR 602 310 000 with a maximum average maturity of 15 years, with a view to complementing Lithuania's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Lithuania to finance the short-time work schemes and similar measures referred to in Article 3 of Council Implementing Decision (EU) 2020/1350 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Lithuania. This has led to a sudden and severe increase in public expenditure in Lithuania in respect of the measures referred to in Article 3, points (a) and (b), of Implementing Decision (EU) 2020/1350.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Lithuania in 2020 and 2021 to contain that outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Lithuania was expected to have a general government deficit and debt of 8,4 % and 47,2 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Lithuania's general government deficit and debt are forecast to stand at 6,0 % and 50,7 % of GDP respectively. According to the Commission's 2021 winter interim forecast, Lithuania's GDP is projected to increase by 2,2 % in 2021.
- (5) On 11 March 2021, Lithuania requested further financial assistance from the Union of EUR 354 950 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed. In particular it concerns the measures set out in recitals (6) to (8).
- (6) In the 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020 ⁽³⁾, as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1350, Lithuania introduced a scheme to pay subsidies to employers to cover estimated wages for each employed person facing time without work, as a support during the quarantine and state emergency. Before 1 January 2021, an employer could choose between subsidies to cover 70 % of the salary, up to a maximum of 1,5 times the minimum wage, or 90 % of the salary (100 % in the case of employees aged 60

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1350 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Republic of Lithuania to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 35).

⁽³⁾ Article 41, part 2-1 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by 'Law No XIII-2822' of 17 March 2020, 'Law No XIII-2846' of 7 April 2020, 'Law No XIII-3005' of 4 June 2020, and 'Law No XIV-131' of 23 December 2020.

and above), up to a maximum of the minimum wage. From 1 January 2021, an employer can receive subsidies to cover 100 % of the salary, up to a maximum of 1,5 times the minimum wage. Employers that have participated in the scheme must retain at least 50 % of their employees for at least three months after the pay subsidy ends.

- (7) Under the 'Law on Employment No XII-2470' of 21 June 2016, as amended in 2020, as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1350, subsidies were also paid for employees returning from time without work ⁽⁴⁾, for a period of up to six months following their return to work. Subject to a cap of the minimum wage or twice the minimum wage, depending on the economic activity carried out by the employer, the amount of the subsidies paid in the first and second months following return to work could be as high as 100 % of an employee's salary, in the third and fourth months as high as 50 %, and in the fifth and sixth months as high as 30 %. Those subsidies can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aimed to provide income support to employees and help maintain existing employment relationships.
- (8) The authorities have also introduced benefits for the self-employed including the self-employed engaged in agricultural activity with an agricultural holding or farm of no less than four economic size units, as referred to in Article 3, point (b), of Implementing Decision (EU) 2020/1350. That measure was amended in 2020 ⁽⁵⁾. In 2020, that benefit amounted to EUR 257 and was paid during the period of the quarantine and state emergency and the following two months. In 2021, the benefit amounts to EUR 260 and is paid during the period of the quarantine and state emergency and one month after. The benefits for the self-employed can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as they aim to protect the self-employed or similar categories of workers from a reduction in or loss of income.
- (9) Lithuania fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Lithuania has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 1 101 607 198 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is related to an extension of existing national measures directly related to short-time work schemes and similar measures that cover a significant proportion of undertakings and of the labour force in Lithuania. Lithuania financed EUR 144 347 198 of the increased amount of expenditure through Union funds.
- (10) The Commission has consulted Lithuania and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures, referred to in Lithuania's request of 11 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (11) Financial assistance should therefore be provided with a view to helping Lithuania to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.
- (12) Lithuania and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (13) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.

⁽⁴⁾ Article 41, part 2-4 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by 'Law No XIII-2882' of 7 May 2020 and 'Law No XIII-3005' of 4 June 2020.

⁽⁵⁾ Article 5-1 of 'Law on Employment No XII-2470' of 21 June 2016, as amended by 'Law No XIII-2822' of 17 March 2020, 'Law No XIII-2846' of 7 April 2020, 'Law No XIII-2877' of 30 April 2020, and 'Law No XIV-35' of 3 December 2020.

- (14) Lithuania should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Lithuania has implemented that expenditure.
- (15) The decision to provide financial assistance has been reached taking into account existing and expected needs of Lithuania, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1350 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Lithuania a loan amounting to a maximum of EUR 957 260 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

(2) Article 3 is replaced by the following:

Article 3

Lithuania may finance the following measures:

- (a) wage subsidies during time without work, as provided for in Article 41 of “Law on Employment No XII-2470” of 21 June 2016, as amended in 2020;
- (b) wage subsidies after time without work, as provided for in Article 41 of “Law on Employment No XII-2470” of 21 June 2016, as amended in 2020;
- (c) benefits to the self-employed, as provided for in Article 5-1 of “Law on Employment No XII-2470” of 21 June 2016, as amended in 2020;
- (d) benefits to the self-employed engaged in agriculture, as provided for in Article 5-2 of “Law on Employment No XII-2470” of 21 June 2016, as amended in 2020.’;

(3) Article 4 is replaced by the following:

Article 4

1. Lithuania shall inform the Commission by 30 March 2021, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.
2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an implementing decision amending Implementing Decision (EU) 2020/1350, Lithuania shall inform the Commission within six months after the date of adoption of that amending implementing decision, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.’.

Article 2

This Decision is addressed to the Republic of Lithuania.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/679**of 23 April 2021****amending Implementing Decision (EU) 2020/1346 granting temporary support under Regulation (EU) 2020/672 to the Hellenic Republic to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Greece on 6 August 2020, on 25 September 2020 the Council granted financial assistance to Greece in the form of a loan amounting to a maximum of EUR 2 728 000 000 with a maximum average maturity of 15 years, with a view to complementing Greece's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Greece to finance the short-time work schemes and similar measures as referred to in Article 3 of Council Implementing Decision (EU) 2020/1346 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Greece. This has led to a sudden and severe increase in public expenditure in Greece in respect of the measures referred to in Article 3, points (a) and (b), of Implementing Decision (EU) 2020/1346.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Greece in 2020 and 2021 to contain the outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Greece was expected to have a general government deficit and debt of 6,9 % and 207,1 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Greece's general government deficit and debt are forecast to narrow to 6,3 % and 200,7 % of GDP respectively. According to the Commission's 2021 winter interim forecast, Greece's GDP is projected to increase by 3,5 % in 2021.
- (5) On 9 March 2021, Greece requested further financial assistance from the Union of EUR 2 537 000 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers. In particular it concerns the measures set out in recitals (6) and (7).
- (6) More specifically, Greece's request pertains to 'Legal Act of 14 March 2020' ⁽³⁾, as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1346, which introduced a special allowance for private sector employees whose labour contracts have been suspended. That measure aims to protect employment in companies that cease their operations by public order or belong to economic sectors that are heavily affected by the COVID-19 outbreak, and concerns the provision of a special monthly allowance of EUR 534 to employees whose labour contracts are

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1346 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Hellenic Republic to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 21).

⁽³⁾ 'Legal Act of 14 March 2020' (Government Gazette A' 64) ratified by Article 3 of 'Law 4682/2020' (Government Gazette A' 76); 'Ministerial Decision 12998/232' (Government Gazette B' 1078/28 March 2020), 'Ministerial Decision 16073/287/22 April 2020' (Government Gazette B' 1547/22 April 2020), 'Ministerial Decision 17788/346/8 May 2020' (Government Gazette B' 1779/10 May 2020), 'Ministerial Decision 23102/477/2020' (Government Gazette B' 2268/13 June 2020), 'Ministerial Decision 49989/1266/2020' (FEK B' 5391/07-12-2020); and 'Ministerial Decision 45742/1748' (FEK B' 5515/16/12/2020).

suspended. The precondition to benefit from the scheme is that the employer retains the same number of employees (meaning the same exact employees) for a period equal to the period for which the labour contract was suspended. The measure has been extended until 31 March 2021 for regular workers and until 31 October 2021 for seasonal workers. Further extensions may apply to a decreasing number of eligible economic sectors in the coming months.

- (7) The authorities additionally introduced State financing of the social security coverage of employees that benefit from the special allowance referred to in recital (6), as referred to in Article 3, point (b), of Implementing Decision (EU) 2020/1346. The precondition to benefit from the scheme is that the employer retains the same number of employees (meaning the same exact employees) for a period equal to the period for which the labour contract was suspended.
- (8) Greece fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Greece has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 6 071 899 097 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is related to an extension of existing national measures directly related to short-time work schemes and similar measures that cover a significant proportion of undertakings and of the labour force in Greece. Greece intends to finance EUR 806 899 097 of the increased amount of public expenditure through its own financing.
- (9) The Commission has consulted Greece and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures referred to in Greece's request of 9 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (10) Financial assistance should therefore be provided with a view to helping Greece to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.
- (11) Greece and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (12) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.
- (13) Greece should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Greece has implemented that expenditure.
- (14) The decision to provide financial assistance has been reached taking into account existing and expected needs of Greece, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1346 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Greece a loan amounting to a maximum of EUR 5 265 000 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

(2) Article 3 is replaced by the following:

Article 3

Greece may finance the following measures:

- (a) a special allowance provided to employees whose labour contracts have been suspended, as provided for in Article 13 of “Legal Act of 14 March 2020”, as extended;
- (b) the social security coverage of employees under the measure referred to in point (a) of this Article, as provided for in Article 13 of “Legal Act of 14 March 2020”, as extended;
- (c) a special allowance to professionals who are self-employed, as provided for in Article 8 of “Legal Act of 20 March 2020”;
- (d) a short-time work scheme, as provided for by Article 31 of “Law 4690/2020”;
- (e) the employer social security contributions for employees in seasonal enterprises in the tertiary sector, as provided for in Article 123 of “Law 4714/2020”.

Article 2

This Decision is addressed to the Hellenic Republic.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/680**of 23 April 2021****amending Implementing Decision (EU) 2020/1344 granting temporary support under Regulation (EU) 2020/672 to the Republic of Cyprus to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Cyprus on 6 August 2020, on 25 September 2020, the Council granted financial assistance to Cyprus in the form of a loan amounting to a maximum of EUR 479 070 000, with a maximum average maturity of 15 years, with a view to complementing Cyprus's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Cyprus to finance the short-time work schemes, similar measures and health-related measures referred to in Article 3 of Council Implementing Decision (EU) 2020/1344 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Cyprus. This has led to a sudden and severe increase in public expenditure in Cyprus in respect of the measures referred to in Article 3, points (a) to (e), (g) and (h), of Implementing Decision (EU) 2020/1344.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Cyprus in 2020 and 2021 to contain the outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Cyprus was expected to have a general government deficit and debt of 6,1 % and 112,6 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Cyprus's general government deficit and debt are forecast to narrow to 2,3 % and 108,2 % of GDP respectively. According to the Commission's 2021 winter interim forecast, Cyprus's GDP is projected to increase by 3,2 % in 2021.
- (5) On 10 March 2021, Cyprus requested further financial assistance from the Union of EUR 124 700 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed. In particular it concerns the measures set out in recitals (6) to (13).
- (6) 'Law 27(I)/2020' ⁽³⁾, 'Law 49(I)/2020' ⁽⁴⁾, 'Law 140(I)/2020' ⁽⁵⁾ and 'Law 36(I)/2021' ⁽⁶⁾ have been the basis for the introduction of a number of monthly regulatory administrative acts ⁽⁷⁾, outlining measures to address the impact of the COVID-19 outbreak. On the basis of those laws, the authorities have introduced a 'special leave scheme', as referred to in Article 3, point (a), of Implementing Decision (EU) 2020/1344, which provides wage compensation

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1344 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Republic of Cyprus to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 13).

⁽³⁾ E.E., Παρ.Ι(Ι), Αρ.4748, 27/3/2020

⁽⁴⁾ E.E., Παρ.Ι(Ι), Αρ.4756, 26/5/2020

⁽⁵⁾ E.E., Παρ.Ι(Ι), Αρ.4780, 12/10/2020

⁽⁶⁾ E.E., Παρ.Ι(Ι), Αρ.4823, 30/3/2021

⁽⁷⁾ 'Regulatory Administrative Acts 127/148/151/184/192/212/213/235/2020', and extended by 'Regulatory Administrative Acts 20/88/2021'.

to parents working in the private sector who have children up to the age of 15 or children of any age with disabilities. That special leave scheme can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it provides income support to employees and helps preserve employment by preventing parents, who have to look after their children while schools are closed, from needing to terminate the employment relationship. The measure was initially in force for the period from February 2020 to June 2020 and was subsequently extended to cover the period from January 2021 to July 2021.

- (7) Furthermore, 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and a number of monthly regulatory administrative acts ⁽⁸⁾ have been the basis for a 'scheme supporting companies that have had to completely suspend operations', as referred to in Article 3, point (b), of Implementing Decision (EU) 2020/1344. That scheme provides wage compensation to 97 % of the employees of the businesses forced to suspend their operations, conditional on employment retention. The compensation covers 60 % of the employee's salary or 60 % of the employee's social insurance units earned in 2018 (2019 for the period from July 2020 to August 2020), whichever is the greater. The compensation ranges between a maximum of EUR 1 214 and a minimum of EUR 360 per month. The measure was initially in force for the period from March 2020 to August 2020 and was subsequently extended to cover the period from September 2020 to July 2021.
- (8) Moreover, 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and a number of monthly regulatory administrative acts ⁽⁹⁾ have been the basis for the 'scheme supporting companies for partial suspension of operations', as referred to in Article 3, point (b), of Implementing Decision (EU) 2020/1344. That scheme provides wage compensation to the employees of businesses experiencing a decline in turnover due to the COVID-19 crisis, conditional on employment retention. The compensation covers 60 % of the employee's salary or 60 % of the employee's social insurance units earned in 2018, whichever is the greater. The compensation ranges between a maximum of EUR 1 214 and a minimum of EUR 360 per month. The measure was initially in force for the period from March 2020 to June 2020 and was subsequently extended to cover the period from January 2021 to July 2021.
- (9) 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and a number of regulatory administrative acts ⁽¹⁰⁾ have been the basis for the 'special scheme for the self-employed', as referred to in Article 3, point (c), of Implementing Decision (EU) 2020/1344. That scheme provides compensation to the self-employed who cannot exercise any activity according to the decree of the Minister of Health or a decision of the Council of Ministers. The measure was initially in force for the period from March 2020 to June 2020 and was subsequently extended to cover the period from July 2020 to July 2021.
- (10) 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and a number of regulatory administrative acts ⁽¹¹⁾ have been the basis for the 'special scheme for hotel units and tourist accommodation', as referred to in Article 3, point (d), of Implementing Decision (EU) 2020/1344. That scheme provides wage compensation to support employees in the hotel industry and other businesses providing tourist accommodation whose employer has fully suspended operations or experienced a decline in turnover of more than 40 %. Participation in the scheme is conditional on employment retention. The measure was initially in force for the period from June 2020 to October 2020 and was subsequently extended to cover the period from November 2020 to July 2021.
- (11) 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and a number of regulatory administrative acts ⁽¹²⁾ have been the basis for the 'special scheme to support businesses related to the tourism industry or affected by tourism or associated with businesses that are subject to mandatory total suspension', as referred to in Article 3, point (e), of Implementing Decision (EU) 2020/1344. That scheme provides wage compensation to the employees in the hotel industry and other businesses providing tourist accommodation that have fully suspended operations or experienced a decline in turnover of more than 40 % as opposed to 55 % under the original scheme, conditional on employment retention. The measure was initially in force for the period from June 2020 to August 2020 and was extended and amended to cover the period from September 2020 to July 2021.

⁽⁸⁾ 'Regulatory Administrative Acts 130/148/151/187/212/213/238/243/271/273/2020', and extended by 'Regulatory Administrative Acts 319/395/421/501/536/634/2020 and 15/83/2021'.

⁽⁹⁾ 'Regulatory Administrative Acts 131/148/151/188/212/213/239/2020', and extended by 'Regulatory Administrative Acts 16/84/2021'.

⁽¹⁰⁾ 'Regulatory Administrative Acts 129/148/151/186/213/237/322/2020', as extended by 'Regulatory Administrative Acts 398/423/503/538/636/2020 and 18/86/2021'.

⁽¹¹⁾ 'Regulatory Administrative Acts 269/317/2020', as extended by 'Regulatory Administrative Acts 393/418/498/533/631/2020 and 13/81/2021'.

⁽¹²⁾ 'Regulatory Administrative Acts 270/318/2020', as extended by 'Regulatory Administrative Acts 394/419/499/534/632/2020 and 14/82/2021'.

- (12) Moreover, the 'subsidisation scheme' set by 'Supplementary budget, Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak', as referred to in Article 3, point (g), of Implementing Decision (EU) 2020/1344, introduced subsidies for very small and small enterprises and the self-employed who employ up to 50 employees. Only the part of expenditure related to the support of the self-employed and one-person companies has been requested. Those subsidies provide a lump sum grant to support operating expenses of small enterprises and the self-employed. The amounts of the lump sum grants have been reviewed for various categories of enterprises based on the number of employees. In addition, grants have been agreed for enterprises that suspended their operations since March 2020, with an amount of EUR 10 000 for up to 9 employees and EUR 15 000 for more than 9 employees. The subsidisation scheme can be considered to be a similar measure to short-time work schemes, as referred to in Regulation (EU) 2020/672, as it aims to protect the self-employed or similar categories of workers from reduction or loss of income. The measure was initially in force for the period from April 2020 to May 2020 and was extended and amended for November 2020.
- (13) Cyprus also further extended a health-related measure to address the COVID-19 crisis provided for by 'Law 27(I)/2020', 'Law 49(I)/2020', 'Law 140(I)/2020' and 'Law 36(I)/2021' and by regulatory administrative acts ⁽¹³⁾. In particular, the 'sickness benefit scheme', as referred to in Article 3, point (h), of Implementing Decision (EU) 2020/1344, provides wage compensation to employees of the private sector and to the self-employed, on the condition that they are either classified as vulnerable individuals according to a list published by the Ministry of Health, placed in quarantine by the authorities, or infected by COVID-19. The measure was initially in force for the period from March 2020 to June 2020 and was extended to cover the period from November 2020 to July 2021.
- (14) Cyprus fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Cyprus has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 742 040 000 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is related to an extension of existing national measures directly related to short-time work schemes and similar measures that cover a significant proportion of undertakings and of the labour force in Cyprus. Cyprus intends to finance EUR 138 270 000 of the increased amount of expenditure through Union funds.
- (15) The Commission has consulted Cyprus and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures, as well as the recourse to relevant health-related measures related to the COVID-19 outbreak, referred to in Cyprus's request of 10 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (16) The health-related measure, as referred to in Cyprus's request of 10 March 2021 and in recital (13), amounts to EUR 440 000.
- (17) Financial assistance should therefore be provided with a view to helping Cyprus to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities
- (18) Cyprus and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (19) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.
- (20) Cyprus should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Cyprus has implemented that expenditure.

⁽¹³⁾ 'Regulatory Administrative Acts 128/148/151/185/212/236/2020', as extended by 'Regulatory Administrative Acts 637/2020 and 19/87/2021'.

- (21) The decision to provide financial assistance has been reached taking into account existing and expected needs of Cyprus, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1344 is amended as follows:

- (1) Article 2 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Cyprus a loan amounting to a maximum of EUR 603 770 000. The loan shall have a maximum average maturity of 15 years.’;

- (b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

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

Article 3

Cyprus may finance the following measures:

- (a) the special leave scheme for parents, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 127/148/151/184/192/212/213/235/2020’, as extended;
- (b) the schemes supporting companies for the total suspension of operations, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts, 130/148/151/187/212/213/238/243/271/273/2020’, as extended;
- (c) the schemes supporting companies for the partial suspension of operations, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts, 131/148/151/188/212/213/239/2020’, as extended;
- (d) the special scheme for the self-employed, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 129/148/151/186/213/237/322/2020’, as extended;
- (e) the special scheme for hotel units and tourist accommodation, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 269/317/2020’, as extended;
- (f) the special scheme to support businesses related to the tourism industry or affected by tourism or associated with businesses that are subject to mandatory total suspension, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 270/318/2020’, as extended and amended;
- (g) the special scheme for supporting businesses exercising special predefined activities, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 272/320/396/420/500/535/633/2020’;
- (h) the subsidisation scheme of very small and small enterprises and the self-employed, as provided for in ‘Supplementary budget, Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak’, for the part of expenditure related to the support of the self-employed and one-person companies, as extended and amended;
- (i) the sickness benefit scheme, as provided for by ‘Law 27(I)/2020’ and by ‘Regulatory Administrative Acts 128/148/151/185/212/236/2020’, as extended;

(3) Article 4 is replaced by the following:

'Article 4

1. Cyprus shall inform the Commission by 30 March 2021, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.
2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an implementing decision amending Implementing Decision (EU) 2020/1344, Cyprus shall inform the Commission within six months after the date of adoption of that amending implementing decision, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.'

Article 2

This Decision is addressed to the Republic of Cyprus.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COUNCIL IMPLEMENTING DECISION (EU) 2021/681**of 23 April 2021****amending Implementing Decision (EU) 2020/1342 granting temporary support under Regulation (EU) 2020/672 to the Kingdom of Belgium to mitigate unemployment risks in the emergency following the COVID-19 outbreak**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2020/672 of 19 May 2020 on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak ⁽¹⁾, and in particular Article 6(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Further to a request from Belgium on 7 August 2020, on 25 September 2020 the Council granted financial assistance to Belgium in the form of a loan amounting to a maximum of EUR 7 803 380 000 with a maximum average maturity of 15 years, with a view to complementing Belgium's national efforts to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed.
- (2) The loan was to be used by Belgium to finance the short-time work schemes, similar measures and health-related measures referred to in Article 3 of Council Implementing Decision (EU) 2020/1342 ⁽²⁾.
- (3) The COVID-19 outbreak continues to immobilise a substantial part of the labour force in Belgium. This has led to a sudden and severe increase in public expenditure in Belgium in respect of a new measure, namely a new support scheme to small enterprises in the Brussels Capital Region, and other existing regional measures, some of them extended, as referred to in Article 3(d), points (i) to (iv), of Implementing Decision (EU) 2020/1342.
- (4) The COVID-19 outbreak and the extraordinary measures implemented by Belgium in 2020 and 2021 to contain the outbreak and its socioeconomic and health-related impact have had and continue to have a dramatic impact on public finances. According to the Commission's 2020 autumn forecast, Belgium was expected to have a general government deficit and debt of 11,2 % and 117,7 % of gross domestic product (GDP) respectively by the end of 2020. In 2021, Belgium's general government deficit and debt are forecast to stand at 7,1 % and 117,8 % of GDP respectively. According to the Commission's 2021 winter interim forecast, Belgium's GDP is projected to increase by 3,9 % in 2021.
- (5) On 11 March 2021, Belgium requested further financial assistance from the Union of EUR 394 150 000, with a view to continuing to complement its national efforts undertaken in 2020 and 2021 to address the impact of the COVID-19 outbreak and respond to the socioeconomic consequences of that outbreak for workers and the self-employed. In particular it concerns the measures set out in recitals (6) and (7).

⁽¹⁾ OJ L 159, 20.5.2020, p. 1.

⁽²⁾ Council Implementing Decision (EU) 2020/1342 of 25 September 2020 granting temporary support under Regulation (EU) 2020/672 to the Kingdom of Belgium to mitigate unemployment risks in the emergency following the COVID-19 outbreak (OJ L 314, 29.9.2020, p. 4).

- (6) It concerns a request for support for an extension of existing regional and community income support schemes, referred to in Article 3(d), points (i) to (iv), of Implementing Decision (EU) 2020/1342, of the Brussels Capital Region, the Flemish Region and Flemish Community, the Walloon Region and the French Community:

‘Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/019 du 23 avril 2020/Bijzondere machtenbesluit van de Brusselse Hoofdstedelijke Regering nr. 2020/019 van 23 april 2020 ⁽³⁾;

‘Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/030 du 28 mai 2020/Bijzondere machtenbesluit nr. 2020/030 van de Brusselse Hoofdstedelijke Regering van 28 mei 2020 ⁽⁴⁾’, as extended by ‘Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 15 octobre 2020 relatif à une aide aux secteurs de l’événementiel, du monde de la nuit, du tourisme et de la culture dans le cadre de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 15 oktober 2020 betreffende steun aan de evenementen-, uitgaans-, toeristische en culturele sector in het kader van de gezondheidscrisis COVID-19’ and ‘Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 12 novembre 2020 relatif à une aide aux entreprises débits de boissons et restaurants dans le cadre de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 12 november 2020 betreffende steun aan de eet- en drankgelegenhedenondernemingen in het kader van de gezondheidscrisis COVID-19’. The two extended schemes provide compensation premia to the self-employed and one-person companies in sectors that were forced to close in the context of the COVID-19 crisis;

‘Notification de la réunion du conseil des ministres du gouvernement de la région de Bruxelles-Capitale du jeudi 14 mai 2020/Betekening van de vergadering van de Ministerraad van de Brusselse Hoofdstedelijke Regering van donderdag 14 mei 2020’, as transposed in ‘Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 24 juillet 2020 instaurant une aide exceptionnelle pour les travailleurs intermittents de la culture/Besluit van de Brusselse Hoofdstedelijke Regering van 24 juli 2020 houdende invoering van uitzonderlijke steun voor de cultuurwerkers ⁽⁵⁾;

‘Besluit van de Vlaamse Regering van 20 maart 2020 ⁽⁶⁾;

‘Besluit van de Vlaamse Regering van 10 april 2020 ⁽⁷⁾;

⁽³⁾ Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/019 du 23 avril 2020 modifiant l’arrêté de pouvoirs spéciaux n° 2020/013 du 7 avril 2020 relatif à une aide en vue de l’indemnisation des entreprises affectées par les mesures d’urgence pour limiter la propagation du coronavirus COVID-19/Bijzondere machtenbesluit van de Brusselse Hoofdstedelijke Regering nr. 2020/019 van 23 april 2020 tot wijziging van het bijzondere machtenbesluit nr. 2020/013 van 7 april 2020 betreffende de steun tot vergoeding van de ondernemingen getroffen door de dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken.

⁽⁴⁾ Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/030 du 28 mai 2020 relatif à l’aide aux entreprises qui subissent une baisse d’activité en raison de la crise sanitaire du COVID-19/Bijzondere machtenbesluit nr. 2020/030 van de Brusselse Hoofdstedelijke Regering van 28 mei 2020 betreffende de steun aan ondernemingen die een terugval van hun activiteit ondergaan als gevolg van de gezondheidscrisis COVID-19.

⁽⁵⁾ Notification de la réunion du conseil des ministres du gouvernement de la région de Bruxelles-Capitale du jeudi 14 mai 2020, point 25/Betekening van de vergadering van de Ministerraad van de Brusselse Hoofdstedelijke Regering van donderdag 14 mei 2020, punt 25. This political decision has been transposed into a legal act by Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 24 juillet 2020 instaurant une aide exceptionnelle pour les travailleurs intermittents de la culture/Besluit van de Brusselse Hoofdstedelijke Regering van 24 juli 2020 houdende invoering van uitzonderlijke steun voor de cultuurwerkers.

⁽⁶⁾ Besluit van de Vlaamse Regering van 20 maart 2020 tot toekenning van steun aan ondernemingen die verplicht moeten sluiten ten gevolge van de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus.

⁽⁷⁾ Besluit van de Vlaamse Regering van 10 april 2020 tot toekenning van steun aan ondernemingen die een omzetsdaling hebben ten gevolge van de exploitatiebeperkingen opgelegd door de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus.

‘Besluit van de Vlaamse Regering van 12 juni 2020’⁽⁸⁾ laying down a ‘support premium’ to provide a support to enterprises that are open but experience a decrease in turnover of at least 60 % or had to close their business due to federal safety and security measures; ‘Besluit van de Vlaamse Regering van 7 augustus 2020’⁽⁹⁾, ‘Besluit van de Vlaamse Regering van 23 oktober 2020’⁽¹⁰⁾ and ‘Besluit van de Vlaamse Regering van 13 november 2020’⁽¹¹⁾.

Those three Flemish Government Decrees referring to schemes, also called respectively ‘Flemish Protection Mechanism 1, 2 and 3’, amending certain of the aforementioned decrees provide support to enterprises that are open but experience a decrease in turnover of at least 60 % or that had to close their business due to federal safety and security measures;

‘Arrêté du Gouvernement de la Communauté française de pouvoirs spéciaux n° 4 du 23 avril 2020’⁽¹²⁾, ‘Arrêté du Gouvernement de la Communauté française du 7 avril 2020’⁽¹³⁾; ‘Arrêté ministériel du 8 avril 2020 portant exécution de l’arrêté du Gouvernement wallon du 20 mars 2020’⁽¹⁴⁾; ‘Arrêté du Gouvernement wallon du 19 juin 2020’⁽¹⁵⁾;

The aforementioned measures pertain to schemes that provide income support to the self-employed, one-person companies, and other types of employees who do not qualify for other kinds of income support. In particular, the compensation premia for companies and for entrepreneurs in the Brussels Capital Region, the nuisance, compensation and support premia in the Flemish Region and the Flemish Community, and the compensation premium for business closure in the Walloon Region provide generalised one-off support for companies and the self-employed which needed to close their activities due to COVID-19 or faced a substantial reduction in turnover.

⁽⁸⁾ Besluit van de Vlaamse Regering van 12 juni 2020 tot toekenning van steun aan ondernemingen die een omzetsdaling hebben ondanks de versoepelde coronavirusmaatregelen, tot wijziging van de artikelen 1, 9 en 11 van het besluit van de Vlaamse Regering van 10 april 2020 tot toekenning van steun aan ondernemingen die een omzetsdaling hebben ten gevolge van de exploitatiebeperkingen opgelegd door de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus, en tot wijziging van de artikelen 1, 6, 9 en 12 van het besluit van de Vlaamse Regering van 20 maart 2020 tot toekenning van steun aan ondernemingen die verplicht moeten sluiten ten gevolge van de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus.

⁽⁹⁾ Besluit van de Vlaamse Regering van 7 augustus 2020 betreffende het Vlaams Beschermingsmechanisme voor ondernemingen die een omzetsdaling hebben ten gevolge van verstrengde coronavirusmaatregelen genomen vanaf 29 juli 2020, tot wijziging van artikel 10 en 21 van het besluit van de Vlaamse Regering van 12 juni 2020 inzake de corona ondersteuningspremie en tot wijziging van artikel 1 en tot toevoeging van een bijlage aan het besluit van de Vlaamse Regering van 29 mei 2020 inzake de corona handelshuurlening.

⁽¹⁰⁾ Besluit van de Vlaamse Regering van 23 oktober 2020 betreffende het Vlaams Beschermingsmechanisme voor ondernemingen die een omzetsdaling hebben ten gevolge van de verstrengde coronavirusmaatregelen genomen op 6 en 16 oktober 2020 en tot wijziging van artikel 6 van het besluit van de Vlaamse Regering van 20 maart 2020 tot toekenning van steun aan ondernemingen die verplicht moeten sluiten ten gevolge van de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus.

⁽¹¹⁾ Besluit van de Vlaamse Regering van 13 november 2020 betreffende het Vlaams Beschermingsmechanisme voor ondernemingen die een omzetsdaling hebben ten gevolge van de verstrengde coronavirusmaatregelen van 28 oktober 2020 en tot wijziging van artikel 1, 3 en 4 van en toevoeging van een bijlage aan het besluit van de Vlaamse Regering van 23 oktober 2020 betreffende het Vlaams Beschermingsmechanisme voor ondernemingen die een omzetsdaling hebben ten gevolge van de verstrengde coronavirusmaatregelen genomen op 6 en 16 oktober 2020 en tot wijziging van artikel 6 van het besluit van de Vlaamse Regering van 20 maart 2020 tot toekenning van steun aan ondernemingen die verplicht moeten sluiten ten gevolge van de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus.

⁽¹²⁾ Arrêté du Gouvernement de la Communauté française de pouvoirs spéciaux n° 4 du 23 avril 2020 relatif au soutien du secteur culturel et du cinéma dans le cadre de la crise sanitaire du COVID-19.

⁽¹³⁾ Arrêté du Gouvernement de la Communauté française du 7 avril 2020 relatif au soutien des milieux d'accueil dans le cadre de la crise sanitaire du COVID-19.

⁽¹⁴⁾ Arrêté ministériel du 8 avril 2020 portant exécution de l’arrêté du Gouvernement wallon du 20 mars 2020 relatif à l’octroi d’indemnités compensatoires dans le cadre des mesures contre le coronavirus COVID-19 and Arrêté du Gouvernement wallon du 20 mars 2020 relatif à l’octroi d’indemnités compensatoires dans le cadre des mesures contre le coronavirus COVID-19.

⁽¹⁵⁾ Arrêté du Gouvernement wallon du 19 juin 2020 portant des dispositions diverses relatives aux formateurs et au subventionnement des activités de formation des centres de formation du réseau IFAPME.

Where the measures target a wider range of beneficiaries, only the amounts for expenditure related to the support of the self-employed and one-person companies have been requested. Other measures (the compensation premium for intermittent workers in the Brussels Capital Region, the nurseries subvention and the cultural operators subvention in the French Community, the training activities in the Walloon Region, and the cultural operators and self-employed subvention) target the self-employed and workers with no access to the temporary unemployment scheme in specific sectors (cultural and care sector, training activities).

- (7) Support is also requested for a new measure from the Brussels Capital Region. It concerns 'Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 3 décembre 2020 concernant l'octroi d'une subvention de 1 625 000,00 EUR à la SA Brusoc dans le cadre de l'octroi de micro-crédits de trésorerie pour les indépendants et les micro-entreprises en raison de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 3 december 2020 betreffende de toekenning van micro-kaskredieten voor zelfstandigen en zko's'. In particular, the measure provides micro credits to entrepreneurs and one person companies in Brussels Capital. Only the part of public expenditure related to the expected losses on loans has been requested. The amount requested for expenditure relates only to the support of the self-employed and one-person companies.
- (8) Belgium fulfils the conditions for requesting financial assistance set out in Article 3 of Regulation (EU) 2020/672. Belgium has provided the Commission with appropriate evidence that the actual and planned public expenditure has increased by EUR 10 103 933 459 as of 1 February 2020 due to the national measures taken to address the socioeconomic effects of the COVID-19 outbreak. This constitutes a sudden and severe increase because it is related both to new measures and to existing measures directly related to short-time work schemes and similar measures, some of them extended, that cover a significant proportion of undertakings and of the labour force in Belgium. Belgium intends to finance EUR 1 906 403 459 of the increased amount of public expenditure through its own financing.
- (9) The Commission has consulted Belgium and verified the sudden and severe increase in the actual and planned public expenditure directly related to short-time work schemes and similar measures referred to in Belgium's request of 11 March 2021, in accordance with Article 6 of Regulation (EU) 2020/672.
- (10) Financial assistance should therefore be provided with a view to helping Belgium to address the socioeconomic effects of the severe economic disturbance caused by the COVID-19 outbreak. The Commission should take the decisions concerning maturities, size and release of instalments and tranches in close cooperation with national authorities.
- (11) Belgium and the Commission should take this Decision into account in the loan agreement referred to in Article 8(2) of Regulation (EU) 2020/672.
- (12) This Decision should be without prejudice to the outcome of any procedures relating to distortions of the operation of the internal market that may be undertaken, in particular pursuant to Articles 107 and 108 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 108 of the Treaty.
- (13) Belgium should inform the Commission on a regular basis of the implementation of the planned public expenditure, in order to enable the Commission to assess the extent to which Belgium has implemented that expenditure.
- (14) The decision to provide financial assistance has been reached taking into account existing and expected needs of Belgium, as well as requests for financial assistance pursuant to Regulation (EU) 2020/672 already submitted or planned to be submitted by other Member States, while applying the principles of equal treatment, solidarity, proportionality and transparency,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2020/1342 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Union shall make available to Belgium a loan amounting to a maximum of EUR 8 197 530 000. The loan shall have a maximum average maturity of 15 years.’;

(b) paragraph 4 is replaced by the following:

‘4. The first instalment shall be released subject to the entry into force of the loan agreement provided for in Article 8(2) of Regulation (EU) 2020/672. Any further instalments shall be released in accordance with the terms of that loan agreement or, where relevant, be subject to the entry into force of an addendum thereto, or of an amended loan agreement.’;

(2) Article 3 is replaced by the following:

Article 3

Belgium may finance the following measures:

- (a) the temporary unemployment scheme, “chômage temporaire/tijdelijke werkloosheid” as provided for by the “Koninklijk besluit van 30 maart 2020 tot aanpassing van de procedures in het kader van tijdelijke werkloosheid omwille van het Covid-19-virus en tot wijziging van artikel 10 van het koninklijk besluit van 6 mei 2019 tot wijziging van de artikelen 27, 51, 52bis, 58, 58/3 en 63 van het koninklijk besluit van 25 november 1991 houdende de werkloosheidsreglementering en tot invoeging van de artikelen 36sexies, 63bis en 124bis in hetzelfde besluit/Arrêté royal du 30 mars 2020 visant à adapter les procédures dans le cadre du chômage temporaire dû au virus Covid-19 et à modifier l'article 10 de l'arrêté royal du 6 mai 2019 modifiant les articles 27, 51, 52bis, 58, 58/3 et 63 de l'arrêté royal du 25 novembre 1991 portant réglementation du chômage et insérant les articles 36sexies, 63bis et 124bis dans le même arrêté”;
- (b) the COVID-19-related replacement income for the self-employed, “crisis bridging rights” as provided for by the “Loi du 23 mars 2020 modifiant la loi du 22 décembre 2016 instaurant un droit passerelle en faveur des travailleurs indépendants et introduisant les mesures temporaires dans le cadre du COVID-19 en faveur des travailleurs indépendants/Wet van 23 maart 2020 tot wijziging van de wet van 22 december 2016 houdende invoering van een overbruggingsrecht ten gunste van zelfstandigen en tot invoering van tijdelijke maatregelen in het kader van COVID-19 ten gunste van zelfstandigen”;
- (c) the COVID-19 parental leave as provided for in the “Arrêté royal n° 23 du 13 mai 2020 pris en exécution de l'article 5, § 1, 5°, de la loi du 27 mars 2020 accordant des pouvoirs au Roi afin de prendre des mesures dans la lutte contre la propagation du coronavirus COVID-19 (II) visant le congé parental corona/Koninklijk besluit nr. 23 van 13 mei 2020, tot uitvoering van artikel 5, § 1, 5°, van de wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 (II) houdende het corona ouderschapsverlof”;
- (d) regional and community income support schemes, as follows:
 - (i) for the Brussels Capital Region:
 - a compensation premium for companies forced to close because of the measures implemented to fight against the pandemic, as provided for in the “Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/019 du 23 avril 2020/Bijzondere machtenbesluit van de Brusselse Hoofdstedelijke Regering nr. 2020/019 van 23 april 2020”, for the part of expenditure related to the support of the self-employed and one-person companies;

- a compensation premium for entrepreneurs whose activity heavily dropped because of the measures implemented to fight against the pandemic, as provided for in the "Bijzondere machtenbesluit nr. 2020/030 van de Brusselse Hoofdstedelijke Regering van 28 mei 2020/Arrêté du Gouvernement de la Région de Bruxelles-Capitale de pouvoirs spéciaux n° 2020/030 du 28 mai 2020", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a compensation premium for companies in the event, night, tourism and cultural sectors, as provided for in the "Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 15 octobre 2020 relatif à une aide aux secteurs de l'événementiel, du monde de la nuit, du tourisme et de la culture dans le cadre de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 15 oktober 2020 betreffende steun aan de evenementen-, uitgaans-, toeristische en culturele sector in het kader van de gezondheids crisis COVID-19", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a compensation premium for restaurants and cafés, as provided for in the "Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 12 novembre 2020 relatif à une aide aux entreprises débits de boissons et restaurants dans le cadre de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 12 november 2020 betreffende steun aan de eet- en drankgelegenhedenondernemingen in het kader van de gezondheids crisis COVID-19", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a compensation premium for intermittent workers, as provided for in the "Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 24 juillet 2020 instaurant une aide exceptionnelle pour les travailleurs intermittents de la culture/Besluit van de Brusselse Hoofdstedelijke Regering van 24 juli 2020 houdende invoering van uitzonderlijke steun voor de cultuurwerkers";
 - an emergency support scheme consisting of the granting of micro cash loans for the self-employed and micro-enterprises, as provided for by "Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 3 décembre 2020 concernant l'octroi d'une subvention de 1 625 000,00 EUR à la SA Brusoc dans le cadre de l'octroi de micro-crédits de trésorerie pour les indépendants et les micro-entreprises en raison de la crise sanitaire du COVID-19/Besluit van de Brusselse Hoofdstedelijke Regering van 3 december 2020 betreffende de toekenning van micro-kaskredieten voor zelfstandigen en zko's", for the part of public expenditure related to the expected losses on loans granted to the self-employed and one-person companies;
- (ii) for the Flemish Region and the Flemish Community:
- a nuisance premium as provided for in "Besluit van de Vlaamse Regering van 20 maart 2020", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a compensation premium as provided for in "Besluit van de Vlaamse Regering van 10 april 2020", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a support premium as provided for in "Besluit van de Vlaamse Regering van 12 juni 2020", for the part of expenditure related to the support of the self-employed and one-person companies;
 - a Flemish Protection Mechanism as provided for in "Besluit van de Vlaamse Regering van 7 augustus 2020", "Besluit van de Vlaamse Regering van 23 oktober 2020" and "Besluit van de Vlaamse Regering van 13 november 2020" (Flemish Protection Mechanism 1, 2, 3), for the part of the expenditure related to the support of the self-employed and one-person companies;
- (iii) for the French Community:
- a cultural operators subvention as provided for in "Arrêté du Gouvernement de la Communauté française de pouvoirs spéciaux n° 4 du 23 avril 2020";
 - nurseries subvention as provided for in "Arrêté du Gouvernement de la Communauté française du 7 avril 2020", for the part of expenditure related to the support of the self-employed and one-person companies;

- (iv) for the Walloon Region:
 - a compensation premium for business closure as provided for in "Arrêté ministériel du 8 avril 2020 portant exécution de l'arrêté du Gouvernement wallon du 20 mars 2020", for the part of expenditure related to the support of the self-employed and one-person companies;
 - training activities as provided for in "Arrêté du Gouvernement wallon du 19 juin 2020";
 - (v) for the German-speaking Community:
 - a cultural operators and self-employed subvention as provided for in "Parlament der Deutschsprachigen Gemeinschaft, Corona-Krisendekret I vom 6. April 2020", Article 7, for the part of expenditure relating to loans being converted into grants;
 - a touristic operators subvention as provided for in "Parlament der Deutschsprachigen Gemeinschaft, CoronaKrisendekret III vom 20. Juli 2020", Article 4, for the part of expenditure related to the support of the selfemployed and one-person companies;
 - (e) health related measures in the German-speaking Community as provided for in "Parlament der Deutschsprachigen Gemeinschaft, Corona-Krisendekret I vom 6. April 2020", Article 7.;
- (3) Article 4 is replaced by the following:

'Article 4

1. Belgium shall inform the Commission by 30 March 2021, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.
2. Where measures referred to in Article 3 are based on planned public expenditure and have been subject to an implementing decision amending Implementing Decision (EU) 2020/1342, Belgium shall inform the Commission within six months after the date of adoption of that amending implementing decision, and every six months thereafter, of the implementation of the planned public expenditure until that planned public expenditure has been fully implemented.'

Article 2

This Decision is addressed to the Kingdom of Belgium.

This Decision shall take effect on the date of its notification to the addressee.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

For the Council
The President
A. P. ZACARIAS

COMMISSION IMPLEMENTING DECISION (EU) 2021/682**of 26 April 2021****amending Implementing Decision (EU) 2016/715 as regards specified fruits originating in Argentina***(notified under document C(2021) 2744)*

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC ⁽¹⁾, and in particular Article 41(2) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2016/715 ⁽²⁾ lays down measures in respect of fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., and their hybrids, other than fruits of *Citrus aurantium* L. and *Citrus latifolia* Tanaka ('the specified fruits'), originating in Argentina, Brazil, South Africa or Uruguay, to prevent the introduction into and the spread within the Union territory of *Phyllosticta citricarpa* (McAlpine) Van der Aa.
- (2) In 2020, Member States, based on their import inspections, notified a total of 90 interceptions of *Phyllosticta citricarpa* on fruits of *Citrus limon* (L.) N. Burm.f. and *Citrus sinensis* (L.) Osbeck originating in Argentina. That unprecedented number of non-compliances casts doubt on the reliability of Argentina's export certification system.
- (3) As a result, Commission Implementing Regulation (EU) 2020/1199 ⁽³⁾ was adopted, prohibiting the introduction into the Union territory of *Citrus limon* (L.) N. Burm.f. and *Citrus sinensis* (L.) Osbeck originating in Argentina until 30 April 2021.
- (4) During an audit carried out in February 2021, Argentina provided the Commission with detailed information on the reasons for the failure of its citrus export certification system in the 2020 export season, and on its actions to reinforce it for the 2021 growing and export season.
- (5) Given that Argentina has taken actions to reinforce its system, communicated during the audit, the temporary prohibition of the introduction into the Union territory of *Citrus limon* (L.) N. Burm.f. and *Citrus sinensis* (L.) Osbeck originating in Argentina should not be prolonged. At the same time, as Argentina has not yet fully implemented all of those actions throughout the growing and export season, they may be subject to revision for future seasons, and the risk of introduction into the Union territory of *Phyllosticta citricarpa* from specified fruits originating in Argentina cannot be fully assessed yet. Consequently, detailed and risk-based measures should be set out for the introduction of the specified fruits originating in Argentina into the Union territory.
- (6) Such measures should consist in requiring the registration of the fields of production, and production units thereof, in Argentina where the specified fruits are produced, in the assignment of unique identification codes ('traceability codes') to those fields of production and production units, in official inspections to confirm the absence of *Phyllosticta citricarpa* in those fields of production and production units, in increased sampling procedures and in the prior communication of the list of approved fields of production with their approved production units to ensure traceability.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ Commission Implementing Decision (EU) 2016/715 of 11 May 2016 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa (OJ L 125, 13.5.2016, p. 16).

⁽³⁾ Commission Implementing Regulation (EU) 2020/1199 of 13 August 2020 amending Annex VI to Implementing Regulation (EU) 2019/2072 to temporarily prohibit the introduction into the Union of certain fruits originating in Argentina to prevent the introduction into and the spread within the Union of *Phyllosticta citricarpa* (McAlpine) Van der Aa (OJ L 267, 14.8.2020, p. 3).

- (7) Such measures should also take into account the results of the official controls on consignments at the points of entry into the Union, during the export season of the respective year, and should allow the introduction into the Union territory of the specified fruits only when they originate in a production unit where *Phyllosticta citricarpa* has not been found, based on those official controls. Such a measure will be in line with the established practice of Argentina, which has officially informed the Commission that it suspends any production unit where the presence of *Phyllosticta citricarpa* on specified fruits is confirmed on the basis of controls carried out at the points of entry into the Union.
- (8) Those measures should also take into account the results of the investigations carried out by Argentina in the approved production units that belong to the same field of production as the production unit where the presence of *Phyllosticta citricarpa* has been confirmed during inspections carried out by Argentina in the packing facilities, and prior to export, and during the official controls carried out on consignments at the points of entry into the Union. The introduction into the Union territory of the specified fruits originating from those production units should only be allowed after those investigations are finalised and *Phyllosticta citricarpa* is not found. Such measures will be in line with the established practice of Argentina, which has officially informed the Commission that it suspends, as a preventive measure, exports to the Union of specified fruits originating from the production units that belong to the same field of production as the production unit where the presence of *Phyllosticta citricarpa* on specified fruits has been confirmed on the basis of inspections it carried out at the packing facilities, and prior to export, and on the basis of the official controls carried out at the points of entry into the Union, and that it carries out investigations in those production units and allows exports to resume from them only when they have confirmed the absence of *Phyllosticta citricarpa*.
- (9) The measures should also take into account the results of the inspections carried out in Argentina and the results of the official controls carried out on consignments at the points of entry into the Union during the preceding growing and export season and allow the introduction into the Union territory of the specified fruits originating in production units where *Phyllosticta citricarpa* has not been found during that preceding growing and export season. Such measures are expected to be effective, as Argentina has officially informed the Commission that it suspends a production unit, when during the preceding growing and export season the presence of *Phyllosticta citricarpa* on specified fruits coming from it has been confirmed in controls carried out at the points of entry into the Union.
- (10) In order to identify the source of infected specified fruits, Member States should provide the traceability code of the production unit when notifying the respective non-compliances.
- (11) In order to allow the competent authorities and the professional operators of Argentina to adapt to the new requirements, this Decision should apply from 1 May 2021.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee for Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Implementing Decision (EU) 2016/715

Implementing Decision (EU) 2016/715 is amended as follows:

(a) Article 5a is amended as follows:

(i) the heading is replaced by the following:

'Introduction into the Union of specified fruits originating in Brazil';

- (ii) the introductory phrase is replaced by the following:

‘Specified fruits originating in Brazil shall be accompanied by a phytosanitary certificate, which shall include, under the heading ‘Additional declaration’, the following elements:’;

- (b) the following Article 5b is inserted:

‘Article 5b

Introduction into the Union of specified fruits originating in Argentina

1. Specified fruits originating in Argentina shall be introduced into the Union only if all of the following conditions are fulfilled:

- (a) the specified fruits have been produced in fields of production, consisting of one or more production units, which have been identified as unique and physically distinct parts of a field of production, and both the field of production and its production units have been officially approved by the National Plant Protection Organisation of Argentina for the purpose of export to the Union;
- (b) the approved fields of production and the production units thereof have been registered by the National Plant Protection Organisation of Argentina under respective unique identification codes (‘traceability codes’);
- (c) the specified fruits have been produced in an approved production unit, which has undergone treatments and cultural measures, effective against *Phyllosticta citricarpa*, at the appropriate time since the beginning of the last cycle of vegetation and their application has been verified under the official supervision of the National Plant Protection Organisation of Argentina;
- (d) official inspections, consisting in visual observations and, if symptoms are detected, sampling to test for the presence of *Phyllosticta citricarpa*, have been carried out in the approved production units during the growing season, and no symptoms of *Phyllosticta citricarpa* have been detected on the specified fruits since the beginning of the last cycle of vegetation;
- (e) a sample has been taken:
 - (i) upon arrival to the packing facilities, prior to processing, of 200-400 fruits per lot of specified fruits, defined upon arrival in the packing facility;
 - (ii) along the line between arrival and packing in the packing facilities, of at least 1 % per lot of specified fruits defined in the packing line;
 - (iii) before departure from the packaging facility, of at least 1% per lot of specified fruits, defined after packing;
 - (iv) prior to export, as part of the final official inspection to issue the phytosanitary certificate, of at least 1 % per lot of specified fruits prepared for export;
- (f) all of the specified fruits referred to in point (e) have been sampled, as far as possible, on the basis of any apparent symptom of *Phyllosticta citricarpa*, and all of the sampled fruits referred to in point (e)(i) have been found free from *Phyllosticta citricarpa* on the basis of visual inspections, whereas all of the sampled fruits referred to in point (e)(ii), (iii) and (iv) which showed symptoms of *Phyllosticta citricarpa*, have been tested and found free from *Phyllosticta citricarpa*;
- (g) the specified fruits have been transported in packages with each package bearing a label with the traceability code of the production unit from which they originate;
- (h) before the start of the export season of the specified fruits, the National Plant Protection Organisation of Argentina has communicated to the Commission the list of approved production units per field of production, as well as the names of professional operators responsible for each approved field of production, and any updates related to the changes to that list, including the reason for those changes, have been immediately communicated to the Commission;
- (i) the specified fruits are accompanied by a phytosanitary certificate, which includes the number of packages from each production unit and, under the heading “Additional Declaration”, the relevant traceability codes and the following statement: “The consignment complies with Article 5b of Commission Implementing Decision (EU) 2016/715”.

2. In addition to paragraph 1, specified fruits originating in Argentina shall be introduced into the Union if all of the following conditions are fulfilled:

- (a) they originate from an approved production unit where *Phyllosticta citricarpa* has not been found on the specified fruits during official inspections carried out in Argentina in the approved production units as referred to in paragraph 1, point (d), or on the specified fruits as referred to in paragraph 1, point (e), and during the official controls carried out on consignments at the points of entry into the Union during the growing and export season;
- (b) they originate from production units where *Phyllosticta citricarpa* has not been found during investigations carried out by Argentina after the presence of *Phyllosticta citricarpa* has been confirmed in a production unit which belongs to the same field of production as those production units, during official inspections carried out in Argentina on the specified fruits as referred to in paragraph 1, point (e), or during the official controls carried out on consignments at the points of entry into the Union during the growing and export season;
- (c) they originate from production units where *Phyllosticta citricarpa* has not been found during the preceding growing and export season, during official inspections carried out in Argentina, or during official controls carried out on consignments in the Union.;

(c) in Article 6, the following paragraph 4 is added:

‘4. In case of specified fruits originating in Argentina, Member States shall consult the respective notified non-compliances as a result of the official controls carried out on consignments at the points of entry into the Union and the updated list referred to in Article 5b, paragraph 1, point (h), to identify the production units referred to in Article 5b, paragraph 2, points (a) and (b).’;

(d) in Article 19, the following paragraph is added:

‘In the case of non-compliance of specified fruits originating in Argentina with Article 5b, Member States shall provide in the notification of non-compliances the traceability code of the respective production unit referred to in Article 5b(1)(b).’

Article 2

Date of application

This Decision shall apply from 1 May 2021.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 26 April 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission

RULES OF PROCEDURE

DECISION OF THE STEERING COMMITTEE OF THE EUROPEAN RESEARCH COUNCIL EXECUTIVE AGENCY

of 11 December 2020

on internal rules concerning restrictions of certain rights of data subjects in relation to the processing of personal data in the framework of activities carried out by the European Research Council Executive Agency

THE STEERING COMMITTEE OF THE EUROPEAN RESEARCH COUNCIL EXECUTIVE AGENCY,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249(1) thereof,

Having regard to 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 ⁽¹⁾ ('the Regulation'), and in particular Article 25 thereof,

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes ⁽²⁾,

Having regard to the Commission Implementing Decision C(2013)9048 establishing European Research Council Executive Agency and repealing Decision 2008/37/EC ⁽³⁾,

Having consulted the European Data Protection Supervisor,

Whereas:

- (1) The European Research Council Executive Agency ('the Agency') was established by Commission Decision C(2013)9048 in view of the performance of tasks linked to the implementation of Union Programmes in the field of frontier research comprising, in particular, implementation of appropriations entered in the general budget of the Union ⁽⁴⁾.
- (2) Within the framework of its administrative and operational functioning, the Agency may conduct administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings in accordance with the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽⁵⁾ ('Staff Regulations') and with implementing provisions regarding the conduct of administrative inquiries and disciplinary proceedings. If required the Agency may carry out preliminary activities related to cases of potential fraud and irregularities and may notify cases to OLAF.

⁽¹⁾ OJ L 295, 21.11.2018, p. 39.

⁽²⁾ OJ L 11, 16.1.2003, p. 1.

⁽³⁾ Commission Implementing Decision (C(2013)9048) establishing the European Research Council Executive Agency and repealing Decision 2008/37/EC.

⁽⁴⁾ Commission Decision C(2013)9428 on delegating powers to the European Research Council Executive Agency with a view to performance of tasks linked to the implementation of Union programmes in the field of frontier research comprising, in particular, implementation of appropriations entered in the general budget of the Union.

⁽⁵⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

- (3) Agency staff members are under an obligation to report and assess allegations of potentially illegal activities, including fraud corruption and scientific misconduct, which are detrimental to the interests of the Union. Staff members are also obliged to report conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Union. This is regulated by the internal rules or policies concerning whistleblowing.
- (4) The Agency has put in place a policy to prevent and deal effectively with actual or potential cases of psychological or sexual harassment in the workplace, as provided for in implementing measures pursuant to the Staff Regulations establishing an informal procedure whereby the alleged victim of the harassment can contact the Agency's 'confidential' counsellors.
- (5) The Agency can also conduct internal (IT) security investigations and on potential breaches of security rules for European Union classified information ('EUCI').
- (6) The Agency is subject to both internal and external audits concerning its activities, including conducted by the Internal Audit Services of the European Commission and the European Court of Auditors.
- (7) The Agency may handle requests from the European Public Prosecutors office (EPPO), requests for access to medical files of Agency staff members, carry out investigations by the Data Protection Officer in line with Article 45(2) of the Regulation.
- (8) In the context of such administrative inquiries, audits, investigations or requests, the Agency cooperates with other Union institutions, bodies, offices and agencies.
- (9) The Agency may cooperate with third countries' national authorities and international organisations, either at their request or on its own initiative.
- (10) The Agency may also cooperate with EU Member States' public authorities, either at their request or on its own initiative.
- (11) The Agency may be subject to or receive complaints, allegations, proceeding or investigations via whistle-blowers, third parties or the European Ombudsman.
- (12) The Agency may be involved in cases before the Court of Justice of the European Union when it either refers a matter to the Court, defends a decision it has taken and which has been challenged before the Court, or intervenes in cases relevant to its tasks. In this context, the Agency may need to preserve the confidentiality of personal data contained in documents obtained by the parties or the interveners.
- (13) In the context of its activities the Agency processes several categories of personal data, including identification data of natural persons, contact information, professional roles and tasks, information on private and professional conduct and performance, and financial data as well as in some specific cases sensitive data (e.g. health data). Personal data includes factual 'hard' data and 'soft' assessment data.

'Hard data' is objective factual data such as identification data, contact data, professional data, administrative details, metadata related to electronic communications and traffic data.

'Soft data' is subjective data and include in particular the description and assessment of situations and circumstances, opinions, observations related to data subjects, evaluation of the conduct and performance of data subjects and reasoning underpinning individual decisions related to or brought forward in connection with the subject matter of the procedure or activity carried out by the Agency in line with the applicable legal framework.

Assessments, observations and opinions are considered personal data in the meaning of Article 3(1) of the Regulation.

- (14) Under the Regulation, the Agency is therefore obliged to provide information to data subjects on those processing activities and to respect their rights as data subjects.

- (15) The Agency is committed to respect, to the maximum extent possible, the fundamental rights of the data subjects in particular, the right of provision of information, access and rectification, the right to erasure, restriction of processing, the right of communication of a personal data breach to the data subject or confidentiality of communication as enshrined in the Regulation. However, the Agency may also be required to restrict data subject's rights and obligations for the purpose of protecting its activities and the fundamental rights and freedoms of others.
- (16) Therefore Article 25 (1) and (5) of the Regulation, gives the Agency the possibility to restrict, under conditions, the application of Articles 14 to 22, 35 and 36, as well as Article 4 of the Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 20 shall be based on internal rules to be adopted at the highest level of management of the Agency and subject to publication in the *Official Journal of the European Union*, where they are not based on legal acts adopted on the basis of the Treaties.
- (17) Restrictions may apply to different data subject rights, including the provision of information to data subjects, right of access, rectification, erasure, restriction of processing, communication of a personal data breach to the data subject or confidentiality of communication as enshrined in the Regulation.
- (18) The Agency may be required to reconcile those rights with the objectives of administrative inquiries, audits, investigations and court proceedings. It may also be required to balance a data subject's rights against the fundamental rights and freedoms of other data subjects.
- (19) The Agency may, for instance, need to restrict the information it provides to a data subject about the processing of his or her personal data during the preliminary assessment phase of an administrative inquiry or during the inquiry itself, prior to a possible dismissal of case or at the pre-disciplinary stage. In certain circumstances, providing such information may seriously affect the Agency's capacity to conduct the inquiry in an effective way, whenever, for example, there is a risk that the person concerned may destroy evidence or interfere with potential witnesses before they are interviewed. The Agency may also need to protect the rights and freedoms of witnesses as well as those of other persons involved.
- (20) The Agency may need to protect the anonymity of a witness, informant or whistle-blower who has asked not to be identified. In such a case, the Agency may decide to restrict access to the identity, statements and other personal data of such persons or the suspect, in order to protect their rights and freedoms.
- (21) The Agency may need to protect confidential information concerning a staff member who has contacted Agency's confidential counsellors in the context of a harassment procedure. In such cases, the Agency may need to restrict access to the identity, statements and other personal data of the alleged victim, the alleged harasser and other persons involved, in order to protect the rights and freedoms of all concerned individuals.
- (22) In relation to selection and recruitment procedures, staff evaluation and public procurement procedures the right to access, rectification, erasure and restriction can be exercised only at certain points in time and under the conditions as provided for in the relevant procedures in order to safeguard the rights of other data subjects and to respect the principles of equal treatment and the secrecy of deliberations.
- (23) The Agency may also restrict access of individuals to their medical data for instance of psychological or psychiatric nature due to the potential sensitivity of these data, and the medical service of the Commission may want to give the data subjects only indirect access through their own practitioner. The data subject may exercise the right to rectification of assessments or opinions of the Commission's Medical service by providing their comments or a report of a medical practitioner of their choice.
- (24) The Agency, represented by its Director, acts as the data controller irrespective of further delegations of the controller role within the Agency to reflect operational responsibilities for specific personal data processing activities to competent 'delegated data controllers'.

- (25) The personal data are stored securely in an electronic environment compliant with Commission Decision (EU, Euratom) 2017/46 ⁽⁶⁾ on the security of communication and information systems in the European Commission or on paper, preventing unlawful access or transfer of data to persons who do not have a need to know. The personal data processed are retained for no longer than necessary and appropriate for the purposes for which the data are processed for the period specified in the data protection notices and records of the Agency.
- (26) The Agency shall apply restrictions only when they respect the essence of fundamental rights and freedoms, are strictly necessary and are a proportionate measure in a democratic society. The Agency shall give reasons explaining the justification for those restrictions and inform accordingly the data subjects on those grounds and their right to lodge a complaint to the EDPS as provided for by Article 25(6) of the Regulation.
- (27) In application of the principle of accountability, the Agency shall keep a record of its application of restrictions.
- (28) When processing personal data exchanged with other organisations in the context of its tasks, the Agency and those organisations shall consult each other on potential grounds for imposing restrictions and the necessity and proportionality of those restrictions, unless this would jeopardise the activities of the Agency.
- (29) These internal rules shall thus apply to all processing activities carried out by the Agency involving personal data in the performance of administrative inquiries, disciplinary proceedings, preliminary activities related to cases of potential irregularities reported to OLAF, investigations of the European Public Prosecutors office (EPPO), whistleblowing procedures, (formal and informal) procedures for cases of harassment, processing of internal and external complaints, requests of access to or rectification of own medical files, the investigations carried out by the Data Protection Officer in line with Article 45(2) of the Regulation, (IT) security investigations handled internally or with external involvement (e.g. CERT-EU), audits, proceedings before the Court of Justice of the European Union or national public authorities, selection and recruitment procedures, staff evaluation and public procurement, as listed above.
- (30) These internal rules shall apply to processing activities carried out prior to the launch of the procedures referred to above, during these procedures and during the monitoring of the follow-up to the outcome of these procedures. It should also include assistance and cooperation provided by the Agency to other EU Institutions, national authorities and international organisations outside of its administrative investigations.
- (31) Pursuant to Article 25(8) of the Regulation, the Agency is entitled to defer, omit or deny the provision of information on the reasons for the application of a restriction to the data subject if this would in any way cancel the effect of the restriction. The Agency shall assess on a case-by-case basis whether the communication of the restriction would cancel its effect.
- (32) The Agency shall lift the restriction as soon as the conditions that justify the restriction no longer apply, and assess those conditions on a regular basis.
- (33) To guarantee utmost protection of the rights and freedoms of data subjects and in accordance with Article 44(1) of the Regulation, the Data Protection Officer of the Agency shall be consulted in due time before any restriction may be applied or reviewed and verify its compliance with this Decision.
- (34) Articles 16(5) and 17(4) of the Regulation provide for exceptions to data subjects' right to information and right of access. If these exceptions apply, the Agency does not need to apply a restriction under this Decision,

⁽⁶⁾ Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission (OJ L 6, 11.1.2017, p. 40).

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and scope

1. This Decision lays down rules relating to the conditions under which the European Research Council Executive Agency ('the Agency') may restrict the application of Articles 4, 14 to 22, 35 and 36, pursuant to Article 25 of the Regulation.
2. The Agency, as the Data controller, is represented by the Director of the Agency, who may delegate further the function of the Data controller.

Article 2

Applicable restrictions

1. The Agency may restrict the application of Articles 14 to 22, 35 and 36, as well as Article 4 of the Regulation in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 20.
2. This Decision applies to the processing of personal data by the Agency within the framework of its administrative and operational functioning:
 - (a) pursuant to Article 25(1) (b), (c), (f), (g) and (h) of the Regulation when conducting internal investigations, including based on external complaints, allegations, administrative inquiries, pre-disciplinary, disciplinary or suspension proceedings under Article 86 and Annex IX of the Staff Regulations and its implementing rules, security investigations or OLAF investigations;
 - (b) pursuant to Article 25(1)(h) of the Regulation, when ensuring that Agency's staff members may report facts confidentially where they believe there are serious irregularities, as set out in the internal rules or policies concerning whistleblowing;
 - (c) pursuant to Article 25(1)(h) of the Regulation, when ensuring that Agency's staff members are able to report to confidential counsellors in the context of a harassment procedure, as defined by internal rules;
 - (d) pursuant to Article 25(1)(c), (g) and (h) of the Regulation, when conducting internal or external audits in relation to activities or the functioning of the Agency;
 - (e) pursuant to Article 25(1)(d) and (h) of the Regulation, when ensuring security analyses, including cyber security and IT system abuses, handled internally or with external involvement (e.g. CERT-EU), ensuring internal security by means of video surveillance, access control and investigation purposes, securing communication and information systems and carrying out technical security counter measures;
 - (f) pursuant to Article 25(1)(g) and (h) of the Regulation, when Data Protection Officer ('the DPO') of the Agency investigates matters directly related to the his/her tasks ;
 - (g) pursuant to Article 25(1)(b), (g) and (h) of the Regulation, in the context of investigations from the European Public Prosecutor Office (EPPO);
 - (h) pursuant to Article 25(1)(h) of the Regulation, when individuals request to access or rectify their medical data, including if they are held by the Commission's Medical Service.
 - (i) pursuant to Article 25(1)(c), (d), (g) and (h) of the Regulation, when providing or receiving assistance to or from other Union institutions, bodies, offices and agencies or cooperating with them in the context of activities under points (a) to (h) of this paragraph and pursuant to relevant service level agreements, memoranda of understanding and cooperation agreements of their respective establishment act;
 - (j) pursuant to Article 25(1)(c), (g) and (h) of the Regulation, when providing or receiving assistance to or from third countries national authorities and international organisations or cooperating with such authorities and organisations, either at their request or on its own initiative;

- (k) pursuant to Article 25(1)(c), (g) and (h) of the Regulation, when providing or receiving assistance and cooperation to and from EU Member States' public authorities, either at their request or on its own initiative;
- (l) pursuant to Article 25(1)(e) of the Regulation, when processing personal data in documents obtained by the parties or interveners in the context of proceedings before the Court of Justice of the European Union.

For the purpose of this Decision, the above activities shall include preparatory and follow-up actions directly related to the same activity.

3. The Agency may also apply restrictions on a case-by-case basis to data subjects' rights referred to in this Decision, in the following circumstances:

- (a) where the Commission services or other Union institutions, bodies, agencies and offices are entitled to restrict the exercise of the listed rights and the purpose of such a restriction by that Commission Service, Union institution, body or agency would be jeopardised where the Agency does not apply an equivalent restriction in respect of the same personal data;
- (b) where the competent authorities of Member States are entitled to restrict the exercise of the listed rights and the purpose of such a restriction by that Member State authority would be jeopardised where the Agency does not apply an equivalent restriction in respect of the same personal data;
- (c) where the exercise of those rights and obligations would jeopardise the Agency's cooperation with third countries or international organisations in the conduct of its tasks, unless this need to cooperate is overridden by the interests or fundamental rights and freedoms of the data subject.

Before applying restrictions under this paragraph, the Agency shall consult where necessary the relevant Commission services, other Union institutions, bodies, agencies, offices, international organisations or the competent authorities of Member States, unless it is clear that the restriction is provided for by one of the acts referred to above or such a consultation would jeopardise the Agency's activities.

4. The categories of personal data processed related to the above activities may contain factual 'hard' data and 'soft' assessment data.

5. Any restriction shall respect the essence of fundamental rights and freedoms and be necessary and proportionate in a democratic society.

Article 3

Recording and registering of restrictions

1. The Data controller shall draw up a record of the restriction describing:
 - (a) the reasons for any restriction applied pursuant to this Decision;
 - (b) which grounds among those listed in Article 2 apply;
 - (c) how the exercise of the right would present a risk for the data subject or would jeopardise the purpose of the Agency's tasks or would adversely affect the rights and freedoms of other data subjects;
 - (d) outcome of the assessment of the necessity and proportionality of the restriction, taking into account the relevant elements in Article 25(2) of the Regulation.
2. A necessity and proportionality test of a restriction shall be carried out on a case-by-case basis before restrictions are applied. The Data controller shall consider the potential risks to the rights and freedoms of the data subject. Restrictions shall be limited to what is strictly necessary to achieve their objective.
3. The record of the restriction and, where applicable, the documents containing underlying factual and legal elements shall be registered. They shall be made available to the European Data Protection Supervisor on request.

*Article 4***Risks to the rights and freedoms of data subjects**

1. Assessments of the risks to the rights and freedoms of data subjects of imposing restrictions and details of the period of application of those restrictions shall be registered in the record of processing activities maintained by the data controller based on Article 31 of the Regulation. They shall also be recorded in any data protection impact assessments regarding those restrictions conducted under Article 39 of the Regulation, when applicable.
2. Where the data controller considers applying a restriction, the risk to the rights and freedoms of the data subject shall be weighed, in particular, against the risk to the rights and freedoms of other data subjects and the risk of negatively impacting investigations or procedures, for example, by destroying evidence. The risks to the rights and freedoms of the data subject concern primarily, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

*Article 5***Safeguards and storage periods**

1. The Agency shall put in place specific safeguards to prevent abuse and unlawful access or transfer of personal data in respect of which restrictions apply or could be applied. Such safeguards shall include technical and organisational measures and be detailed as necessary in the Agency's internal decisions, procedures and implementing rules. These safeguards shall include:
 - (a) a clear definition of roles, responsibilities and procedural steps;
 - (b) if appropriate, a secure electronic environment which prevents unlawful and accidental access or transfer of electronic data to unauthorised persons;
 - (c) if appropriate, secure storage and processing of paper-based documents;
 - (d) ensure compliance with confidentiality obligations for all persons having access to the personal data.
2. The retention period of personal data under a restriction shall be defined in the related record under Article 31 of the Regulation taking into account the purpose of the processing and shall include the timeframe necessary for administrative and judicial review. At the end of the retention period, the personal data shall be deleted, anonymised or transferred to archives in accordance with Article 13 of the Regulation.

*Article 6***Duration of restrictions**

1. Restrictions referred to in Article 2 shall continue to apply as long as the reasons justifying them remain applicable.
2. Where the reasons for a restriction no longer apply, the Data controller shall lift the restriction if the exercise of the restricted right would no longer negatively impact the relevant applicable procedure or adversely affect the rights or freedoms of other data subjects.
3. In case the data subject has asked again for access to the personal data concerned, the Data controller shall provide the principal reasons for the restriction to the data subject. At the same time, the Agency shall inform the data subject of the possibility of lodging a complaint with the European Data Protection Supervisor at any time or of seeking a judicial remedy in the Court of Justice of the European Union.
4. The Agency shall review the application of the restrictions referred to in Article 2 every six months.

*Article 7***Involvement of the Data Protection Officer**

1. The data controller of the Agency shall inform the DPO of the Agency without undue delay and prior to any decision to restrict data subject rights in accordance with this Decision or to extend the application of the restriction. The data controller shall provide the DPO access to the associated records and any document concerning the factual or legal context.
2. The DPO may request the data controller to review the application of a restriction. The data controller shall inform the DPO in writing of the outcome of the requested review.
3. The data controller shall document the involvement of the DPO in the application of the restriction, including what information is shared. The documents under this article shall be part of the record related to the restriction and made available to the EDPS on request.

*Article 8***Information to data subject on restrictions of their rights**

1. The data controller shall include in the data protection notices and records under Article 31 of the Regulation, published on its website and on the Intranet general information on the potential restrictions of data subjects' rights pursuant to Article 2(2) of this decision. The information shall cover which rights and obligations may be restricted, the grounds on which restrictions may be applied and their potential duration.
2. The data controller shall inform data subjects individually, in writing and without undue delay of ongoing or future restrictions of their rights. The data controller shall inform the data subject of the principal reasons on which the application of the restriction is based, of their right to consult the DPO with a view to challenging the restriction and of their rights to lodge a complaint with the EDPS.
3. The data controller may defer, omit or deny the provision of information concerning the reasons for a restriction and the right to lodge a complaint with the EDPS for as long as it would cancel the effect of the restriction. The assessment of this justification shall take place on a case-by-case basis and the data controller shall provide the information to the data subject, as soon as this would no longer cancel the effect of the restriction.

*Article 9***Right of access by data subject**

1. In duly justified cases and under the conditions stipulated in this Decision, the right to access under Article 17 of the Regulation may be restricted by the data controller where necessary and proportionate with regards to the activities under this Decision.
2. Where data subjects request access to their personal data processed in the context of a specific processing activity referred to in Article 2(2) of this Decision, in the Agency shall limit its response to the personal data processed for that activity.
3. The data subjects rights to directly access the documents of a psychological or psychiatric nature may be restricted. Neither indirect access, nor the right to rectification and communication of a personal data breach shall be limited with these internal rules. Therefore, an intermediary physician should be granted access on request of the concerned individual to all related information and discretionary power as to how and what access to provide to the data subject.
4. Where the data controller restricts, wholly or partly, the right of access to personal data, as referred to in Article 17 of the Regulation, it shall inform the data subject concerned in writing, in its reply to the request for access, of the restriction applied and of the principal reasons thereof and of the possibility of lodging a complaint with the EDPS or of seeking a judicial remedy in the Court of Justice of the European Union.

5. The information on the restriction of access may be deferred, omitted or denied if it would cancel the effect of the restriction in accordance with Article 25(8) of the Regulation.
6. A restriction under this article shall be applied in accordance with this Decision.

Article 10

Right of rectification, erasure and restriction of processing

1. In duly justified cases and under the conditions stipulated in this Decision, the right to rectification, erasure and restriction of processing under Articles 18, 19(1) and 20(1) of the Regulation may be restricted by the data controller where necessary and appropriate, with regards to activities under Article 2(2) of this Decision.
2. In relation to medical data, data subjects may exercise the right to rectification of the assessment or opinion of the Commission's Medical Service by providing their comments or a report of a medical practitioner of their choice including, directly to the Commission's Medical Service.
3. A restriction under this article shall be applied in accordance with this Decision.

Article 11

Communication of a personal data breach to the data subject

1. Where the data controller is under an obligation to communicate a data breach under Article 35(1) of the Regulation, he/she may, in exceptional circumstances, restrict such communication wholly or partly. He/she shall document in a note the reasons for the restriction, the legal ground for it under Article 2 and an assessment of its necessity and proportionality. The note shall be communicated to the EDPS at the time of the notification of the personal data breach.
2. Where the reasons for the restriction no longer apply, the Agency shall communicate the personal data breach to the data subject concerned and inform him or her of the principal reasons for the restriction and of his or her right to lodge a complaint with the EDPS.

Article 12

Confidentiality of electronic communications

1. In exceptional circumstances, the Agency may restrict the right to confidentiality of electronic communications provided for by Article 36 of the Regulation. Such restrictions shall comply with Directive 2002/58/EC of the European Parliament and of the Council ⁽⁷⁾.
2. Notwithstanding Article 8(3), where the Agency restricts the right to confidentiality of electronic communications, it shall inform the data subject concerned, in its reply to any request from the data subject, of the principal reasons on which the application of the restriction is based and of his or her right to lodge a complaint with the EDPS.

Article 13

Entry into force

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

⁽⁷⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

Done at Brussels, 11 December 2020.

*For the Steering Committee,
The Chairperson,
Jean-Eric PAQUET*

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