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⁽¹⁾ Text with EEA relevance.

EN

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

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2023/676

of 20 March 2023

on the signing, on behalf of the Union, of the Agreement between the European Union and the Republic of Chile pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 June 2018, the Council authorised the Commission to open negotiations pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 on the apportionment of the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the Union.
- (2) Negotiations with the Republic of Chile have been concluded and the Agreement between the European Union and the Republic of Chile pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union (the 'Agreement') was initialled on 1 December 2022.
- (3) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the Republic of Chile pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the tariff rate quotas included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby authorised, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

⁽¹⁾ The text of the Agreement will be published together with the decision on its conclusion.

Article 3

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

Done at Brussels, 20 March 2023.

For the Council
The President
P. KULLGREN

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/677

of 17 March 2023

approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications ('Ricotta di Bufala Campana' (PDO))

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to Article 50(1) of Regulation (EU) No 1151/2012 in conjunction with the first subparagraph of Article 53(1) thereof, the Commission has examined Italy's application for the approval of amendments to the specification for the protected designation of origin 'Ricotta di Bufala Campana', registered under Commission Regulation (EU) No 634/2010 ⁽²⁾.
- (2) Since the amendments in question are not minor within the meaning of Article 53(2) of Regulation (EU) No 1151/2012, the Commission published the amendment application in the *Official Journal of the European Union* ⁽³⁾ as required by Article 50(2)(a) of that Regulation.
- (3) As no reasoned statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the amendments to the specification should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name 'Ricotta di Bufala Campana' (PDO) are hereby approved.

Article 2

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ Commission Regulation (EU) No 634/2010 of 19 July 2010 entering a name in the register of protected designations of origin and protected geographical indications (Ricotta di Bufala Campana (PDO)) (OJ L 186, 20.7.2010, p. 14).

⁽³⁾ OJ C 452, 29.11.2022, p. 44.

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

Done at Brussels, 17 March 2023.

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

COMMISSION IMPLEMENTING REGULATION (EU) 2023/678**of 17 March 2023****entering a name in the register of protected designations of origin and protected geographical indications ('Slavonska kobasica' (PGI))**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Croatia's application to register the name 'Slavonska kobasica' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Slavonska kobasica' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Slavonska kobasica' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.2. – Meat products (cooked, salted, smoked, etc.), as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 17 March 2023.

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

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 454, 30.11.2022, p. 119.

⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION REGULATION (EU) 2023/679**of 23 March 2023****amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for pyridaben, pyridate, pyriproxyfen and triclopyr in or on certain products****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC ⁽¹⁾, and in particular Article 14(1), point (a), thereof,

Whereas:

- (1) For pyridaben, pyridate and triclopyr, maximum residue levels ('MRLs') were set in Annex II to Regulation (EC) No 396/2005. For pyriproxyfen, MRLs were set in Part A of Annex III to that Regulation.
- (2) As regards pyridaben, an application for import tolerances pursuant to Article 6(2) and (4) of Regulation (EC) No 396/2005 was submitted as regards the use of that substance on grapefruits in the United States. The applicant provided data showing that the authorised uses of that substance on this crop in the United States lead to residues exceeding the MRL contained in Regulation (EC) No 396/2005 and that a higher MRL for pyridaben is necessary to avoid trade barriers for the importation of this crop into the Union.
- (3) As regards pyridate, an application pursuant to Article 6(1) of Regulation (EC) No 396/2005 requesting a modification of the existing MRL was submitted for chives. As regards pyriproxyfen, such an application was submitted for apricots and peaches. As regards triclopyr, such an application was submitted for oranges, lemons and mandarins.
- (4) In accordance with Article 8 of Regulation (EC) No 396/2005, all those applications were evaluated by the Member States concerned and the evaluation reports were forwarded to the Commission.
- (5) The European Food Safety Authority ('the Authority') assessed the applications and the evaluation reports, examining in particular the risks to consumers and, where relevant, to animals, and gave reasoned opinions on the proposed MRLs ⁽²⁾. It forwarded those opinions to the applicants, the Commission and the Member States and made them available to the public.
- (6) As regards pyridate, the Authority noted that the data gap concerning analytical methods for the determination of pyridate residues, which was identified in the framework of the MRL review for this active substance under Article 12 of Regulation (EC) No 396/2005 ⁽³⁾, was addressed in the EU pesticides peer review for the active substance pyridate ⁽⁴⁾, where a sufficiently validated method was provided. Therefore, it is appropriate to delete the respective footnotes in Annex II to Regulation (EC) No 396/2005 referring to the absence of the data.

⁽¹⁾ OJ L 70, 16.3.2005, p. 1.

⁽²⁾ EFSA scientific reports are available online: <http://www.efsa.europa.eu>.

Reasoned Opinion on the setting of an import tolerance for pyridaben in grapefruits. *EFSA Journal* 2022;20(9):7553.

Reasoned Opinion on the modification of the existing maximum residue level for pyridate in chives. *EFSA Journal* 2022;20(8):7537.

Reasoned Opinion on the modification of the existing maximum residue levels for pyriproxyfen in apricots and peaches. *EFSA Journal* 2022;20(9):7567.

Reasoned Opinion on the modification of the existing maximum residue levels for triclopyr in oranges, lemons and mandarins. *EFSA Journal* 2022;20(8):7545.

⁽³⁾ Reasoned opinion on the review of the existing maximum residue levels (MRLs) for pyridate according to Article 12 of Regulation (EC) No 396/2005. *EFSA Journal* 2012;10(4):2687.

⁽⁴⁾ Conclusion on the peer review of the pesticide risk assessment of the active substance pyridate. *EFSA Journal* 2014;12(8):3801, 84 pp.

- (7) As regards the MRLs for triclopyr in oranges, lemons and mandarins, the Authority noted that the submitted data were sufficient to derive a lower MRL proposal of 0,07 mg/kg based on the intended use. Nevertheless, the Authority noted that confirmatory data supporting the existing MRL of 0,1 mg/kg were required in the MRL review under Article 12 for that active substance, which is still pending, and therefore concluded that further consideration by risk managers was necessary. Pending the assessment of confirmatory data, it was decided that it is appropriate to maintain the current tentative MRL of 0,1 mg/kg.
- (8) As regards the modifications to MRLs requested by the applicants for all four substances, the Authority concluded that all requirements with respect to completeness of data submission were met and that the modifications to the MRLs requested by the applicants were acceptable with regard to consumer safety, on the basis of a consumer exposure assessment for 27 specific European consumer groups. In so concluding, the Authority took into account the most recent data on the toxicological properties of the substances. Neither the long-term exposure to these substances via consumption of all food products that may contain them, nor the short-term exposure due to high consumption of the relevant products showed a risk that the acceptable daily intake or the acute reference dose is exceeded.
- (9) Based on the reasoned opinions of the Authority and taking into account the relevant factors listed in Article 14(2) of Regulation (EC) No 396/2005, the proposed modifications to the MRLs fulfil the requirements of Article 14(2) of that Regulation.
- (10) Regulation (EC) No 396/2005 should therefore be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes II and III to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 23 March 2023.

For the Commission
The President
Ursula VON DER LEYEN

Annexes II and III to Regulation (EC) No 396/2005 are amended as follows:

(1) in Annex II, the columns for pyridaben, pyridate and triclopyr are replaced by the following:

‘ANNEX II

Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply ^(a)	Pyridaben (F)	Pyridate (sum of pyridate, its hydrolysis product CL 9673 (6-chloro-4-hydroxy-3-phenylpyridazin) and hydrolysable conjugates of CL 9673 expressed as pyridate)	Triclopyr
0100000	FRUITS, FRESH or FROZEN; TREE NUTS		0,05 *	
0110000	Citrus fruits			
0110010	Grapefruits	0,5		0,1(+)
0110020	Oranges	0,3		0,1(+)
0110030	Lemons	0,3		0,1(+)
0110040	Limes	0,3		0,01 *
0110050	Mandarins	0,3		0,1(+)
0110990	Others (2)	0,3		0,01 *
0120000	Tree nuts	0,05		0,01 *
0120010	Almonds			
0120020	Brazil nuts			
0120030	Cashew nuts			
0120040	Chestnuts			
0120050	Coconuts			

0120060	Hazelnuts/cobnuts			
0120070	Macadamias			
0120080	Pecans			
0120090	Pine nut kernels			
0120100	Pistachios			
0120110	Walnuts			
0120990	Others (2)			
0130000	Pome fruits	0,9		
0130010	Apples	(+)		0,05(+)
0130020	Pears	(+)		0,05(+)
0130030	Quinces	(+)		0,01 *
0130040	Medlars	(+)		0,01 *
0130050	Loquats/Japanese medlars	(+)		0,01 *
0130990	Others (2)			0,01 *
0140000	Stone fruits			
0140010	Apricots	0,3(+)		0,05(+)
0140020	Cherries (sweet)	0,01 *		0,01 *
0140030	Peaches	0,3(+)		0,05(+)
0140040	Plums	0,01 *		0,01 *
0140990	Others (2)	0,01 *		0,01 *
0150000	Berries and small fruits			0,01 *
0151000	(a) grapes	0,01 *		
0151010	Table grapes			
0151020	Wine grapes			
0152000	(b) strawberries	0,9		
0153000	(c) cane fruits	0,01 *		

0153010	Blackberries			
0153020	Dewberries			
0153030	Raspberries (red and yellow)			
0153990	Others (2)			
0154000	(d) other small fruits and berries	0,01 *		
0154010	Blueberries			
0154020	Cranberries			
0154030	Currants (black, red and white)			
0154040	Gooseberries (green, red and yellow)			
0154050	Rose hips			
0154060	Mulberries (black and white)			
0154070	Azaroles/Mediterranean medlars			
0154080	Elderberries			
0154990	Others (2)			
0160000	Miscellaneous fruitswith	0,01 *		
0161000	(a) edible peel			0,01 *
0161010	Dates			
0161020	Figs			
0161030	Table olives			
0161040	Kumquats			
0161050	Carambolas			
0161060	Kaki/Japanese persimmons			
0161070	Jambuls/jambolans			
0161990	Others (2)			
0162000	(b) inedible peel, small			
0162010	Kiwi fruits (green, red, yellow)			0,15

0162020	Litchis/lychees			0,01 *
0162030	Passionfruits/maracujas			0,01 *
0162040	Prickly pears/cactus fruits			0,01 *
0162050	Star apples/cainitos			0,01 *
0162060	American persimmons/Virginia kaki			0,01 *
0162990	Others (2)			0,01 *
0163000	(c) inedible peel, large			0,01 *
0163010	Avocados			
0163020	Bananas			
0163030	Mangoes			
0163040	Papayas			
0163050	Granate apples/pomegranates			
0163060	Cherimoyas			
0163070	Guavas			
0163080	Pineapples			
0163090	Breadfruits			
0163100	Durians			
0163110	Soursops/guanabanas			
0163990	Others (2)			
0200000	VEGETABLES, FRESH or FROZEN			
0210000	Root and tuber vegetables	0,01 *	0,05 *	0,01 *
0211000	(a) potatoes			
0212000	(b) tropical root and tuber vegetables			
0212010	Cassava roots/manioc			
0212020	Sweet potatoes			
0212030	Yams			

0212040	Arrowroots			
0212990	Others (2)			
0213000	(c) other root and tuber vegetables except sugar beets			
0213010	Beetroots			
0213020	Carrots			
0213030	Celeriacs/turnip rooted celeries			
0213040	Horseradishes			
0213050	Jerusalem artichokes			
0213060	Parsnips			
0213070	Parsley roots/Hamburg roots parsley			
0213080	Radishes			
0213090	Salsifies			
0213100	Swedes/rutabagas			
0213110	Turnips			
0213990	Others (2)			
0220000	Bulb vegetables	0,01 *		0,01 *
0220010	Garlic		0,05 *	
0220020	Onions		0,05 *	
0220030	Shallots		0,05 *	
0220040	Spring onions/green onions and Welsh onions		1	
0220990	Others (2)		0,05 *	
0230000	Fruiting vegetables		0,05 *	0,01 *
0231000	(a) Solanaceae and Malvaceae			
0231010	Tomatoes	0,15		
0231020	Sweet peppers/bell peppers	0,3		
0231030	Aubergines/eggplants	0,15		

0231040	Okra/lady's fingers	0,01 *		
0231990	Others (2)	0,01 *		
0232000	(b) cucurbits with edible peel	0,15		
0232010	Cucumbers			
0232020	Gherkins			
0232030	Courgettes			
0232990	Others (2)			
0233000	(c) cucurbits with inedible peel	0,01 *		
0233010	Melons			
0233020	Pumpkins			
0233030	Watermelons			
0233990	Others (2)			
0234000	(d) sweet corn	0,01 *		
0239000	(e) other fruiting vegetables	0,01 *		
0240000	Brassica vegetables(excluding brassica roots and brassica baby leaf crops)	0,01 *		0,01 *
0241000	(a) flowering brassica		0,05 *	
0241010	Broccoli			
0241020	Cauliflowers			
0241990	Others (2)			
0242000	(b) head brassica			
0242010	Brussels sprouts		0,05 *	
0242020	Head cabbages		1,5	
0242990	Others (2)		0,05 *	
0243000	(c) leafy brassica			
0243010	Chinese cabbages/pe-tsai		0,05 *	
0243020	Kales		0,2	
0243990	Others (2)		0,05 *	

0244000	(d) kohlrabies		0,05 *	
0250000	Leaf vegetables, herbs and edible flowers			
0251000	(a) lettuces and salad plants	0,01 *	0,05 *	0,01 *
0251010	Lamb's lettuces/corn salads			
0251020	Lettuces			
0251030	Escaroles/broad-leaved endives			
0251040	Cresses and other sprouts and shoots			
0251050	Land cresses			
0251060	Roman rocket/rucola			
0251070	Red mustards			
0251080	Baby leaf crops (including brassica species)			
0251990	Others (2)			
0252000	(b) spinaches and similar leaves	0,01 *	0,05 *	0,01 *
0252010	Spinaches			
0252020	Purslanes			
0252030	Chards/beet leaves			
0252990	Others (2)			
0253000	(c) grape leaves and similar species	0,01 *	0,05 *	0,01 *
0254000	(d) watercresses	0,01 *	0,05 *	0,01 *
0255000	(e) witloofs/Belgian endives	0,01 *	0,05 *	0,01 *
0256000	(f) herbs and edible flowers	0,02 *		0,02 *
0256010	Chervil		0,05 *	
0256020	Chives		1,5	
0256030	Celery leaves		0,3	
0256040	Parsley		0,05 *	
0256050	Sage		0,05 *	

0256060	Rosemary		0,05 *	
0256070	Thyme		0,05 *	
0256080	Basil and edible flowers		0,05 *	
0256090	Laurel/bay leaves		0,05 *	
0256100	Tarragon		0,05 *	
0256990	Others (2)		0,05 *	
0260000	Legume vegetables		0,05 *	0,01 *
0260010	Beans (with pods)	0,2(+)		
0260020	Beans (without pods)	0,01 *		
0260030	Peas (with pods)	0,01 *		
0260040	Peas (without pods)	0,01 *		
0260050	Lentils	0,01 *		
0260990	Others (2)	0,01 *		
0270000	Stem vegetables	0,01 *		0,01 *
0270010	Asparagus		0,05 *	
0270020	Cardoons		0,05 *	
0270030	Celeries		0,05 *	
0270040	Florence fennels		0,05 *	
0270050	Globe artichokes		0,05 *	
0270060	Leeks		1	
0270070	Rhubarbs		0,05 *	
0270080	Bamboo shoots		0,05 *	
0270090	Palm hearts		0,05 *	
0270990	Others (2)		0,05 *	
0280000	Fungi, mosses and lichens	0,01 *	0,05 *	0,01 *
0280010	Cultivated fungi			

0280020	Wild fungi			
0280990	Mosses and lichens			
0290000	Algae and prokaryotes organisms	0,01 *	0,05 *	0,01 *
0300000	PULSES	0,01 *	0,05 *	0,01 *
0300010	Beans			
0300020	Lentils			
0300030	Peas			
0300040	Lupins/lupini beans			
0300990	Others (2)			
0400000	OILSEEDS AND OIL FRUITS	0,01 *	0,05 *	0,01 *
0401000	Oilseeds			
0401010	Linseeds			
0401020	Peanuts/groundnuts			
0401030	Poppy seeds			
0401040	Sesame seeds			
0401050	Sunflower seeds			
0401060	Rapeseeds/canola seeds			
0401070	Soyabeans			
0401080	Mustard seeds			
0401090	Cotton seeds			
0401100	Pumpkin seeds			
0401110	Safflower seeds			
0401120	Borage seeds			
0401130	Gold of pleasure seeds			
0401140	Hemp seeds			
0401150	Castor beans			
0401990	Others (2)			

0402000	Oil fruits			
0402010	Olives for oil production			
0402020	Oil palms kernels			
0402030	Oil palms fruits			
0402040	Kapok			
0402990	Others (2)			
0500000	CEREALS	0,01 *	0,05 *	
0500010	Barley			0,01 *
0500020	Buckwheat and other pseudocereals			0,01 *
0500030	Maize/corn			0,01 *
0500040	Common millet/proso millet			0,01 *
0500050	Oat			0,01 *
0500060	Rice			0,3(+)
0500070	Rye			0,01 *
0500080	Sorghum			0,01 *
0500090	Wheat			0,01 *
0500990	Others (2)			0,01 *
0600000	TEAS, COFFEE, HERBAL INFUSIONS, COCOA AND CAROBS	0,05 *		0,05 *
0610000	Teas		0,05 *	
0620000	Coffee beans		0,05 *	
0630000	Herbal infusions from			
0631000	(a) flowers		2	
0631010	Chamomile			
0631020	Hibiscus/roselle			
0631030	Rose			
0631040	Jasmine			
0631050	Lime/linden			
0631990	Others (2)			

0632000	(b) leaves and herbs		2	
0632010	Strawberry			
0632020	Rooibos			
0632030	Mate/maté			
0632990	Others (2)			
0633000	(c) roots		0,05 *	
0633010	Valerian			
0633020	Ginseng			
0633990	Others (2)			
0639000	(d) any other parts of the plant		0,05 *	
0640000	Cocoa beans		0,05 *	
0650000	Carobs/Saint John's breads		0,05 *	
0700000	HOPS	0,05 *	0,05 *	0,05 *
0800000	SPICES			
0810000	Seed spices	0,05 *	0,15	0,05 *
0810010	Anise/aniseed			
0810020	Black caraway/black cumin			
0810030	Celery			
0810040	Coriander			
0810050	Cumin			
0810060	Dill			
0810070	Fennel			
0810080	Fenugreek			
0810090	Nutmeg			
0810990	Others (2)			
0820000	Fruit spices	0,05 *	0,15	0,05 *

0820010	Allspice/pimento			
0820020	Sichuan pepper			
0820030	Caraway			
0820040	Cardamom			
0820050	Juniper berry			
0820060	Peppercorn (black, green and white)			
0820070	Vanilla			
0820080	Tamarind			
0820990	Others (2)			
0830000	Bark spices	0,05 *	0,05 *	0,05 *
0830010	Cinnamon			
0830990	Others (2)			
0840000	Root and rhizome spices			
0840010	Liquorice	0,05 *	0,05 *	0,05 *
0840020	Ginger (10)			
0840030	Turmeric/curcuma	0,05 *	0,05 *	0,05 *
0840040	Horseradish (11)			
0840990	Others (2)	0,05 *	0,05 *	0,05 *
0850000	Bud spices	0,05 *	0,05 *	0,05 *
0850010	Cloves			
0850020	Capers			
0850990	Others (2)			
0860000	Flower pistil spices	0,05 *	0,05 *	0,05 *
0860010	Saffron			
0860990	Others (2)			
0870000	Aril spices	0,05 *	0,05 *	0,05 *

0870010	Mace			
0870990	Others (2)			
0900000	SUGAR PLANTS	0,01 *	0,05 *	0,01 *
0900010	Sugar beet roots			
0900020	Sugar canes			
0900030	Chicory roots			
0900990	Others (2)			
1000000	PRODUCTS OF ANIMAL ORIGIN -TERRESTRIAL ANIMALS			
1010000	Commodities from	0,05 *		
1011000	(a) swine			0,01 *
1011010	Muscle		0,05 *(+)	
1011020	Fat		0,05 *(+)	
1011030	Liver		0,1(+)	
1011040	Kidney		0,3(+)	
1011050	Edible offals (other than liver and kidney)		0,3(+)	
1011990	Others (2)		0,3(+)	
1012000	(b) bovine			
1012010	Muscle	(+)	0,05 *(+)	0,06
1012020	Fat	(+)	0,05 *(+)	0,06
1012030	Liver	(+)	0,2(+)	0,06
1012040	Kidney	(+)	2(+)	0,08
1012050	Edible offals (other than liver and kidney)		2(+)	0,08
1012990	Others (2)		2(+)	0,08
1013000	(c) sheep			
1013010	Muscle	(+)	0,05 *(+)	0,06
1013020	Fat	(+)	0,05 *(+)	0,06

1013030	Liver	(+)	0,2(+)	0,06
1013040	Kidney	(+)	2(+)	0,08
1013050	Edible offals (other than liver and kidney)		2(+)	0,08
1013990	Others (2)		2(+)	0,08
1014000	(d) goat			
1014010	Muscle	(+)	0,05 *(+)	0,06
1014020	Fat	(+)	0,05 *(+)	0,06
1014030	Liver	(+)	0,2(+)	0,06
1014040	Kidney	(+)	2(+)	0,08
1014050	Edible offals (other than liver and kidney)		2(+)	0,08
1014990	Others (2)		2(+)	0,08
1015000	(e) equine			
1015010	Muscle	(+)	0,05 *(+)	0,06
1015020	Fat	(+)	0,05 *(+)	0,06
1015030	Liver	(+)	0,2(+)	0,06
1015040	Kidney	(+)	2(+)	0,08
1015050	Edible offals (other than liver and kidney)		2(+)	0,08
1015990	Others (2)		2(+)	0,08
1016000	(f) poultry		0,05 *	0,01 *
1016010	Muscle		(+)	
1016020	Fat		(+)	
1016030	Liver		(+)	
1016040	Kidney			
1016050	Edible offals (other than liver and kidney)			
1016990	Others (2)			
1017000	(g) other farmed terrestrial animals			

1017010	Muscle		0,05 *(+)	0,06
1017020	Fat		0,05 *(+)	0,06
1017030	Liver		0,2(+)	0,06
1017040	Kidney		2(+)	0,08
1017050	Edible offals (other than liver and kidney)		2(+)	0,08
1017990	Others (2)		2(+)	0,01 *
1020000	Milk	0,01 *	0,05 *(+)	0,01 *
1020010	Cattle	(+)	(+)	
1020020	Sheep	(+)	(+)	
1020030	Goat	(+)	(+)	
1020040	Horse	(+)	(+)	
1020990	Others (2)		(+)	
1030000	Birds eggs	0,01 *	0,05 *(+)	0,01 *
1030010	Chicken		(+)	
1030020	Duck		(+)	
1030030	Geese		(+)	
1030040	Quail		(+)	
1030990	Others (2)		(+)	
1040000	Honey and other apiculture products (7)	0,05 *	0,05 *	0,05 *
1050000	Amphibians and Reptiles	0,05 *	0,05 *	0,01 *
1060000	Terrestrial invertebrate animals	0,05 *	0,05 *	0,01 *
1070000	Wild terrestrial vertebrate animals	0,05 *	0,05 *	0,01 *
1100000	PRODUCTS OF ANIMAL ORIGIN - FISH, FISHPRODUCTS AND ANY OTHER MARINE AND FRESHWATER FOOD PRODUCTS (8)			
1200000	PRODUCTS OR PART OF PRODUCTS EXCLUSIVELY USED FOR ANIMAL FEED PRODUCTION (8)			
1300000	PROCESSED FOOD PRODUCTS (9)			

* Indicates lower limit of analytical determination

(^a) For the complete list of products of plant and animal origin to which MRL's apply, reference should be made to Annex I

Pyridaben (F)

(F) Fat soluble

The European Food Safety Authority identified some information on residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 24 January 2021, or, if that information is not submitted by that date, the lack of it.

0130010 Apples

0130020 Pears

0130030 Quinces

0130040 Medlars

0130050 Loquats/Japanese medlars

0140010 Apricots

0140030 Peaches

0260010 Beans (with pods)

The European Food Safety Authority identified some information on storage stability, feeding studies and analytical methods as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 24 January 2021, or, if that information is not submitted by that date, the lack of it.

1012010 Muscle

1012020 Fat

1012030 Liver

1012040 Kidney

1013010 Muscle

1013020 Fat

1013030 Liver

1013040 Kidney

1014010 Muscle

1014020 Fat

1014030 Liver

1014040 Kidney

1015010 Muscle

1015020 Fat

1015030 Liver

1015040 Kidney

1020010 Cattle

1020020 Sheep

1020030 Goat

1020040 Horse

Pyridate (sum of pyridate, its hydrolysis product CL 9673 (6-chloro-4-hydroxy-3-phenylpyridazin) and hydrolysable conjugates of CL 9673 expressed as pyridate)

The European Food Safety Authority identified some information on storage stability as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 24.10.2016, or, if that information is not submitted by that date, the lack of it.

1011010 Muscle
1011020 Fat
1011030 Liver
1011040 Kidney
1011050 Edible offals (other than liver and kidney)
1011990 Others (2)
1012010 Muscle
1012020 Fat
1012030 Liver
1012040 Kidney
1012050 Edible offals (other than liver and kidney)
1012990 Others (2)
1013010 Muscle
1013020 Fat
1013030 Liver
1013040 Kidney
1013050 Edible offals (other than liver and kidney)
1013990 Others (2)
1014010 Muscle
1014020 Fat
1014030 Liver
1014040 Kidney
1014050 Edible offals (other than liver and kidney)
1014990 Others (2)
1015010 Muscle
1015020 Fat
1015030 Liver
1015040 Kidney
1015050 Edible offals (other than liver and kidney)
1015990 Others (2)
1016010 Muscle
1016020 Fat
1016030 Liver
1017010 Muscle
1017020 Fat
1017030 Liver
1017040 Kidney
1017050 Edible offals (other than liver and kidney)
1017990 Others (2)
1020000 Milk

1020010 Cattle
1020020 Sheep
1020030 Goat
1020040 Horse
1020990 Others (2)
1030000 Birds eggs
1030010 Chicken
1030020 Duck
1030030 Geese
1030040 Quail
1030990 Others (2)

Triclopyr

The European Food Safety Authority identified some information on residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 16 May 2020, or, if that information is not submitted by that date, the lack of it.

0110010 Grapefruits
0110020 Oranges
0110030 Lemons
0110050 Mandarins

The European Food Safety Authority identified some information on analytical methods used in the storage stability studies as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 16 May 2020, or, if that information is not submitted by that date, the lack of it.

0130010 Apples
0130020 Pears
0140030 Peaches

The European Food Safety Authority identified some information on analytical methods used in the storage stability studies and residue trials as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 16 May 2020, or, if that information is not submitted by that date, the lack of it.

0140010 Apricots

The European Food Safety Authority identified some information on storage stability as unavailable. When re-viewing the MRL, the Commission will take into account the information referred to in the first sentence, if it is submitted by 16 May 2020, or, if that information is not submitted by that date, the lack of it.

0500060 Rice'

(2) in Part A of Annex III, the column for pyriproxyfen is replaced by the following:

'ANNEX IIIA

Pesticide residues and maximum residue levels (mg/kg)

Code number	Groups and examples of individual products to which the MRLs apply ^(a)	Pyriproxyfen (b)
0100000	FRUITS, FRESH or FROZEN; TREE NUTS	
0110000	Citrus fruits	0,6
0110010	Grapefruits	
0110020	Oranges	
0110030	Lemons	
0110040	Limes	
0110050	Mandarins	
0110990	Others (2)	
0120000	Tree nuts	0,05 *
0120010	Almonds	
0120020	Brazil nuts	
0120030	Cashew nuts	
0120040	Chestnuts	
0120050	Coconuts	
0120060	Hazelnuts/cobnuts	
0120070	Macadamias	
0120080	Pecans	
0120090	Pine nut kernels	
0120100	Pistachios	
0120110	Walnuts	

0120990	Others (2)	
0130000	Pome fruits	0,2
0130010	Apples	
0130020	Pears	
0130030	Quinces	
0130040	Medlars	
0130050	Loquats/Japanese medlars	
0130990	Others (2)	
0140000	Stone fruits	
0140010	Apricots	0,4
0140020	Cherries (sweet)	1
0140030	Peaches	0,5
0140040	Plums	0,3
0140990	Others (2)	0,05 *
0150000	Berries and small fruits	
0151000	(a) grapes	0,05 *
0151010	Table grapes	
0151020	Wine grapes	
0152000	(b) strawberries	0,05 *
0153000	(c) cane fruits	0,05 *
0153010	Blackberries	
0153020	Dewberries	
0153030	Raspberries (red and yellow)	
0153990	Others (2)	
0154000	(d) other small fruits and berries	
0154010	Blueberries	0,05 *
0154020	Cranberries	1
0154030	Currants (black, red and white)	0,05 *

0154040	Gooseberries (green, red and yellow)	0,05 *
0154050	Rose hips	0,05 *
0154060	Mulberries (black and white)	0,05 *
0154070	Azaroles/Mediterranean medlars	0,05 *
0154080	Elderberries	0,05 *
0154990	Others (2)	0,05 *
0160000	Miscellaneous fruitswith	
0161000	(a) edible peel	0,05 *
0161010	Dates	
0161020	Figs	
0161030	Table olives	
0161040	Kumquats	
0161050	Carambolas	
0161060	Kaki/Japanese persimmons	
0161070	Jambuls/jambolans	
0161990	Others (2)	
0162000	(b) inedible peel, small	0,05 *
0162010	Kiwi fruits (green, red, yellow)	
0162020	Litchis/lychees	
0162030	Passionfruits/maracujas	
0162040	Prickly pears/cactus fruits	
0162050	Star apples/cainitos	
0162060	American persimmons/Virginia kaki	
0162990	Others (2)	
0163000	(c) inedible peel, large	
0163010	Avocados	0,05 *
0163020	Bananas	0,7
0163030	Mangoes	0,05 *

0163040	Papayas	0,3
0163050	Granate apples/pomegranates	0,05 *
0163060	Cherimoyas	0,05 *
0163070	Guavas	0,05 *
0163080	Pineapples	0,05 *
0163090	Breadfruits	0,05 *
0163100	Durians	0,05 *
0163110	Soursops/guanabanas	0,05 *
0163990	Others (2)	0,05 *
0200000	VEGETABLES, FRESH or FROZEN	
0210000	Root and tuber vegetables	0,05 *
0211000	(a) potatoes	
0212000	(b) tropical root and tuber vegetables	
0212010	Cassava roots/manioc	
0212020	Sweet potatoes	
0212030	Yams	
0212040	Arrowroots	
0212990	Others (2)	
0213000	(c) other root and tuber vegetables except sugar beets	
0213010	Beetroots	
0213020	Carrots	
0213030	Celeriacs/turnip rooted celeries	
0213040	Horseradishes	
0213050	Jerusalem artichokes	
0213060	Parsnips	
0213070	Parsley roots/Hamburg roots parsley	
0213080	Radishes	
0213090	Salsifies	

0213100	Swedes/rutabagas	
0213110	Turnips	
0213990	Others (2)	
0220000	Bulb vegetables	0,05 *
0220010	Garlic	
0220020	Onions	
0220030	Shallots	
0220040	Spring onions/green onions and Welsh onions	
0220990	Others (2)	
0230000	Fruiting vegetables	
0231000	(a) Solanaceae and Malvaceae	1
0231010	Tomatoes	
0231020	Sweet peppers/bell peppers	
0231030	Aubergines/eggplants	
0231040	Okra/lady's fingers	
0231990	Others (2)	
0232000	(b) cucurbits with edible peel	
0232010	Cucumbers	0,1
0232020	Gherkins	0,1
0232030	Courgettes	0,05 *
0232990	Others (2)	0,05 *
0233000	(c) cucurbits with inedible peel	
0233010	Melons	0,07
0233020	Pumpkins	0,05 *
0233030	Watermelons	0,05 *
0233990	Others (2)	0,05 *
0234000	(d) sweet corn	0,05 *
0239000	(e) other fruiting vegetables	0,05 *

0240000	Brassica vegetables(excluding brassica roots and brassica baby leaf crops)	0,05 *
0241000	(a) flowering brassica	
0241010	Broccoli	
0241020	Cauliflowers	
0241990	Others (2)	
0242000	(b) head brassica	
0242010	Brussels sprouts	
0242020	Head cabbages	
0242990	Others (2)	
0243000	(c) leafy brassica	
0243010	Chinese cabbages/pe-tsai	
0243020	Kales	
0243990	Others (2)	
0244000	(d) kohlrabies	
0250000	Leaf vegetables, herbs and edible flowers	0,05 *
0251000	(a) lettuces and salad plants	
0251010	Lamb's lettuces/corn salads	
0251020	Lettuces	
0251030	Escaroles/broad-leaved endives	
0251040	Cresses and other sprouts and shoots	
0251050	Land cresses	
0251060	Roman rocket/rucola	
0251070	Red mustards	
0251080	Baby leaf crops (including brassica species)	
0251990	Others (2)	
0252000	(b) spinaches and similar leaves	
0252010	Spinaches	
0252020	Purslanes	

0252030	Chards/beet leaves	
0252990	Others (2)	
0253000	(c) grape leaves and similar species	
0254000	(d) watercresses	
0255000	(e) witloofs/Belgian endives	
0256000	(f) herbs and edible flowers	
0256010	Chervil	
0256020	Chives	
0256030	Celery leaves	
0256040	Parsley	
0256050	Sage	
0256060	Rosemary	
0256070	Thyme	
0256080	Basil and edible flowers	
0256090	Laurel/bay leaves	
0256100	Tarragon	
0256990	Others (2)	
0260000	Legume vegetables	0,05 *
0260010	Beans (with pods)	
0260020	Beans (without pods)	
0260030	Peas (with pods)	
0260040	Peas (without pods)	
0260050	Lentils	
0260990	Others (2)	
0270000	Stem vegetables	0,05 *
0270010	Asparagus	
0270020	Cardoons	
0270030	Celeries	

0270040	Florence fennels	
0270050	Globe artichokes	
0270060	Leeks	
0270070	Rhubarbs	
0270080	Bamboo shoots	
0270090	Palm hearts	
0270990	Others (2)	
0280000	Fungi, mosses and lichens	0,05 *
0280010	Cultivated fungi	
0280020	Wild fungi	
0280990	Mosses and lichens	
0290000	Algae and prokaryotes organisms	0,05 *
0300000	PULSES	0,05 *
0300010	Beans	
0300020	Lentils	
0300030	Peas	
0300040	Lupins/lupini beans	
0300990	Others (2)	
0400000	OILSEEDS AND OIL FRUITS	0,05 *
0401000	Oilseeds	
0401010	Linseeds	
0401020	Peanuts/groundnuts	
0401030	Poppy seeds	
0401040	Sesame seeds	
0401050	Sunflower seeds	
0401060	Rapeseeds/canola seeds	
0401070	Soyabeans	
0401080	Mustard seeds	

0401090	Cotton seeds	
0401100	Pumpkin seeds	
0401110	Safflower seeds	
0401120	Borage seeds	
0401130	Gold of pleasure seeds	
0401140	Hemp seeds	
0401150	Castor beans	
0401990	Others (2)	
0402000	Oil fruits	
0402010	Olives for oil production	
0402020	Oil palms kernels	
0402030	Oil palms fruits	
0402040	Kapok	
0402990	Others (2)	
0500000	CEREALS	0,05 *
0500010	Barley	
0500020	Buckwheat and other pseudocereals	
0500030	Maize/corn	
0500040	Common millet/proso millet	
0500050	Oat	
0500060	Rice	
0500070	Rye	
0500080	Sorghum	
0500090	Wheat	
0500990	Others (2)	
0600000	TEAS, COFFEE, HERBAL INFUSIONS, COCOA AND CAROBS	
0610000	Teas	15

0620000	Coffee beans	0,05 *
0630000	Herbal infusions from	0,05 *
0631000	(a) flowers	
0631010	Chamomile	
0631020	Hibiscus/roselle	
0631030	Rose	
0631040	Jasmine	
0631050	Lime/linden	
0631990	Others (2)	
0632000	(b) leaves and herbs	
0632010	Strawberry	
0632020	Rooibos	
0632030	Mate/maté	
0632990	Others (2)	
0633000	(c) roots	
0633010	Valerian	
0633020	Ginseng	
0633990	Others (2)	
0639000	(d) any other parts of the plant	
0640000	Cocoa beans	0,05 *
0650000	Carobs/Saint John's breads	0,05 *
0700000	HOPS	0,05 *
0800000	SPICES	
0810000	Seed spices	0,05 *
0810010	Anise/aniseed	
0810020	Black caraway/black cumin	
0810030	Celery	

0810040	Coriander	
0810050	Cumin	
0810060	Dill	
0810070	Fennel	
0810080	Fenugreek	
0810090	Nutmeg	
0810990	Others (2)	
0820000	Fruit spices	0,05 *
0820010	Allspice/pimento	
0820020	Sichuan pepper	
0820030	Caraway	
0820040	Cardamom	
0820050	Juniper berry	
0820060	Peppercorn (black, green and white)	
0820070	Vanilla	
0820080	Tamarind	
0820990	Others (2)	
0830000	Bark spices	0,05 *
0830010	Cinnamon	
0830990	Others (2)	
0840000	Root and rhizome spices	
0840010	Liquorice	0,05 *
0840020	Ginger (10)	
0840030	Turmeric/curcuma	0,05 *
0840040	Horseradish (11)	
0840990	Others (2)	0,05 *
0850000	Bud spices	0,05 *

0850010	Cloves	
0850020	Capers	
0850990	Others (2)	
0860000	Flower pistil spices	0,05 *
0860010	Saffron	
0860990	Others (2)	
0870000	Aril spices	0,05 *
0870010	Mace	
0870990	Others (2)	
0900000	SUGAR PLANTS	0,05 *
0900010	Sugar beet roots	
0900020	Sugar canes	
0900030	Chicory roots	
0900990	Others (2)	
1000000	PRODUCTS OF ANIMAL ORIGIN -TERRESTRIAL ANIMALS	0,05 *
1010000	Commodities from	
1011000	(a) swine	
1011010	Muscle	
1011020	Fat	
1011030	Liver	
1011040	Kidney	
1011050	Edible offals (other than liver and kidney)	
1011990	Others (2)	
1012000	(b) bovine	
1012010	Muscle	
1012020	Fat	
1012030	Liver	

1012040	Kidney	
1012050	Edible offals (other than liver and kidney)	
1012990	Others (2)	
1013000	(c) sheep	
1013010	Muscle	
1013020	Fat	
1013030	Liver	
1013040	Kidney	
1013050	Edible offals (other than liver and kidney)	
1013990	Others (2)	
1014000	(d) goat	
1014010	Muscle	
1014020	Fat	
1014030	Liver	
1014040	Kidney	
1014050	Edible offals (other than liver and kidney)	
1014990	Others (2)	
1015000	(e) equine	
1015010	Muscle	
1015020	Fat	
1015030	Liver	
1015040	Kidney	
1015050	Edible offals (other than liver and kidney)	
1015990	Others (2)	
1016000	(f) poultry	
1016010	Muscle	
1016020	Fat	

1016030	Liver	
1016040	Kidney	
1016050	Edible offals (other than liver and kidney)	
1016990	Others (2)	
1017000	(g) other farmed terrestrial animals	
1017010	Muscle	
1017020	Fat	
1017030	Liver	
1017040	Kidney	
1017050	Edible offals (other than liver and kidney)	
1017990	Others (2)	
1020000	Milk	
1020010	Cattle	
1020020	Sheep	
1020030	Goat	
1020040	Horse	
1020990	Others (2)	
1030000	Birds eggs	
1030010	Chicken	
1030020	Duck	
1030030	Geese	
1030040	Quail	
1030990	Others (2)	
1040000	Honey and other apiculture products (7)	
1050000	Amphibians and Reptiles	
1060000	Terrestrial invertebrate animals	

1070000	Wild terrestrial vertebrate animals	
1100000	PRODUCTS OF ANIMAL ORIGIN - FISH, FISHPRODUCTS AND ANY OTHER MARINE AND FRESHWATER FOOD PRODUCTS (8)	
1200000	PRODUCTS OR PART OF PRODUCTS EXCLUSIVELY USED FOR ANIMAL FEED PRODUCTION (8)	
1300000	PROCESSED FOOD PRODUCTS (9)	

* Indicates lower limit of analytical determination
(^e) For the complete list of products of plant and animal origin to which MRL's apply, reference should be made to Annex I

Pyriproxyfen (F)

(F) 'Fat soluble'

COMMISSION IMPLEMENTING REGULATION (EU) 2023/680**of 23 March 2023****approving Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})) as an active substance for use in biocidal products of product-type 1 in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 89(1), third subparagraph, thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) No 1062/2014 ⁽²⁾ establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})).
- (2) Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})) has been evaluated for use in biocidal products of product-type 1, human hygiene biocidal products, as described in Annex V to Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾, which corresponds to product-type 1, disinfectants: human hygiene, as described in Annex V to Regulation (EU) No 528/2012.
- (3) Italy was designated as the rapporteur Member State and its evaluating competent authority submitted the assessment report together with its conclusions to the Commission on 10 September 2012. After the submission of the assessment report, discussions took place in technical meetings organised by the European Chemicals Agency ('the Agency').
- (4) It follows from Article 90(2) of Regulation (EU) No 528/2012 that substances for which the Member States' evaluation has been completed by 1 September 2013 are to be assessed in accordance with Directive 98/8/EC.
- (5) In accordance with Article 75(1) of Regulation (EU) No 528/2012, the Biocidal Products Committee prepares the opinion of the Agency regarding the applications for approval of active substances. In accordance with Article 7(2) of Delegated Regulation (EU) No 1062/2014, the Biocidal Products Committee adopted the opinion of the Agency ⁽⁴⁾ on 2 December 2021, having regard to the conclusions of the evaluating competent authority.
- (6) According to that opinion, biocidal products of product-type 1 containing Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})) may be expected to satisfy the requirements laid down in Article 5(1), points (b), (c) and (d), of Directive 98/8/EC, provided that certain requirements concerning their use are complied with.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

⁽³⁾ Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

⁽⁴⁾ Biocidal Products Committee Opinion on the application for approval of the active substance Alkyl(C12-16) dimethylbenzyl ammonium chloride; Product-type: 1; ECHA/BPC/309/2021, adopted on 2 December 2021.

- (7) Taking into account the opinion of the Agency, it is appropriate to approve Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})) as an active substance for use in biocidal products of product-type 1 subject to compliance with certain conditions.
- (8) A reasonable period should be allowed to elapse before an active substance is approved in order to permit interested parties to take the preparatory measures necessary to meet the new requirements.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS REGULATION:

Article 1

Alkyl (C₁₂₋₁₆) dimethylbenzyl ammonium chloride (ADBAC/BKC (C_{12-C16})) is approved as an active substance for use in biocidal products of product-type 1 subject to the conditions set out in the Annex.

Article 2

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

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

Done at Brussels, 23 March 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance ⁽¹⁾	Date of approval	Expiry date of approval	Product type	Specific conditions
Alkyl (C ₁₂₋₁₆) dimethylbenzyl ammonium chloride	IUPAC name: Quaternary ammonium compounds, benzyl-C ₁₂₋₁₆ - alkyldimethyl, chlorides EC No: 270-325-2 CAS No: 68424-85-1	Minimum purity of the active substance evaluated: 972 g/kg dry weight	1 July 2024	30 June 2034	1	The authorisation of biocidal products is subject to the following condition: The product assessment shall pay particular atten- tion to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisa- tion, but not addressed in the Union-level risk assess- ment of the active substance.

⁽¹⁾ The purity indicated in this column was the minimum degree of purity of the active substance evaluated. The active substance in the product placed on the market can be of equal or different purity if it has been proven to be technically equivalent to the evaluated active substance.

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2023/681

of 8 December 2022

on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) In accordance with Article 2 of the Treaty on European Union, the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Articles 1, 4 and 6 of the Charter of Fundamental Rights of the European Union (the Charter) provide that human dignity is inviolable and must be respected and protected, that no one shall be subjected to torture or to inhuman or degrading treatment or punishment and that everyone has the right to liberty and security. Articles 7 and 24 of the Charter enshrine the right to family life and the rights of the child. Article 21 of the Charter provides that no one shall be subject to discrimination. Articles 47 and 48 of the Charter recognise the right to an effective remedy and to a fair trial as well as the presumption of innocence and the right of defence. Article 52 of the Charter provides that any limitation to the exercise of fundamental rights recognised therein must be provided for by law and must respect the essence of those rights and freedoms as well as the principles of necessity and proportionality.
- (2) The Member States are already legally bound by existing Council of Europe instruments on human rights and the prohibition of torture and inhuman or degrading treatment, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the protocols to that Convention, the case law of the European Court of Human Rights and the 1987 European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment. All Member States are furthermore parties to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).
- (3) A number of non-legally binding instruments that deal more specifically with the rights of persons who have been deprived of their liberty have also to be taken into account, in particular: at United Nations level, the United Nations standard minimum rules on the treatment of prisoners (Nelson Mandela Rules); the United Nations standard minimum rules for non-custodial measures (Tokyo Rules); as well as, at the Council of Europe level, Recommendation Rec(2006)2-Rev on the European Prison Rules; the Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse; Recommendation CM/Rec(2017)3 on the European Rules on community sanctions and measures; Recommendation CM/Rec(2014)4 on electronic monitoring; Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules; and the White Paper on Prison Overcrowding.
- (4) In addition other instruments exist that target specific groups of persons deprived of liberty, in particular: at the United Nations level, the United Nations Rules for the protection of juveniles deprived of their liberty and the United Nations Rules for the treatment of women prisoners and non-custodial measures for women offenders (Bangkok Rules); the United Nations Convention on the Rights of the Child (UNCRC); as well as, at the Council of Europe level, Recommendation CM/Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures; and the Recommendation CM/Rec(2018)5 concerning children with imprisoned parents; Recommendation CM/Rec (2012)12 concerning foreign prisoners; as well as, at an international non-governmental level, the Principles on the application of international human rights law in relation to sexual orientation and gender identity (Yogyakarta Principles), developed by the International Commission of Jurists and the International Service for Human Rights.

- (5) The Court of Justice of the European Union has acknowledged, in the *Aranyosi/Căldăraru* and follow-up judgments ⁽¹⁾, the importance of detention conditions in the context of mutual recognition and the operation of Council Framework Decision 2002/584/JHA ⁽²⁾ on the European arrest warrant. The European Court of Human Rights has also ruled on the impact of poor detention conditions on the operation of the European arrest warrant ⁽³⁾.
- (6) In the December 2018 Council conclusions on promoting mutual recognition by enhancing mutual trust, Member States were encouraged to make use of alternative measures to detention in order to reduce the population in their detention facilities, thereby furthering the aim of social rehabilitation and also addressing the fact that mutual trust is often hampered by poor detention conditions and the problem of overcrowded detention facilities ⁽⁴⁾.
- (7) In the December 2019 Council conclusions on alternatives to detention, Member States committed to taking several actions in the field of detention at national level, such as to adopt alternative measures to detention ⁽⁵⁾.
- (8) In the June 2019 Council conclusions on preventing and combating radicalisation in prisons and on dealing with terrorist and violent extremist offenders after release, Member States committed urgently to take effective measures in this area ⁽⁶⁾.
- (9) For several years, the European Parliament has urged the Commission to take action to address the issue of material prison conditions and to ensure that pre-trial detention remains an exceptional measure, to be used in compliance with the presumption of innocence. This request was repeated in the European Parliament report on the European arrest warrant ⁽⁷⁾.
- (10) At the request of, and funded by, the Commission, the Fundamental Rights Agency has developed a database on detention conditions, which was launched in December 2019 and which is publicly accessible ⁽⁸⁾. The Agency's Criminal Detention Database collates information on detention conditions in all Member States. Drawing on national, Union and international standards, case law and monitoring reports, it informs about selected core aspects of detention conditions, including cell space, sanitary conditions, access to healthcare and protection against violence.
- (11) Available statistics on the European arrest warrant demonstrate that, since 2016, Member States have refused or delayed execution on grounds related to a real risk of breach of fundamental rights in close to 300 cases, including on the basis of inadequate material conditions of detention ⁽⁹⁾.
- (12) National judicial authorities have requested more concrete guidance on how to deal with such cases. The problems identified by practitioners concerns the lack of harmonisation, dispersion and lack of clarity of detention standards across the Union as a challenge for judicial cooperation in criminal matters ⁽¹⁰⁾.

⁽¹⁾ Judgment of the Court of Justice of 5 April 2016, *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, ECLI:EU:C:2016:198. Judgment of the Court of Justice of 25 July 2018, *Generalstaatsanwaltschaft*, C-220/18 PPU, ECLI:EU:C:2018:589 and Judgment of the Court of Justice of 15 October 2019, *Dimitru-Tudor Dorobantu*, C-128/18, ECLI:EU:C:2019:857.

⁽²⁾ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

⁽³⁾ *Bivolaru and Moldovan v France*, Judgment of 25 March 2021, 40324/16 and 12623/17.

⁽⁴⁾ <https://data.consilium.europa.eu/doc/document/ST-14540-2018-INIT/en/pdf>

⁽⁵⁾ <https://data.consilium.europa.eu/doc/document/ST-14075-2019-INIT/en/pdf>

⁽⁶⁾ <https://data.consilium.europa.eu/doc/document/ST-9727-2019-INIT/en/pdf>

⁽⁷⁾ (2019/2207(INI)) as adopted on 20 January 2021.

⁽⁸⁾ Visit <https://fra.europa.eu/en/databases/criminal-detention>

⁽⁹⁾ Period covered 2016-2019. For further reference see: https://ec.europa.eu/info/publications/replies-questionnaire-quantitative-information-practical-operation-european-arrest-warrant_en

⁽¹⁰⁾ The 9th round of mutual evaluations and conclusions of the High-Level Conference on the European arrest warrant, organised by the German Presidency of the Council of the European Union in September 2020.

- (13) Half of the Member States that provided to the Commission statistics on their detention populations indicated that they have a problem of overcrowding in their detention facilities with an occupancy rate of more than 100 per cent. The excessive or unnecessary use and length of pre-trial detention also contributes to the phenomenon of overcrowding in detention facilities, which seriously undermines improvements in conditions of detention.
- (14) Substantial divergences exist among Member States in relation to important aspects of pre-trial detention, such as the use of pre-trial detention as a last resort and the review of pre-trial detention decisions ⁽¹¹⁾. The maximum time limit for pre-trial detention also differs from one Member State to another, ranging from less than 1 year to more than 5 years ⁽¹²⁾. In 2020, the average length of pre-trial detention in the different Member States varied from 2 months to 13 months ⁽¹³⁾. The number of pre-trial detainees as a proportion of the total prison population also varies significantly from one Member State to another, ranging from less than 10 % to more than 40 % ⁽¹⁴⁾. Such vast divergences appear unjustified in a common EU area of freedom, security and justice.
- (15) Recent reports of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment draw attention to the persistence of certain serious problems in some Member States, such as ill-treatment, the unsuitability of detention facilities as well as a lack of meaningful activities and of appropriate provision of healthcare.
- (16) In addition, the European Court of Human Rights still continues to find Member States in violation of Article 3 or 5 of the ECHR in the context of detention.
- (17) Given the vast number of recommendations developed by international organisations in the area of criminal detention, these may not always be easily accessible for individual judges and prosecutors in the Member States who have to assess detention conditions before taking their decisions, either in the context of a European arrest warrant or at national level.
- (18) In the Union and, in particular, within the area of freedom, security and justice, Union specific minimum standards, applicable to all Member States' detention systems alike, are required in order to strengthen mutual trust between Member States and facilitate mutual recognition of judgments and judicial decisions.

⁽¹¹⁾ See Directorate-General for Justice and Consumers, *Rights of suspects and accused persons who are in pre-trial detention (exploratory study): final report*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2838/293366>; Directorate-General for Justice and Consumers, *Rights of suspects and accused persons who are in pre-trial detention (exploratory study). Annex 2, Country fiches*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2838/184080>

⁽¹²⁾ Less than 1 year in Austria, Germany, Denmark, Estonia, Latvia, Sweden and Slovakia; Between 1 year and 2 years in Bulgaria, Greece, Lithuania, Malta, Poland and Portugal; Between 2 and 5 years in the Czechia, France, Spain, Croatia and Hungary; More than 5 years in Italy and Romania; No time limit in Belgium, Cyprus, Finland, Ireland, Luxembourg, Netherlands.

⁽¹³⁾ In 2020, from just under 2 and a half months in Malta to nearly 13 months in Slovenia. Average per Member State: Austria – 2,9 months; Bulgaria – 6,5 months; Czechia – 5,1 months; Estonia – 4,7 months; Finland – 3,7 months; Greece – 11,5 months; Hungary – 12,3 months; Ireland – 2,5 months; Italy – 6,5 months; Lithuania – 2,8 months; Luxembourg – 5,2 months; Malta 2,4 months; Netherlands – 3,7 months; Portugal – 11 months; Romania – 5,3 months; Slovakia – 3,9 months; Slovenia – 12,9 months; Spain – 5,9 months. No data was available for the year 2020 for Belgium, Denmark, France, Latvia, Poland, Germany, Croatia, Cyprus and Sweden.

⁽¹⁴⁾ Less than 10 % in Bulgaria, Czechia and Romania and more than 45 % in Luxembourg in 2019.

- (19) To strengthen the trust of Member States in each other's criminal justice systems and thus to improve mutual recognition of decisions in criminal matters, notably six measures on procedural rights in criminal proceedings, namely Directives 2010/64/EU ⁽¹⁵⁾, 2012/13/EU ⁽¹⁶⁾, 2013/48/EU ⁽¹⁷⁾, (EU) 2016/343 ⁽¹⁸⁾, (EU) 2016/800 ⁽¹⁹⁾ and (EU) 2016/1919 ⁽²⁰⁾ of the European Parliament and of the Council, as well as Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings ⁽²¹⁾, have already been adopted. These measures aim to ensure that the procedural rights of suspects and accused persons in criminal proceedings are respected, including where pre-trial detention is imposed. For this purpose, these Directives contain specific procedural safeguards for suspects and accused persons who are deprived of liberty. Directive (EU) 2016/800 contains specific provisions on conditions of pre-trial detention for children; these aim to safeguard their well-being where subject to such a coercive measure. It is necessary to complement the procedural rights standards established in these Directives and the 2013 Recommendation, as well as, in the case of Directive (EU) 2016/800, relevant standards on material detention conditions for children who are subject to pre-trial detention.
- (20) The Commission aims to consolidate and build on those minimum standards established within the framework of the Council of Europe as well as the case law of the Court of Justice and of the European Court of Human Rights. To this end, it is necessary to provide an overview of selected minimum standards for procedural rights of suspects and accused persons subject to pre-trial detention and material conditions of detention in key priority areas for judicial cooperation in criminal matters between Member States.
- (21) With respect to procedural rights of suspects and accused persons subject to pre-trial detention, the guidance in this Recommendation should cover key standards on the use of pre-trial detention as a measure of last resort and alternatives to detention, grounds for pre-trial detention, requirements for decision-making by judicial authorities, periodic review of pre-trial detention, the hearing of suspect or accused persons for decisions on pre-trial detention, effective remedies and the right to appeal, the length of pre-trial detention and the recognition of time spent in pre-trial detention in terms of a deduction from the final sentence.
- (22) With respect to material conditions of detention, guidance should be given on key standards in the areas of accommodation, the allocation of detainees, hygiene and sanitation, nutrition, detention regimes with regard to out-of-cell exercise and activities, work and education, healthcare, prevention of violence and ill-treatment, contact with the outside world, access to legal assistance, request and complaint procedures, and inspections and monitoring. Furthermore guidance should be provided on safeguarding the rights of persons for whom deprivation of liberty constitutes a situation of particular vulnerability, such as women, children, persons with disabilities or serious health conditions, LGBTIQ and foreign nationals, as well as the prevention of radicalisation in prisons.

⁽¹⁵⁾ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

⁽¹⁶⁾ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

⁽¹⁷⁾ Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

⁽¹⁸⁾ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

⁽¹⁹⁾ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

⁽²⁰⁾ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

⁽²¹⁾ OJ C 378, 24.12.2013, p. 8.

- (23) Pre-trial detention should always be used as a measure of last resort based on a case-by-case assessment. The widest possible range of less restrictive measures alternative to detention (alternative measures) should be made available and applied wherever possible. Member States should also ensure that pre-trial detention decisions are not discriminatory and are not automatically imposed on suspects and accused persons based on certain characteristics, such as foreign nationality.
- (24) Adequate material conditions of detention are fundamental for safeguarding the rights and dignity of persons deprived of liberty and to prevent violations of the prohibition of torture and inhuman or degrading treatment or punishment (ill-treatment).
- (25) To ensure appropriate detention standards, Member States should provide each detainee with a minimum amount of personal living space in accordance with the recommendations of the European Committee for Prevention of Torture (CPT) and the case law of the European Court of Human Rights.
- (26) Where persons are deprived of liberty, they are rendered particularly vulnerable to violence and ill-treatment as well as social isolation. To ensure their safety and to support their social reintegration, the allocation and separation of detainees should take into account differences in detention regimes as well as the need to protect detainees in situations of particular vulnerability from abuse.
- (27) Detention regimes should not unduly limit detainees' freedom of movement inside the detention facility and their access to exercise, outdoor spaces, and meaningful activities and social interaction, to allow them to maintain their physical and mental health and to promote their social reintegration.
- (28) Victims of crime committed in detention often have limited access to justice notwithstanding the obligation of States to provide for effective remedies in cases where their rights have been violated. In line with the objectives of the EU Strategy on victims' rights (2020-2025), it is recommended that Member States ensure effective remedies for violations of detainees' rights as well as protection and support measures. Legal assistance, and mechanisms for submitting requests and complaints, should be easily accessible, confidential and effective.
- (29) Member States should take into account the special needs of particular groups of detainees, including women, children, elderly persons, persons with disabilities or serious health conditions, LGBTIQ, persons with a minority racial or ethnic background and foreign nationals, in all decisions relating to their detention. In particular, where children are detained, the child's best interest must always be a primary consideration.
- (30) With respect to terrorist and violent extremist offenders, Member States should take effective measures to prevent radicalisation in prisons, and to implement rehabilitation and reintegration strategies given the risk posed by terrorist and violent extremist offenders or offenders radicalised while serving time in prison, and the fact that a number of these offenders will be released within a short period of time.
- (31) Only an overview of selected standards is provided in this Recommendation and it should be considered in light of, and without prejudice to, the more detailed guidance provided in the Council of Europe standards and of the case law of the Court of Justice and of the European Court of Human Rights. It is without prejudice to existing Union law and its future development. It is also without prejudice to the authoritative interpretation of Union law, which may be given by the Court of Justice of the European Union.
- (32) This Recommendation should also facilitate the execution of European arrest warrants under Framework Decision 2002/584/JHA, as well as the recognition of judgments and the enforcement of sentences under Council Framework Decision 2008/909/JHA ⁽²²⁾ on the application of the principle of mutual recognition to judgments imposing custodial sentences or measures involving deprivation of liberty.

⁽²²⁾ Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327, 5.12.2008, p. 27).

- (33) This Recommendation respects and promotes fundamental rights recognised by the Charter of Fundamental Rights of the European Union. In particular, this Recommendation seeks to promote respect for human dignity, the right to liberty, the right to family life, the rights of the child, the right to an effective remedy and to a fair trial as well as the presumption of innocence and the right of defence.
- (34) References in this Recommendation to appropriate measures to ensure effective access to justice for persons with disabilities should be understood in light of the rights and obligations under the United Nations Convention on the Rights of Persons with Disabilities to which the European Union and all its Member States are parties. In addition, it should be ensured that if persons with disabilities are deprived of their liberty in criminal proceedings, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the United Nations Convention on the Rights of Persons with Disabilities, including by providing reasonable accommodation for special needs and by ensuring accessibility,

HAS ADOPTED THIS RECOMMENDATION:

PURPOSE OF THE RECOMMENDATION

- (1) This Recommendation sets out guidance for Member States to take effective, appropriate and proportionate measures to strengthen the rights of all suspects and accused persons in criminal proceedings who are deprived of their liberty, in relation both to the procedural rights of persons subject to pre-trial detention and to material detention conditions, in order to ensure that persons subject to deprivation of liberty are treated with dignity, that their fundamental rights are upheld and that they are deprived of their liberty only as a measure of last resort.
- (2) This Recommendation consolidates standards established under existing policies at national, Union and international level on the rights of persons deprived of their liberty as a result of proceedings in criminal matters, which are of key relevance in the context of judicial cooperation in criminal matters between Member States.
- (3) Member States may extend the guidance set out in this Recommendation in order to provide a higher level of protection. Such higher levels of protection should not constitute an obstacle to the mutual recognition of judicial decisions that this guidance is designed to facilitate. The level of protection should never fall below the standards provided by the Charter or by the ECHR, as interpreted by the case law of the Court of Justice and of the European Court of Human Rights.

DEFINITIONS

- (4) Under this Recommendation, 'pre-trial detention' should be understood as any period of detention of a suspect or accused person in criminal proceedings ordered by a judicial authority and prior to conviction. It should not include the initial deprivation of liberty by a police or law enforcement officer (or by anyone else so authorised to act) for the purposes of questioning or securing the suspect or accused person until a decision on pre-trial detention has been made.
- (5) Under this Recommendation, 'alternative measures' should be understood as less restrictive measures as an alternative to detention.
- (6) Under this Recommendation, 'detainee' should be understood to cover persons deprived of liberty in pre-trial detention and convicted persons serving a sentence of imprisonment. 'Detention facility' should be understood as any prison or other facility for the holding of detainees as defined in this Recommendation.
- (7) Under this Recommendation, 'child' should be understood as a person below the age of 18.

- (8) Under this Recommendation, 'young adult' should be understood as a person above the age of 18 and below the age of 21.
- (9) Under this Recommendation, 'persons with disabilities' should be understood in accordance with Article 1 of the United Nations Convention on the Rights of persons with Disabilities to include those persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

GENERAL PRINCIPLES

- (10) Member States should use pre-trial detention only as a measure of last resort. Alternative measures to detention should be preferred, in particular where the offence is punishable only by a short sentence of imprisonment or where the offender is a child.
- (11) Member States should ensure that detainees are treated with respect and dignity and in line with their respective human rights obligations, including the prohibition of torture and inhuman or degrading treatment or punishment as laid down in Article 3 of the European Convention on Human Rights and Article 4 of the Charter of Fundamental Rights of the European Union.
- (12) Member States are encouraged to manage detention in such a way as to facilitate the social reintegration of detainees, with a view to preventing recidivism.
- (13) Member States should apply this Recommendation without distinction of any kind, such as racial or ethnic origin, colour, sex, age, disability, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or any other status.

MINIMUM STANDARDS FOR PROCEDURAL RIGHTS OF SUSPECTS AND ACCUSED PERSONS SUBJECT TO PRE-TRIAL DETENTION

Pre-trial detention as a measure of last resort and alternatives to detention

- (14) Member States should impose pre-trial detention only where strictly necessary and as a measure of last resort, taking due account of the specific circumstances of each individual case. To this end, Member States should apply alternative measures where possible.
- (15) Member States should adopt a presumption in favour of release. Member States should require the competent national authorities to bear the burden of proof for demonstrating the necessity of imposing pre-trial detention.
- (16) To avoid inappropriate use of pre-trial detention, Member States should make available the widest possible range of alternative measures, such as the alternative measures mentioned in Council Framework Decision 2009/829/JHA ⁽²³⁾ on the application of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention.
- (17) Such measures could include: (a) undertakings to appear before a judicial authority as and when required, not to interfere with the course of justice and not to engage in particular conduct, including that involved in a profession or particular employment; (b) requirements to report on a daily or periodic basis to a judicial authority, the police or other authority; (c) requirements to accept supervision by an agency appointed by the judicial authority; (d) requirements to submit to electronic monitoring; (e) requirements to reside at a specified address, with or without conditions as to the hours to be spent there; (f) requirements not to leave or enter specified places or districts without

⁽²³⁾ Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ L 294, 11.11.2009, p. 20).

authorisation; (g) requirements not to meet specified persons without authorisation; (h) requirements to surrender passports or other identification papers; and (i) requirements to provide or secure financial or other forms of guarantees as to conduct pending trial.

- (18) Member States should furthermore require that, where a financial surety is fixed as a condition for release, the amount is proportionate to the suspect's or accused person's means.

Reasonable suspicion and grounds for pre-trial detention

- (19) Member States should impose pre-trial detention only on the basis of a reasonable suspicion, established through a careful case-by-case assessment, that the suspect has committed the offence in question, and should limit the legal grounds for pre-trial detention to: (a) risk of absconding; (b) risk of re-offending; (c) risk of the suspect or accused person interfering with the course of justice; or (d) risk of a threat to public order.
- (20) Member States should ensure that the determination of any risk is based on the individual circumstances of the case, but that particular consideration be given to: (a) the nature and seriousness of the alleged offence; (b) the penalty likely to be incurred in the event of conviction; (c) the age, health, character, previous convictions and personal and social circumstances of the suspect, and in particular their community ties; and (d) the conduct of the suspect, especially how they have fulfilled any obligations that may have been imposed on them in the course of previous criminal proceedings. The fact that the suspect is not a national of, or has no other links with, the state where the offence is assumed to have been committed is not in itself sufficient to conclude that there is a risk of flight.

- (21) Member States are encouraged to impose pre-trial detention only for offences that carry a minimum custodial sentence of 1 year.

Reasoning of pre-trial detention decisions

- (22) Member States should ensure that every decision by a judicial authority to impose pre-trial detention, to prolong such pre-trial detention, or to impose alternative measures is duly reasoned and justified and refers to the specific circumstances of the suspect or accused person justifying their detention. The person affected should be provided with a copy of the decision, which should also include reasons why alternatives to pre-trial detention are not considered appropriate.

Periodic review of pre-trial detention

- (23) Member States should ensure that the continued validity of the grounds on which a suspect or accused person is held in pre-trial detention is periodically reviewed by a judicial authority. As soon as the grounds for detaining the person cease to exist, Member States should ensure that the suspect or accused person is released without undue delay.
- (24) Member States should permit the periodic review of pre-trial detention decisions to be initiated upon request by the defendant or, *ex officio*, by a judicial authority.
- (25) Member States should, in principle, limit the interval between reviews to a maximum of 1 month, except in cases where the suspect or accused person has the right to submit, at any time, an application for release and to receive a decision on this application without undue delay.

Hearing of the suspect or accused person

- (26) Member States should ensure that a suspect or accused person is heard in person or through a legal representative by way of an adversarial oral hearing before the competent judicial authority making a decision on pre-trial detention. Member States should ensure that decisions on pre-trial detention are made without undue delay.

- (27) Member States should uphold the suspect or accused person's right to a trial within a reasonable time. In particular, Member States should ensure that cases in which pre-trial detention has been imposed are treated as a matter of urgency and with due diligence.

Effective remedies and the right to appeal

- (28) Member States should guarantee that suspects or accused persons who are deprived of their liberty have recourse to proceedings before a court, which is competent to review the lawfulness of their detention and, where appropriate, to order their release.
- (29) Member States should grant suspects or accused persons subject to a decision on pre-trial detention the right of appeal against such a decision and inform them of this right when the decision is made.

Length of pre-trial detention

- (30) Member States should ensure that the length of pre-trial detention does not exceed, and is not disproportionate to, the penalty that may be imposed for the offence concerned.
- (31) Member States should ensure that the length of pre-trial detention imposed does not conflict with the right of a detained person to be tried within a reasonable time.
- (32) Member States should consider as a priority cases involving a person subject to pre-trial detention.

Deduction of time spent in pre-trial detention from the final sentence

- (33) Member States should deduct any period of pre-trial detention prior to conviction, including where enforced through alternative measures, from the length of any sentence of imprisonment subsequently imposed.

MINIMUM STANDARDS FOR MATERIAL DETENTION CONDITIONS

Accommodation

- (34) Member States should assign each detainee a minimum amount of surface area of at least 6 m² in single occupancy cells and 4 m² in multi-occupancy cells. Member States should guarantee that the absolute minimum personal space available to each detainee, including in a multi-occupancy cell, amounts to the equivalent of at least 3 m² surface area per detainee. Where the personal space available to a detainee is below 3 m², a strong presumption of a violation of Article 3 of the ECHR arises. The calculation of the available space should include the area occupied by furniture but not that occupied by sanitary facilities.
- (35) Member States should ensure that any exceptional reduction of the absolute minimum surface area per detainee of 3 m² is short, occasional, minor and accompanied by sufficient freedom of movement outside the cell and appropriate out-of-cell activities. Furthermore, Member States should ensure that, in such cases, the general conditions of detention at the facility are appropriate and that there are no other aggravating factors in the conditions of the concerned person's detention, such as other shortcomings in minimum structural requirements for cells or sanitary facilities.
- (36) Member States should guarantee that detainees have access to natural light and fresh air in their cells.

Allocation

- (37) Member States are encouraged, and in the case of children, should make sure, to allocate detainees, as far as possible, to detention facilities close to their homes or other places suitable for the purpose of their social rehabilitation.

- (38) Member States should ensure that pre-trial detainees are held separately from convicted detainees. Women should be held separately from men. Children should not be detained with adults, unless it is considered to be in the child's best interests to do so.
- (39) When a detained child reaches the age of 18 and, where appropriate, for young adults under the age of 21, Member States should provide for the possibility to continue to hold that person separately from other detained adults where warranted, taking into account the circumstances of the person concerned and provided that this is compatible with the best interests of children who are detained with that person.

Hygiene and sanitary conditions

- (40) Member States should ensure that sanitary facilities are accessible at all times and that they offer sufficient privacy to detainees, including effective structural separation from living spaces in multi-occupancy cells.
- (41) Member States should establish effective measures to maintain good hygienic standards through disinfection and fumigation. Member States should furthermore ensure that basic sanitary products, including hygienic towels, are provided to detainees and that warm and running water is available in cells.
- (42) Member States should provide detainees with appropriate clean clothing and bedding, and with the means to keep such items clean.

Nutrition

- (43) Member States should ensure that food is provided in sufficient quantity and quality to meet the detainee's nutritional needs and that food is prepared and served under hygienic conditions. Furthermore, Member States should guarantee that clean drinking water is available to detainees at all times.
- (44) Member States should provide detainees with a nutritious diet that takes into account their age, disability, health, physical condition, religion, culture and the nature of their work.

Time spent outside the cell and outdoors

- (45) Member States should allow detainees to exercise in the open air for at least 1 hour per day and should provide spacious and appropriate facilities and equipment for this purpose.
- (46) Member States should allow detainees to spend a reasonable amount of time outside their cells to engage in work, education, and recreational activities as are necessary for an appropriate level of human and social interaction. To prevent a violation of the prohibition of torture and inhuman or degrading treatment or punishment, Member States should ensure that any exceptions to this rule in the context of special security regimes and measures, including solitary confinement, are necessary and proportionate.

Work and education of detainees to promote their social reintegration

- (47) Member States should invest in the social rehabilitation of detainees, taking into account their individual needs. To that effect, Member States should strive to provide remunerated work of a useful nature. With a view to promoting the detainee's successful reintegration into society and the labour market, Member States should give preference to work that involves vocational training.
- (48) To help detainees prepare for their release and to facilitate their reintegration into society, Member States should ensure that all detainees have access to safe, inclusive and accessible educational programmes (including distance learning) that meet their individual needs while taking into account their aspirations.

Healthcare

- (49) Member States should guarantee that detainees have access in a timely manner to the medical, including psychological, assistance they require to maintain their physical and mental health. To this end, Member States should ensure that healthcare in detention facilities meets the same standards as that provided by the national public health system, including with regard to psychiatric treatment.
- (50) Member States should provide regular medical supervision and should encourage vaccination and health screening programmes including communicable (HIV, viral hepatitis B and C, tuberculosis and sexually transmitted diseases) and non-communicable diseases (especially cancer screening), followed up by diagnosis and initiation of treatment where required. Health education programmes can contribute to improving screening rates and health literacy. In particular, Member States should ensure that special attention is paid to treatment for detainees with drug addiction, infectious diseases prevention and care, mental health and suicide prevention.
- (51) Member States should require that a medical examination is carried out without undue delay at the beginning of any period of deprivation of liberty and subsequent to any transfer.

Prevention of violence and ill-treatment

- (52) Member States should take all reasonable measures to ensure the safety of detainees and to prevent any form of torture or ill-treatment. In particular, Member States should take all reasonable measures to ensure that detainees are not subject to violence or ill-treatment by staff in the detention facility and that they are treated with respect for their dignity. Member States should also require staff in the detention facility and all competent authorities to protect detainees from violence or ill-treatment by other detainees.
- (53) Member States should ensure that the fulfilment of this duty of care and any use of force by staff in the detention facility are subject to supervision.

Contact with the outside world

- (54) Member States should allow detainees to receive visits from their families and other persons, such as legal representatives, social workers and medical practitioners. Member States should also allow detainees to correspond freely with such persons by letter and, as often as possible, by telephone or other forms of communication including alternative means of communication for persons with disabilities.
- (55) Member States should provide suitable facilities to accommodate family visits under child-friendly conditions, compatible with the demands of security but less traumatic for children. Such family visits should ensure the maintenance of regular and meaningful contact between family members.
- (56) Member States should consider enabling communication via digital means, such as video calls, in order to, inter alia, enable detainees to maintain contact with their families, to apply for jobs, to take training courses or to look for accommodation in preparation for release.
- (57) Member States should ensure that, where detainees are exceptionally prohibited from communicating with the outside world, such a restrictive measure is strictly necessary and proportionate and is not applied for a prolonged period of time.

Legal assistance

- (58) Member States should ensure that detainees have effective access to a lawyer.
- (59) Member States should respect the confidentiality of meetings and other forms of communication, including legal correspondence, between detainees and their legal advisers.

- (60) Member States should grant detainees access to, or allow them to keep in their possession, documents relating to their legal proceedings.

Requests and complaints

- (61) Member States should ensure that all detainees are clearly informed of the rules applicable in their specific detention facility.
- (62) Member States should facilitate effective access to a procedure enabling detainees to officially challenge aspects of their life in detention. In particular, Member States should ensure that detainees can freely submit confidential requests and complaints about their treatment, through both internal and external complaint mechanisms.
- (63) Member States should ensure that detainee complaints are handled promptly and diligently by an independent authority or tribunal empowered to order measures of relief, in particular measures to terminate any violation of the right not to be subjected to torture or inhuman or degrading treatment.

Special measures for women and girls

- (64) Member States should take into account women's and girls' specific physical, vocational, social and psychological needs, as well as sanitary and healthcare requirements, when making decisions that affect any aspect of their detention.
- (65) Member States should allow detainees to give birth in a hospital outside of the detention facility. Where a child is nevertheless born in the detention facility, Member States should arrange all necessary support and facilities to protect the bond between mother and child and to safeguard their physical and mental well-being, including appropriate pre-natal and post-natal health care.
- (66) Member States should allow detainees who have infant children to keep such children with them in the detention facility to the extent that this is compatible with the best interests of the child. Member States should provide special accommodation and take all reasonable child-friendly measures to ensure the health and welfare of affected children throughout the execution of the sentence.

Special measures for foreign nationals

- (67) Member States should ensure that foreign nationals and other detainees with particular linguistic needs deprived of liberty have reasonable access to professional interpretation services and translations of written materials in a language that they understand.
- (68) Member States should ensure that foreign nationals are informed, without undue delay, of their right to request contact, and be allowed reasonable facilities to communicate, with the diplomatic or consular service of their country of nationality.
- (69) Member States should ensure that information about legal assistance is provided.
- (70) Member States should ensure that foreign nationals are informed of the possibility to request that the execution of their sentence or pre-trial supervision measures be transferred to their country of nationality or permanent residence, such as under Framework Decision 2008/909/JHA and Framework Decision 2009/829/JHA.

Special measures for children and young adults

- (71) Member States should ensure that the child's best interests are a primary consideration in all matters relating to their detention, and that their specific rights and needs are taken into account when making decisions that affect any aspect of their detention.

- (72) For children, Member States should establish an appropriate and multidisciplinary detention regime, that ensures and preserves their health and their physical, mental and emotional development, their right to education and training, the effective and regular exercise of their right to family life, and their access to programmes that foster their reintegration into society.
- (73) Any use of disciplinary measures, including solitary confinement, use of restraints or use of force should be subject to strict necessity and proportionality considerations.
- (74) Where appropriate, Member States are encouraged to apply the juvenile detention regime to young offenders under the age of 21.

Special measures for persons with disabilities or serious medical conditions

- (75) Member States should ensure that persons with disabilities or other persons with serious medical conditions receive appropriate care comparable to that provided by the national public health system which meets their specific needs. In particular, Member States should ensure that persons who are diagnosed with mental health related medical conditions receive specialised professional care, where needed in specialised institutions or dedicated sections of the detention facility under medical supervision, and that continuity of healthcare is provided for detainees in preparation of release, where necessary.
- (76) Member States should take special care to meet the needs of and ensure accessibility for detainees with disabilities or serious medical conditions with regards to material detention conditions and detention regimes. This should including the provision of appropriate activities for such detainees.

Special measures to protect other detainees with special needs or vulnerabilities

- (77) Member States should ensure that placement in detention does not further aggravate the marginalisation of persons because of their sexual orientation, racial or ethnic origin or religious beliefs or on the basis of any other ground.
- (78) Member States should take all reasonable measures to prevent any violence or other ill-treatment, such as physical, mental or sexual abuse, against persons because of their sexual orientation, racial or ethnic origin, religious beliefs or on the basis of any other ground by staff in the detention facility or other detainees. Member States should ensure that special protection measures are applied where there is a risk of such violence or ill-treatment.

Inspections and monitoring

- (79) Member States should facilitate regular inspections by an independent authority to assess whether detention facilities are administered in accordance with the requirements of national and international law. In particular, Member States should grant unhindered access to the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and to the National Preventive Mechanisms network.
- (80) Member States should grant access to detention facilities to national parliamentarians and are encouraged to grant similar access to members of the European Parliament.
- (81) Member States should also consider organising regular visits to detention facilities and other detention centres for judges, prosecutors and defence lawyers as part of their judicial training.

Specific measures to address radicalisation in prisons

- (82) Member States are encouraged to carry out an initial risk assessment to determine the appropriate detention regime applicable to detainees suspected or convicted of terrorist and violent extremist offences.

- (83) Based on this risk assessment, these detainees may be placed together in a separate terrorist wing or may be dispersed among the general prison population. In the latter case, Member States should prevent such individuals from having direct contact with detainees in situations of particular vulnerability in detention.
- (84) Member States should ensure that further risk assessments are carried out on a regular basis by the prison administration (at the beginning of detention, during detention and prior to release of detainees suspected or convicted of terrorist and violent extremist offences).
- (85) Member States are encouraged to provide general awareness training to all staff, and training to specialised staff, to recognise signs of radicalisation at an early stage. Member States should also consider providing an appropriate number of well-trained prison chaplains representing a variety of religions.
- (86) Member States should implement measures providing for rehabilitation, deradicalisation and disengagement programmes in prison, in preparation of release, and programmes after release to promote reintegration of detainees convicted of terrorist and violent extremist offences.

MONITORING

- (87) Member States should inform the Commission on their follow-up to this Recommendation within 18 months of its adoption. Based on this information, the Commission should monitor and assess the measures taken by Member States and submit a report to the European Parliament and to the Council within 24 months of its adoption.

Done at Brussels, 8 December 2022.

For the Commission
Didier REYNDEERS
Member of the Commission

COMMISSION RECOMMENDATION (EU) 2023/682**of 16 March 2023****on mutual recognition of return decisions and expediting returns when implementing Directive 2008/115/EC of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Article 4(3) of the Treaty on European Union requires the Union and the Member States to assist each other, in full mutual respect, in carrying out tasks that flow from the Treaties.
- (2) Directive 2008/115/EC of the European Parliament and of the Council ⁽¹⁾ lays down common standards and procedures to be applied in Member States for returning illegally staying third-country nationals.
- (3) On 12 September 2018 the Commission tabled a proposal to recast Directive 2008/115/EC reducing the length of return procedures, securing a better link between asylum and return procedures and ensuring a more effective use of measures to prevent absconding, while ensuring respect for fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the Charter).
- (4) The New Pact on Migration and Asylum ⁽²⁾ aims at establishing a common EU system for returns that combines stronger structures inside the Union with more effective cooperation with third countries on return and readmission, as part of a comprehensive approach on managing migration. That approach brings together all policies in the areas of migration, asylum, integration, border management, recognising that the overall effectiveness depends on progress on all fronts. A faster, seamless migration process and stronger governance of migration and borders policies, cooperation with third countries including on the implementation of EU readmission agreements and arrangements, underpinned by modern IT systems and support from relevant EU agencies will foster a more effective and sustainable return process.
- (5) The European Council has consistently underlined the importance of a unified, comprehensive and effective Union policy on return and readmission calling for swift action to ensure effective returns from the Union by speeding up return procedures. The European Council also invited Member States to recognise each other's return decisions ⁽³⁾.
- (6) The Commission Communication of 10 February 2021 on 'Enhancing cooperation on return and readmission as part of a fair, effective and comprehensive EU migration policy' ⁽⁴⁾ identified the obstacles that hamper effective return and indicated that, to overcome them, there is a need for improved procedures that reduce the fragmentation of national approaches, as well as closer cooperation and reinforced solidarity between all Member States. The Schengen Evaluation and Monitoring Mechanism established by Council Regulation (EU) 2022/922 ⁽⁵⁾ and the information collected through the European Migration Network ⁽⁶⁾ established by Council Decision 2008/381/EC have allowed for a comprehensive assessment of how Member States implement the Union policy on return and to identify the existing gaps and obstacles.

⁽¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

⁽²⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on migration and Asylum (COM(2020) 609 final).

⁽³⁾ European Council conclusions of 9 February 2023, 1/23.

⁽⁴⁾ COM(2021) 56 final.

⁽⁵⁾ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15.6.2022, p. 1).

⁽⁶⁾ Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

- (7) In view of the continued challenges in the area of return, and pending the conclusion of the legislative negotiations, notably on the proposal for a recast of Directive 2008/115/EC, additional actions are recommended to further improve the effective and efficient application of the existing legal framework.
- (8) Commission Recommendation (EU) 2017/432 ⁽⁷⁾ which recommends a series of measures and actions to make returns more effective when implementing Directive 2008/115/EC, remains relevant and should continue to guide Member States for a more expeditious return process. Recommendation (EU) 2017/432 has been incorporated into Commission Recommendation (EU) 2017/2338 ⁽⁸⁾ allowing for a continuous assessment of its implementation as part of the Schengen Evaluation and Monitoring Mechanism.
- (9) As a steppingstone towards a common EU system for returns, mutual recognition of return decisions can facilitate and accelerate the return processes for the Member State responsible for return and enhance cooperation and mutual trust between Member States for further increasing convergence between Member States on managing migration. Mutual recognition of return decisions previously issued in another Member State can also contribute to deterring irregular migration and discourage unauthorised secondary movements within the Union. Council Directive 2001/40/EC ⁽⁹⁾ sets out a framework for mutual recognition. This framework was complemented by Council Decision 2004/191/EC ⁽¹⁰⁾ setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC, predating much of the support that has since been developed at Union level. Progress on mutual recognition of return decisions should also feed into the ongoing discussions on the Commission proposal to recast Directive 2008/115/EC.
- (10) The lack of a Union-wide system indicating whether an apprehended third country national is already subject to a return decision issued by another Member State has previously hampered the recourse to mutual recognition.
- (11) Since 7 March 2023 when Regulation (EU) 2018/1860 of the European Parliament and of the Council ⁽¹¹⁾ started to apply, Member States are required to enter an alert on return in the Schengen Information System without delay following the issuance of a return decision. Through the Schengen Information System Member States are now able to see immediately whether a third-country national apprehended by the competent authority is already subject to a return decision issued by another Member State.
- (12) The added value of this new feature in the Schengen Information System depends on the active use of and adequate follow up on alerts on return including by means of mutual recognition of return decision issued previously by other Member States. This can significantly speed up and render the return process more efficient notably when the return can be immediately enforced, including where the period for voluntary departure granted in the return decision by issuing Member State has expired and where remedies against such return decision have been exhausted.
- (13) Dedicated funding under the Asylum, Migration and Integration Fund ⁽¹²⁾ will support the implementation of this Recommendation and in particular, the mutual recognition of return decisions between Member States. Moreover, practical and operational support by competent EU Agencies should be provided in the implementation of this recommendation.

⁽⁷⁾ Commission Recommendation (EU) 2017/432 of 7 March 2017 on making returns more effective when implementing the Directive 2008/115/EC of the European Parliament and of the Council (OJ L 66, 11.3.2017, p. 15).

⁽⁸⁾ Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks (OJ L 339, 19.12.2017, p. 83).

⁽⁹⁾ Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149, 2.6.2001, p. 34).

⁽¹⁰⁾ Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 60, 27.2.2004, p. 55).

⁽¹¹⁾ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

⁽¹²⁾ Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (OJ L 251, 15.7.2021, p. 1).

- (14) Obstacles to cooperation and communication among national authorities responsible for the asylum and the return procedures represent a key structural challenge for a more efficient return process. All competent authorities of the Member States involved in the different phases of the return process should work and coordinate closely.
- (15) Closer links between the asylum and return procedures and swift procedures at the external borders of the Member States can considerably increase the efficiency of return. When the derogation from the application of Directive 2008/115/EC on the basis of Article 2(2)(a) is not applicable, there is a need to accelerate, within the current legislative framework, notably the effective return of those third-country nationals whose application for international protection has been rejected and for cases in the vicinity of the external border of Member States, through a faster return process providing that the respect of their fundamental rights is ensured during the whole return process.
- (16) Article 3(3) of Regulation (EU) 2018/1860 provides for a possibility to refrain from entering alerts on return in the Schengen Information System when the return decision is issued at the external border of a Member State and is executed immediately. Nevertheless, Article 3(1) of Regulation (EU) 2018/1860 requires Member States to ensure that alerts are entered in the Schengen Information System without delay when the return was not executed immediately from the external borders.
- (17) In order to incentivise and encourage voluntary returns, the possibilities provided by Directive 2008/115/EC could be used to consider refraining from issuing an entry ban in respect of third-country nationals who cooperate with the authorities and who participate in an assisted voluntary return and reintegration programme, without prejudice to the obligations set by Article 11(1) of Directive 2008/115/EC. In such cases, Member States are to prolong the period for voluntary departure as appropriate, in accordance with Article 7(2) of Directive 2008/115/EC.
- (18) Preventing absconding and unauthorised movements within the Union is essential to ensure the effectiveness of the common EU system for returns. A comprehensive approach, including the key tools for assessing and preventing the risk of absconding, is needed to facilitate and streamline the assessment of this risk in individual cases, to strengthen the use of efficient alternatives to detention, and to ensure sufficient detention capacity – when detention is used as a measure of last resort and for an as short as possible period in accordance with Article 15 of Directive 2008/115/EC.
- (19) Support at Union level is available for the implementation of this Recommendation including by the EU Return Coordinator and the High-Level Network for Returns guided by an operational strategy on returns. Operational support is also available through competent Agencies of the Union, notably Frontex, the European Union Asylum Agency and the Fundamental Rights Agency.
- (20) National return authorities are part of the European Border and Coast Guard which is responsible for ensuring the effective implementation of the European Integrated Border Management. Frontex plays a central role as the operational arm of the common EU system for returns and provides assistance to Member States in all phases of the return process under its mandate pursuant to Regulation (EU) 2019/1896 of the European Parliament and of the Council ⁽¹³⁾.
- (21) This Recommendation should be addressed to all Member States bound by Directive 2008/115/EC.
- (22) Member States are encouraged to instruct their national authorities competent for carrying out return-related tasks to apply this Recommendation when performing their duties.
- (23) This Recommendation complies with the fundamental rights and the principles recognised by the Charter. In particular, this Recommendation ensures full respect for human dignity and the application of Articles 1, 4, 14, 18, 19, 21, 24 and 47 of the Charter and has to be implemented accordingly,

⁽¹³⁾ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

HAS ADOPTED THIS RECOMMENDATION:

Mutual recognition of return decisions

- (1) With a view to facilitating and speeding up the return process, the Member State responsible for the return of an illegally staying third-country national should mutually recognise any return decision previously issued to the same person by another Member State unless the effect of such return decision has been suspended. To this effect Member States should:
 - (a) make full use of information shared through alerts on return in the Schengen Information System set out in Regulation (EU) 2018/1860;
 - (b) ensure that fingerprints are available for inclusion in an alert in accordance with Article 4 of Regulation (EU) 2018/1860;
 - (c) systematically verify in the automated fingerprint identification system of the Schengen Information System whether an illegally staying third-country national is the subject of an alert on return in the Schengen Information System;
 - (d) ensure that the national authorities responsible for return closely cooperate with the national SIRENE Bureau considering its role established by Regulation EU 2018/1861 of the European Parliament and of the Council ⁽¹⁴⁾ and its role in the exchange of information pursuant to Regulation (EU) 2018/1860;
 - (e) cooperate and where necessary exchange supplementary information to facilitate the recognition and the enforcement of the return decision;
 - (f) examine the situation of the third-country national concerned after having heard that person to ensure compliance with national law and with Article 5 of Directive 2008/115/EC, before recognising a return decision issued by another Member State and before removal. For children in particular, the enforcing Member State should ensure that due consideration shall be given to the best interest of the child;
 - (g) notify the third-country national concerned in writing that the return decision issued by another Member State to which that person is subject has been recognised. The notification should restate the reasons in fact and in law provided in the return decision and should provide information of the available legal remedies;
 - (h) immediately inform the issuing Member State about the removal of the third-country national concerned, so that the issuing Member State can update the Schengen Information System in accordance with Article 24(1) point (b) of Regulation (EU) 2018/1861.

Expediting returns

- (2) For the purpose of speeding up return procedures, Member States should establish strong cooperation between authorities responsible for the decisions ending legal stay and those responsible for the issuance of return decisions, including the regular exchange of information and operational cooperation, based on the integrated and coordinated approach recommended in Recommendation (EU) 2017/432.
- (3) To ensure the timely availability of information on the identity and legal situation of third-country nationals subject to a return decision necessary to monitor and follow up on individual cases, and to establish and maintain a national situational picture on return, Member States are invited to establish, without delay, a comprehensive IT return case management system, based on the model developed by Frontex pursuant to Article 48(1) point (c) of Regulation (EU) 2019/1896. Member States should also make full use of the Readmission Case Management Systems which have been put in place to foster the implementation of readmission agreements or arrangements with third countries.

⁽¹⁴⁾ Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

- (4) To ensure that a decision rejecting an application for international protection is swiftly followed up with return procedures, Member States should:
- (a) establish a direct and standard communication channel between asylum and return authorities for seamless coordination between the two procedures;
 - (b) issue in the same act, or in separate acts at the same time or directly thereafter, a return decision and a decision rejecting an application for international protection, making the best use of the possibility referred to in Article 6(6) of Directive 2008/115/EC;
 - (c) provide for the possibility of lodging appeals against the decision rejecting the application for international protection and the return decision at the same time before the same court or tribunal, or for the possibility to appeal both decisions within the same timeframe;
 - (d) provide for the automatic suspension of the execution of return decisions during an appeal procedure only to the extent that it is necessary to comply with Article 19(2) and Article 47 of the Charter;
 - (e) take steps to ensure that a remedy can be exercised from a third country, notably through appropriate legal representation and by making use of innovative tools such as videoconferencing, provided that the right to an effective remedy and Article 5 of Directive 2008/115/EC are complied with.
- (5) To ensure faster returns in the vicinity of the external borders, Member States should:
- (a) put in place mobile support teams bringing together all competent authorities for voluntary and forced return and relevant support services, including interpreters, health services, legal advice and social workers;
 - (b) establish adequate facilities (in particular for children and families) in the vicinity of the external border area to host third-country nationals pending return that respect human dignity and fundamental rights enshrined in the Charter, including the rights to private and family life, and non-discrimination;
 - (c) where applicable, make full use of the accelerated procedures provided for in the readmission agreements concluded between the Union or Member States and third countries, while respecting the procedural guarantees in compliance, notably, with article 47 of the Charter;
 - (d) in accordance with Article 3(1) and (2) of Regulation (EU) 2018/1860, enter an alert on return in the Schengen Information System when it is not possible to execute the return immediately.
- (6) Member States should rely on and use to the full extent possible all the support provided by Frontex, including its operational support to the national authorities, assistance with the identification of returnees and the acquisition of travel documents, organisation of return operations and support to voluntary departure and reintegration.

Incentives for voluntary return

- (7) To encourage illegally staying third-country nationals to return voluntarily, Member States should establish return and reintegration counselling structures to provide them with information and guidance as early in the process as possible and channel them into an assisted voluntary return and reintegration programme. Member States should ensure that information about return is also provided during the asylum process, as return is a possible outcome in case the application for international protection is rejected.
- (8) Furthermore, Member States should:
- (a) consider refraining from issuing an entry ban to third-country nationals who cooperate with the competent authorities and who enrol into an assisted voluntary return and reintegration programme, without prejudice to Article 11(1) of Directive 2008/115/EC; in such cases Member States should prolong the period for voluntary departure as appropriate, in accordance with Article 7(2) of Directive 2008/115/EC;

- (b) provide for an easily accessible and practically operational procedure for the third country national to request the withdrawal, suspension or shortening of an entry ban in those cases in which a third country national who is subject to an entry ban has left the territory of a Member State in full compliance with a return decision within the period granted for voluntary departure, in accordance with Article 11(3) of Directive 2008/115/EC.

A comprehensive approach to absconding

- (9) For the purpose of establishing a streamlined and coordinated process, Member States should put in place a comprehensive approach comprising the following key tools for assessing and preventing the risk of absconding:
 - (a) objective criteria for assessing the existence of the risk of absconding in each individual case;
 - (b) effective alternatives to detention to match the different levels of risk of absconding and individual circumstances;
 - (c) detention as a measure of last resort and for an as short as possible period in accordance with Article 15 of Directive 2008/115/EC and Article 6 of the Charter.
- (10) To assess the existence of reasons in an individual case to believe that a third-country national who is the subject of return procedures may abscond within the meaning of Article 3, point 7 of Directive 2008/115/EC, Member States should introduce in the national legislation the objective circumstances and criteria referred to respectively in points 15 and 16 of Recommendation (EU) 2017/432. Member States should provide for a wide range of alternatives to detention that are effective to prevent the absconding of the illegally staying third-country nationals and that are targeted to the individual circumstances of the individuals concerned. Member States should put adequate procedures in place to ensure that third-country nationals comply with such measures. Efficient but less coercive measures than detention should be provided for and may include:
 - (a) the obligation to regularly report to the competent authorities, ranging from every 24 hours to once a week, depending on the level of the risk of absconding;
 - (b) the obligation to surrender the passport, travel document or identity document to the competent authorities;
 - (c) the obligation to reside in a place designated by the authorities, such as a private residence, a shelter or a dedicated centre;
 - (d) the obligation to report a home address to the competent authorities, including any changes to such an address;
 - (e) deposit of an adequate financial guarantee;
 - (f) the use of innovative technology.
- (11) Member States should ensure that detention capacity is in line with actual needs, taking into account the number of illegally staying third-country nationals subject to a return decision and the estimated number of those that are expected to be returned in the medium term.

Implementation, Monitoring and Reporting

- (12) When implementing this Recommendation Member States should rely on and use to the full extent all the support provided at Union level, including:
 - (a) the EU Return Coordinator and the High-Level Network for Returns;
 - (b) support from the competent Union Agencies, notably Frontex, the European Union Agency for Asylum, eu-LISA, and the Fundamental Rights Agency;
 - (c) the expertise and information collected and exchanged in Union networks and groups dealing with return matters.
- (13) For the purpose of monitoring the implementation of this Recommendation, Member States are invited to report annually to the Commission, including on the number of return decisions of other Member States that have been mutually recognised.

Done at Brussels, 16 March 2023.

For the Commission
Ylva JOHANSSON
Member of the Commission

RULES OF PROCEDURE

DELEGATED DECISION No 17-2023 OF THE ADMINISTRATIVE COMMITTEE OF THE EUROPEAN COURT OF AUDITORS

of 1 March 2023

on implementing rules for handling RESTREINT UE/EU RESTRICTED information at the European Court of Auditors

THE ADMINISTRATIVE COMMITTEE OF THE EUROPEAN COURT OF AUDITORS,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 287 thereof,

Having regard to Decision No 41-2021 of the Court of Auditors on the security rules for protecting EU classified information (EUCI) ⁽¹⁾,

Having regard to the Court of Auditors information security policy (currently DEC 127/15 FINAL) and information classification policy (Staff Notice 123/2020) ⁽²⁾,

Whereas Decision No 41-2021 applies to all the departments and the premises of the Court of Auditors;

Whereas Decision No 41-2021 provides in its Articles 1(3) and 5(6) that the Court of Auditors shall handle RESTREINT UE/EU RESTRICTED level information on its premises and may conclude a service level agreement with another EU institution in Luxembourg in order to be able to handle and store information classified as CONFIDENTIEL UE/EU CONFIDENTIAL or above in a Secured Area of that institution;

Whereas security measures for protecting EU classified information (EUCI) throughout its life-cycle are to be commensurate in particular with its security classification;

Whereas security measures to protect the confidentiality, integrity and availability of information communicated to the Court of Auditors must be appropriate for the nature and type of information concerned;

Whereas Article 10(10) of Decision No 41-2021 provides that the Administrative Committee shall adopt a delegated decision laying down implementing rules for this Decision; pursuant to Articles 8(1) and 10(1) of Decision No 41-2021 these shall govern issues such as handling and storing EUCI as well as breaches of security;

Whereas the Annex to Decision No 41-2021 sets out the physical security measures that shall apply in Administrative Areas where RESTREINT UE/EU RESTRICTED information is handled and stored;

Whereas security measures taken to implement this Decision are to comply with the principles for security at the Court of Auditors set out in Article 3 of Decision No 41-2021;

Whereas the Court of Auditors ensured through Decision No 41-2021 that its security measures to guarantee a high level of protection for EUCI are equivalent to those established by the rules on the protection of EUCI adopted by the other EU institutions, agencies and bodies;

Whereas a lightweight administrative agreement between the Court of Auditors and the Commission, the Council and the EEAS was agreed and entered into force on 27 January 2023,

⁽¹⁾ OJ L 256, 19.7.2021, p. 106.

⁽²⁾ Available at <https://www.eca.europa.eu/en/Pages/LegalFramework.aspx>

HAS DECIDED:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Decision sets out the handling conditions for EU classified information (EUCI) of RESTREINT UE/EU RESTRICTED level ⁽³⁾ in compliance with Decision No 41-2021.
2. This Decision shall apply to all the departments and the premises of the Court of Auditors. It also applies to its Chambers and Committees, which are included in the term 'departments' for the purposes of this Decision.

Article 2

Criteria for access to RESTREINT UE/EU RESTRICTED information

1. Access to information classified as RESTREINT UE/EU RESTRICTED may be granted after:
 - (a) the need for an individual to have access to certain RESTREINT UE/EU RESTRICTED information in order to be able to perform a professional function or task for the Court of Auditors has been determined;
 - (b) the individual has been briefed on the rules and the relevant security standards and guidelines for protecting RESTREINT UE/EU RESTRICTED information; and
 - (c) the individual has acknowledged their responsibilities for protecting the information concerned.
2. Court of Auditors trainees shall not be given duties that require them to have access to RESTREINT UE/EU RESTRICTED information.
3. Access shall be withheld or granted for other categories of staff in accordance with the table set out in the Annex.

CHAPTER 2

CREATING RESTREINT UE/EU RESTRICTED INFORMATION

Article 3

Originator

While the originator within the meaning of Article 2 of Decision No 41-2021 is the Union institution, agency or body, Member State, third state or international organisation under whose authority classified information has been created and/or introduced into the Union's structures, the drafter of RESTREINT UE/EU RESTRICTED information will not necessarily be the same.

⁽³⁾ Pursuant to Article 1(2) of Decision No 41-2021, RESTREINT UE/EU RESTRICTED information shall mean 'information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of the Member States'.

*Article 4***Assigning a classification level**

1. Staff drafting a document on the basis of information within the meaning of Article 1, in the context of Article 3 paragraph 6 of Decision No 41-2021 or otherwise, shall always consider whether their document needs to be classified. Classifying a document as EUCI shall involve an assessment and a decision by the originator as to whether the disclosure of the document to unauthorised persons would cause prejudice to the interests of the European Union or of one or more of the Member States. If drafters are in any doubt as to whether the document they are drafting warrants being classified as RESTREINT UE/EU RESTRICTED, they should consult the Principal Manager or Director responsible.
2. A document shall be classified as at least RESTREINT UE/EU RESTRICTED if its unauthorised disclosure could, *inter alia*:
 - (a) adversely affect diplomatic relations;
 - (b) cause substantial distress to individuals;
 - (c) make it more difficult to maintain the operational effectiveness or security of Member States' or other contributors' assigned personnel;
 - (d) breach undertakings to maintain the confidence of information provided by third parties;
 - (e) prejudice the investigation of or facilitate crime;
 - (f) disadvantage the Union or Member States in commercial or policy negotiations with others;
 - (g) impede the effective development or operation of Union policies;
 - (h) undermine the proper management of the Union and its missions in general; or
 - (i) lead to the discovery of information classified at a higher level.
3. Originators may decide to attribute a standard classification level to categories of information that they create on a regular basis. However, they shall ensure that individual pieces of information are assigned the appropriate classification level.

*Article 5***Working with drafts**

1. Information shall be classified as soon as it is produced. Personal notes, preliminary drafts or messages containing information that warrant classification at the level of RESTREINT UE/EU RESTRICTED shall be marked as such from the outset, and shall be produced and handled in accordance with this Decision.
2. If the final document no longer warrants the RESTREINT UE/EU RESTRICTED classification level, it shall be declassified.

*Article 6***Record of source material**

In order to enable the exercise of originator control in accordance with Article 13, originators of RESTREINT UE/EU RESTRICTED documents shall, to the extent possible, keep a record of any classified sources used for producing classified documents, including details of sources originally from EU Member States, international organisations or third countries. Where appropriate, aggregated classified information shall be marked in such a way as to preserve the identification of the originators of the classified source materials used.

*Article 7***Classifying parts of a document**

1. In accordance with Article 3(1) of Decision No 41-2021, the overall classification level of a document shall be at least as high as that of its most highly classified component. When information from various sources is collated, the final aggregated document shall be reviewed to determine its overall security classification level, since it may warrant a higher classification than that of its component parts.
2. Documents containing classified and non-classified parts shall be structured and marked so that components with different classification and/or sensitivity levels can be easily identified and detached if necessary. This shall enable each part to be handled appropriately when it is detached from the other components.

*Article 8***Full classification marking**

1. Information that warrants classification shall be marked and handled as such, regardless of its physical form. The classification level shall be clearly communicated to recipients, either by a classification marking, if the information is delivered in written form, whether this is on paper, on removable storage media or in a Communication and Information System (CIS), or by an announcement, if the information is delivered in oral form, such as in a conversation or a presentation. Classified material shall be physically marked so as to allow for easy identification of its security classification.
2. On documents, the full classification marking RESTREINT UE/EU RESTRICTED shall be written in block capitals, in full in French and English (French first), in accordance with paragraph 3. The marking shall not be translated into other languages.
3. The RESTREINT UE/EU RESTRICTED classification marking shall be affixed as follows:
 - (a) centred at the top and bottom of every page of the document;
 - (b) the complete classification marking on one line, with no spaces either side of the forward slash;
 - (c) in capitals, black, font Times New Roman 16, bold, and surrounded by a border on each side.
4. When creating a RESTREINT UE/EU RESTRICTED document:
 - (a) each page shall be clearly marked with the classification level;
 - (b) each page shall be numbered;
 - (c) the document shall bear a reference number and a subject, which itself shall not be classified information unless it is marked as such;
 - (d) all the annexes and enclosures shall be listed, whenever possible on the first page; and
 - (e) the document shall have its date of creation on it.

*Article 9***Abbreviated R-UE/EU-R classification marking**

The abbreviation R-UE/EU-R may be used to indicate the classification level of individual parts of a RESTREINT UE/EU RESTRICTED document, or where the full classification marking cannot be inserted, for example on a small removable storage medium. It may be used in the body of text where repeated use of the full classification marking is cumbersome. The abbreviation shall not be used instead of the full classification markings in the header and footer of the document.

*Article 10***Other security designators**

1. RESTREINT UE/EU RESTRICTED documents may bear other markings, or 'security designators', specifying, for example, the field to which the document relates, or indicating a particular distribution on a need-to-know basis. An example is:

RELEASABLE TO LIECHTENSTEIN

2. RESTREINT UE/EU RESTRICTED documents may bear a security caveat that provides specific instructions on how to handle and manage the documents.

3. Whenever possible, any indications for declassifying shall be affixed on the first page of the document at the time it is created. For example, the following marking may be used:

RESTREINT UE/EU RESTRICTED
until [dd.mm.yyyy]

*Article 11***Electronic processing**

1. RESTREINT UE/EU RESTRICTED documents shall be created using electronic means, where these are available.

2. The staff of the Court of Auditors shall use accredited communication and information systems (hereafter 'CIS') for creating RESTREINT UE/EU RESTRICTED level information (see Article 6 of Decision No 41-2021). Staff shall consult the Information Security Officer (ISO) if there is any doubt as to which CIS may be used. In consultation with the ISO, specific procedures may be applied in emergencies or in specific technical configurations.

3. RESTREINT UE/EU RESTRICTED documents, including drafts, as required by Article 5, shall not be sent by ordinary open email, printed or scanned on standard printers or scanners, or handled on the personal devices of members of staff. Only printers or copiers connected to standalone computers or to an accredited system shall be used to print out RESTREINT UE/EU RESTRICTED documents.

*Article 12***Distribution**

The sender of RESTREINT UE/EU RESTRICTED documents shall decide who to distribute the information to, based on their need-to-know. If required, a distribution list shall be drawn up in order to further enforce the need-to-know principle.

CHAPTER 3

WORKING WITH EXISTING RESTREINT UE/EU RESTRICTED INFORMATION*Article 13***Originator control**

1. The originator shall have 'originator control' over RESTREINT UE/EU RESTRICTED information which it has created. The originator's prior written consent shall be sought before the information can be:

- (a) declassified;
- (b) used for purposes other than those established by the originator;
- (c) released to a third country or international organisation;
- (d) disclosed to a party outside the Court of Auditors, but within the EU; or
- (e) disclosed to a contractor or prospective contractor located in a third country.

2. Holders of RESTREINT UE/EU RESTRICTED information have been given access to the classified information in order to be able to perform their duties. They are responsible for the correct handling, storage and protection of it, in accordance with Decision No 41-2021. Unlike originators of classified information, holders shall not be authorised to decide on the declassification or onward release of RESTREINT UE/EU RESTRICTED information to third countries or international organisations.

3. If the originator of a piece of RESTREINT UE/EU RESTRICTED information cannot be identified, the Court of Auditors department holding that classified information shall exercise originator control. In the event that the release of RESTREINT UE/EU RESTRICTED information to a third country or international organisation is considered necessary by the information holder, the Court of Auditors shall seek advice from one of the Parties to a Security of Information Agreement with that same third country or international organisation.

*Article 14***CIS suitable for handling RESTREINT UE/EU RESTRICTED information**

RESTREINT UE/EU RESTRICTED information shall be handled and transmitted by electronic means, where these are available. In line with Article 6 of Decision No 41-2021, only CIS and equipment that has been accredited by another EU institution, body, agency or the Court of Auditors shall be used.

*Article 15***Specific measures for RESTREINT UE/EU RESTRICTED information on removable storage media**

1. The use of removable storage media shall be controlled and accounted for. Only removable storage media provided by the Court of Auditors or provided by another EU institution, body or agency and approved by the ISO of the Court of Auditors, and encrypted by a product approved by the ISO of the Court of Auditors shall be used. Personal removable storage media and those given freely at conferences, seminars, etc. shall not be used for transferring classified information. Where possible, TEMPEST-proof removable storage media should be used, in accordance with guidance from the ISO.

2. Where a classified document is handled or stored electronically on removable storage media, such as USB sticks, USB hard drives, CDs, DVDs or memory cards (including SSD ⁽⁴⁾), the classification marking shall be clearly visible on the displayed information itself, as well as in the filename and on the removable storage medium.

⁽⁴⁾ SSD meaning semiconductor storage device, a solid-state device or a solid-state disk.

3. Staff shall bear in mind that when large amounts of classified information are stored on removable storage media, the device may warrant a higher classification level.
4. Only CIS that have been appropriately accredited shall be used to transfer RESTREINT UE/EU RESTRICTED information onto or from removable storage media.
5. When downloading RESTREINT UE/EU RESTRICTED information on removable storage media, particular care shall be taken to ensure that the media does not contain viruses or malware prior to the data transfer.
6. Where applicable, removable storage media shall be handled in accordance with any security operating procedures relating to the encryption system used.
7. Documents on removable storage media that are either no longer required, or that have been transferred onto an appropriate CIS, shall be securely removed or deleted using approved products or methods. Unless stored in appropriate locked office furniture, removable storage media shall be destroyed when they are no longer needed. Any destruction or deletion shall use a method that is in accordance with the Court of Auditors security rules. An inventory shall be kept of the removable media, and their destruction shall be recorded.

Article 16

Handling and storage of RESTREINT UE/EU RESTRICTED information

1. In accordance with Articles 5(8) and 6(9) of Decision No 41-2021, RESTREINT UE/EU RESTRICTED information may be handled in an Administrative Area ⁽⁵⁾, or in a Secured Area at the Commission ⁽⁶⁾ for the use of which the Court of Auditors has concluded a service level agreement, as follows:
 - staff shall close the office door when handling RESTREINT UE/EU RESTRICTED information;
 - staff shall stow any RESTREINT UE/EU RESTRICTED information away or cover it, should they receive a visitor;
 - staff shall not leave RESTREINT UE/EU RESTRICTED information visible when the office is unoccupied;
 - screens displaying RESTREINT UE/EU RESTRICTED information shall be permanently turned away from windows and doors to prevent potential overlooking.
2. RESTREINT UE/EU RESTRICTED information may be handled temporarily outside a Secured Area or an Administrative Area, provided the holder has undertaken to comply with compensatory measures to protect it from access by unauthorised persons. The compensatory measures shall include at least the following:
 - RESTREINT UE/EU RESTRICTED information shall not be read in public places;
 - the EUCI shall be kept under the personal control of the holder at all times;
 - the documents shall be stowed in appropriate locked furniture when they are not being read or discussed;
 - the doors to the room shall be closed while the document is being read or discussed;
 - the details of the document shall not be discussed over the phone on a non-secured line, or in an unencrypted email;
 - the document may only be photocopied or scanned on stand-alone or accredited equipment;

⁽⁵⁾ As defined in the Annex to Decision No 41-2021.

⁽⁶⁾ As defined in Article 18 of Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

- the document shall only be handled and temporarily held outside an Administrative or Secured Area for the minimum time necessary;
 - the holder shall not throw the classified document away but shall return it for storage in an Administrative or Secured Area, or ensure it is destroyed in an approved shredder ⁽⁷⁾.
3. Hard copy RESTREINT UE/EU RESTRICTED information shall be stored in locked office furniture in an Administrative Area or in a Secured Area. It may be temporarily stored outside a Secured Area or an Administrative Area, provided the holder has undertaken to comply with compensatory measures.
4. Further advice can be sought from the ISO.
5. Any suspected or actual security incidents involving the document shall be reported to the ISO as soon as possible.

Article 17

Copying and translating RESTREINT UE/EU RESTRICTED information

1. RESTREINT UE/EU RESTRICTED information may be copied or translated on instruction from the holder, provided the originator has not imposed any caveats. However, no more copies shall be made than are strictly necessary.
2. Where only part of a classified document is reproduced, the same conditions shall apply as for copying the full document. Extracts shall also be classified as RESTREINT UE/EU RESTRICTED, unless the originator has specifically marked them as unclassified.
3. The security measures applicable to the original information shall also be applied to copies and translations thereof.

Article 18

General principles for carrying RESTREINT UE/EU RESTRICTED information

1. Whenever possible, RESTREINT UE/EU RESTRICTED information that needs to be taken outside Secured Areas or Administrative Areas shall be sent electronically by appropriately accredited means and/or protected by approved cryptographic products.
2. Depending on the means available or the particular circumstances, RESTREINT UE/EU RESTRICTED information may be physically carried by hand in the form of paper documents or on removable storage media. The use of removable storage media to transfer RESTREINT UE/EU RESTRICTED information shall be given preference to sending paper documents.
3. Only removable storage media that are encrypted by a product approved by the Court of Auditors ISO may be used. RESTREINT UE/EU RESTRICTED information on removable storage media that is not protected by an encryption product that has been approved by the ISO shall be handled in the same manner as paper copy.
4. A consignment may contain more than one piece of RESTREINT UE/EU RESTRICTED information, provided the need-to-know principle is respected.
5. The packaging used shall ensure that the contents are hidden from view. RESTREINT UE/EU RESTRICTED information shall be carried in opaque packaging, such as an envelope, an opaque folder, or a briefcase. The outside of the packaging shall not bear any indication of the nature or classification level of its contents. If used, the inner layer of packaging shall be marked as RESTREINT UE/EU RESTRICTED. Both packaging layers shall state the intended recipient's name, job title and address, as well as a return address in case delivery cannot be made.

⁽⁷⁾ See Article 39 below for further details.

6. Any security incidents involving RESTREINT UE/EU RESTRICTED information that is carried by staff or couriers shall be reported, for subsequent investigation to the Director of Human Resources, Finance and General Services, via the ISO.

Article 19

Hand carriage of removable storage media

1. Removable storage media that are used to transport RESTREINT UE/EU RESTRICTED information shall be accompanied by a dispatch note, detailing the removable storage media containing the classified information, as well as all files contained on them, to allow the recipient to make the necessary verifications.
2. Only the documents to be provided shall be stored on the media. All the classified information on a single USB stick, for instance, would have to be intended for the same recipient. The sender shall bear in mind that large amounts of classified information stored on such devices may warrant a higher classification level for the device as a whole.
3. Only removable storage media bearing the appropriate classification marking shall be used to carry RESTREINT UE/EU RESTRICTED information.

Article 20

Carriage of RESTREINT UE/EU RESTRICTED documents within Court of Auditors buildings

1. Staff may carry RESTREINT UE/EU RESTRICTED documents within a Court of Auditors building or between Union institutions, agencies or bodies, but the documents shall not leave the possession of the bearer, or be read in public.
2. RESTREINT UE/EU RESTRICTED documents may be sent through internal mail to other Court of Auditors offices in a single ordinary opaque envelope, but with no indication on the outside that the contents are classified.

Article 21

Carriage of RESTREINT UE/EU RESTRICTED documents within the Union

1. RESTREINT UE/EU RESTRICTED information may be carried by staff or couriers of the Court of Auditors or of another EU institution, body or agency anywhere within the Union, provided they comply with the following instructions:
 - (a) an opaque envelope or packaging shall be used to convey RESTREINT UE/EU RESTRICTED information. The outside shall not bear any indication of the nature or classification level of the contents;
 - (b) the RESTREINT UE/EU RESTRICTED information shall not leave the possession of the bearer; and
 - (c) the envelope or package shall not be opened *en route*, and the information shall not be read in public places.
2. Staff wishing to send RESTREINT UE/EU RESTRICTED information to other locations in the Union may arrange for it to be conveyed by one of the following means:
 - by national postal services that track the consignment or certain commercial courier services that guarantee personal hand carriage, provided that they meet the requirements set out in Article 23 of this Decision; or
 - by military, government or diplomatic courier, in coordination with Records Office staff.

*Article 22***Carriage of RESTREINT UE/EU RESTRICTED information from or to the territory of a third country**

1. Information classified as RESTREINT UE/EU RESTRICTED may be hand-carried by staff between the territory of the Union and the territory of a third country.
2. Records Office staff may arrange for one of the following:
 - carriage by postal services that track the consignment or commercial courier services that guarantee personal hand carriage; or
 - carriage by military or diplomatic courier.
3. When hand-carrying either paper documents or removable storage media classified as RESTREINT UE/EU RESTRICTED, staff shall comply with all of the following additional measures:
 - when travelling by public transport, the classified information shall be placed in a briefcase or bag that is kept in the bearer's personal custody. It shall not be consigned to a baggage hold;
 - the RESTREINT UE/EU RESTRICTED information shall be conveyed inside two layers of packaging. The inner layer of packaging shall bear an official seal to indicate that it is an official consignment and is not to undergo security scrutiny;
 - the bearer shall carry a courier certificate issued by the Records Office, which certifies that the bearer is authorised to carry the RESTREINT UE/EU RESTRICTED consignment.

*Article 23***Carriage by commercial couriers**

1. For the purposes of this Decision, 'commercial couriers' include national postal services and commercial courier companies that offer a service where information is delivered for a fee and is either personally hand carried or tracked.
2. Commercial couriers may use the services of a sub-contractor. However, responsibility for complying with this Decision shall remain with the courier company.
3. If the intended recipient is outside the EU, two layers of packaging shall be used. When classified consignments are being prepared, the sender shall bear in mind that commercial courier services shall only deliver RESTREINT UE/EU RESTRICTED consignments to the intended recipient, a duly authorised substitute, the registry control officer or his/her duly authorised substitute, or a receptionist. To mitigate the risk that the consignment may not reach the intended recipient, the outer and, where applicable, the inner layer of the consignment's packaging shall bear a return address.
4. Services offered by commercial couriers providing electronic transmission of registered delivery documents shall not be used for RESTREINT UE/EU RESTRICTED information.

*Article 24***Other specific handling conditions**

1. Any carriage conditions set out in a security of information agreement or in administrative arrangements shall be complied with. If in doubt, staff shall consult the ISO or the Records Office.
2. The double packaging requirement can be waived for classified information that is protected by approved cryptographic products. However, for addressing purposes, and also as the removable storage medium bears an explicit security classification marking, the medium shall be carried at least in an ordinary envelope, but may require additional physical protection measures, such as a bubble wrap envelope.

CHAPTER 4

CLASSIFIED MEETINGS*Article 25***Preparing for a RESTREINT UE/EU RESTRICTED meeting**

1. Meetings where RESTREINT UE/EU RESTREINT information is due to be discussed shall only be held in a meeting room that has been accredited at the appropriate level or higher. Where these are not available, staff shall seek the advice of the ISO.
2. As a general rule, agendas should be not classified. If the agenda of a meeting mentions classified documents, the agenda itself shall not automatically be classified. Agenda items shall be worded in a way that avoids jeopardising the protection of the Union, or one or more of the Member States' interests.
3. If electronic files containing RESTREINT UE/EU RESTRICTED information are to be attached to the agenda, it is mandatory to protect them with cryptographic products approved by the ISO of the Court of Auditors.
4. Meeting organisers shall remind participants that any comments sent in on a RESTREINT UE/EU RESTRICTED agenda item must not be sent through ordinary open emails, or through other means that have not been appropriately accredited in accordance with Article 11 of this Decision.
5. Meeting organisers shall endeavour to group RESTREINT UE/EU RESTRICTED items consecutively on the agenda in order to facilitate smooth functioning of the meeting. Only persons with a need-to-know may be present during discussions of classified items.
6. The invitation itself shall forewarn the participants that the meeting will discuss classified topics, and that corresponding security measures will apply.
7. The invitation or note on the agenda itself shall remind participants that portable electronic devices are to be switched off during the discussion of RESTREINT UE/EU RESTRICTED items.
8. Meeting organisers shall prepare a complete list of external participants prior to the meeting.

*Article 26***Electronic equipment in a RESTREINT UE/EU RESTRICTED meeting room**

1. Only IT systems accredited in accordance with Article 11 of this Decision may be used where RESTRICTED EU/EU RESTRICTED information is conveyed, for example in the course of a presentation or videoconference.
2. The Chair shall ensure that unauthorised portable electronic devices have been switched off.

*Article 27***Procedures to be followed during a RESTREINT UE/EU RESTRICTED meeting**

1. At the start of the classified discussion, the Chair shall announce to the meeting that it is moving to classified mode. The doors and blinds shall be closed.
2. Only the necessary number of documents shall be given to participants and interpreters, as appropriate, at the start of the discussion.

RESTREINT UE/EU RESTRICTED documents shall not be left unattended during any breaks in the meeting.

3. At the end of the meeting, the participants and interpreters shall be reminded not to leave any classified documents or classified notes they might have made lying unattended in the room. Classified documents or notes not taken away by the participants at the end of the meeting shall be collected by the meeting organisers and shredded in appropriate shredders.

4. The list of participants and an outline of any classified information shared with Member States and released orally to third countries or international organisations shall be noted down during the meeting in order to be recorded in the outcome of proceedings.

Article 28

Interpreters and translators

Only interpreters and translators who are subject to the Staff Regulations or the Conditions of Employment of other servants of the European Union, or those who have a contractual link to the Court of Auditors, shall have access to RESTREINT UE/EU RESTRICTED information.

CHAPTER 5

SHARING AND EXCHANGING RESTREINT UE/EU RESTRICTED INFORMATION

Article 29

Originator consent

If the Court of Auditors is not the originator of the classified information for which release or sharing is desired, or of the source material it may contain, the department of the Court of Auditors that holds this classified information shall first seek the originator's written consent for release. If the originator cannot be identified, the department of the Court of Auditors holding that classified information shall exercise originator control.

Article 30

Sharing RESTREINT UE/EU RESTRICTED information with other Union entities

1. RESTREINT UE/EU RESTRICTED information shall only be shared with another Union institution, agency, body or office if the recipient has a need-to-know and the entity has a corresponding legal arrangement with the Court of Auditors.
2. Within the Court of Auditors, the Records Office set up in the Secretariat of the Court shall, as a general rule, be the main point of entry and exit for information classified as RESTREINT UE/EU RESTRICTED which the Court of Auditors exchanges with other Union institutions, agencies, bodies and offices. However, RESTREINT UE/EU RESTRICTED information may be shared directly with intended recipients after informing the Court of Auditors ISO and the Records Office.

Article 31

Exchanging RESTREINT UE/EU RESTRICTED information with Member States

1. RESTREINT UE/EU RESTRICTED information may be shared with Member States if the recipient has a need-to-know.
2. Member States' classified information that bears an equivalent national classification marking ⁽⁸⁾ and has been provided to the Court of Auditors shall be afforded the same level of protection as RESTREINT UE/EU RESTRICTED information.

⁽⁸⁾ The table of equivalence for Member State markings is set out in Annex I to Decision (EU, Euratom) 2015/444.

*Article 32***Exchanging RESTREINT UE/EU RESTRICTED information with third countries and international organisations**

1. RESTREINT UE/EU RESTRICTED information shall only be released to a third country or international organisation if the recipient has a need-to-know and the country or international organisation has an appropriate legal or administrative framework in place, such as a security of information agreement or an administrative arrangement with the Court of Auditors. The provisions of such an agreement or arrangement shall prevail over the provisions of this Decision.
2. The Records Office in the Secretariat of the Court shall, as a general rule, be the main point of entry and exit for all information classified as RESTREINT UE/EU RESTRICTED that is exchanged between the Court of Auditors, third countries and international organisations.
3. To ensure traceability, RESTREINT UE/EU RESTRICTED information shall be recorded by the Records Office:
 - when it arrives in or leaves an organisational entity; and
 - when it arrives in or leaves a CIS.
4. Such recording may be carried out either on paper or in electronic logbooks.
5. Recording procedures for classified information handled within an accredited CIS may be performed by processes within the CIS itself. In that case, the CIS shall include measures to guarantee the integrity of the log records.
6. Classified information received from third countries or international organisations shall be afforded an equivalent level of protection as EUCI, bearing the equivalent classification marking as set out in the respective security of information agreement or administrative arrangement.

*Article 33***Exceptional ad hoc release of RESTREINT UE/EU RESTRICTED information**

1. Where the Court of Auditors or one of its departments determines that there is an exceptional need to release RESTREINT UE/EU RESTRICTED information to a third country, international organisation or an EU entity, but no security of information agreement or administrative arrangement is in place, the exceptional ad hoc release procedure shall be followed.
2. Court of Auditors departments shall contact the ISO and the originator. The Court of Auditors shall seek advice from one of the Parties to a Security of Information Agreement with that same EU entity, third country or international organisation.
3. After this consultation, the College of the Court of Auditors may, on the basis of a proposal by the Secretary-General, authorise release of the information concerned.

CHAPTER 6

END OF LIFE FOR RESTREINT UE/EU RESTRICTED INFORMATION*Article 34***When to declassify**

1. Information shall remain classified only for as long as it requires protection. Declassification means that the information shall no longer be considered as classified at all. At the time of its creation, the originator shall indicate, where possible, whether the EUCI can be declassified on a given date or following a specific event. Otherwise, the originator shall regularly review RESTREINT UE/EU RESTRICTED information to determine whether classification is still appropriate.

2. Information classified RESTREINT UE/EU RESTRICTED that has originated in the Court of Auditors shall be declassified after thirty years, in accordance with Regulation (EEC, Euratom) No 354/83 ⁽⁹⁾ as amended by Council Regulation (EC, Euratom) No 1700/2003 ⁽¹⁰⁾ and Council Regulation (EU) 2015/496 ⁽¹¹⁾.

3. Court of Auditors documents may also be declassified on an ad hoc basis, for example following a request for access from the public.

Article 35

Responsibility for declassifying

1. RESTREINT UE/EU RESTRICTED information shall not be declassified without the permission of the originator.

2. The Court of Auditors department that creates a classified document shall be responsible for deciding whether it can be declassified. Within the Court of Auditors, all requests for declassifying shall be subject to consultation of the Principal Manager or Director of the originating department, or the head of task. If the department has compiled classified information from various sources, it shall first seek the consent of any other parties that provided source material, including in Member States, other EU bodies, third countries or international organisations.

3. Where the originating Court of Auditors department no longer exists and its responsibilities have been taken on by another department, the decision regarding declassifying shall be taken by this department. Where the originating department no longer exists and its responsibilities have not been taken on by another department, the decision to declassify shall be taken jointly by the directors of the Court of Auditors.

Article 36

Sensitive non-classified information

When reviewing a document results in a decision to declassify, consideration shall be given as to whether the document should bear a sensitive non-classified information distribution marking within the meaning of point 16 of the Court of Auditors information classification policy and point 4 of the Guidelines on classifying and handling non-EU-classified information ⁽¹²⁾.

Article 37

How to indicate that a document has been declassified

1. The original classification marking at the top and bottom of every page shall be visibly crossed out (not removed) using the 'strikethrough' function for electronic formats, or manually for print-outs.

2. The first (cover) page shall be stamped as declassified and completed with the details of the authority responsible for declassifying and the corresponding date.

⁽⁹⁾ Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1).

⁽¹⁰⁾ Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003, amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 243, 27.9.2003, p. 1).

⁽¹¹⁾ Council Regulation (EU) 2015/496 of 17 March 2015, amending Regulation (EEC, Euratom) No 354/83 as regards the deposit of the historical archives of the institutions at the European University Institute in Florence (OJ L 79, 25.3.2015, p. 1).

⁽¹²⁾ Staff Notice 123/20, available at: https://www.eca.europa.eu/Documents/Information_Classification_Policy_EN.pdf

3. The original recipients of the RESTREINT UE/EU RESTRICTED information shall be informed of the declassification. The initial recipients shall be responsible for informing any subsequent addressees to whom they have sent or copied the original RESTREINT UE/EU RESTRICTED information.
4. The Court of Auditors Archives Service shall be informed of all declassification decisions taken.
5. All translations of classified information shall be subject to the same declassification procedures as the original language version.

Article 38

Partial declassification of RESTREINT UE/EU RESTRICTED information

1. Partial declassification shall also be possible (e.g. annexes, some paragraphs only). The procedure shall be identical to that for declassifying an entire document.
2. Upon partial declassification ('sanitising') of RESTREINT UE/EU RESTRICTED information, a declassified extract shall be produced.
3. The parts that remain classified shall be replaced by:

PART NOT TO BE DECLASSIFIED

either in the body of the text itself, if the part that remains classified is a part of a paragraph, or as a paragraph, if the part that remains classified is a specific paragraph or more than one paragraph.

4. Specific mention shall be made in the text if a complete annex cannot be declassified and has therefore been withheld from the extract.

Article 39

Routine destruction and deletion of RESTREINT UE/EU RESTRICTED information

1. The Court of Auditors shall not amass large quantities of classified information.
2. Originating departments shall routinely review small amounts for destruction or deletion at short intervals. A review shall take place both for information stored on paper and for information stored in CIS at regular intervals.
3. Staff shall destroy or securely delete any RESTREINT UE/EU RESTRICTED documents that are no longer required, subject to any archiving requirements for the original document.
4. Staff shall not be required to inform the originator if they destroy or delete copies of RESTREINT UE/EU RESTRICTED documents.
5. Draft material containing classified information shall be subject to the same disposal methods as finalised classified documents.
6. Only approved shredders shall be used for destroying RESTREINT UE/EU RESTRICTED documents. Level 4 of DIN 32757 and Level 5 of DIN 66399 shredders are suitable for destroying RESTREINT UE/EU RESTRICTED documents.
7. The shred from approved shredders may be disposed of as normal office waste.

8. All media and devices containing RESTREINT UE/EU RESTRICTED information shall be properly sanitised when they reach the end of their lifetime. The electronic data shall be destroyed or erased from information technology resources and associated storage media (including backup) in a manner that gives reasonable assurance that the information cannot be recovered. Sanitisation shall remove data from the storage device, and also remove all labels, markings and activity logs.
9. Computer storage media shall be given to the ISO for destruction and disposal.

Article 40

Evacuation and destruction of RESTREINT UE/EU RESTRICTED information in an emergency

1. The Director of Human Resources, Finance and General Services together with the ISO shall develop, approve, and if necessary activate emergency evacuation and destruction plans to safeguard RESTREINT UE/EU RESTRICTED information that is at significant risk of falling into unauthorised hands during a crisis. In order of priority, and depending on the nature of the emergency, consideration shall be given to:
 - (1) moving EUCI to an alternative safe place, where possible an Administrative Area or the Records Office within the Court of Auditors' premises;
 - (2) evacuating EUCI to an alternative safe place, where possible an Administrative or Secured Area in a different building, and where possible the Secured Area at the Commission, for the use of which the Court of Auditors has concluded a service level agreement;
 - (3) destroying EUCI, where possible using the approved means of destruction.
2. When emergency plans have been activated, priority shall be given to moving or destroying higher levels of information first.
3. The operational details of emergency evacuation and destruction plans shall themselves be classified as RESTREINT UE/EU RESTRICTED.

Article 41

Archiving

1. Decisions on whether and when to archive, and the corresponding practical measures to be taken, shall be in accordance with the Court of Auditors information security policy, information classification policy and archives policy;
2. RESTREINT UE/EU RESTRICTED documents shall not be sent to the Historical Archives of the European Union in Florence.

CHAPTER 7

FINAL PROVISIONS

Article 42

Transparency

This Decision shall be brought to the attention of Court of Auditors staff and to all individuals to whom it applies, and shall be published in the *Official Journal of the European Union*.

*Article 43***Entry into force**

After adoption by the Administrative Committee, this Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 1 March 2023.

For the Administrative Committee of the Court of Auditors

The President

Tony MURPHY

ANNEX

**Categories of staff who may have access to RESTREINT UE/EU RESTRICTED information if needed
in order to perform their professional tasks**

Categories of Court of Auditors' personnel	Access to R-UE/EU-R information	Conditions
Officials	Yes	Briefing + acknowledge + need-to-know
Temporary agents	Yes	Briefing + acknowledge + need-to-know
Contractual agents	Yes	Briefing + acknowledge + need-to-know
Seconded national experts (SNEs) from EU Member States	Yes	Briefing (by the Court of Auditors) + acknowledge + need-to-know
Trainees	No	No exceptions possible
Any other category of personnel (interim, intra-muros externals, etc.)	No	Consult the ISO for any exceptions

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